

<p><b>COONAMBLE SHIRE COUNCIL</b></p>		<p><b>POLICY</b></p>
<p>Policy Title</p>	<p>Street Trading</p>	
<p>Related Documentation</p>	<p>Street Trading Application Form Outdoor Dining Application Form</p>	
<p>Relevant Legislation</p>	<p><i>Local Government Act 1993 - Section 68 - Approval of Activities</i></p>	
<p>Responsible Officer</p>	<p>Manager Environmental Services</p>	

**Policy details may change prior to review date due to legislative changes, therefore this document is uncontrolled when printed.**

### **Objectives**

In dealing with street trading activities, Council aims to:

1. Protect public health and safety.
2. Preserve the amenity of the Council area.
3. Provide opportunity for place enlivenment or active street life.
4. Give regard to the well-being of local lawfully established businesses and the principles of equity and fair competition.

## Table of Contents

Policy Statement .....	4
1. Purpose.....	5
1.1 Aims.....	5
1.2 Legislative Context .....	5
1.3 Definitions.....	5
1.4 Land policy applies to.....	7
2. Types of activities covered by this Policy.....	7
3. Exemptions .....	7
4. Permitted activities which require Council’s approval .....	8
5. Prohibited activities.....	8
6.1 Street Stalls .....	9
6.1 Street stalls operated by charitable or non-commercial organisations.....	9
6.1.2 Street stalls operated by commercial organisations .....	10
6.2 Busking .....	11
6.2.1 General.....	11
6.2.2 Group busking acts.....	12
6.2.3 Pavement Art .....	12
6.3 Charity collection.....	12
6.3.1. Fundraising by registered charities (by non-commission collectors).....	12
6.4 Banners .....	13
6.4.1 General.....	13
6.4.2 Locations where banners may be displayed.....	14
6.4.3 Design and layout of banners.....	14
6.4.4 Construction of banners .....	14
6.4.5 Attachment and removal of banners .....	14
6.5 Place activation, special events, festivals and community celebrations .....	15
6.6 Outdoor dining areas.....	15
6.6.1 General.....	15
6.6.2 Location requirements for outdoor dining .....	15
6.6.3 Outdoor dining furniture .....	16
6.6.4 Miscellaneous requirements for outdoor dining .....	17
7. Applying for approval to conduct a permitted street trading activity .....	19
7.1 Application requirements.....	19
7.2 Permit fees .....	20
	2

7.3 Renewal of permits ..... 20

7.4 Insurance ..... 20

7.5 Additional application requirements for outdoor dining..... 21

8.1 Approval of applications ..... 21

8.2 Street trading restrictions ..... 21

8.3 Fees ..... 21

8.4 Display of permit ..... 22

8.5 Compliance/inspections ..... 22

8.6 Period of permit ..... 22

8.7 Variation of permit conditions ..... 22

8.8 Street trading activity must not cause obstruction and be marked on the pavement..... 22

8.9 Protocols for non-compliance ..... 22

    8.9.1 Operating without a permit ..... 22

    8.9.2 Breach of conditions ..... 23

    8.9.3 Operating with an expired permit ..... 23

8.10 Termination of permit by the applicant..... 23

8.11 Termination of permit by Council ..... 23

    8.11.1 Reasons that Council may consider in deciding to terminate a permit ..... 23

## Policy Statement

Coonamble Shire Council supports the development of the Shires business centres, with a vibrant mix of retail, business and community activities. Council seeks to encourage active street life and enhance community participation in the Coonamble Shire Local Government Area through the safe undertaking of certain non-commercial and commercial activities on footways and roadways (including road reserves).

The Street Trading Policy provides a framework for Council to deal with requests for the use of footways and roadways for certain non-commercial and commercial activities.

The Policy applies to all public footways and roadways in the Coonamble Shire Council Local Government Area (LGA) that are managed by Council directly or are under its care and control.

## PART ONE – PRELIMINARY

### 1. Purpose

The purpose of the Street Trading Policy is to provide a framework for Council to deal with requests for the use of community land being footways and roadways, for certain non-commercial and commercial activities.

The Policy is to supplement provisions of the *Local Government Act 1993* (the Act) and the Local Government (Approvals) Regulation 1993 by:

- Specifying the circumstances in which a person is not required to obtain a particular approval from the council;
- Specifying criteria which the Council must consider when determining whether or not to grant approval to a particular activity;
- Specifying other matters relating to approvals not dealt with by the Act or Regulations.

#### 1.1 Aims

In dealing with street trading activities, Council aims to;

1. Protect public health and safety.
2. Preserve the amenity of the Council area.
3. To provide opportunity for place enlivenment or active street life.
4. Give regard to the well-being of local lawfully established businesses and the principles of equity and fair competition.

#### 1.2 Legislative Context

*The Local Government Act 1993* under **Section 68 - What activities generally require the approval of the council** states that:

A person may carry out an activity specified only with the prior approval of council, except in so far as this act, the regulations or a local policy adopted under Part 3 allows the activity to be carried out without that approval.

Section 68 of the *Local Government Act 1993* specifies that Council approval is required in respect of a trade or business activity conducted on community land, unless there is a policy in place that exempts such an activity from requiring approval. This policy shall be read in conjunction with Section 68.

