

## Mobile signs, articles, merchandise and entertainment on public land

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<b>Linkage to Our Community Plan</b>	1 Our Society
<b>Objective</b>	1.4 We will have access and equity of services
<b>Strategy</b>	1.4.7 Work with the community and partners to inform, develop and maintain an inclusive and equitable community

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## 1. Purpose

The purpose of this policy is to provide specific criteria for the management of public land, including the use of mobile footpath and street signage, articles and other merchandising material or displays on public land. It also relates to busking and live entertainment groups performing on public land as well as fundraising activities (transient displays, i.e. street stalls and 'street roaming'), in the Clarence Valley Council local government area.

## 2. Definitions

**Mobile footpath and street signage** refers to those advertising structures that are not permanent, and are displayed and removed on a daily basis in relation to an adjacent business premises.

**Articles, merchandise and other material**– this may include materials for sale by the adjacent business that fit the criteria, pot plants or decorative items (not necessarily related to the commercial activity). This includes clothing racks and promotional flags, but does not include any article of food unless it is protected as required under the provisions of the Food Act.

**Street stalls and transient displays** refers to those displays for local community fundraising such as Daffodil Day, Art Unions, etc. that are of a transient nature and not associated with an adjacent business. These are subject to individual approval by Council.

**Street roaming** refers to those organisations or groups that survey, canvas, and/or solicit for funds for various charities or organisations by roaming the Central Business District (CBD).

**Busking and street entertainment** refers to performances and entertainment undertaken on public land that may receive voluntary public donations.

## 3. Background/legislative requirements

Section 68 of the Local Government Act requires owners of goods or signs that are to be displayed on public land including footpaths and street road reserves to obtain Council approval for that activity unless Council has adopted a Local Approvals Policy (LAP) that exempts such approval. While at this stage Council does not have an LAP, this policy would be reviewed if an LAP was adopted.

Section 20 of the Impounding Act 1993 also permits Council to impound vehicles, signs or articles that are causing an obstruction to traffic or public places.

In order to standardise the criteria for the use of public land, this policy has been prepared largely to align it with the existing Business Zones DCP, Part 1 Advertisements and Advertising Structures. This approach covers Council's risk management responsibilities required by Council's insurer through the annual submission of an owner's public liability insurance.

#### **4. Objectives**

- Articles, merchandise and entertainment on public land facilitate the use of mobile signage by business and organisations including sandwich boards for advertising and promotion.
- To maintain a safe environment and minimise obstruction to pedestrian and vehicular traffic, impede pedestrian flow or restrict access to adjacent premises.
- To reduce the likelihood of hazards on the footpaths for people with disabilities.
- To provide scope for use of the pavement for retail purposes using a stand or other structure associated with the use approved in adjacent, fixed premises.
- To facilitate the display of goods associated with retail premises on the pavement outside fixed premises in an attractive, equitable and safe manner.
- To reduce the likelihood of visual or real clutter by limiting the number and size of mobile structures used per business.
- To facilitate the use of public land for transient displays for community purposes not associated with an adjacent commercial enterprise, including buskers, entertainment groups or fundraising activities.

#### **5. Policy scope**

This policy relates to non-permanent structures such as sandwich boards, tables, baskets or racks used for the display of goods, items of a decorative nature such as pots or pot plants, brochures or information and advertising/promotional material that relates to the adjoining business activity.

This policy extends to those displays which are short term and not associated with an adjoining business activity. Typically, these will include street stalls and displays by fund raising or community organisations.

The policy also applies to buskers and community entertainment groups such as school choirs. This policy does not relate to café tables/chairs that are subject to formal agreement between Council and café proprietors (outdoor dining/footway restaurant). It also excludes highway advertising signage which requires Development Approval.

Real estate and political signage, such as “Open House” or “How to vote” signs, which are only on display for a short time span are not subject to a fee or application. However, they are not to be displayed on footpaths or in an area of pedestrian traffic or in a manner which creates a hazard.

Approval is not required for window, fascia, under awning advertisements or other advertisements or advertising structures that are defined as exempt development (refer to Council’s relevant Development Control Plans). However, these will be subject to satisfaction of certain criteria under Council’s DCP’s and heritage classifications and advice can be sought from Council prior to their erection.

## 6. Policy statement

### 6.1 Mobile signage, articles and merchandise, street roaming

The placement of mobile signage, articles and merchandise is required to have approval from Council. The following criteria must be met in order to gain approval.

