



Footpath Trading Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	353, 2010/2261, 2011/262, 2013/1564, 0097/2019, 0879/2021
Approval Date:	28 May 2007	Commencement Date:	22 March 2021
Review Date:	March 2023	Internal Reference No.:	
Department:	City Development	Division:	Environmental Health and Safety
Function:	15 - Legal Provisions	Responsible Officer:	Manager Environmental Health and Safety

A - PREAMBLE

1. Pursuant to Section 222 of the Local Government Act 1999, the City of Salisbury is vested with the power to grant a permit for the use of streets, roads and road related areas (footpaths, etc) held in its care for use for business purposes. Local government is also empowered to make the granting of a permit subject to conditions.
2. Footpaths are public spaces and their primary role is to provide access for all people to move along them freely and without obstruction. Council aims to provide a safe environment for people who move through the City. Part of this responsibility requires Council to provide a clear path for all people to move along footpaths.
3. Council also has a legal responsibility for the regulation of trading activities in public places, and is committed to ensuring strip shopping centres and business precincts are enhanced by providing the opportunity for footpaths to be used for people to dine and trade.
4. Pedestrian safety is the primary purpose of footpaths, and Council's Footpath Trading Policy has been developed with this distinction in mind. Council is committed to ensuring access for people to move along footpaths with good access and as a minimum, to meet the requirements of the Commonwealth Disability Discrimination Act (1992).
5. The Australian Human Rights Commission states that people who design, build, own, lease, operate or manage premises should achieve equitable access for people with disability by ensuring all parts of premises to which the public is entitled or allowed to enter or use are connected by a network of continuous accessible paths of travel. A continuous accessible path of travel should be the most commonly used and direct path of travel.
6. A continuous accessible path of travel is an uninterrupted route to and within premises providing access to all features, services and facilities. It should not incorporate any step, stairway, turnstile, revolving door, escalator, hazard or other impediment which would prevent it from being safely

negotiated by people with disability. Premises include the whole built environment including pathways.

7. In order to achieve best practice Council will encourage compliance with the Australian Standard 1428 Design for Access and Mobility. (AS1428 Part 1 and 2)
8. Where possible Council will aim to achieve an effective accessible pedestrian system throughout shopping precincts through the development and maintenance of a continuous accessible path of travel. This should extend out from the property line to provide a consistent footpath environment inclusive of the needs of all of the community.
9. In certain locations and precincts with footpaths in excess of 3.5 metres and or where shop fronts and subsequent building lines are staggered the safety of pedestrians and access by all persons may be better achieved if trading is kept along the building or property line and alternative methods are implemented to maintain a safe and accessible path of travel.

B - SCOPE

1. The Footpath Trading Policy applies to the use of all footpaths within the City of Salisbury for commercial purposes, by an organisation, individual or business, and for non-commercial purposes by and organisation, community group, individual or business.

C – POLICY PURPOSE/OBJECTIVES

1. The Footpath Trading Policy aims to ensure that safe and accessible pathways are provided for everyone in the community to use. Council has a legal responsibility under the Commonwealth Disability Discrimination Act 1992 to ensure the development and maintenance of a continuous accessible path of travel along footpaths.
2. This path of travel, the “pedestrian zone”, should, extend from the property line with no obstruction or projections wherever possible.
3. The City of Salisbury is responsible for ensuring safe pedestrian walkways. Where this is achieved, Council may allocate space for footpath trading.
4. The Footpath Trading Policy covers:
 - a. what parts of footpaths may be used for footpath trading or the display of goods or signs;
 - b. permit requirements for the use of a Trading Activity Area;
 - c. specific requirements for particular types of footpath trading activities and items;
 - d. administration of the Policy;; and
 - e. Enforcement of permits and the Footpath Trading Policy.

