

COFFS HARBOUR CITY COUNCIL



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**Footway Activities  
Licensing Policy Guidelines Relating to  
Merchandise, Merchandising Racks, Trading  
Tables and Associated Equipment**

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# 1. INTRODUCTION

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## 1.1 Purpose

Apart from outdoor cafes, there are other activities on the street that make a significant contribution to the quality of public places and urban life. They also provide an active street frontage that is alive and continuously changing. They also offer the opportunity to withdraw from participating in the movement of the street and become an observer. They are natural locations for both arranged and spontaneous social interactions.

These activities take the form of street stalls, banners on poles, trading tables, busking and other community events.

The purpose of this document, along with the outdoor dining policy, A Frame policy and Footway Activities Licensing Policy - Busking and Other Casual Activities, is to provide simple urban design guidelines to encourage the establishment of these types of activities wherever feasible and appropriate throughout the City of Coffs Harbour and to provide a consistent citywide policy .

It also aims to improve the overall safety of our footpaths and provide guidelines for licensing areas of footways for these activities.

## 1.2 Area to which the policy applies

This Footway Activities Licensing Policy Guidelines – Merchandise, Merchandising Racks, Trading Tables and Associated Equipment covers all of the City of Coffs Harbour Local Government Area

This Footway Activities Licensing Policy Guidelines – Merchandise, Merchandising Racks, Trading Tables and Associated Equipment complements Council's Outdoor Dining Footway Licensing Guidelines and Footway Activities Licensing Policy Guidelines – Busking and Other Casual Activities.

## 2. URBAN DESIGN GUIDELINES

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### 2.1 Suitable Locations

Footway activities may be approved in all the City of Coffs Harbour's public places where local conditions are favourable for their operation, including areas of Council road reserve eg footpaths. All applications in locations of a high pedestrian usage, eg a retail centre, will be required to take pedestrian needs into consideration.

### 2.2 Unsuitable Locations

Footway activities are not permitted in parks and open spaces, beachfront, where the licensed area is dislocated from the business house, areas where high to very high pedestrian use exists and other public uses eg bus stop, taxi ranks, directly outside a fire escape or fire hydrant and potentially hazardous places such as the corners of street intersections or unprotected elevated locations.

The location of trees, artwork, street furniture and other public infrastructure, as well as the width of the footpath, may preclude the establishment of a licensed area.

If the potential location is affected by these circumstances, an applicant may request that Council give consideration to relocating the infrastructure or permitting the licensed area to occupy public space adjoining another premises.

### 2.3 Assessment Criteria

The most important local conditions to be considered when an application to hold a licence for use of the footway area is received will be those issues pertaining to pedestrian (including pedestrians who are using wheel chairs or are visually impaired) and vehicular circulation, convenience and safety of patrons and the general public and existing streetscape elements.

The ground surface must be sufficiently level to support a proper layout and safe use.

#### 2.3.1 Existing Streetscape Elements

Whenever possible the footway activity should visually relate to and be physically aligned with existing features, permanent elements of the streetscape or landscape such as shop fronts, pavilions, trees, pedestrian lights, bollards, heritage restoration of building facades etc.

#### 2.3.2 Circulation, Safety and Convenience Preamble

The intention of the Footway Activities Licensing Policy Guidelines – Merchandise, Merchandising Racks, Trading Tables and Associated Equipment – Circulation, Safety and Convenience Guidelines are:

To observe the laws and legislation enshrined in the Commonwealth Disability Discrimination Act:

- To improve public safety on our footways for all people living in the Coffs Harbour area, including the elderly and visibility or mobility impairment and those people using wheel chairs, prams, white canes, guide dogs and electric powered scooters;

- To help businesses and community groups take advantage of our ideal weather conditions by providing guidelines for the provision of access to other activities appropriate to footways enhancing activities in the City of Coffs Harbour
- To acknowledge that many businesses and community groups have been in existence in some areas of our city for many years and have established locally accepted practices.
- To recognise that within the City of Coffs Harbour, footways, when considered with pedestrian traffic levels, are in some instances:
  - not wide enough to safely allow for footway licensing of any variety or;
  - cannot physically be widened to allow for the ideal footpath pedestrian zone and therefore;
  - require some flexibility or special additional actions by either the Council or the applicant to safely accommodate all the users of the area.

In all locations in the City (with the exception of special situations such as areas that have a traditional footway of as little as 3m) a clear distance of a minimum of 1.3 metres of hard standing footway must be maintained for pedestrian circulation. The location of this pedestrian clear area / zone will vary according to the footpath width.