- i. The policy will only apply to land that is, or is immediately adjacent to land zoned B1 Local Neighbourhood, B2 Local Centre, B3 Commercial Core, B5 Business Development, IN1 General Industrial or commercial uses in any zone.
- ii. Council will generally only approve one (1) sign/article/merchandising display only. However, approval for more than one sign/article/merchandising display may be considered on its merits depending on location, traffic and pedestrian hazard, etc. only in exceptional circumstances. Where initial approval for more than one structure/sign etc. is made a single application and fee can be made for those structures/signs/etc. For renewal of applications the applicant of structures/signs/etc. will be required to pay a renewal fee for each structure/sign/etc. being sought to be maintained.
- iii. Signs, articles and merchandise must only be displayed during business hours and must be removed at the close of business. They must not be chained or fixed permanently and must be able to be repositioned easily.
- iv. Signs, articles and merchandise must be placed in front of the business or, if the structure would not be readily visible, it may be placed at the front of the allotment provided that it complies with the pedestrian clearance standards stated elsewhere in this policy.
- v. Sandwich boards may advertise two adjoining businesses.
- vi. The location of all signs, articles and merchandise must be approved by Council and must not cause a traffic or pedestrian hazard. Council adopts the "shoreline" principle with a "continuous path of pedestrian travel" (as defined in AS1428.1) located adjacent to shop frontages as considered essential for persons with a vision impairment or disability (subject to other requirements of this policy).
- vii. Sandwich boards must not be more than 600mm wide and 1200mm in height. They must relate only to the business immediately adjacent to the sign, its hours of operation and services provided.
- viii. Merchandise displays, such as display tables, but excluding clothes racks, must be no more than 600mm wide and 1200mm in height, and no more than 1500mm in length.
- ix. Structures shall allow for a clear minimum distance of 1.8 metres out from the building frontage which is to be maintained at all times. In exceptional cases, where this distance is not achievable due to site constraints, a 1.5 metre minimum setback from the shopfront shoreline will be acceptable provided a passing zone every 6 metres is provided for wheelchairs and strollers.
- x. Merchandising displays that are enclosed with solid sides and front to within 10 mm of ground level, as far as practicable, may be permitted to be located immediately adjacent to the building frontage, but not within the immediate proximity of a corner of a building(s), pending approval.

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- x. Clothes racks may be up to 1800mm high and not protrude further than 600mm from the building frontage onto the footpath, and require individual consideration prior to approval. In these circumstances clothes racks will need to have solid sides to within 10 mm of ground level, as far as practicable, while the need for front enclosure will be considered on its merits.
  - xii. Protruding flagpoles from shopfronts will be considered on their merits including complying with minimum height distances (2.0 metres minimum) and obstruction clearances.
  - xiii. Pot plants and mechanical children's rides along shops fronts are not permitted except under exceptional circumstances (e.g. not in a major pedestrian path of travel near main commercial business trading areas and clear pedestrian zones can still be maintained).
  - xiv. In arcades, for those businesses not fronting the footpath, one shared sandwich board may be placed on the footpath, 1.8 metres from the building frontage, at the front of the arcade and the advertising area. Council assessment staff will determine the advertising area location and size. The submission of the application form and approval fee is to be the responsibility of the businesses involved.
  - xv. Sandwich boards must not to be placed next to pedestrian crossings to ensure driver sight lines are maintained.
  - xvi. Any damage caused to Council's footpaths as a direct result of trading activities or display of signage or other articles shall be the responsibility of the respective proprietor. Any repair works necessary will be carried out by Council at the owner's expense.
  - xvii. Organisations involved in community awareness or fundraising activities will be required to complete an application form providing details of their organisation, the contact person, the size of the display and materials to be displayed, the proposed location and length of time of display/street stall. Details of Public Liability Insurance cover will also be required. This application must be received by Council at least 10 working days prior to the activity being undertaken. Council reserves the right to refuse approval for such displays/street stalls.
  - xviii. All organisations carrying out community awareness or fundraising activities of any kind, are to note:
    - a. Street roaming for the purposes of donation collecting or surveys on the road reserves in the central business districts is prohibited.
    - b. Donation or survey collectors operating on the road reserves in the central business districts are required to be seated or be located next to a stall, table or similar structure.
    - c. The activity is not to hinder the entrances or exits of any shop or shopping complex.
    - d. The activity is not to restrict pedestrian flow on the footpath or at any pedestrian crossing.
    - e. The persons carrying out the activity will not use a car parking space contrary to nearby signage without a permit from Council.
    - f. The persons carrying out the activity will carry the permit while conducting the activity and make it available for inspection upon request.