D - DEFINITIONS

1. Authorised Officer - a person appointed under Section 260(1) of the Local Government Act as an authorised officer and holding a position within the Inspectorial Services Section.
2. Accessible car parks - a car park designated for parking by persons with a disability
3. Shoreline – the building line or property line which runs parallel with the footpath that provides a guide for persons with a disability or vision impairment so that they may have a continuous accessible path of travel. There should be no obstructions or projections from this line in order to provide the best possible guidance line for all users including people with vision impairment.

4. Planning, Development and Infrastructure Act 2016 – any reference to the Planning, Development and Infrastructure Act 2016 includes the Development Act 1993.

E - POLICY STATEMENT

Guiding Principles

1. Council aims to provide clear, safe and unobstructed access at all times for pedestrians of all abilities on Salisbury's footpaths in accordance with Council's statutory responsibilities and the requirements of the Commonwealth Disability Discrimination Act (1992).
2. The Footpath trading activity must relate to and must make a positive contribution to the urban character and amenity of the area and surrounding residential areas.
3. Council strongly supports the long-term viability and sustainability of retail strips.
4. Council acknowledges the importance of footpath trading in enhancing the amenity, vitality and safety of the City's commercial areas.

Footpath Zones

In order to provide for clear and unobstructed access for pedestrians, three footpath zones are defined within the width of the footpath:

1. Pedestrian Zone

The pedestrian zone provides a continuous accessible path of travel for people of all abilities, extending from the most forward point of the property line, building line or shop front of premises for a minimum of 1.8m. No footpath trading items or related footpath trading activity may extend into this zone at any time, including items overhead below a height of 2.2m.

2. Trading Activity Zone

The trading activity zone is that area of the footpath where goods, outdoor eating furniture and ancillary items and movable advertising signs may be placed and where other permitted activities may take place.

All activities associated with the trading must be undertaken in this zone, and this includes:

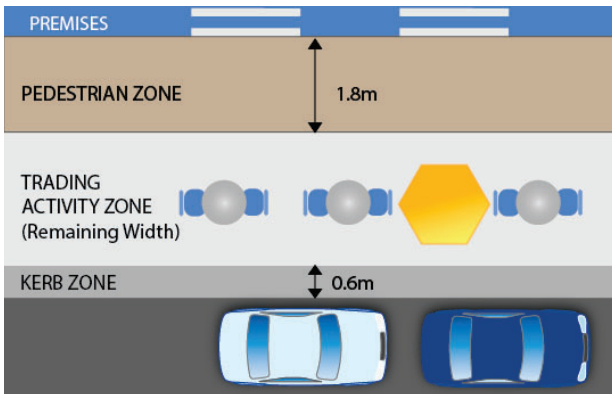
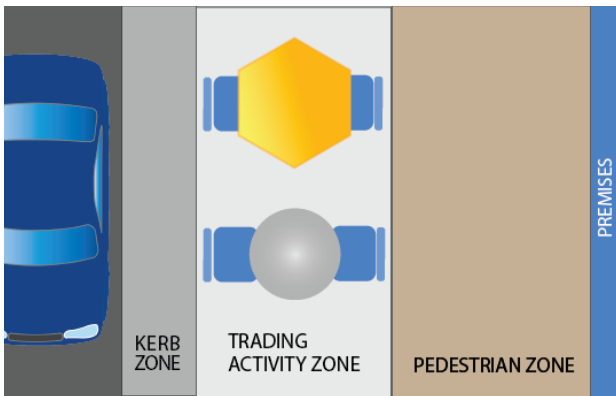
- Space for shoppers selecting or viewing items
- Space for shopping trolleys and carts
- Space for chairs to be moved in and out from tables, and for seated diners.

Council may place markers in the footpath or otherwise delineate the Trading Activity Zone.

