

	<b>Title:</b>	<b>Activities in Public Places Bylaw 2017</b> <i>Te Ture ā-Rōhe ki ngā Wāhi Marea</i>
	<b>Date adopted (review date):</b>	12 June 2017
	<b>Date in force:</b>	1 September 2017
	<b>Next review date:</b>	12 June 2027

## 1. Title

- 1.1. This bylaw is the Thames-Coromandel District Council Activities in Public Places Bylaw 2017.

## 2. Commencement

- 2.1. This bylaw comes into force on 1 September 2017.

## 3. Application

- 3.1. This bylaw shall apply to the entire Thames-Coromandel district unless specified otherwise in this bylaw.

### ***Explanatory note:***

*This bylaw is not the only legislative document relating to activities in public places. Nothing in this bylaw derogates from any duty, power or responsibility arising from any other Act, regulation, bylaw or rule.*

*Words which refer to the singular include the plural and the plural includes the singular.*

*Reference to any Act or provision of any Act includes any amendment to that Act or any Act passed in substitution for it. The Local Government Act 2002 and other relevant Acts including the Reserves Act 1977, Health Act 1956 and Litter Act 1979 outline some of the powers and requirements of the Council in regard to streets, public places and reserves. Areas of control prescribed by this legislation are not necessarily repeated within this bylaw, and therefore relevant sections of the Local Government Act 2002 and other Acts should be read in conjunction with it.*

*Any resolution of Council may be amended, rescinded or reinstated by a further resolution of Council. The most recent resolution of Council shall be the operative resolution. A power for the Council to make a resolution includes the power to amend or revoke the resolution or to revoke it and replace with another.*

*Notes in italics are for information only and are not part of this bylaw.*

## PART 1 PRELIMINARY PROVISIONS

### 4. Purpose

4.1. The purpose of this bylaw is to:

- Manage the effects of, or behaviours associated with, certain activities that can either create a nuisance, are intimidating, threatening or impact on public safety;
- Manage the use of public places, including parks, reserves and beaches, by regulating against damage or misuse of structures, property and assets owned, managed or under the control of Council;
- Ensure that safe and accessible public places are provided for the use of everyone in the community by minimising uncontrolled use and occupation of footpaths, access ways and other public spaces;

### 5. Definitions

5.1. In this bylaw, unless the context requires otherwise:

**Animal** means any animal, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, and includes their young or eggs, and the carcass or its constituent parts, but does not include humans or dogs.

**Authorised Officer** means any person appointed or authorised in writing by the Chief Executive or by Council to act on its behalf and with its authority.

**Charitable purpose** has the same meaning as section 5 of the Charities Act 2005.

**Chief Executive** means the person employed by Council as the Chief Executive of the Council for the time being.

**Council** means the Thames-Coromandel District Council and any officer authorised to exercise the authority of the Council.

**Market** means a common location where goods and / or services are offered for sale or hire, by more than one stall, whether for commercial or charitable purposes, and includes the whole place and activity.

**Nuisance** has the same meaning as Section 29 of the Health Act 1956 and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place.

**Outdoor display of goods** means the display of goods in a road or other public place adjacent to business premises, and includes any display structure

**Outdoor dining (alfresco dining area)** means a road or other public place used by an adjacent business premise for the purpose of providing food or drink

**Park** means any park, domain or recreational area under the control of the Council.

**Person** includes any individual, a corporation, a body corporate and an unincorporated body.

**Public Place** means a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and includes any hovercraft, ship or ferry or other vessel, train or vehicle carrying or available to carry passengers for reward.

**Reserve** has the meaning assigned to that term under section 2(1) of the Reserves Act 1977.

**Skateboard** means a wheeled device controlled or propelled by gravity or by the muscular energy of the rider, including roller skates, in-line skates, or similar recreational devices. The definition does not include any wheelchair, baby or invalid carriage or bicycles.