Subject to the written consent of an adjoining business owner/operator, Council will consider granting a licence incorporating additional footway area within the building alignment of the adjoining premises. Each application will be considered on its merits by Council.

**At street intersections**, a setback of at least 3 metres from the building corner applies.

**In situations where the pedestrian traffic levels exceed 30 movements per minute**, a clear footway of 3 metres or more may be required. At all times pedestrian site lines especially those at intersection corners must remain clear.

In situations where objects such as signposts, electricity boxes etc reduce the area available, the pedestrian zone width requirements must still be maintained.

**In otherwise favourable locations minor modifications of the nominated clearances may be appropriate. Each application will be considered on its merits by Council.**

## 3. APPLICATION PROCESS

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### 3.1 Introduction

Applicants will be provided with full written details of the guidelines and relevant policies that may affect their application. Application forms can be obtained from Council's website [www.coffsharbour.nsw.gov.au](http://www.coffsharbour.nsw.gov.au) , by telephoning Council on ph 02 6648 4000 or by calling in at Council's Administration Building, 2 Castle Street, Coffs Harbour.

The process for new applications may take up to four weeks.

### 3.2 Licence Application Process

As licences may take up to four (4) weeks to process, it is suggested that a copy of the guidelines and application form be obtained well in advance.

When submitting the application, please ensure all information is included, i.e. proof of insurance, risk assessment, etc, to enable speedy processing of the application. A fee, in line with Council's Fees and Charges, will be charged on submission of the application.

### 3.3 Inspections

Council officers will inspect the location from time to time in order to check whether the conditions of the licence are being met. Any complaints received regarding the use of the license area will be investigated where ever necessary and appropriate action taken.

Licence and related documentation should be made available for inspection by Council officers if required.

### 3.4 Approvals

Once Council has approved the application a licence agreement will be prepared and must be executed by the proposed Licensee prior to use of the area.

Applicants must also provide a statement of currency proving that they presently hold Public Liability Insurance as prescribed in the licence agreement.

Licence fees will be charged for use of Council's footway and must be paid on receipt of Council's Tax Invoices.

### 3.5 Licence Conditions

The applicant must comply with the conditions set out in the licence and this policy.

### 3.6 Licence Fees

In addition to the Application fee there are licence fees for the use of the public footway, charged quarterly (or at such other interval as otherwise determined by Council). The fees applicable to the Coffs Harbour Local Government Area are as set out in Council's Schedule of Fees and Charges. Fees are set annually by Council and are continuously updated.

Once applicants have provided Council with the executed licence and associated documents and have paid the applicable fees the area may be used.

### 3.7 Public Risk Insurance

The licensee will be required to indemnify Coffs Harbour City Council against all claims that may arise due to the presence and activities of the licensee and will be required to take out and maintain a products and public risk insurance policy that has Coffs Harbour City Council noted as an interested party for the sum of not less than \$10,000,000 on any one occurrence with an insurance company approved by Council and provision for re-appraisal of the amount of the cover as required by Council from time to time.

The Licensee will be required to provide written proof to Council that their insurer has accepted the above indemnity and that the policy has been suitably endorsed to include Coffs Harbour City Council's interests. Evidence of the insurance cover shall be produced to Council upon demand, as well as prior to the licence commencing and on policy renewal each year.

### 3.8 Business Interruption

Council accepts no responsibility or liability for any interruption to activity of the licensee caused by the need for Council or any other Authority to carry out any type of maintenance works on the licensed footway area or any other interruption to business howsoever caused.

### 3.9 Noise

The Protection of the Environment Operations Act, 1997 will govern the Licensed Area and therefore the Licensee will be required to monitor this aspect of the use of the Licensed area.

### 3.10 Required Documentation

STEP	WHAT YOU'LL NEED TO BRING?
1.	Bring along your completed application form - make sure you check it before submitting it to Council.
2.	Write a brief but accurate description of the activity proposed.
3.	Provide a detailed description of the method you are proposing to use to define the licensed area.
4.	Draw up a site plan that accurately indicates the area to be licensed.
5.	You'll need to bring along evidence that you have appropriate public liability coverage according to the policy guidelines.
6.	You'll need to bring your Application fee (non refundable).
7.	You'll need to work out how much area in square metres you wish to license and be prepared to pay licence fees for that area.
8.	Check whether you need to give us any further documentation. Failure to submit all details may result in a delay to the application.

### **3.11 Variation/Amendment of Licence**

Licence holders must submit an application in writing to the Coffs Harbour City Council for any amendment to their existing licence. Any change the licensee requires to their existing licence will require a new licence application to be drawn up and all relevant fees paid.