#### 1.3 Definitions

The following terms when read in this policy, shall be taken to mean as defined below:

**Application** means an application made under Section 68 of the *Local Government Act 1993*.

**Approval** means an approval issued by the Council pursuant to section 68 of the *Local Government Act 1993*.

**Busking** means singing, playing a musical instrument or a dramatic or dance performance. Other forms of expression may include, but not strictly be limited to, mime or "live statues".

**Charitable or Non-commercial organisation** means a type of non-profit organisation that is created and operates for philanthropic rather than pecuniary pursuits, as well as for social well - being (e.g. charitable, educational, religious or other similar purpose, serving the public interest or common good).

**Commercial Organisation** means a company or business organisation that engages in some form of commercial activity, such as selling goods or services, with the primary objective of making a profit.

**Public place** means:

- a) a public reserve, public bathing reserve, public baths or public swimming pool, or
- b) a public road, public bridge, public wharf or public road-ferry, or
- c) a Crown reserve comprising land reserved for future public requirements, or
- d) public land or Crown land that is not:
  - (i) a Crown reserve (other than a Crown reserve that is a public place because of paragraph (a), (b) or (c), or
  - (ii) a common, or
  - (iii) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
  - (iv) land that has been sold or leased or lawfully contracted to be sold or leased, or
- e) land that is declared by the Local Government regulations to be a public place for the purposes of this definition.

**Public road** means a road or road related area (land adjacent a road) which the public are entitled to use.

**Selling** includes to barter, trade, offer, display for sale/auction any article, including the distribution of pamphlets or the collection of donations.

**Special event** means a community event coordinated by Coonamble Shire Council that is accepted as having significance for the community.

**Street trading** means the selling, bartering or exposing or offering for sale of any article (including a living thing) or service on a public road or road related area. Trading also extends to include the distribution of pamphlets or the collection of donations.

## 1.4 Land policy applies to

This policy applies to land located within the Coonamble Shire Council Local Government Area.

## **PART TWO - TYPES OF STREET TRADING ACTIVITIES COVERED BY THIS POLICY**

### **2. Types of activities covered by this Policy**

This policy applies to a range of activities including:

- (i) Street stalls, information stands or like activities undertaken by recognised organisations such as local sporting clubs, schools, religious organisations, registered charities, community groups, government bodies and commercial organisations that may also involve the dissemination of general information for the purpose of promoting community awareness; charitable fundraising; or the sale of food or goods for charitable purposes.
- (ii) Commercial activities on public footways or roadways that include activities such as outdoor dining, busking, business promotion stalls or stands, distribution of flyers and the erection of promotional banners and signage within the Coonamble Shire Council Local Government Area (LGA).

## **PART THREE - PERMITTED STREET TRADING ACTIVITIES EXEMPT FROM THE NEED TO OBTAIN COUNCIL APPROVAL**

### **3. Exemptions**

The distribution of flyers or other promotional material that does not require the erection of a stand or stall or other equipment, and that is conducted on the public footway (located immediately adjacent to and in front of the business premises subject of the promotion) is an activity exempt from the need for prior Council approval (i.e. Street Trading Activity Permit) subject to the following:

1. Only one person is permitted to stand outside the premises and distribute flyers or other promotional material;
2. Persons distributing flyers are not to impede, or cause an obstruction to pedestrians;
3. The direct sale of goods from the public footway is prohibited.
4. The organisation must ensure flyers or other promotional material is distributed lawfully and that the activity does not create a litter problem in the immediate vicinity.

Note: the placement of flyers or similar promotional material on vehicles is an offence under the *Protection of the Environment Operations Act 1997*.

## **PART FOUR – PERMITTED STREET TRADING ACTIVITIES WHICH REQUIRE COUNCIL APPROVAL**

### **4. Permitted activities which require Council's approval**

The following activities are permitted in certain designated or other areas (as otherwise permitted under this policy) within the Coonamble Shire Council LGA with prior written Council approval, by way of a Street Trading Activity Permit issued by Council:

1. Fundraising and promotional activities by registered charities or not for profit associations (by non-commission collectors) and community organisations that are located or who are active within the Coonamble Shire Council LGA e.g. The Salvation Army, Legacy, the Cancer Council, Lions Club, sporting clubs etc.,
2. Street stalls or information stands conducted by non-commercial organisations;
3. Business promotion/marketing stalls conducted by commercial organisations;
4. Mobile displays or stand-alone vehicles that promote or provide a community or government service e.g. road safety, or health awareness/health screening activities such as the NSW Blood Bank, Breast Screen NSW;
5. Busking, performances or cultural activities;
6. Banner signs for community, charity or commercial (i.e. "business expo") type events;
7. Outdoor dining
8. Other activities, other than those that are expressly prohibited under this policy, that are considered by Coonamble Shire Council to contribute positively to place enlivenment or an active street life in approved locations.
9. Advertising structures, including A-Frames, flags, balloons and the like, on public roads, footpaths and road related areas may be permitted with consent.

## **PART FIVE – PROHIBITIONS**

### **5. Prohibited activities**

The following activities are prohibited under the terms of this policy:

1. Roadside trading (other than as otherwise permitted under Section 4 subsection 8 of this policy) by use of a stall, article, standing vehicle or the like and includes the selling, trading or giving of any goods or services;
2. Display of goods, promotions or behaviour that conflicts with acceptable community standards or such activities that are considered by Council to be likely to cause a nuisance or offence to the public;
3. Unauthorised street trading, business promotion, advertising or the selling of goods or services of any type;
4. Religious preaching;
5. Spruiking;
6. The erection of (bill) posters on any public place or property that bounds a public place;
7. Prostitution.

