

Temporary Structures Application Form

Title (Dr/Mr/Mrs/Ms): _____

Given name: _____ Surname: _____

Postal address: _____

Suburb: _____ Facsimile: _____

Phone: _____ Mobile: _____

Email: _____

Advertiser/Company: _____

Insurance Details (PLEASE PROVIDE COPY OF INSURANCE POLICY)

Public Liability Insurer: _____ Policy Number _____

Policy Validity Dates: From ____/____/____ To ____/____/____

Please provide the following with this application:

1. Two copies of a dimensional drawing (A4 size) indicating frontage of the site and size of the area proposed to be used for a temporary structure and the structure's location;
2. A colour photograph of the site frontage and area proposed to be used temporary structure;
3. A colour photograph or brochure detailing the structure intended to be placed on the footway;
4. A current copy of Certificate of Currency for Public Liability Policy (minimum value \$20,000,000) with the co-insurance clause.

Other Temporary Structures on the Footway

Are you intending or already using items for the purpose of outdoor dining on the footway? YES/NO

If NO go to Declaration.

If YES please complete and submit the Footway Dining Application Form.

Declaration: I declare that all the information provided is true and correct. I have read and understand the Terms and Conditions attached for the provision of Space on the Footway for Temporary Structures and agree to abide by them.

Name: _____ Signature: _____ Date: _____

Witness Name: _____ Witness Signature: _____

Temporary Structures Terms and Conditions

1.0 General

The use of temporary structures on the footway provides commercial retailers with an opportunity to integrate commercial activities into pedestrian areas. This will increase exposure of specific commercial activities, which gives the opportunity for increased business.

These terms and conditions set out the requirements for the use of temporary structures on the footway (road reserve) for the exposure of articles (whether for sale or not).

2.0 Aims & Objectives

- To legitimise and manage an existing retail business practice that impacts on pedestrian safety in commercial areas;
- To ensure that businesses participating are adequately covered by public liability insurance;
- To regulate the use of the areas in a consistent and equitable manner;
- To provide guidelines for the establishment and maintenance of the use of temporary structures on the footway for the sale of items/services/advertising/information or beautification purposes;
- To ensure that such structures do not cause inconvenience or disrupt pedestrian or vehicular traffic or adjoining businesses;
- To enhance Port Stephens' image in keeping with Council's Vision - "Engaged people, working together, delivering valued services" and Council's Mission - "Leadership and alliances are innovative and entrepreneurial, stimulating growth and profits and deliver to our community a great lifestyle in a treasured environment".

3.0 Definitions

Applicant means:

- (a) person(s) making application,;
- (b) holders of a current licence for a temporary structure on the footway being the owner or lessee of the commercial premises or a Corporation; or
- (c) a firm trading under a business or trade name and a partnership or an individual.

Carriageway – that portion of the road reserve devoted particularly to moving vehicles and parked vehicles.

Classified road – means any of the following: a main road, a State highway, a freeway, a controlled access road, a secondary road, a tourist road, a tollway, a transit way, a State work.

Footway – that part of a road as is set aside or formed as a path or way for pedestrian traffic (whether or not it may also be used by bicycle traffic).

Kerb – a raised border of rigid material formed at the edge of a carriageway.

Public place – means a public road, bridge, jetty, wharf, road ferry, public bathing reserve, public bath, public land and other land which is a public place under the Local Government Act 1993.

Public road – means a road which the public are entitled to use.

Public street - means any street, road, lane, thoroughfare, footway or place open to or used by the public and includes any place at the time open to or used by the public on the payment of money or otherwise.

Road reserve – the entire right-of-way devoted to public travel, including footways, shoulders, verges and carriageways – the whole width between adjacent property boundaries.

Road users – includes pedestrians, motorists, cyclists and motor cyclists.

Temporary Structures Terms and Conditions (cont'd)

4.0 Inclusions & Exclusions

The approval of such structures applies only to urban commercial centres.