Any other variation to an existing licence will require the Licensee to submit a written request detailing any proposed changes to the licence and shall not come into effect until the applicant has received the written consent of Council. In some instances this will require the preparation of a new licence. All costs incurred will be the responsibility of the Licensee.

A fee will be charged for any amendment to the licence.

### **3.12 General Authority**

#### **3.12.1 Licence issued under Section 68 Local Government Act**

Any licence issued to the applicant by Council will be in accordance with the provisions of the Local Government Act 1993. Reference is made to Section 68.

#### **3.12.2 Roads Act**

Any licence issued to the applicant by Coffs Harbour City Council will be in accordance with the provisions of the Roads Act 1993 Part 9 division and other relevant sections.

#### **3.12.3 Preparation of the Licence**

The licence shall be governed by and prepared in accordance with the laws (for the time being in force) in the State of New South Wales.

#### **3.12.4 Evidence of the Licence**

Upon successful Application, Council shall issue a licence. The licence together with this policy, the licence Application documentation, the licence Conditions and its annexure, will form the 'Formal Instrument of the Agreement' between the licence holder and the Council.



# 4. LIAISON AND COMPLIANCE PROTOCOL

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## 4.1. Liaison and Compliance Protocol

Council staff monitor the operation of other activities to ensure that conditions of the Licence and this policy are consistently being met.

Where it is evident that this is not the case, the following actions will be taken:

### STEP 1

Following a complaint or report of breach of the Footway Licence, Council officers will visit the site in question to arrange a suitable time for discussions to take place. Urgency is determined by the impact the breach is having on safety, access and amenity in the area.

Officers are able to initiate discussions with proprietors and present Council's rationale for licence specifications where appropriate.

This process acts as a catalyst for open communication between all parties and seeks to resolve the issue as quickly and amicably as possible.

### STEP 2

Failing this the appropriate compliance procedure will be followed.

## 4.2 Operating with expired Licence

- a) **First Notice** - Verbal warning issued. An application form will be issued to the licensee and details will be documented on file.
- b) **Second Notice** - Notice to Comply issued.
- c) **Third Notice** - Infringement Notice served if offender has failed to act after Notice to Comply.

## 4.3 Operating without a licence

- a) **First Notice** - Verbal warning issued. Application form will be issued to the person and details will be documented on file.
- b) **Second Notice** - Notice to Comply issued. All activities must cease until a permit is issued.
- c) **Third Notice** - Infringement Notice served if offender has failed to act on Notice to Comply.
- d) **Fourth Notice** - Seizure of goods/chattels.

## 4.4 Breach of Licence conditions

- a) **First Notice** - Verbal warning issued. Details documented on file.
- b) **Second Notice** - Notice to Comply issued.
- c) **Third Notice** - If licence holder fails to take action after written notice to comply licence will be cancelled.

## **4.5 Cancellation of Licence**

### **4.5.1 Cancellation by Council**

If the licence holder fails to comply with three (3) written notices from Council relating to breaches of the Footway Activities Licensing Policy Guidelines Relating to Merchandise, Merchandising Races, Trading Tables and Associated Equipment or conditions of the licence, Council may at its discretion cancel the Footway Licence and decide not to re-issue a new licence for a period of at least 12 months.

**Council may also suspend the licence by giving at least fourteen (14) days' written notice to the licence holder if the Council or any other external bodies require the site for events, festivals, footpath maintenance or works, or for any other purpose.**

In order to ensure the public safety is maintained Coffs Harbour City Council however reserves the right to cancel the Licence at any time if the Lessee fails to comply with any condition of the Licence Agreement, or this policy in cases where Council's Risk Manager considers that an unacceptable public risk exists.

In such an instance Notice of Cancellation will be given in writing to the Licensee and will take effect immediately. The Lessee shall not be entitled to any damages in respect of loss of business or rental payments in respect of the un-expired portion of the lease agreement, subject always to the following:

If the Lessee considers that any direction given to cancel the licence is harsh or unjust the Licensee, shall have the right of appeal to the General Manager for resolution and the General Managers decision shall be final.

### **4.5.2 Cancellation by Licence holder**

The licence holder may cancel the licence at any time during its period of validity. Fourteen (14) days' notice of intention to cancel must be provided in writing to Council. No refund of annual licence fees paid in advance will be made.

All goods and chattels are to be removed from the footway licence area from the date cancellation is applicable.

The restitution of public space is the responsibility of the licence holder. If the furniture is not removed and the public space is not re-instated to its original condition within a period specified by Council, then works will be carried out by Council at the licence holder's expense.

Operators may reapply for a new licence at any time.