



## Tuncurry Market Regulations

These Regulations apply to all Stallholders who are approved to trade at the Tuncurry Markets licensed to and managed by any Marine Rescue NSW Forster Tuncurry Unit. Compliance with these Regulations and the Stallholder Information included on the Website is a condition of such approval. The Stallholder acknowledges and accepts, in submitting an Application, that the Manager or delegate may alter any rule or term of the Regulations or Stallholder Information, or make additional rules and terms, from time to time, by posting a notice of such alteration on the Website or in writing. Any further use of the website, or correspondence sent from the Manager or delegate to the Stallholder with respect to the amended Regulations, after the date of such notice is deemed acceptance of the new Regulations.

A Stallholder is deemed to be granted consent to trade at the Market when they have submitted an Application to the Manager or delegate and have received written confirmation from the Manager or delegate that their Application has been approved. Such approval to trade is subject to any special conditions or restrictions noted by the Manager or delegate in the written confirmation.

### 1. Definitions In these Regulations:

**Application** means any document, form or written correspondence (including any document or form in electronic format) that has been submitted by a Stallholder when applying to the Manager for consent to trade at the Market and may include any updated Application completed by the Stallholder from time to time.

**Approved Products** means those goods and services for which the Manager or delegate has granted to the Stallholder consent to offer for sale at the Market in accordance with MidCoast Council Market Policy. Such goods and services must be described in the Application. The Manager or delegate reserves the right to provide consent to a limited selection of the goods and services described in the Application or to revoke consent or otherwise alter the range of goods or services permitted to be sold at the Market.

**Code of Conduct** means the Code of Conduct provided in writing to the stall holder and which the Stall Holder has signed in agreeance.

**Manager** means the Unit Commander, Marine Rescue NSW Forster Tuncurry Unit and delegated officers. The Manager has the licence to control, operate and regulate the Market which includes the authority to grant or withhold consent to any person/s or legal entity to attend, occupy or undertake Trading Activity at a Stall at the Market.

**Market Co-ordinator** means the person appointed by the Manager to manage the Market on an ongoing basis.

**Stall** means an area within the market that is designated by the Manager or delegate for the purpose of trading activity by a stallholder. This area will usually be indicated as that space defined by a perimeter. Any alternative area will be defined by the Manager or delegate and indicated to the stallholder as a condition of consent.

**Market** means an area which is designated for the purpose of conducting Trading Activity which the Manager or delegate has the licence to control, operate and regulate as a market or a place where Trading Activity may be undertaken. The Market includes any roadways, car parking areas and areas of access to or egress from the Market.

**Marquee, tent or umbrella** means any covered structure that is erected within the boundaries of a Stall or otherwise occupied by a Stallholder at the Market.

**Regulations** means the terms and conditions included in this document, as amended from time to time. The Manager or delegate may alter any term of these Regulations or include additional terms from time to time, by posting a notice that there is a change to the Regulations on the Website. Any further use of the website, or correspondence sent from the Manager or delegate to the Stallholder with respect to the amended Regulations, after the date of such notice is deemed acceptance of the new Regulations

**Stallholder** means a person, persons or legal entity and their employees, staff, agents or representatives that have been granted consent by the Manager or delegate to occupy a Stall and undertake Trading Activity at the Market.

**Stallholder Information** means the site specific information that is detailed on the Website and in writing as a page or document titled 'Conditions and

Code of Conduct to be complied with by Stall Holders' or 'New Stallholders Information'.

**Stall Fee** means the amount charged by the Manager or delegate and payable by the Stallholder as consideration for the opportunity provided by the Manager or delegate to the Stallholder to undertake Trading Activity at the Market. The Stall Fees are included on the Website and in '*Conditions and Code of Conduct to be complied with by Stall Holders*'.

**Trade** at the Market means occupy a stall and undertake Trading Activity

**Trading Activity** means activity where goods or services are offered for sale, sold or promoted; or activity undertaken with the aim of promoting or increasing awareness of the Stallholder or the Stallholder's products and/or services.