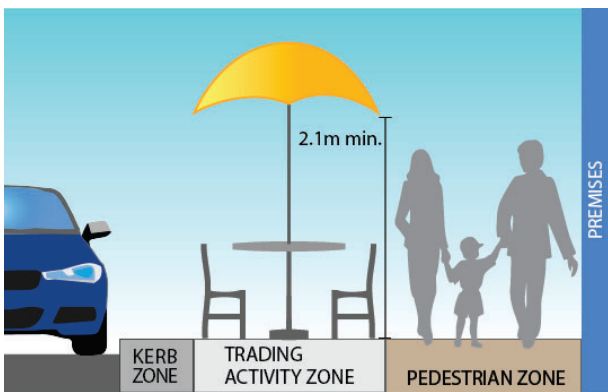
3. Kerbside Zone

The kerbside zone is a buffer from the kerb to allow for access to and from parked vehicles. A minimum of 0.6m buffer as measured from the face of kerb to allow for access to and from parked vehicles including at loading zones. Where there is an accessible parking bay for people with a disability, the setback from the kerb will be at least 1.5m.

Plan View



Elevation View



Footpath Trading

Pedestrian Zone

The **Pedestrian Zone** extends from the building line or shop front of premises for a minimum of 1.8m. No footpath trading items may extend into this zone at any time, including items overhead below a height of 2.2m.

Trading Activity Zone

The **Trading Activity Zone** is the only area of the footpath where goods, outdoor eating furniture, ancillary items, and advertising signs, may be placed, subject to the provisions of this Policy.

Where adjoining premises have footpath trading and access is required to facilitate pedestrian movement from the kerb to the Pedestrian Zone, a setback of 0.5m is required from each side boundary of premises in order to ensure a 1.0m wide access way is maintained between premises from the kerb to the Pedestrian Zone. Any amendment or change to this setback will be subject to individual site assessments.

Encroaching

Where the **Trading Activity Zone** encroaches in front of adjoining premises, consultation will be undertaken with the adjoining property owner and / or tenants. The results of the consultation will be considered in the decision to issue a permit that results in the **Trading Activity Zone** encroaching. Any change in property or business ownership will require additional consultation.

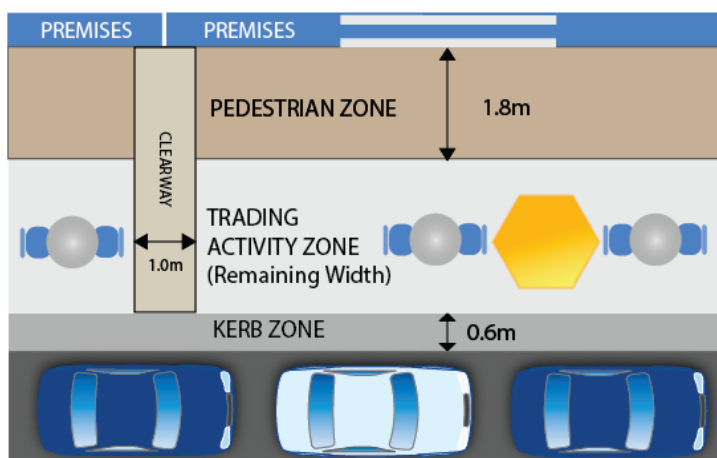
Decisions relating to encroaching trading will give consideration to public safety, access, amenity, business impact, community benefit and space activation and may result in permits for an area for more than one party.

The use of the Trading Activity Zone will take into account the local amenity and individual characteristics of the area in order to locate trading in the best location that maximises pedestrian safety, access, amenity, and enhances and supports business, community benefit and space activation.

The **Kerbside Zone** is a minimum of 0.6m buffer as measured from the face of kerb to allow for access to and from parked vehicles including at loading zones. Where there is an accessible parking bay for people with a disability and access can be provided adjacent to that parking bay the setback from the kerb may be increased to at least 1.5m.

No items may be placed in either the Pedestrian Zone or the Kerbside Zone.

Diagram 1: Footpath Trading



Note: Trading Activity Zone has varying width dependant on overall width of footpath area.

Footpaths less than 3.0 metres wide

Footpaths of less than 3.0m wide may not be suitable for footpath trading.

