

Section C - Development Controls

Activities in Public Places

1. Objectives

The objectives of these controls are to:

- encourage value-adding opportunities for businesses to create vibrant atmospheres for the commercial centres of Temora Shire
- provide simple urban design guidance for commercial use of public footpaths for the purposes of displaying goods, merchandise, business icons, A-Board advertising signs, shade structures, café furniture etc.
- enable Council to give consideration to the multiple use of footpaths in a manner which complements the best interest of the business community, residents and visitors
- provide assistance on the procedural arrangements for business operators to obtain Council approval for the use of the footpath areas
- outline the requirements for a range of other activities including: filming, street stalls, busking, street festivals, fairs and other special events
- ensure that activities undertaken by non-profit organisations are appropriately coordinated
- to meet access and equity standards and ensure the safety of the community

2. Legislative controls

There are a number of statutory approvals may be required for commercial use of public footpaths and activities in public places

These include:

- *Environmental Planning and Assessment Act 1979 (Section 76A)*
- *Local Government Act 1993 (Section 68)*
- *Roads Act 1993*
- *Liquor Act 2007 and Liquor Regulation 2008*

3. Application of legislation

These controls apply to the use of Council's footpath and public land for commercial or non profit use including:

- the use of footpaths by shopkeepers, for the storage of a variety of goods and articles which may include but not be limited to flowers, fruit and vegetables, clothing & accessories, sporting equipment and tourist promotion material on the footpath directly outside their premises
- outdoor dining being the use of the footpath directly outside an existing food business
- erection of a memorial on public land
- busking and street theatre
- public addresses, preaching and religious services
- information and promotional displays
- street collections and badge/pin days
- street stalls operated by charities and non-profit organisations
- street festivals and fairs
- commercial filming.

4. Activities that require formal approval from Council

Activities that use a footpath for the display or sale of merchandise, cafe dining, a large street festival or the erection of a memorial in a public place require approval under the *Environmental Planning & Assessment Act 1979* and *Roads Act 1993*.

Short term uses or activities (i.e. street collections, street stalls and filming) do not require approval under the *Environmental Planning & Assessment Act* but do require approval under the *Roads Act 1993*.

5. Annual Licence Agreements

Council does not require annual licence agreements or ongoing annual rental fees for use of footpath areas.

6. Insurances

Copies of certificates of currency for public liability insurances (20 million dollars minimum) including indemnification of Council will be provided prior to use of any public area.

Approval may be transferred to a new business proprietor upon written notification to Council and provision of appropriate public liability insurance cover.

7. Use of footpaths for the sale and display of products

Council's minimum requirements for using footpaths for the display of goods are as follows:

- a two (2) metre wide unobstructed section of the footpath is to remain clear for pedestrian access
- any goods to be displayed are only to be placed on the footpath adjacent to the business premises and are not to extend beyond the property side boundaries.
- goods displayed are only to relate only to that business occurring at the premises
- the business owner will maintain the display area in a clean and tidy condition
- all goods display stands are to be secure and finished not to cause injury to pedestrians and will be removed from the footpath when the business is closed
- public address systems and cash registers are not acceptable
- only two (2) items per business are to be located on the footpath such as a sandwich board sign, trading table, display stand and/or display rack

8. Outdoor Dining

Council's minimum requirements for using footpaths for outdoor dining are as follows:

- a two (2) metre wide unobstructed section of the footpath is to remain clear for pedestrian access. This distance may be increased or reduced subject to assessment by Council
- outdoor dining furniture is to be strong, durable and robust to withstand heavy use and movement
- public safety and comfort is to be observed at all times. Outdoor furniture must be safe in design and not cause any hazard to the patrons, shopkeepers or pedestrians
- tables must be sturdy and breakable glass tops are not acceptable
- one (1) menu board per business is acceptable. Boards are to be maintained and may be A- Board or single board style
- each business is to consider adopting a single colour and style for seats and tables in its particular area to provide consistency and identity. Colours should be practical and serviceable
- any umbrellas are to be firmly anchored and free of sharp protrusions. Preference is given to market style umbrellas offering generous shade protection. Umbrellas are to consistent in style and colouring
- no part of the footpath is to be used for storage purposes
- if outdoor heating devices are proposed, details of the type, location and design must be provided for Council approval. All outdoor heaters are to comply with the relevant Australian Standards
- outdoor furniture is to be located a minimum distance of 600mm from the kerb, Council bins, street light poles and at least 800mm from any fixed public seats
- tables, chairs, umbrellas, pot plants and any other outdoor furniture is only to be placed on the footpath adjacent to the business premises and is not to extend beyond the property side boundaries.

- tables, chairs, umbrellas, pot plants and any other furniture are not be fixed to the pavement without prior approval of Council
- the canopy of any umbrella/s will have a minimum clearance above the footpath level two (2) metres
- the outdoor dining area, together with tables, chairs and any other associated furniture, are to be maintained in a clean condition at all times
- all tables, chairs and other furniture shall be removed from the footpath when the business premises are closed
- the use of food and drink preparation equipment is not acceptable on the footpath

9. Erection of public memorials

Memorials can only be erected in specific areas of the shire. Such areas are at the discretion of the Council.

A memorial must commemorate or celebrate a recognised person, organisation, action incident or event that has significance for the larger community of the Temora Shire. Memorials for non-specific events or incidents are not permitted.

Council minimum requirements for location of memorials are as follows:

- they are to be located in a position that has been agreed to by Council
- a two (2) metre wide unobstructed section of the footpath or similar public place is to remain clear for pedestrian access. This distance may be increased or reduced subject to assessment by Council
- the memorial is to be designed in a way so as not to be offensive or to unduly offend the community of the Temora Shire.
- the memorial is to be designed and constructed not to pose a health and safety risk
- the memorial is to be constructed of material blends with the surrounding environment such as stone, rock, bronze and the like.