**Website** means the internet address that is controlled by the Manager or delegate and which pertains to the Market, the Manager has the licence to control, operate and regulate.

**Note:** Where there is more than one person, partner or legal entity noted on these Regulations then these Regulations shall apply jointly and severally.

## **2. STALLHOLDER'S OBLIGATIONS & RESPONSIBILITIES**

The Stallholder agrees that at any time while the Stallholder is at the Market, the Stallholder will:

- (1) respond co-operatively to any direction given by the Manager or delegated staff in relation to the operation and occupation of their stall, equipment, goods and vehicle during set up and pack up out activities and any direction of a security or safety nature;
- (2) ensure that their activities do not endanger the safety or security of any people at the Market;
- (3) not cause any damage, make alterations or additions of any nature to, or carry out any works of any nature to equipment supplied to the Stallholder and that, if any such damage is caused, the costs of any repairs, making good or replacement are borne by the Stallholder;

- (4) leave the site in the condition in which it was before the stall was set up for the day and that if any damage is caused to the site, then costs of making good shall be borne by the stallholder;
- (5) not operate or use any amplified sound equipment of any nature without the express permission of the Manager or delegate;
- (6) keep the Market and its immediate surrounds clean, tidy, presentable and free from waste and rubbish;
- (7) ensure that nothing is done at the Market which is illegal, obscene, offensive, dangerous or otherwise creates a nuisance or causes damage, disturbance, annoyance, injury or obstruction to any owner, occupier or user of any nearby land or premises;
- (8) report to the Manager or delegate any incident or accident to any person or property that involves loss or could be expected to give rise to a Claim;
- (9) ensure that any accident involving any injury to any person, or any loss of or damage to any property within the Market (including any defect, failure or lack of repair at the Market) which may give rise to a danger or risk to others, is reported directly to the Manager or delegate;
- (10) vacate the Market immediately after being requested to do so by the Manager or delegate;
- (11) not use the Market for any purpose other than the display and sale of Approved Products;
- (12) not place or affix any product or signage to any permanent building, structure, play apparatus or vegetation.
- (13) not comment adversely to or make any comment, whether orally or in writing, or to perform any action that is or might be detrimental to or bring into disrepute, be inconsistent with, be contrary to and/or be prejudicial to the best interests, image or welfare of the Markets
- (14) not take part in anti-social behaviour or use language that causes distress to other stall holders, the public or the Manager or delegated staff and volunteers and/or creates unrest or disruption to the harmonious nature of the markets. Anti-social behaviour will not be tolerated and will result in eviction from the market. There will be no requirement to issue a warning in the event of this obligation.

3. **STALLHOLDERS ARE RESPONSIBLE FOR THE:**

- safety of all equipment brought by the Stallholder to the Market;
- safety of their employees, staff, agents or representatives that may occupy the Stallholder's Stall; and
- cost of all repairs or replacement of any items belonging to the Manager or delegated staff that are damaged by the Stallholder. and
- The Stallholders acknowledges that the Manager or delegate may revoke the Stallholder's consent to Trade at the Market in the case that the Stallholder fails to comply with the obligations detailed above.

4. **A STALLHOLDER MAY ONLY OFFER FOR SALE APPROVED PRODUCTS.**

To vary the Approved Product/s, a Stallholder must submit a new Application that describes the proposed new product/s to the Manager or delegate. The Manager or delegate will review the form and advise the Stallholder in writing as to whether their application has been successful or not.

The Manager or delegate may cancel a stallholder's approval to occupy a stall at the market if the merchandise offered for sale is substantially different from the Approved Product.

5. **APPROVED PRODUCTS**

In order to ensure variety and a limited number of stalls in each product category at the Market, the Manager or delegate reserves the right to reject applications and not to enter into correspondence or otherwise explain the reasons for its decisions.

Stallholders are not permitted to sell offensive, illegal, prohibited, counterfeit or unauthorised goods including goods bearing trademarks for which the Stallholder does not have a license to sell.