## **PART SIX – MATTERS TO BE TAKEN INTO ACCOUNT AS PART OF THE DETERMINATION OF APPLICATIONS**

A range of specified matters will be taken into account by Council when assessing applications seeking the approval of permissible street trading activities.

### **6.1 Street Stalls**

#### **6.1 Street stalls operated by charitable or non-commercial organisations**

1. Charitable or non-commercial organisations are permitted to hold street stalls with Council approval at the designated areas listed below:
  - i) Castlereagh Street, Coonamble
  - ii) Bourah Street, Gulargambone
  - iii) Tucka Tucka Street, Quambone

Street stalls may be permitted at other street or road related area locations subject to meeting the terms of this Policy (refer to Part 4, subsection 8).

2. The organisation must supply written evidence to Council of their charity registration or community organisation status;
3. Organisations are to apply to Council for a permit at least five days (5 working days) prior to the proposed activity;
4. The organisation must hold and maintain a current \$10m Public Liability Insurance Policy (noting Council as an interested party on this policy). Such insurance arrangements shall satisfy Council that adequate indemnities are in place.
5. On the day of the activity, the organisation must display or have available for inspection, a permit or letter as required, stating that permission for the activity has been granted by Council;
6. Organisations may apply to undertake street stalls for a maximum of 12 occasions over a 12 month period and on no more than one occasion per month;
7. No more than one group will be permitted to occupy a designated marked street stall area at any one time, subject to the conditions outlined in the Council permit;
8. The organisation must keep the area free of waste and any other public risk at all times;
9. Applicants must be able to demonstrate to Council that such activities will contribute to an active street life, provide information, raise awareness or be of interest or benefit to the general community and that these activities will not cause offence or conflict with accepted community standards;
10. Except for Community Event stalls (or as otherwise permitted in this policy, refer to Part 4, subsection 8), the sale of food is restricted to pre-packaged food only and must include labelling in accordance with the Food Standards Code (Food Standards Australia and New Zealand). Food that requires temperature control is not permitted to be sold or distributed other than at approved "community event" stalls. For Community Event stall operators, a separate application is required to be submitted to Council and food stall operators are to comply with Council's Requirements for the Operation of Temporary Food Stalls;
11. The sale or distribution of the following items from an approved street stall is prohibited:

Weapons of any kind, including, but not limited to:

- Replica guns
- Ornamental weapon copies
- Knives and swords
- Martial art supplies
- Explicit or pornographic material of any type including books, magazines, clothing, calendars etc.
- Fake cigarettes
- Horns and trumpets
- Pressure pack containers
- Drug or related goods (Including cocaine kits, bongos etc.)
- Stink bombs
- Water bombs
- Silly string
- Fireworks / Crackers
- Laser pointers
- Pop downs / throw downs

12. For the sale or distribution of items including food, stall holders shall comply with Council's Requirements for the Operation of Temporary Food Stalls;
13. No overzealous trading or soliciting will be permitted.

### **6.1.2 Street stalls operated by commercial organisations**

1. Commercial organisations are permitted to hold street stalls with Council approval at the designated areas listed below:
  - Castlereagh Street, Coonamble
  - Bourbah Street, Gulargambone
  - Tucka Tucka Street, Quambone

Street stalls may be permitted at other street or road related area locations subject to meeting the terms of this Policy (refer to Part 4, subsection 8).

2. Council may grant a permit for street stall activities by commercial organisations providing it is satisfied that such activities will contribute to an active street life, provide or obtain useful or appropriate information of interest or benefit to the general community and provided Council is satisfied that these activities will not cause offence or conflict with accepted community standards;
3. Organisations are to apply to Council for a permit at least four weeks (20 working days) prior to the proposed activity;
4. The applicant must supply written evidence of their organisational status i.e. ABN Number;
5. The individual or organisation must hold and maintain a current \$10m Public Liability Insurance policy (noting Council as an interested party). Such insurance arrangements shall satisfy Council that adequate indemnities are in place;

6. On the day of the activity, the organisation must display at the location of the street stall or have available for inspection a permit or letter as required, stating that permission for the activity has been granted by Council;
7. A maximum of 3 individuals are allowed to conduct the permitted activity at any one time;
8. Approved organisations may apply for a street stall permit for up to a maximum of twelve days per year;
9. No more than one group will be approved to occupy a designated street stall area at any one time; subject to the conditions outlined in the Council permit;
10. The organisation must keep the area free of waste and any other public risk at all times;
11. Except for Community Event stalls (or as otherwise permitted in this Policy, refer to Part 4, subsection 8), the sale of food is restricted to pre-packaged food only and must include labelling in accordance with the Food Standards Code (Food Standards Australia and New Zealand). Food that requires temperature control is not permitted to be sold or distributed other than at approved "community event" stalls. For Community Event stall operators, a separate application is required to be submitted to Council and food stall operators are to comply with Council's Requirements for the Operation of Temporary Food Stalls;
12. Commercial activities that either replicate or inconvenience the activities of nearby lawfully established businesses will not be permitted unless the activities are conducted by that business;
13. Except as authorised by Council for approved community events, the direct selling or distribution of goods is not permitted; (unless otherwise permitted under this Policy, refer to Part 4, subsection 8)
14. The list of items that may not be sold or distributed as part of a street stall as outlined under Section 6.1.1 shall be complied with;
15. For the sale or distribution of items including food, stall holders shall comply with Council's Requirements for the Operation of Temporary Food Stalls;
16. No overzealous trading or soliciting will be permitted.