Any proposed trading will be subject to individual site assessments and may suit goods display only.

Shoreline Trading

Where shop fronts and subsequent shore lines are staggered and where the safety of pedestrians and access by all persons may be better achieved if trading is kept along the shoreline, the following definitions apply.

The **Kerbside Zone** is a minimum of 0.6m buffer as measured from the face of kerb to allow for access to and from parked vehicles including at loading zones.

Where there is an accessible parking bay for people with a disability and access can be provided adjacent to that parking bay the setback from the kerb may be increased to at least 1.5m.

No items may be placed in either the Pedestrian Zone or the Kerbside Zone.

The **Pedestrian Zone** extends from the Kerbside Zone for a minimum of 1.8m. No footpath trading items may extend into this zone at any time, including items overhead below a height of 2.2m.

The **Trading Activity Zone** extends from the shop front to the pedestrian zone and is the only area of the footpath where goods, outdoor eating furniture and ancillary items, and advertising signs, may be placed, subject to the provisions of this Policy.

Where the footpath trading permit **Trading Activity Zone** encroaches in front of adjoining premises, consultation will be undertaken with the adjoining property owner and or tenants. The results of the consultation will be considered in the decision to issue a permit that results in the **Trading Activity Zone** encroaching. Any change in property or business ownership will require additional consultation.

Consultation will aim to give consideration to public safety, access, and amenity, business impact, community benefit and space activation and may result in permits for an area for more than one party.

The use of the Trading Activity Zone will take into account the local amenity and individual characteristics of the area in order to locate trading in the best location that maximises pedestrian safety, access, amenity, and enhances and supports business, community benefit and space activation.

Access and Safety Requirements

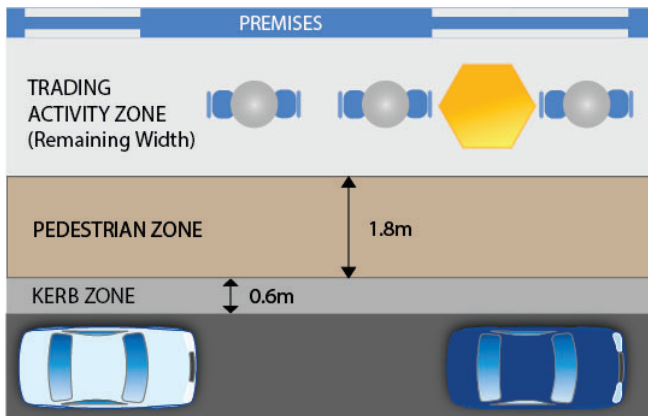
Pedestrian access along the pavement is to be maintained by the provision of at least 1.8 metres of clear pathway along the full street length of the defined area.

Where shoreline trading is permitted an alternate shoreline must be created by providing:

- a solid barrier commencing at ground level and at least 0.9m high
- which provides at least 30% luminance contrast with the footpath (such contrast can be gained by avoiding using tones in the red-green spectrum and instead using yellow against a darker background and black against a paler background).

Where there are adjoining premises trading along the shoreline, consideration will be given to aligning the trading areas to ensure that a continuous path of travel is maintained for pedestrian safety.

Shoreline Trading:



Note: Trading Activity Zone has varying width dependant on overall width of footpath area.

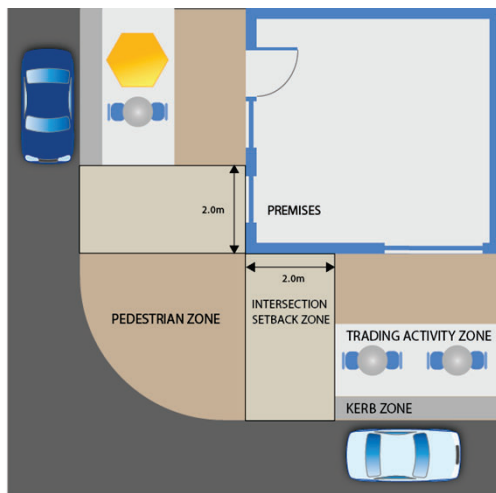
Corner Locations

In order to protect the safety of pedestrians and motorists, no items may be placed within 2.0m of an intersection of building lines without the approval of Council's Traffic Management Section.