The Manager or delegate reserves the right to sell all hot foods and hot/cold beverages on market days. Casual traders may be invited to attend market to sell other items of a food nature (ie: Ice Creams, Coffee etc;) as and when required.

Products and services that may not be offered for sale or sold at the Market include goods bearing registered trademarks which are not genuine products, items and services of an 'adult' nature which are not suitable for a public forum; items associated with the illegal use of drugs; items not in accordance with the relevant Australian Standards; and other items as advised under the MidCoast Council Market Policy.

## **6. EQUIPMENT**

It is the Stallholder's responsibility to ensure that all equipment brought to the Market by the Stallholder has been erected securely, is operated in a safe manner and has been ballasted against strong winds prior to the commencement of trade.

All stall equipment including racks, tables, equipment, signage; etc must be located within stall site boundaries. Public access ways must be kept clear at all times and stallholders must co-operate with the Manager or delegate in ensuring that an appropriate corridor is maintained along pedestrian pathways.

## **7. GUARANTOR'S OBLIGATIONS**

Stallholders who trade through a company structure must also agree to be noted as a Guarantor. The Guarantor must be approved by the Manager or delegate.

In consideration of the Manager or delegate permitting the Stallholder to trade at the Market, the Guarantor unconditionally and irrevocably guarantees to the Manager or delegate the due and punctual performance and observance of the Stallholder to the terms and conditions of these Regulations

## **8. INSURANCE**

Marine Rescue NSW has taken out public liability insurance for the amount of \$100m on behalf of the Manager or delegate to meet their legal obligations.

Stallholders are required to take out a public Liability Policy to the value of \$20m to meet their legal obligations in regards to their public liability.

A copy of the Public Liability Policy is to be provided to the Manager or delegate prior to setting up their stall for the first time.

A copy of the renewal policy is to be provided annually. The Manager or delegate reserves the right to offer a discounted Stall Fee to Stallholders who have attended the market over a continuous period and have made a commitment to continue to do so.

**9. POWER & EQUIPMENT REQUIREMENTS**

Power is available at the Market for a small fee at a limited number of sites. Stallholders must ensure that all electrical equipment and leads utilised by the Stallholder at the Stall must be tagged in compliance with relevant workplace laws and regulations and such tags must be available for inspection at all times.

**10. STALLS**

The Stallholder acknowledges that the Managers or delegates consent to the Stallholder to occupy a Stall at the Market may not be assigned to any other person and does not convey any right to any particular location for a Stall. Stallholders must locate their Stalls as directed by the Manager or delegate who is authorised to determine and change the layout for Stalls from time to time.

The Stallholder must ensure that all Trading Activity is undertaken within the boundaries of their Stall.

The Stallholder may request from the Manager or delegate permission to utilise extra space at the Market, if the request is granted, the Management Group reserves the right to charge an additional Stall Fee in respect of the additional space.

**11. 'SET UP' AND 'PACK UP'**

The hours of 'Set Up' and 'Pack Up' outlined in the New Stallholders Information and are as follows: *Advertised Market times are 8:00AM to 1:00PM. Stall holders are to remain in their sites until closing time unless prior arrangements are made.*

Stallholders must abide by the instructions of the Manager or delegate & Marine Rescue volunteers in relation to traffic control.

In the interests of Occupational Health & Safety, Stallholders must strictly comply with specific times in relation to the setup and pack up of the Market.

Setting up and packing up a Stall outside of the designated times may be hazardous to other persons and, as such, a failure to observe and comply with the time restrictions for set up and pack up is considered to be a major breach of the Stallholder's obligations and the Manager or delegate reserves the right to refuse the offending Stallholder permission to occupy a Stall at the Market on the day of the infringement and on any future date.

**12. SIGNAGE**

Stallholders may not erect any advertising display or signage unless the Stallholder has received the Managers or delegates consent to display such advertising display or signage.