These terms and conditions cover the following types of structures:

- Clothing racks;
- Sandwich Boards/ A frames;
- Tables/barrows/display structures for the sale or advertising of items;
- Information/advertising/promotional material racks; and
- Plants in boxes/pots.

The following types of structures are not covered and the appropriate application form(s) and conditions for these other activities must be sought separately for each approval (consult the Facilities & Services Group for further details):

- Activities related to Footway Dining, such as tables, chairs, umbrellas, dividers etc which are covered by the Footway Dining Policy;
- Any structures, furniture, fixtures etc that are intended to be fixed or not removed at the end of the trading day;
- Kiosks;
- Road side stalls in rural areas; and
- Sails and other fixed shade items.

5.0 Statutory Requirements

An application for approval to use temporary structures on the footway for the exposure of articles (whether for sale or not) is made under Part 9 Division 3 Section 138 of the Roads Act 1993 and Section (F7) of the Local Government Act 1993.

6.0 Approvals

6.1 General

Applications are to be forwarded to the Facilities & Service Customer Liaison Officer by mail – PO Box 42 Raymond Terrace 2324, in person at 116 Adelaide Street, Raymond Terrace, or by email:

council@portstephens.nsw.gov.au

Approvals will only be issued if pedestrians can easily negotiate the footway when temporary structures are in place.

Any application to use a footway on a main road or State Highway (“classified road” as specified under section 125 of the Roads Act 1993) must be accompanied by a letter from the NSW Roads & Maritime indicating its approval in principle to the proposal. Council’s Facilities & Services Group can assist with this process.

Approval to use temporary structures on the footway for the exposure of articles (whether for sale or not) does not allow the use of the area for footway dining; erecting advertising sign(s) apart from sandwich boards; or any other activity not specified in these conditions. The appropriate application form(s) and conditions for other footway activities must be sought separately for each approval. Applicants must complete new documentation if they intend to alter or amend any details between the renewal dates.

Temporary Structures Terms and Conditions (cont'd)

Approval shall not be construed as conferring any ownership to the site. The Applicant shall not be entitled to any compensation or consideration if for any reason part or all of the approved site becomes permanently or temporarily unavailable, for example during footpath reconstruction or installation of new public utilities.

The area under the approved licence is not a saleable item when businesses are sold or transferred. A new application form must be submitted by new owners and supported with the necessary insurance documentation. When new applicants are not altering the usage and area details compared with the previous Applicant, the Facilities & Services Group Manager may waive the initial application fee and only charge the renewal fee. (See section 10.0 Initial Application Requirements & 11.0 Renewal Application Requirements).

Council's Facilities & Services Group Manager will consider the cleanliness and continued suitability of the footway for the temporary structure use at the time of routine inspections.

The Applicant shall clean the footway at his/her expense when deemed necessary by the Facilities & Services Group Manager.

6.2 Specific Requirements & Safety

The Applicant must not cause, permit or allow:

- (a) Any other goods to be stored, displayed upon or sold from the footway except those items as specified in the approved application;
- (b) The use of the footway or the Premises by or on behalf of the Applicant to give rise to "pollution" [as defined in the Protection of the Environment Operations Act, 1997, which includes but is not limited to that noise which (by reason of its level, nature, character, quality or the time at which it is made) is or is likely to be harmful to any person outside the Premises or unreasonably interferes with the comfort or repose of a person outside the Premises] or a nuisance;
- (c) Interference with access to any public utility or public amenity (including but not limited to fire hydrants, inspection chambers, telephone and electricity underground cables, water service pipe or service ducts) within the footway;
- (d) Any furniture, barrier, structure or other items to be used or placed upon the footway so as to obstruct or interfere with the flow of pedestrian (including pedestrians suffering from any disability) passage over the footway or adjacent footway areas. Unless otherwise agreed in writing this requires that an adequate clear path of at least 2 metres width (or such other width as the Council may direct in writing) is to be maintained across the footway or adjacent footway areas for pedestrian use at all times;
- (e) The installation or use of any furniture, barrier or structure that is not of a design, colour and specification submitted with their application and approved on such application by the Manager of Engineering Services. Council has the option to have structures removed if they are not adhering to this condition or if Council considers that the structure detracts from the visual character of the area;
- (f) Any furniture, barrier or structure to be permanently fastened to the footway unless the Applicant has obtained prior written approval from the Council;
- (g) Any furniture, barrier or structure to be placed in any position that might impede any vehicle travelling along any adjoining road way or that might pose a risk of damage or a nuisance to any person;