- g. The persons carrying out the activity will comply with any direction from an 'Authorised Officer' of the Council.
- h. The persons/organisation will not transfer the permit.
- xix. Organisations involved in such activities may apply to Council for exemption from the approval fees.
- xx. Any remedial action required due to repair damage to Council's property as a direct result of these activities will be the responsibility of the organisation applying for the display.
- xxi. The provision of electricity supply to signs, articles/merchandising displays, buskers and entertainment groups is prohibited.
- xxii. All signs, articles/merchandising displays are to be maintained in a safe and hazard free condition. Council officers reserve the right to ensure any signs, articles or merchandising displays considered unsafe are immediately removed and repaired or replaced prior to reinstatement on public land. In such instances, there is to be no refund of approval fee.

## **6.2 Buskers and entertainment groups**

- (i) Buskers and entertainment groups must not unduly interfere with pedestrians or public amenities, locate in public access ways or cause undue obstruction to traders or delivery vehicles.
- (ii) Buskers must remain in the one location whilst performing. Buskers can relocate between performances.
- (ii) Buskers and entertainment groups may receive voluntary donations from the audience but must not solicit funds.
- (iii) Buskers and entertainment groups must not use amplification or powered equipment or display material.
- (v) Buskers and entertainment groups must comply with directions issued by members of the NSW Police Force and/or an authorised officer of Clarence Valley Council.
- (vi) Buskers will be asked to move on or cease their activity in any of the following circumstances:
  - They are deemed to be causing a nuisance by Council authorised officers.
  - They cause undue obstruction to pedestrians or vehicular traffic and to entrances of shops or buildings.
  - They use dangerous implements or materials as part of a performance.
- (viii) An authorised officer of Council may ask a busker to cease busking if the performance is considered to be contrary to this policy, causing undue public inconvenience, interfering with the conduct of business or contributing to a lack of public safety. The busker must immediately comply with any such request.
- (ix) Buskers and entertainment groups must also complete an application form for approval by Council and pay the prescribed application fee. Buskers must produce their permit if requested by an authorised Council officer.

## **7. Appeal/objections process**

- i. An application form for a mobile structure/s is to be lodged with Council for initial approval, with a fee (reviewed annually and included in the Fees and Charges in the annual Operational Plan), detailing the dimensions, position and construction materials of the sign/article/merchandising. Council will accept one initial application and fee in cases where more than one mobile structure/etc. is being made. The application is to be submitted with a copy of current public liability insurance of at least \$20 million to clearly indemnify Council (policy must note Council as having an interest) for any action, proceeding or claim arising as a result of an incident prior to the initial temporary installation of a sign/article/merchandising display.
- ii. Following submission of the initial application, confirmation of the approval for the financial year in which the application is made will be forwarded to applicant as soon as practical after receipt of application, and a coloured label will be forwarded to the applicant to be affixed to the structure/display.
- iii. A renewal notice will be sent to all owners requesting confirmation to renew for a period of up to five (5) years, and submission of a current certificate of public liability insurance, indemnity form and renewal fee.
- iv. Council will allow a 30 day period for the renewal of the mobile structure application.
- v. Council will audit up to 5% of all mobile signs, articles and displays on public land annually to verify currency of public liability insurances and placement of signs.
- vi. Business owners must advise Council, within 30 days, of any change of ownership or change of business name.
- vii. Those that do not renew their approvals and have not maintained adequate insurance will be requested to remove the signs or they will be impounded. Council reserves the right to charge a fee for the release of an impounded sign, article or display (refer to Fees and Charges).
- viii. All approved signs/articles/merchandising displays will be given a readily identifiable label to display on signs, articles or merchandise so that Council's Authorised Officers can verify those items that have approval. Those granted ongoing approval will be sent a new label in a different colour to allow ease of recognition by Council staff.
- ix. Organisations operating community awareness or fundraising activities of a transient nature (street stalls/pledge collectors) and over a short time period are required to seek approval from Council prior to their activity (at least 10 working days), provide details of their Public Liability Insurance Cover and, if requested, an authority to fundraise on behalf of the relevant organisation. Applications for a fee exemption have to be referred to Council for consideration at a Council meeting.