## 6.2 Busking

### 6.2.1 General

1. Busking activities are permitted with Council approval in Coonamble, Gulargambone and Quambone CBD's; (or at other locations as otherwise permitted in this Policy, refer to Part 4, subsection 8)
2. Buskers must not unreasonably interfere with pedestrian flow or public amenity or cause a nuisance to nearby businesses;
3. Buskers must not undertake any act that could be considered as causing offence or a public nuisance including excessive noise;
4. Buskers are advised that the performance of political, religious, racial, sexually explicit or homophobic acts or material that may be deemed unduly persuasive, offensive or discriminatory as determined by the *Anti-Discrimination Act 1977* is strictly prohibited;
5. Buskers are not permitted to use fire, pyrotechnics, knives, swords, chainsaws or other dangerous goods likely to cause harm to the public, environment or property;
6. Buskers are not permitted to use or discharge confetti or any other matter that may cause pollution or is likely to cause harm to the public, environment or property;
7. Buskers must not interfere in any way with any other approved event or activity;
8. Buskers must be a minimum of 16 years and must submit a letter of consent from a parent or guardian with an application for a permit if under 18 years of age;

9. Buskers may receive a monetary appreciation from the audience but must not actively solicit funds in any way;
10. Buskers must keep the footpath clear of obstruction; maintain the footway clear for pedestrian movement and the site clean during and following their performance to ensure that the activity does not pose a risk to public safety or the environment. A minimum unobstructed footpath width of 2.4 metres shall be maintained at all times;
11. Council reserves the right to direct a busker to moderate or cease performing if deemed by Council to be creating a nuisance, threat to safety or the environment or to be causing offence;
12. Buskers are only permitted to occupy/perform at any location for a maximum period of 3 hours.

### **6.2.2 Group busking acts**

Groups involved in busking are limited to a maximum of 3 people/members. This is to ensure that pedestrians are able to move freely through the approved area. For group acts, Council requires that each individual member hold a current busking permit which must be clearly displayed during the performance.

### **6.2.3 Pavement Art**

Performers who utilise pavement (chalk only) art as a form of entertainment may only do so with a Street Trading Activity Permit issued by Council and where:

1. the material used is removable by water and does not leave a residue;
2. the surface is of a non-porous material, such as bitumen and concrete;
3. individual renditions of the artist's work may not be offered for sale to the public;
4. any proposed material to be used in carrying out pavement art must not be slippery (whether wet or dry) and must not be such as to be likely to cause a public hazard, nuisance or offence;
5. the site is used for no more than eight hours at any one time or otherwise as approved by Council;
6. the work space to be used is defined by being either roped or chained off with all tools and personal belongings kept within this area; A free passage of at least 2.4 metres shall be maintained for pedestrians at all times;
7. performers must be conscious of public safety and accessibility at all times.

## **6.3 Charity collection**

### **6.3.1. Fundraising by registered charities (by non-commission collectors)**

1. Charitable organisations are permitted to collect donations from the public with Council approval only at the designated areas listed below:

- Castlereagh Street, Coonamble
- Bourbah Street, Gulargambone
- Tucka Tucka Street, Quambone

2. The organisation must supply written evidence to Council of their charity registration or community organisation status;
3. Organisations are to apply to Council for a permit at least 5 days (5 working days) prior to the proposed activity.
4. On the day of the activity, the organisation must display or have available for inspection, a permit or letter as required, stating that permission for the activity has been granted by Council;
5. Charitable organisations may apply for a permit to conduct fundraising for up to a maximum of 12 occasions over a 12 month period and on no more than one occasion per month;
6. No more than one charity organisation will be permitted to occupy a designated marked location at any given time, subject to the conditions outlined in the Council permit;
7. Charity organisations are to remain static and are not permitted to solicit donations from any area other than locations designated for this purpose in this Policy.

## 6.4 Banners

### 6.4.1 General

Approval may be granted by Council for the display of banners provided the intent is to promote community events, programs or services (i.e. an event or activity which is non-commercial or nonprofit and offering a community benefit). NB: This opportunity is provided at no cost to community groups wishing to display a banner.

Consideration may be given to promoting "expo" type events that provide information relating to a range of services or by a group of local business providers for community benefit (e.g. Wedding Expos, Renovation Expos). Single business promotion will not be considered.

A limited number of banner sites are available in the Coonamble Shire Council LGA (refer to Section 6.4.2) It should be noted that Council does not allow the advertising of offensive, political or religious statements or images on banners.

Banner signs may not be permitted to be erected any earlier than 14 days before the event and must be removed within 7 days after the event.

Council reserves the right to remove banners at any time if a banner is erected without approval or if any of the permit conditions are not complied with. Council also reserves the right to cancel bookings for the display of banners at designated locations at any time.

**Note:** Council does not issue permits for the placement of banners in elevated locations such as those on overhead bridges or walkways. Approval for these sites rests with the Roads & Maritime Services (RMS).