**Special event** means an organised temporary activity that takes place on one or more days including an organised gathering, parade, protest, wedding, private function (which is independent of premises), festival, concert, celebration, multi-venue sports event of a significant scale, fun run, marathon, duathlon or triathlon.

**Road** has the meaning assigned to that term under section 2(1) of the Land Transport Act 1998 and its amendments.

**Stall** means a stand, stall, structure, vehicle, awning, table or temporary structure from which goods and / or services are offered for distribution or sale and which is erected, placed or maintained in or on a public place

**Stock** means, cattle, sheep, horses, deer, donkeys, mules, goats, pigs, alpacas, llamas, or other animals (excluding dogs) including their young, kept in captivity, or farmed, and dependent on humans for their care and sustenance.

**Trading in a Public Place** means an activity undertaken by any person or organisation involving the sale of goods or services in a public place or the offering of a commercial service for payment, reward or otherwise, including but not limited to:

- (a) markets and stalls;
- (b) mobile shops;
- (c) outdoor dining;
- (d) offering commercial services in a public place;
- (e) outdoor display of goods;

**Trading Activity** has a corresponding meaning to trading in a public place.

**Vehicle** has the same meaning as given in the Land Transport Act 1998.

**Vehicular Crossing (Vehicle Crossing):** A vehicular entrance formed to provide access to any premises from the carriageway of the public street or road fronting those premises, and includes any crossing constructed over a footpath, kerb, berm, water channel or drain.

**Urban Road** is a road having a speed limit of 60 km/h or less or as defined by any subsequent iteration of the Traffic Control Devices Manual.

## PART 2

### PUBLIC SAFETY, NUISANCES AND GENERAL BEHAVIOUR

#### 6. Public safety and nuisances

6.1. A person must not use a public place to:

6.1.1. Wilfully obstruct, intimidate, disturb or interfere with any other person in their use or enjoyment of that public place; including when asking for any subscription, collection or donation; distribution of any material; engaging in busking/street entertainment; or preaching.

6.1.2. Create a nuisance through the use or playing of any instrument (musical or otherwise), or any type of public address system or any type of amplified sound system, or from making any excessive sound or noise;

6.1.3. Use any material or thing (including a vehicle, bicycle, motorised scooter, model aircraft, skateboard, roller skates, rollerblades, shopping trolley or similar object)

recklessly or in a manner which may intimidate, be dangerous, be injurious to or cause a nuisance to any person;

- 6.1.4. Install or maintain a fence (including razor-wire and electric) in a manner that may cause an injury or nuisance to any person;
- 6.2. A person must not use a public place to display or fix any posters, signs, advertising devices or thing on any Council controlled property except with the prior written approval of Council.

## **7. Obstructing Public Places**

- 7.1. A person must not, in any public place, except with the prior written permission of Council:
  - 7.1.1. Obstruct the entrances to or exits from a public place.
  - 7.1.2. Place or leave any material or thing, in, on, over or above a public place that could obstruct the right of passage. This restriction shall not apply to any verandah or awning erected in accordance to a requirement of a District Plan provided that any such projection or obstruction has been placed against or in front of any building before the coming into operation of this bylaw. Existing verandahs may stay contrary to any bylaw in force, unless Council give notice to the owner or occupier of such building to remove, or to alter such projection or obstruction. Such owner or occupier shall, within the time stated in such notice, remove or alter such projection or obstruction.
  - 7.1.3. Allow any gate or door abutting a public place, to swing over or across the public place or any part of a public place except for the purposes of entering or leaving the property.
  - 7.1.4. Allow vegetation to encroach over a public place in a manner that may cause a nuisance to any person or an obstruction to traffic (pedestrian and vehicular).

## **8. Damage to Public Places**

- 8.1. Except with prior written approval from Council, a person must not cause damage on or to a public place by:
  - 8.1.1. Damaging, defacing, removing, disturbing or interfering with any property under the control of the Council including any structure, furniture, equipment, object, surface, natural feature or material including rock, shingle sand or sand dune, or

any form of vegetation including but not limited to trees, gardens, flower beds, grass plots and shrubbery.