**13. STALL FEES**

Stall Fees are to be paid at each market and will be collected prior to 10:30am by the Market Co-ordinator

Stall Fees are not refundable. No credits or refunds are issued in the case of bad weather.

**14. TRADING HOURS**

Trading Activity is permitted during the advertised market time *8:00AM to 1:00PM*.

All stalls must be set up and ready to trade at the commencement of the market time.

It is the responsibility of the Stallholder to continue trading for the full duration of the market time.

Stallholders must cease trading and commence packing at the end of the market time and must ensure they are off site no later than 2:30pm.

Stallholders who have booked a stall shall be entitled to a stall only until the commencement of trading hours. Stallholders who have not occupied their stall by this time may forfeit their stall booking, they will not be entitled to any credit or refund of stall fees and the Manager or delegate reserves the right to allocate the stall to another stallholder.



**15. VEHICLE & TRAFFIC CONTROL**

Stallholders must comply with the terms of the Tuncurry Market Transport and Traffic Management Plan (as amended from time to time) and must abide by the instructions of the Manager or delegate & Marine Rescue volunteers regarding the movement and parking of vehicles at the Market, on the public roads and in areas within the immediate vicinity of the Market.

Vehicles are to drive within the Market area at a speed no greater than 10 K/ph. During market times and whilst within the boundaries of the market any vehicles moving are to be escorted by a walker immediately in front of or behind the vehicle depending on its direction of travel.

Stallholders must comply with local traffic rules and regulations on the public roads and in areas in the immediate vicinity of the Market and must not park illegally, double park in traffic lanes, park in driveways, queue across traffic intersections, undertake illegal U turns or traffic manoeuvres, or otherwise hinder traffic in the streets surrounding the Market during set up or pack times'

**16. WASTE MANAGEMENT**

Stallholders are required when leaving to remove from the Market all garbage, waste, litter and other rubbish that the Stallholder has either brought onto the Market or obtained at the Market. The garbage bins provided at the Market are for the purpose of the disposal of litter by the general public and are not available for the disposal of Stallholder's waste or packaging materials.

At the end of the day's trading, the Stallholder is required to clean their site and ensure that it is clear of discarded rubbish and waste materials.

Any stallholder found to be utilising the Market rubbish bins for the removal of the Stallholder's waste or packaging material shall be requested to discontinue such activity and may incur a waste fee. Stallholders may be refused permission to occupy a stall if this activity continues and appropriate warnings have been given by the Manager or delegate.

**17. WEATHER**

The Market is an open air event and may operate in varying weather conditions. You should not apply for a stall unless you are prepared to take the risk on weather. A decision on cancellation due to weather will be made at

7:00am by the Unit Commander in consultation with the Market Management Group on the day of the market.

It is the responsibility of the Stallholder to bring their own covers and other equipment for the purpose of protection in adverse weather conditions.

If the Market proceeds and inclement or adverse weather conditions threaten, it is solely at the Stallholder's discretion as to set up, commence to trade, continue to trading or, cease to trading and pack up. Except in the case of extreme weather conditions, the Stallholder must advise the Market Coordinator of their intention to cease trading and pack up.

The Manager or delegate will not be held responsible for any loss, damage or injury whatsoever resulting from adverse weather conditions or any decisions it makes in relation to the continuation of trade during adverse weather conditions.

#### **18. MANAGER'S EXCLUSION OF LIABILITY**

The Stallholder acknowledges and agrees that the Manager or delegate makes no warranty or representation in relation to or in connection with the Stallholder's occupation or use of the Market. Without limiting the generality of this clause, the Stallholder acknowledges and agrees that the Manager or delegate has made no warranty or representation in relation to or in connection with;

- the prospects of the Stallholder for selling of approved products or services at the Market;
- the Stallholder's access to people visiting the Market or the access those people have to the Stallholder site;
- the existence, number or quality of products or services that will compete with the Stallholder;
- the existence or extent of services and/or facilities of any kind at the Market;
- the position within the Market that the Stallholder will occupy;
- the suitability of the Market for any particular purpose or the existence of any latent or patent defect at the Market;
- the extent, if any, to which other visitors to the Market might interfere with the Stallholder's use of the Market;

- the existence or extent of any advertising or promotional activity or material that may or may not be published or undertaken by the Manager or delegate;
- the existence or extent of any security measures undertaken to protect the Stallholder, the approved products or services and/or the Market against terrorist or other criminal activity; or
- the existence or extent of any security at the Market.