Temporary Structures Terms and Conditions (cont'd)

- (h) The display of any advertisement or the erection of structures without the prior written consent of the Council;
 - (i) Action in any way contrary to the Council's interests.
- The Applicant must ensure:
- (a) That all structures are confined to the approved area and do not encroach onto any adjoining businesses;
 - (b) That all structures are stable and weighted for varying weather conditions but not permanently fastened;
 - (c) That all structures are removed from the approved area upon completion of each days trading;
 - (d) That statutory authorities have right of access to approved areas to effect repairs or to maintain their equipment;
 - (e) That any improvements to the footway are undertaken at his/her expense. Where the surface of the footway in the proposed area is
 - (f) damaged, cracked or deteriorated or is otherwise unsuitable for a temporary structure area, the Applicant shall bear the cost of all pavement repairs carried out by the Council which have been caused by the use of temporary structure activities;
 - (g) That the use of the footway does not result in offensive noise to adjoining businesses or pedestrians;
 - (h) That the footway area is in a clean and tidy condition at all times;
 - (i) That liquid wastes are not discharged onto the footway or street;
 - (j) That structures remain clean and in good repair at all times; and
 - (k) That the structure area be paved or sealed for its full width.

6.3 Additional Requirements for Sandwich Boards

- (a) Sandwich boards are to be a maximum height of 1.2 metres and a maximum width of 0.6 metres;
- (b) Signs are to be professionally sign written. Chalkboard areas are permitted provided that a header exists displaying the business name;
- (c) Only one sandwich board will be permitted for any one business premises. Multiple boards, such as on the footpath area outside an arcade are not permitted;
- (d) Sandwich boards may be placed within the road reserve immediately fronting the business premises so advertised (frontage is that portion of the road reserve defined when side boundary lines are extended to the road reserve), or alternatively, sandwich boards may be installed on side boundaries (where the property is a corner block) or on a rear boundary (where the property also backs on to a road reserve);
- (e) Sandwich boards are to be placed so as not to hinder or restrict pedestrian movement within the road reserve. A proposed location sketch is to be included in the location plan section of the form so as Council can assess the likely impact of the sign on pedestrian movement;
- (f) Sandwich boards are only to be displayed during normal trading hours of the business;
- (g) The Licence sticker as issued by Council is to be clearly displayed the sandwich board and be positioned in the lower right corner of the sign;
- (h) Sandwich boards must not be erected within the road carriageway and in the following clear zones adjoining any road reserve erected within the specified locations:
 - 50/60 km/hr speed zones – within 2 metres of the face of the kerbing or the edge of the road (where a formed kerb exists);

Temporary Structures Terms and Conditions (cont'd)

- for 60 km/hr speed zones – within 1 metre of the face of the kerbing or the edge of the road (where no formed kerb exists);
- for 70 & 80 km/hr speed zones – within 2.5 metres of the edge of the road; and
- for 90 km/hr or over speed zones – within 3.0 metres of the edge of the road.

In urban commercial areas sandwich boards must be located in the area for temporary structures (See section 7.4 Location).

- (i) Sandwich boards are to be manufactured in materials which are unlikely to injure or damage pedestrians or motor vehicles if accidental collisions occur;
- (j) Sandwich boards must be securely anchored in position when displayed but removed at the end of the trading day;
- (k) Sandwich boards are permitted outside urban commercial areas.

6.4 Location

Temporary structures must be within the following requirements:

- (a) A minimum half (0.5) a metre clearance on each side of the applicants doorway;
- (b) A minimum half (0.5) a metre clearance from adjoining properties or laneways;
- (c) The maximum depth of the structure is to be no more than one (1) metre and placed against the shop front; and
- (d) Corner properties must allow a minimum two (2) metre clearance of each side of the intersecting corner;
- (e) A minimum paved footway width of two (2) metre clearances from the end of the structure to the start of the kerb or other permanent fixtures. (Greater widths will be required in areas of high pedestrian and/or high vehicle traffic).