10. Street festivals and fairs

Council recognises that street festivals and other special events are an important part of community life and a well organised and successful event benefits the community in many ways. Poorly planned and badly organised events can impact on the community in terms of health and safety. For this reason Council has identified two separate categories of events.

- **Small scale events** - catering for less than 100 persons, and
- **Large scale events** – catering for more than 100 persons.

Small scale events do not require development consent but may require an approval under the Roads Act.

Council's expectation in regard to large scale festivals is that organisers will take into consideration the amenity of local residents in planning the various activities associated with that particular event. In the case of any events or festivals involving

the erection of stages, public road closures, food stalls or fireworks displays, consultation with Council and any other relevant agencies is encouraged.

Council will require the following information:

- details of the program and times for all events and activities and any proposed street closures
- a plan of the area indicating the location of stalls, toilets, street closures, etc.

While not all of the following activities are part of every festival Council will also require details on the siting of all stalls and facilities or activities including:

- amusement devices
- fireworks displays
- animals
- crowd control barriers
- first aid facilities
- electrical facilities and cabling
- fire safety
- provision of rubbish receptacles and clean up arrangements of surrounding areas after the event
- traffic control
- parking
- food facilities
- security
- signs, structures, seating and stages
- toilet facilities
- environmental management

All licenses/permits/approvals from relevant government agencies must be submitted to Council. Permits may include some or all of the following:

- Permits from the WorkCover Authority of NSW in regard to amusement devices and fireworks displays refer to website www.workcover.nsw.gov.au/licensing/Pages/default.aspx
- Approval from NSW Police in regard to the consumption of alcohol
- Approval from NSW Roads and Traffic Authority/Police in regard to any proposed road closures

Council may require a financial bond to cover the cost of Council carrying out street cleaning and/or rubbish removal.

In the interest of public safety the use of glass containers for drinking purposes at any small or large scale events is to be avoided.

11. Commercial filming:

Commercial filming on streets, parks and reserves under Council control requires Council approval and is not exempt under *Schedule 2* of the *Temora Local Environmental Plan 2010*.

Council minimum requirements for commercial filming are as follows:

- details of the location, time and date/s of filming, equipment involved, size of crew and support team
- a minimum of two (2) weeks notice to Council prior to commencing filming. Differential notice periods are relevant to the different categories of commercial filming such as advertising, fashion shoots, television programs, documentaries, and major feature films. If a street closure is required at least three (3) months notice is necessary to allow for consideration by Council
- repairs or reinstatement of any public property is to be at no cost to Council
- evidence of risk management practices are to be provided to Council to avoid injury or loss to others and any damage occurring on the location
- necessary approvals are obtained from all relevant authorities including police, ambulance, fire brigade, etc.
- Temora Shire Council is to be acknowledged in all feature film credits.

12. Other activities

The following information is to provide assistance to those members of the Community wishing to undertake any of the following activities:

- Busking and street theatre
- Public address
- Information and promotional displays
- Preaching and religious services
- Street collections and badge/pin days
- Street stalls
- Street stalls for political purposes

These activities are permitted in public places within Temora Shire, without prior approval, except for those areas designated by Council signage or where those activities have the potential to create a nuisance or a hazard to pedestrian and vehicular traffic.

Council considers that the following locations are not acceptable for any of the listed activities:

- within five metres of a bus stop, pedestrian crossing, taxi stand or intersection
- any public area adjacent to residential premises or to a school or place of public worship
- all parks and reserves, except with Council's written approval
- any footpath unless a 2.5m unobstructed section is available for pedestrian movement
- public address systems are not acceptable

An individual or group carrying out these activities need to be aware that if they cause offence or obstruction they will be subject to action by authorised Council Officers or the Police. Any individual or group will be required to obtain any necessary approvals from State or Federal authorities.

12.1 Busking and street theatre

The following practices are unacceptable for busking or street theatre:

- the obstruction of pedestrians or vehicles
- creating any nuisance or objectionable noise
- affix any thing or to mark or draw on any footpath

A busker may solicit for money by placing a receptacle on the ground however will not ask members of the public for money or approach the public for the purpose of selling goods.

12.2 Street Stalls

Council's footpaths are available to be used by charity and non profit organisations. There use is not adversely impact on residents and/or visitors and is to provide an equitable opportunity for fundraising for all appropriate organisations.

Council minimum requirements for street stalls are as follows:

- the name of the organisation, together with the date/s, location and brief description of goods to be sold at the proposed stall/s
- street stalls may only be set up and operated by non- profit community groups
- to provide equitable access, groups are to limit their stalls to no more than one per month in any town or village in the Shire
- the approval of the business or organisation, where the street stall is to be located outside of, is required
- the organisation operating the stall will display a sign on the stall indicating its name
- no other signage is acceptable and the stall is to maintain a minimum unobstructed footpath width of two (2) metres
- any street stalls selling food will comply with the requirements of NSW Food Act and regulations

Each organisation authorised to conduct a Street Stall in Temora **must** complete and sign a copy of Council's Street Stall Policy and comply with the conditions of that policy.

13. Relevant Section C – Development Controls

The following other parts of *Section C – Development Controls* relevant to Activities in Public Places includes:

- *Bed and Breakfast Accommodation*
- *Car Parking*
- *Commercial Development*
- *Development Applications*
- *Food Premises Fitout and Construction*
- *Heritage and Conservation*
- *Landscaping*
- *Signage*
- *Village Development*