#### **19. MANAGER'S REPRESENTATIONS**

The Manager or delegates consent to the Stallholder to trade at the Market does not convey to the Stallholder any ongoing rights in relation to the Market into the future and such consent can be terminated by the Manager or delegate at any time in writing and without any period of notice.

The Manager or delegate reserves the right to undertake any of the following actions without notice;

- re-locate a Stallholder to another Stall site within the Market;
- require the Stallholder to remove from sale any good or service offered by the Stallholder which are not approved; or
- request that the Stallholder undertake any reasonable measure which in the opinion of the Manager or delegate will improve the safety of the Stall

#### **20. MANAGER'S RIGHT OF TERMINATION**

The Manager or delegate reserves the right to withhold consent to a Stallholder to Trade at the Market, to remove or to have removed from the Market, a Stallholder who is in breach or does not comply with the Regulations, including where a Stallholder;

- fails to pay their Stall Fee in a timely manner;
- fails to abide by the Market's set up or pack up conditions;
- fails to abide by the market time (8:00AM to 1:00PM);
- fails to abide by the terms and conditions of the Tuncurry Market Transport and Traffic Management Plan;
- fails to limit the products or services offered for sale to approved products or services;
- commits a criminal act at the Market; or

- breaches the Conditions and Code of Conduct or otherwise behaves in a manner that the Manager or delegate considers is inappropriate or may bring the Market into disrepute.

## **21. STALLHOLDER INDEMNITY**

Without limiting the generality of any other provision of these Regulations, the Stallholder hereby indemnifies and holds the Manager or delegate harmless from and against all Claims for Loss arising in connection with or in relation to:

- the Stallholder's occupation of the Market;
- the sale or attempted sale of the approved products or any other products or services;
- any injury or harm suffered by the Stallholder or their staff;
- any injury or harm caused to any property or suffered by any person as a direct or indirect consequence, in whole or in part, of any act or omission by the Stallholder;
- any loss of or damage to the Stallholder's property regardless of the cause of that loss or damage;
- the death of any person of a consequence, in whole or in part, of any act or omission by the Stallholder;
- any breach of these Regulations by the Stallholder; or
- any legal costs on a full indemnity basis incurred by the Manager or delegate as a result of the Stallholder's breach of these Regulations.

## **22. STALLHOLDER WARRANTIES & REPRESENTATIONS**

The Manager or delegate permits the Stallholder to attend the Market in reliance on the following warranties and representations hereby made by the Stallholder:

- the Stallholder is the owner of the approved products with full power and capacity to sell absolute legal and beneficial ownership of the approved products to a third party without any encumbrance;
- the Stallholder is not in reliance on any representation or statement made by the Manager or delegate that is not expressly contained in these Regulations;

- the Stallholder is responsible for obtaining all relevant permits and permits required to operate the Stallholder's business and that all merchandise sold complies with all relevant safety and compliance standards and retails laws currently in force;
- the Stallholder does not bring into the Market any hazardous materials of substances; and
- the Stallholder will comply with all of the terms contained in these Regulations and will comply with any changes to the Market Regulations, or any relevant local government and other statutory laws and Regulations.

Without limiting the generality of these terms, the stallholder acknowledges and agrees the Manager or delegate is not liable for any claim or loss suffered or incurred by the stallholder in relation to or in connection with:

- theft or damage of approved products, equipment or goods under the control of the Stallholder or any other property of the Stallholder at any time;
- any failure by the Stallholder to sell the approved products;
- any journey from or to the Market; or
- damage or injury to any property or person