Organisations wishing to erect a banner in the Coonamble Shire Council LGA may only do so with a Street Trading Activity Permit issued by Council and must comply with the following requirements:

1. An organisation wishing to display a banner accepts responsibility for any claim for accidents or other issues arising from the erection, removal or display of the banner or the use of Council's infrastructure.
2. Any damage to Council's infrastructure and other facilities that is attributed to the display of a banner will be repaired at the expense of the organisation displaying the banner.
3. Evidence of the organisation's Public Liability Insurance of a minimum value of \$10 million, noting Council as an interested party, must be provided to Council before any permit for displaying a banner is issued.
4. Council is not liable or responsible for banners which are lost, damaged or stolen.

#### **6.4.2 Locations where banners may be displayed**

Banners are to be erected at or near ground level and are not permitted to be displayed within 20 metres of an intersection or within 1 metres of the road pavement and must not impede pedestrian movement. A minimum of two (2) banners is permitted to be erected at each designated location.

#### **6.4.3 Design and layout of banners**

1. Commercial advertising is not permitted on banners, however, the logo of a sponsor/s or the co-ordinating organisation may be incorporated into the banner design.
2. The logo of a sponsor is to be a maximum of 10% of the total face area of the banner.
3. If several sponsor logos are to be included then the maximum area of the logos is to be no more than 20% of the total face area of the banner. The purpose of these restrictions is to promote community services, not commercial ventures.
4. The caption on the banner is to be succinct.
5. The maximum size of a banner is 4 square metres.
6. The lettering must be a minimum of 150mm in height. It is important in terms of safety that the message can be easily read by motorists and other road users.
7. If languages other than English are being displayed on the banner at least 50% in equal size shall appear as a direct translation in English.
8. The proposed design of the banner (message, sponsor logos and layout) must be submitted at the time of applying for a permit requesting the display of a banner and should also include nominated dates and specific sites.

#### **6.4.4 Construction of banners**

Banners are to be constructed of sturdy material such as PVC or canvas that will not tear in the wind and thereby present a hazard to traffic.

#### **6.4.5 Attachment and removal of banners**

1. The erection of the banner is the responsibility of the organisation displaying the banner. The banner should be inspected every day to monitor security and its condition. Council is not liable or responsible for banners which are lost, damaged or stolen;
2. To ensure banners are installed appropriately, banners will be required to be installed strictly in accordance with Council guidelines and as outlined in the Street Trading Activity Permit;

3. Banner signs are to be anchored by the use of star pickets driven into the ground no more than 350mm;
4. The banner must be attached and removed by the organisation displaying the banner on the dates specified on the permit;
5. Any damage to Council's infrastructure and other facilities will be repaired at the expense of the organisation displaying the banner.

## **6.5 Place activation, special events, festivals and community celebrations**

Place activation initiatives, festivals or events that are community events or initiatives coordinated by the Council for the whole community. Street stalls during these events or initiatives are permitted to sell commercial products (other than prohibited items listed in Section 6.1.1) and prepared food.

Council approves place activation initiatives and these types of special events under a separate approval process outside the scope of this Policy.

## **6.6 Outdoor dining areas**

### **6.6.1 General**

Outdoor dining contributes to the vitality and cultural life within the Central Business Districts (CBDs) of the Coonamble Shire Council LGA.

The NSW Government under the *Roads Act 1993* and the *Local Government Act 1993* states that the placement of articles for commercial purposes on public roadways and footways requires prior consent from Council.

All food premises that intend to provide seating on the public footway for the purpose of outdoor dining are required to obtain a permit from Council. An annual permit shall be obtained from Council prior to operating outdoor dining on Council's footpath.

Applications for outdoor dining permits must comply with the following requirements

### **6.6.2 Location requirements for outdoor dining**

As an overriding principle, applications for outdoor dining on public footways, roadways or public spaces must not in Council's determination compromise pedestrian access or safety, must be sympathetic to the surrounding streetscape, provide a safe, comfortable and attractive environment for patrons and the general public, and not unreasonably interfere with other commercial amenity.

1. Locations that might be considered suitable for outdoor dining include areas that have wide footpaths, street malls and open spaces.
2. Unsuitable locations for outdoor dining include areas that have a steep incline, or uneven surfaces for the placement of furniture, narrow footpaths or corner intersections with high traffic flow.
3. The proposed outdoor dining areas must be located adjacent of the frontage of the premises and shall not extend beyond the boundary line of the respective shop front, extended to the kerb-line.

4. The proposed outdoor dining areas must provide safe and unobstructed access for pedestrian traffic at all times, within and around the outdoor dining area. Proposals must also take into consideration the needs of people with disabilities with particular consideration for people who use wheelchairs and electric powered scooters, people with visual impairment, elderly people, and the needs of parents with young children with regards to prams. Unobstructed access must also be provided to authorised delivery vehicles across land or pedestrian thoroughfares if applicable.
5. The footpath shall be a minimum of 3.5 metres wide and allow for a minimum of 2.0 metres of unobstructed pedestrian access at all times.
  - (ii) Depending upon the location, outdoor dining areas are permitted either abutting the shop front or adjacent to the roadway. Where an outdoor dining area is located adjacent to a roadway, there shall be a minimum clearance of 600mm from the back of the kerb to any structure associated with the dining area and balustrading for the length of the outdoor dining area street frontage and sides (where applicable) must be provided.
  - (iii) Outdoor dining areas may not be considered for a permit, if there are existing articles or infrastructure existing within or adjacent to the proposed outdoor dining area (e.g. public seats, litter bins, utility poles, bicycle racks, phone booths, bus shelters etc).