7.0 Insurance Requirements

The Applicant must hold public risk insurance to a minimum value of twenty million dollars (\$20,000,000).

Existing policies shall include the following co-insurance clause:

“It is hereby agreed that the indemnity given by this policy is extended to the Port Stephens Council, in respect to the operation of an approved structure on the footway area”.

The Applicant shall lodge a copy of the policy with Council prior to the issue of an approval. A certificate of currency needs to be furnished at the expiration of insurance and with each renewal application.

8.0 Maintenance of Temporary Structures

Temporary structures are to be supplied and maintained by the Applicant at their own expense..

9.0 Initial Application Requirements

Applications for approval to use temporary structures on the footway for the exposure of articles (whether for sale or not), need to be made on the application form.

Temporary Structures Terms and Conditions (cont'd)

Applications for alterations to detail of an existing approval will be dealt with in the same way as for a new approval.

An application for approval needs to be supported by the following documentation:

- (a) A copy of a dimensional drawing (A4 size) indicating frontage of the site and size of the area proposed for the use of the structure;
- (b) A colour photograph of the site frontage and area proposed to be used for the structure;
- (c) A colour photograph or brochure detailing the type of structure intended to be placed on the footway.

10.0 Renewal Application Requirements

Applications for renewal to use structures on the footway are sent out as a renewal pack approximately 1 month before the end of financial year for completion and return to council no later than 1 July each year.

Applicants are required to lodge a renewal application each year regardless of when their initial application was lodged with Council during the previous year.

11.0 Other Structures

- (a) Businesses that propose to use plants in boxes/pots for beautification purposes only and where the plants in boxes/pots are not linked to the nature of the business and contain no advertising content

12.0 Assessment of Applications

Applications would be unlikely to be approved where:

- (a) The proposal is located in a residential neighbourhood that would have an adverse affect on residential amenity.
- (b) The use would create an obstruction or hazard to either vehicular or pedestrian traffic on the carriageway or road.
- (c) It is considered bad taste or offensive
- (d) It does not comply with other statutory or regulatory requirements.

13.0 Approval Details

The usual renewal period (unless revoked earlier) shall be from 1 July to the 30 June the following year.

An approval may be revoked at any time when in the opinion of the Facilities & Services Group Manager, the conditions applying to the approval are not being satisfactorily met.

Council may delete, amend or add further conditions to any approval to suit changing circumstances, at its discretion.

P: (02) 4980 0255 | F: (02) 4987 3612

E: council@portstephens.nsw.gov.au | W: www.portstephens.nsw.gov.au

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Temporary Structures Terms and Conditions (cont'd)

If the conduct of the area used for structure(s) causes undue inconvenience or disruption to pedestrian, vehicular traffic or the occupants of adjoining business premises, the Manager of Engineering Services, after considering any representations from the approval holder within seven (7) days of being notified, may terminate the approval with one month's notice in writing.

In the event of the approval holder failing to remove the structure or other property following the expiration or termination of the approval, the Council may remove and dispose of such property at its discretion if not claimed within seven (7) days of notification for removal having been given to the approval holder

YOUR PRIVACY

Port Stephens Council is committed to protecting your privacy. We take reasonable steps to comply with relevant legislation and Council policy.

Purpose: *This information is collected only for Council's Temporary Structure register.*

Intended recipients: *The information will only be used by Council staff.*

Supply: *This information is supplied voluntarily.*

Consequence of Non Provision: *Non provision of the information required will result in the application not being processed.*

Storage and security: This document will be placed on the relevant file and/or saved in Council's records management system in accordance with Council policy and relevant legislation.

Access: Please contact Council on (02) 4980 0255 to enquire how you can access information.

Office Use Only

Approved By: _____ Signature: _____ Date: _____