If shoreline trading is permitted with proximity to a corner location then no items may be placed within 3.0m of an intersection

Any proposed site which abuts a corner must take account of retention of an adequate view of the roadways in all directions for road users and pedestrians in the vicinity of the site.

Corner Location



Safety Barriers

All applications for footpath trading will be subject to the provision of safety barriers as determined by Council's Traffic Management Section

Barriers must take the form of safety rated Energy Absorbing Bollards (EAB's) mounted near the kerb. A risk assessment matrix is applied to determine if EAB's are required. If it is determined that there is a requirement for EAB's then footpath trading cannot commence until the safety barriers are installed.

EAB's must be installed to prevent the incursion of road vehicles on the pavement at any proposed site which abuts or is in the vicinity of a road or laneway of any type. If appropriate safe views or incursion prevention cannot be achieved by any applicant, a Permit is to be denied.

Other devices may be permitted at the discretion of Council's Traffic Management Section, upon application and subject to providing equivalent or better protection from vehicular incursion than EAB's.

Barrier design and installation must allow pedestrian access between the units and as far as possible blend in with the physical attributes of the site and subject to Council Design guidelines and colours.

EAB's shall be installed by Council and subject to the permit and or renewal fees or installation fees as specified on the application form and or Council's fees and charges register. The EAB's design, colour and specifications will be subject to Council approval.

Street Traffic and Forklifts

All applicants that utilise forklifts or other vehicles, to unload or load on streets, roads or public carparks, or travel with forklifts on streets, roads or public carparks must include details of this activity in their application and include suitable travel plans for the forklift. The traffic management plan to include roads/footpaths traversed, the weight of forklift, and approximate weight of goods. All vehicles used on roads must be compliant with all relevant and applicable legislation including vehicle registrations as required.

Authorisations

For the purposes of footpath trading all items shall be moveable and be removed from the footpath when trading ceases. Any item that is intended to be fixed to a footpath, or that permanently overhangs a footpath area requires Council's Authorisation. Examples include:

- a fixed sign
- verandah
- sails
- encroachment by a building
- permanent structures such as screens or planter boxes

Authorisations are issued under Section 221 of the Local Government Act and are subject to additional fees as specified on the application form and Council's fees and charges register.

Development Controls

In addition to requiring consent under the Local Government Act, the establishment of an outdoor dining area may require Development Approval (Development Consent and/or Building Consent) under the Planning, Development and Infrastructure Act 2016.

If the establishment of an outdoor dining area constitutes a change in land use, it requires Development Consent. The erection of some fixtures such as blinds, other awnings and screens may also constitute building work for the purposes of the Planning, Development and Infrastructure Act 2016 and therefore will require approval.

Any application for a change in land use and/or building work will be considered in accordance with the Planning and Design Code and will address such matters as the provision of car parking, pedestrian access, and safety for patrons, pedestrians and motorists.

All applications are referred to Development Services for assessment.

Approvals for footpath trading and outdoor dining issued under alternative statutory authority including the Planning, Development and Infrastructure Act 2016 may not require a permit under the provisions of Section 222 of the Local Government Act 1999.

Car Parking Fund Contributions

Footpath trading applications relating to dining and the addition of tables and chairs to a business requires the application to be considered by Development Services. The increased seating capacity has an impact on the required car parks for that business and dependant on their locality may trigger a payment to the car parking fund.

The car parking contribution fund fees are as specified on the application form and or Council's fees and charges register.

Liquor Licensing

The consumption of liquor is not permitted without the relevant approvals from Consumer and Business Services. Please refer to the following site: (<https://www.cbs.sa.gov.au/liquor-and-gambling-licenses/apply-for-a-new-liquor-or-gaming-licence/>)

Approval for the consumption of liquor will not be granted in the Permit without approval from Consumer and Business Services.