### 6.6.3 Outdoor dining furniture

1. The business owner is responsible for all outdoor furniture and furnishings associated with outdoor dining. The furniture and furnishings shall enhance the street environment and integrate well with the existing surroundings. In selecting furniture and furnishings the business owner shall ensure the furniture is to:
  - i) Be generally in harmony with the existing streetscapes;
  - ii) be of a safe design (i.e. no hinges or sharp edges) and designed for commercial outdoor use and be of a suitable size and shape for the approved area;
  - iii) Be strong, durable, waterproof and weather resistant;
  - iv) Be constructed of high quality non-reflective stainless/ powder coated steel/ aluminium or timber (natural/ painted) and canvas;
  - v) Be easily stacked and stored securely within the business premises outside operating hours;
  - vi) Not contain legs or support structures that could damage the ground surface;
  - vii) Be able to be easily cleaned and maintained.
  - i) The use of the planter boxes for the purpose of designating the approved outdoor dining boundary is generally discouraged by Council, however subject to a Council permit being issued, planter boxes must:
    - Not exceed 900mm in height (including the height of the plants) and not pose a trip hazard;
  - ii) Be of a size and shape appropriate for either placement in the approved area for use as a method of defining the approved area;
  - iii) Should be easily relocated for storage within the premises outside of approved business hours;
  - iv) Make a positive contribution to the existing streetscape;
  - v) Be maintained to Council's satisfaction.

2. The use of free standing umbrellas is generally discouraged by Council and is not permitted under awnings, balconies or verandahs (or in other such areas where protective structures may reasonably be installed) however, subject to a council permit, umbrellas must:
  - i) Be securely anchored to ensure stability during extreme weather by methods that will not produce a trip hazard on the pavement;
  - ii) Be able to be easily stored within the premises outside approved business hours or during extreme weather conditions;
  - iii) Have a minimum clearance height of 2.2 metres to allow safe headway clearance;
  - iv) Be located within the approved outdoor dining area and should not either overhang the boundary or in any way encroach upon adjacent pedestrian thoroughfares or carriageways.
  
3. Balustrade sections, subject to a Council permit
  - i) Shall be portable;
  - ii) Shall not exceed a height of 900mm or length of 2 metres;
  - iii) Shall be constructed of lightweight powder coated steel / aluminum frame with stabilizing feet and with either a suitable metal, fabric or PVC banner type material or fabricated panel;
  - iv) Shall contain only the name of the premises and 1 product brand only
  
4. Heaters, subject to a Council permit can only be used in areas that have adequate ventilation;
  - i) Will be subject to a Council permit and shall detail manufacturers specifications;
  - ii) Shall have a ground clearance of 2.2 metres to the heating element of the appliance;
  - iii) Shall turn off automatically if overturned;
  - iv) Shall be easily relocatable;
  - v) Shall be stored within the premises when not in use;
  - vi) Shall not be placed where they can be considered a fire hazard i.e. next to or under an umbrella, shrubs, trees, etc.;
  - vii) Shall be installed in accordance with Australian Standard A4565-2004 Radiant gas heaters for outdoor and non- residential use.
  
5. Tableware, utensils and decorative items shall be of a windproof design and stored within the premises when not in use;
6. All furniture and furnishings shall be able to be removed from the proposed outdoor dining area and stored securely within the premises outside of the permitted business hours and during extreme weather conditions;
7. For approvals for outdoor dining that do not require the erection of permanent structures on the pavement (public footway), a street trading permit may be issued. For more complex applications that see to install permanent structures/ stalls/ furniture and the like, a development application may be required to be lodged with the Council.

#### **6.6.4 Miscellaneous requirements for outdoor dining**

1. The placement of advertising within the outdoor dining area shall comply with the relevant permit. A frame or sign boards are not permitted.