- 8.1.2. Damaging, polluting, disturbing, interfering with or placing any obstruction in any water course or stormwater drain or channel.
- 8.1.3. Depositing any structure, object, material, substance or thing.
- 8.2. Clause 8.1 does not prevent any person from maintaining the grass verge on any road adjacent to their premises.

## **9. Vehicular Crossings**

- 9.1. Any person wishing to construct, repair, remove or widen any vehicular crossing must first obtain a permit from the Council before undertaking any works.
- 9.2. A permit issued by the Council under clause 9.1 may be subject to such conditions concerning vehicle crossing bonds, dimensions and materials as the Council may consider reasonably necessary to protect the road adjacent to the vehicular crossing, and to ensure safe and convenient use of the road by pedestrians and vehicles.
- 9.3. If in the opinion of the Council any vehicular crossing is in a poor or unsafe state of repair, Council may by notice in writing, require the owner of the land which the vehicular crossing provides access to, to repair, reconstruct, or renew such vehicular crossing to the satisfaction of Council. Every such owner or occupier who fails to comply with any such notice within the period specified shall commit an offence against this bylaw.

## **10. Additional requirements for parks, reserves and beaches**

- 10.1. Subject to the provisions of this bylaw every park, reserve and beach shall be open to the public at all times except during such hours as Council may determine that any park, reserve or beach shall be closed to the public.
- 10.2. Council may from time to time and for such periods as it deems fit, set aside areas of a park, reserve or beach, for the exclusive use of particular groups or for particular kinds of recreational activities. Council may charge for the exclusive use of any part of a park, reserve or beach.
- 10.3. Council may close or restrict entry to all of, or any portion of a park, reserve or beach at such times as are considered reasonably necessary to ensure public safety or prevent damage to or allow maintenance of the park, reserve or beach. Such closure will be advertised by signs at entrances. A person may not remain in or enter a park, reserve or beach that is closed.

## PART 3 ANIMALS IN PUBLIC PLACES

### 11. Animals and stock in public places

- 11.1. A person may only take stock or animals into, on or over a public place where it is safe to do so and does not cause a nuisance to other users of that public place or a hazard to traffic.
- 11.2. The keeping of bees or grazing of livestock in a public place is only permitted with the prior written permission from Council who may impose such controls and fees as it so determines.
- 11.3. Any person having control of stock or animals in a public place must ensure that the stock or animals are kept under proper control.
- 11.4. Any person having control of stock or animals in a public place may be required to remove and appropriately dispose of any manure deposited in a public place.
- 11.5. No person shall drive any stock on any road during the period between half an hour after sunset and half an hour before sunrise unless sufficient warning is provided and maintained by such person by the use of lights or other effective devices or means to ensure that other persons using such road shall have adequate notice of the presence of such animals on the road.

## PART 4 TRADING IN PUBLIC PLACES

*Note: Please refer to the definition of **Trading in a Public Place** for types of activities covered under this section. Trading activities not requiring a licence must comply with all other relevant public place bylaw and other bylaw provisions.*

### 12. Licence required

- 12.1 No person, in any public place, may engage in the sale of goods or services of any description whatsoever (including outdoor "alfresco" dining or outdoor display of goods), without having first obtained a licence from Council; except:
  - 12.1.1 Selling or disposal by commercial fishermen of limited quantity of fish in the vicinity of a fishing vessel as specified in section 191 of the Fisheries Act 1996
  - 12.1.2 Service delivery vehicles

- 12.1.3 Any market, stall or stand which has a current approval under any other bylaw, legislation, resource consent or permit of Council
  - 12.1.4 Any market, stall or stand which is run by Council for the benefit of the community
  - 12.1.5 Busking or street performance
  - 12.1.6 Fundraising for a charitable purpose, soliciting of any subscription or collection of any oneoff or ongoing donation
  - 12.1.7 Distribution of any promotional goods or materials
- 12.2 A licence issued under this bylaw is not transferable to any other person.

