



# USE OF CARRIAGEWAY AND KERBSIDE LAND GUIDELINES

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43 Oliver Avenue, Goonellabah NSW 2480 • PO Box 23A, Lismore NSW 2480 • T: 1300 87 83 87 • E: [council@lismore.nsw.gov.au](mailto:council@lismore.nsw.gov.au) • ABN: 60080932

*Lismore City Council acknowledges the people of the Bundjalung Nation, traditional custodians of the land on which we work.*

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## Introduction

This policy is intended to provide owners/lessees of businesses in Lismore with a cost-effective and straight forward administrative process which will enable them to utilise carriageway and footpath areas for the provision of dining spaces, additional private site access and other commercial opportunities.

## Objectives

The objectives of this guideline relate to:

### **Expansion of kerbside and carriageway land use for commerce:**

- a) Reinforce the established character of Lismore as being a cultural and economic hub with cosmopolitan charm. This is reflected in outdoor eating venues which offer an expansive variety of cuisine choices and which capitalise on the city's sub-tropical climate;
- b) Provide outdoor meeting places where people can comfortably and safely sit in an outdoor area and enjoy light refreshments;
- c) Permit the legal conduct of the use of kerbside land consistent with reasonable levels of public safety, traffic regulation and pedestrian movement and access.

### **Expansion of carriageway land use:**

- a) Provide an opportunity for businesses to establish additional site access to their properties through existing public carparking areas. The existing public carparking spaces could be located either on a public street or within public carparking areas.
- b) The leasing of additional site access' will ensure businesses have a flexibility of site use in the design of vehicular movements on their property.
- c) Rear access through public carparking areas may facilitate the use of the rear of lots for heavy vehicle deliveries.

## Assessment Guidelines

- An owner or lessee of either an existing or new business may apply for a Carriageway and Kerbside Land Use licence.
- Carriageway and kerbside land use areas will be subject to normal development application requirements.
- All development applications for kerbside land use activity are to be referred to the Access Committee for comment prior to approval.
- Carriageway and kerbside land use areas should take into account the use of the public space they are occupying and must provide for clear sight lines for vehicles and/or pedestrians in or in proximity to the licence area.
- The establishment and use of carriageway and kerbside land use areas should not conflict with, or inconvenience other retail and commercial activities, or obstruct access to and from adjacent properties.
- Pedestrian footpath movement should not be unduly obstructed.
- A minimum clear footpath width of 2 metres should remain available for pedestrian usage. Pedestrians should be able to make normal use of the footpath without being obliged to step onto the road at any point.

## Structures

- To establish a kerbside land use area within a carriageway that exists prior to footpath widening, the exterior enclosing structure is to be of a construction and design that will be able to provide some protection from vehicular impacts.
- All interior structures/fittings associated with kerbside land use areas which encroach onto a carriageway shall be designed to facilitate removal as required by Council.
- Portable kerbside land use areas may also be approved provided that chairs and tables are in accordance with appropriate Australian design standards.

## Design/Landscape

- Prior to lodgement of a development application, pre-lodgement discussions are to be held with Council, with regard to the overall design and landscaping of the proposed kerbside land use area under consideration. Such design should be conducive to social interaction, have a positive effect on the streetscape, and maintain the visual integrity of adjoining developments.
- The structures associated with kerbside land use should permit reasonable visual continuity of the streetscape. The use of bollards will be encouraged to create the feeling of openness. Surrounding walls, where utilised, should be low enough to enable the dining and pedestrian activities to merge rather than enclosing and separating the dining activity totally from pedestrian activity.
- Associated plantings should place an emphasis on shade provision and should be cognisant of the “Crime Prevention through Environmental Design” principles. Plantings should conform with the established street planting themes or reinforce the rainforest theme currently applied in Lismore.

## Licence Agreements

- Council will grant to the owner/lessee pursuant to Section 125 of the Roads Act 1993, a licence to use the designated area as defined by the Council endorsed sketch plan submitted by the applicant as a private use of carriageway or footpath restaurant solely for the conduct of restaurant business as carried on by the licensee at the principal premises and as set out in the development consent issued for the site.
- All costs for establishing such a licence are to be borne by the applicant.
- Such licence shall usually be for five (5) years.
- Licensees will be required to provide security or make a contribution equivalent to 50% of Councils investment in structural and non relocatable elements of the dining area. Security will be released at the end of the five year lease and any contribution will be applied to the calculation of the rent during the five year lease.
- Where the proposed kerbside land use area extends outside the confines of the prolongation of the applicant’s principal premises, comment will be sought from adjoining land owners however Council will retain sole discretion as to whether or not to issue a licence or consent for the proposed activity.

## Indemnities and Responsibilities

- The footpath shall be kept clean and tidy at all times. Council may direct that the footpath be steam cleaned from time to time, at the cost of the licensee.
- Any damage caused to footpaths shall be the responsibility of the respective licensee.
- A licensee shall indemnify Council against all claims of public liability, and shall maintain a public risk policy for a sum not less than ten million dollar (\$10,000,000) at all times, with an insurance company approved by Council.

## Application details

An application for a Carriageway and Kerbside Land Use Licence is to contain:

- A brief description of the intended use of the proposed kerbside land use area including any effects on vehicular and pedestrian movements;
- A plan sketch (drawn to scale) of the relevant area showing its relationship to the principal facility of the applicant and the proposed layout (tables and chairs etc.) and landscaping and/or carparking allotments;
- A perspective sketch or photograph of the proposed development of the proposed area where relevant.

## Licence fees

### 9.1 Expansion of carriageway land use for access purposes

#### Land Value

The value of a carparking space that is lost to community usage and is leased to an adjoining land use activity will be negotiated with Council on the basis of the value of a car park space in the previous Section 94 plan. Council will seek an initial annual rental equivalent to 10% of the aforesaid Section 94 value. The rental will be indexed to CPI each year.

### 9.2 Expansion of Kerbside use for commercial activities

Site rental will be determined in accordance with Council's *Outdoor Dining Policy* and Council's *Fees and Charges* as set at that time.