2. The hours of use for the approved outdoor dining area cannot exceed the hours permitted under the current Development Consent for the operation of the associated business premises and are assessed on an individual basis subject to Council approval.
3. No alcohol can be served in an outdoor dining area without an appropriate and current Liquor Licence being held by the associated business (as issued by the Office of Liquor, Gaming and Racing) and extended to cover the outdoor dining area.  
A copy of the current Liquor Licence shall be submitted with the outdoor dining permit application and extended to cover the outdoor dining area for the life of the outdoor dining permit.  
A copy of the current Liquor Licence shall be kept on the premises at all times and be made available for inspection upon request by relevant authorities.
4. Live entertainment or amplified music shall not be permitted within the outdoor dining area, (unless otherwise permitted under this Policy, refer to Part 4, subsection 8).
5. The permit holder is responsible for good conduct of patrons and staff at all times during hours of operation and to ensure that noise levels are kept to a minimum. Council and NSW Police will continue to handle noise and other complaints. The Office of Liquor Gaming and Racing has authority under the Liquor Act to investigate noise complaints and other concerns associated with licensed premises.  
In the event of any continued noise complaints relating to the use of the outdoor dining area, Council reserves the right to terminate the Outdoor Dining Permit without prior notice.
6. The permit holder is responsible to ensure compliance with the *Companion Animals Act 1998* which allows animals of genuine assistance in food consumption areas.
7. Any outdoor dining area permitted to operate outside of daylight hours must provide adequate lighting to satisfy safety and amenity requirements and is subject to Council's authorisation. The location of an outdoor dining area shall be within a clear line of vision from the associated business.
8. In accordance with the Australia New Zealand Food Standards Code in particular 3.2.2 Food Safety Practices and General Requirements Division 5 Cleaning, Sanitising and Maintenance, Clauses 19-21, all food businesses must maintain all fixtures, fittings and equipment to ensure there is no accumulation of food waste, dirt, grease or other visible matter. These standards shall apply to outdoor dining areas with respect to use of the public footpath.
  - i) Waste and litter is disposed of lawfully, and not allowed to enter garden beds, gutters or stormwater drains;
  - ii) The outdoor dining area including the footpath, gutter and neighbouring surrounds are to be kept clear of waste and rubbish at all times;
  - iii) Any waste generated by the operation of the business is to be disposed of in bins located within the business premises and not in public litter bins;
  - iv) Any breakages or spills that might prove hazardous to patrons, staff or the general public or that might strain or otherwise damage the footpath are to be removed immediately.
9. The permitted outdoor dining area is to be appropriately marked in a manner authorized by Council. The permit holder shall;
  - i) Be responsible for maintaining the approved outdoor dining area in accordance with the permit
  - ii) Ensure that all fixtures and furnishing remain within the marked area at all times and do not overhang or impede upon any pedestrian or vehicular thoroughfares;

- iii) Ensure that the area remains clearly marked at all times and that it can be easily identified by Council to monitor compliance.
- 10. Associated works to enhance an outdoor dining area with respect to permanent fixtures requires the separate and prior approval of Council and the cost of any such works are to be met by the applicant.
- 11. Council reserves the right to carry out any type of maintenance work in or around the approved area at any time and will not accept any liability for interruption to business caused by such works or inclement weather.
- 12. Outdoor advertising shall complement and be compatible with the footpath dining activities and local amenity and requires the separate and prior approval of Council.  
A-Frames signs or sign boards are not permitted to be placed on the footway or within the outdoor dining area.
- 13. For approvals for outdoor dining that do not require the erection of permanent structures on the public footway, a street trading permit may be issued. For more complex applications that propose permanent structures/stalls to be installed on the public footway, a Development Application may be required to be submitted to Council

## **PART SEVEN – MAKING AN APPLICATION FOR STREET TRADING ACTIVITIES**

### **7. Applying for approval to conduct a permitted street trading activity**

#### **7.1 Application requirements**

Standard permit applications can be obtained from Council. All applicants, (individuals and groups) are required to apply in person. Street Trading activity shall not be conducted without first obtaining a permit issued by Council beforehand.

All applicants are required to present proof of identify with their application form before a permit is issued e.g. current motor vehicle licence, proof of age card or passport.

Details of the type of activity or entertainment proposed are required to be provided on the application.

Council reserves the right to refuse any permit application.

Applications for approval for activities that are described in this policy (as outlined in section 4) can be made by using the Street Trading Activities Permit application form or Outdoor Dining application form that is available from Council's Customer Service Centre or through Council's website:

[www.coonambleshire.nsw.gov.au](http://www.coonambleshire.nsw.gov.au)

As outlined on the forms, the following information shall be lodged with Council at least five (5) working days prior to the event or activity occurring, and the proposed activity must receive Council's permission prior to commencement.

The permit application must include the name of the individual(s) or organisation, the organisational status, i.e. registered charity, religious affiliation, community group, political organisation, commercial organisation, a brief outline of the organisation, a short description of the reason for the activity and the name and contact details of the person coordinating the activity.

For commercial organisations, the name of the company and a valid ABN number must be provided.

A site plan drawn to scale outlining key features of the activity layout (eg stalls, tables, chairs etc.) must also be supplied with the application. The plan should also clearly show the following details:

- Location of existing features such as trees, signage posts, bins etc;
- Details of any proposed furniture including the design, construction; dimensions, colours and materials to be placed within the designated stall location;
- Any signage must be of a temporary nature and can only be displayed within the area/ locations covered by the application (no other advertising materials or structures are permitted).

## 7.2 Permit fees

No permit fees apply to charities or not-for-profit organisations. An annual permit fee will apply to individuals or organisations that receive a commercial or financial gain from the permitted street trading activity.

Permit fees will be applied as detailed in Council's annual schedule of fees and charges. Permits are valid for up to 12 months from the commencement date. Permits are not transferable and fee payments are not refundable once the permit has been issued by Council.

## 7.3 Renewal of permits

Activity permits should be renewed before the expiry date should the activity continue. Street Trading shall not be conducted with an expired permit. Unauthorised Street Trading activity will also be subject to penalties as provided for under the *Local Government Act 1993*.

## 7.4 Insurance

The applicant (except where stated otherwise in this Policy) must provide a Public Liability Insurance Certificate of Currency from their insurer that notes Council as an interested party with regards to any personal injury or damage to property associated with the activity on a public footway, road or road related area for a minimum cover of \$10m or any other amount that Council may stipulate from time to time.