### **13. Application for licence**

- 13.1 Every person who wishes to sell goods or services in a public place under clause 12.1 of this bylaw will apply for a licence from Council. Council reserves the exclusive right to require such information as it deems necessary to determine the outcome of an application.

### **14 Licence conditions**

- 14.1 Council in granting a licence may impose conditions. These conditions may include, but are not limited to those featured in Schedule 1 of this bylaw.
- 14.2 Every person issued with a licence must comply with the conditions of that licence.

### **15 Production of licence**

- 15.1 Every licence holder shall at all times when engaged in the sale of goods or services, carry a licence and show the licence to any authorised officer on demand.
- 15.2 Every licence holder shall, notwithstanding the conditions of the licence, upon being requested to do so by an authorised officer alter his/her position for sales to any position as indicated by the authorised officer.

### **16 Licence suspension or cancellation**

- 16.1 The Council may suspend or cancel a licence to trade in a public place in the following circumstances:
- 16.1.1 Without notice if urgent action is required to protect the public from unhygienic, unsafe or hazardous conditions, or urgent works are required in the public place where the licence applies.



16.1.2 On the giving of 48 hours notice to the person or operator of the market who holds the licence if the activity will interfere with intended road works, a special event or with the public's normal right of passage.

16.1.3 There are repeated breaches of the terms or conditions of the licence.

## **PART 5**

### **ENFORCEMENT POWERS**

#### **17. Enforcement, Offences and Penalties**

17.1. The Council may use its powers under the Local Government Act 2002, the Health Act 1956 and the Litter Act 1979 to enforce this bylaw.

17.2. The Council may remove or cause to be removed from any public place any material or thing found on that private property in breach of this bylaw and may recover any costs or removal from the person who committed the breach.

17.3. The Council may, pursuant to section 163 of the Local Government Act 2002, remove or alter a work or things that is, or has been, constructed in breach of this bylaw and may recover the costs of removal or alteration from the person who committed the breach.

17.4. Every person who breaches this bylaw commits an offence.

17.5. Every person who commits an offence under this bylaw is liable to a penalty under the prevailing legislation.

## **PART 6**

### **FEEES AND CHARGES**

#### **18. Fees and Charges**

18.1. Council may by resolution prescribe fees and charges in relation to any inspection, approval, permit, bylaw, licence, consent, or exemption, including to review and process any application and for the period of any approval.

**Signed on Behalf of Thames-Coromandel District Council by;**

\_\_\_\_\_  
District Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chief Executive

\_\_\_\_\_  
Date

## **SCHEDULE 1: Licence Conditions may include**

- Designated times of operation (hours and days) including limitations on the hours of set up and pack down);
- Duration of the approval;
- Location of the activity, taking into account the surrounding land uses, street layout and the minimum clear widths of footpaths required for access
- Requirement that the activity is not located in a way that is likely to cause a nuisance, unreasonable obstruction, or hazard to other users of the space and for access;
- That a continuous accessible path is provided for;
- Safety, health and hygiene requirements;
- Requiring compliance with or provision of a traffic management plan and/or waste management and minimisation plan;
- Specifications on the use of furniture, structures, equipment, articles, signs, vehicles and any other items associated with the activity;
- Requirement for public liability insurance;
- Restrictions on the use of amplified music/sound;
- Requiring compliance with other Council policies, plans, bylaws or controls (including but not limited to, a district plan or reserve management plan) and any other applicable Act or regulation (including but not limited to hygiene and food safety requirements);
- Any other conditions reasonably required to appropriately mitigate any adverse impact on local businesses or the local environment arising or likely to arise from the activity.

## **BYLAW HISTORY**

<b>Action</b>	<b>Description</b>	<b>Date of Council Resolution</b>	<b>Effective Date</b>
<i>Made new bylaw</i>		<i>[To be determined]</i>	<i>[To be determined]</i>