Buskers and Pavement Artists are exempt from this requirement and are not required by Council to hold their own Public Liability Insurance policy cover for busking and street art performances held on the streets/road reserve areas within the Coonamble Shire Council Local Government Area (LGA).

## 7.5 Additional application requirements for outdoor dining

Applications for activities described in Section 6. 6 can be made by completing the Outdoor Dining application form.

### Documentation required to be lodged with the permit application:

A site plan drawn to scale (1:50 or 1:100) with dimensions that clearly show the following:

- The building line of the premises in relation to adjoining premises;
- Distance from the kerb to the premises;
- Proposed layout with furniture and furnishings including chairs and tables, planters, bollards, balustrades, heaters, lights or articles;
- Access and service points to premises;
- Existing streetscape features such as street poles, signs, trees, rubbish bins etc.;
- Diagram of the proposed area in relation to neighbouring premises.

The following information is also required to be lodged with a permit application:

- Details of manufacturers detail particularly with regards to heaters and lights;
- Details of artwork, advertising or signage including dimensions and location;
- Written consent from the property owner;
- Evidence of current Public Liability Insurance (noting cover for the specific activity location and noting Council as an interest party) for a minimum of \$10m;
- Evidence of a current NSW Liquor License if applicable to the premises.

## PART EIGHT – MISCELLANEOUS MATTERS

### 8.1 Approval of applications

Approval to use a public footway for street trading activities is subject to Council's discretion. Council reserves the right to impose on any permit such conditions as it determines necessary, appropriate and reasonable.

### 8.2 Street trading restrictions

Certain street trading activities being street stalls, charity collections and busking will be prohibited during the times at which approved community events are conducted within a nominated business centre.

### 8.3 Fees

All fees associated with street trading activities are to be identified in Council's Schedule of Fees and Charges and will be reviewed annually. Application fees shall be paid when an application is lodged with Council and are non-refundable, once the application is determined and regardless of the outcome of the determination of the application.

## **8.4 Display of permit**

A copy of the permit issued by Council for an authorised street trading activity shall be on display at the activity location at all times.

## **8.5 Compliance/inspections**

Council reserves the right to carry out compliance inspections as required.

## **8.6 Period of permit**

Permits for street trading activity will be granted by Council for a period up to a maximum of 12 months in the first instance. Longer permit periods may be allowed by Council upon renewal, subject to review. A new application must be submitted to Council prior to the end of each permit period.

## **8.7 Variation of permit conditions**

Any variation to a current permit will require a new application to be lodged with Council. A change of business ownership will also require a new permit application to be lodged with Council.

## **8.8 Street trading activity must not cause obstruction and be marked on the pavement**

All street trading activity must not occupy an area larger than necessary to safely conduct the activity. At all times the activity must not cause obstruction to other users of the footway or unreasonably interfere with pedestrian flow, ensuring sufficient clear pedestrian access is maintained (minimum 2.4 metres wide pedestrian access shall be provided at all times). The permitted area for the street trading activity will be clearly defined on the Street Trading Activity Permit and shall be marked on the pavement by Council where appropriate for the above purpose.

## **8.9 Protocols for non-compliance**

The following is a general guideline that will be taken into account by Council when seeking to remedy non-compliance issues associated with Street trading. Council has discretion to vary its approach depending upon individual circumstances, the extent of non-compliance and any prior infringements.

### **8.9.1 Operating without a permit**

Written or verbal notice issued. A Penalty Notice may be issued if there is failure to act after a Notice to Comply, is issued. Continued non-compliance may result in further action being taken.

### **8.9.2 Breach of conditions**

Written and or verbal notice will be issued to the operator requiring compliance. If no action is taken to remedy the breach after issuing a Notice to comply with a permit, a Penalty Notice may be issued.

Following the issuing of a Penalty Notice, the permit may be terminated and/or further action taken by Council. Special provisions may need to be applied in the case of an emergency/risk to public safety.

### **8.9.3 Operating with an expired permit**

A Notice will be served upon the operator to cease the street trading activity or renew the permit. If the operator fails to comply with the Notice or renew the permit within the given time, a Penalty Notice may be served on the operator. Continued non-compliance may then result in further action being taken.

## **8.10 Termination of permit by the applicant**

The applicant may terminate their Street Trading Activity Permit at any time by giving Council a minimum of one month's written notice.

## **8.11 Termination of permit by Council**

Council reserves the right to terminate a Street Trading Activity Permit. Upon termination all property or materials associated with the street trading activity must be removed from the public area.

### **8.11.1 Reasons that Council may consider in deciding to terminate a permit**

- 1) Non-compliance with conditions as outlined in the permit;
- 2) Change of business ownership;
- 3) Expired Public Liability Insurance;
- 4) Where the street trading activity is found to cause undue inconvenience to pedestrian access and or safety and public amenity;
- 5) Where Council or any other authority has received repeated complaints about an approved street trading activity that otherwise cannot be resolved.

**Policy Review History**

Date	Changes Made	Approved By
11 June 2018	Draft policy presented to Council	Adopted for public exhibition Minute No 3939
20 July 2018	Public Exhibition Period closed at 5.00 p.m.	No formal submissions received Coonamble Chamber of Commerce raised two issues which were addressed during the public exhibition period with an addition to the policy.
8 August 2018	Formally adopted with the addition of No 9 on Page 8 under Section 4`	