Noise

The impact of noise from foot path trading can be a concern where the activity is proximity to residential premises and trading is occurring outside of common trading hours. The trading hours may be addressed thorough development approvals, however the permit conditions can also address and restrict hours of activity if noise nuisances are identified once trading begins.

Subject to Development Approval and other controls along with the conditions of the permit, if footpath trading times are proposed outside of 8am to 7pm and the business is within 50 metres of residential premises, the application will require notification of any affected residential premises before the permit can be considered. The notification process will be conducted before the application for a permit can be considered and subject to additional fees (as specified on the application form and Council's fees and charges register.)

Noise nuisances can also be subject to the provisions of the Local Nuisance and Litter Control Act 2016.

Smoking

Smoking is banned in outdoor dining areas in South Australia under the Tobacco and E-cigarettes Products Act 1997. The law is designed to protect the community from exposure to potentially harmful tobacco smoke and increase the comfort and enjoyment of outdoor dining areas for all patrons.

Smoking relates to any ignited tobacco product or non-tobacco product and includes smoking from a cigarette, pipe, water pipe or any other smoking device. Water pipes are also known as shisha, sheesha, hookah, nargila, argileh, hubble bubble and goza.

Dedicated smoking areas can be established for the purposes of smoking and drinking, including coffee, and or the consumption of snack foods. Snack food includes foods such as potato crisps, nuts, chocolate bars and pre-packaged biscuits. Sandwiches and hot chips are not considered to be snack food.

Any smoking area must be physically separated from the dining area and not create a nuisance to pedestrians and other footpath trading areas.

The use of water pipe or any other similar smoking device, alternatively known as shisha or sheesha and other names, are not permitted on footpath trading areas due to the excessive smoke created and usual long term duration of the activity. This can result in potential impacts on health and nuisance impact on pedestrians and others in general proximity to the area.

Approval for a dedicated cigarette smoking area (other than water pipe or any other similar smoking device) is subject to site specific assessment by officers and any identified or potential impact or nuisance on adjoining properties or the pedestrian zone. Public consultation may be required for any dedicated smoking area with priority given to non-smoking environments.

Dogs in Outdoor Dining

Under the provision of the Food Act 2001 and Food Safety Standards (standard 3.2.2 Clause 24) a food business must permit an assistance animal in areas used by customers, and a food business may permit a dog that is not an assistance animal to be present in an outdoor dining area.

Dogs that are not assistance dogs:

- (a) must not be in the dining area without the permission of the premises owner; and
- (b) must be under the effective control of a person who is present in the outside area; and
- (b) must be restrained by a lead that is not more than 2 metres in length;

Public Infrastructure

A minimum clearance of 1000 mm, or less if permitted by Council, shall be provided from any existing street furniture or other infrastructure on or adjacent to the footpath, including but not limited to seats; benches; bollards; litter bins; bike racks; post boxes; telephone boxes; service pits; public transport stops/taxi ranks; public transport shelters; loading zones; parking meters; traffic signal boxes; fire hydrants and other emergency assets; pedestrian crossings; and street trees or shrubs.

Application may be made to Council for the relocation, at the applicant's cost, of Council maintained seats, benches or bicycle racks, in association with an application for a permit for footpath trading.

Any request for relocation of seats, benches or bicycle racks, must be accompanied by a plan showing the site for the proposed relocation of the street furniture item and a letter of no objection from the owner and occupier of the premises outside which the item is proposed to be relocated.

Service Authority Works and Special Events

Service authorities or Council may require the use of a site to undertake works or maintenance works. When this, or any parade, festival or special event is scheduled, it will be normal practice to give at least seven days notice of the requirement to remove any item from the footpath.

In an emergency or where maintenance works are considered to be urgent, sites may need to be cleared immediately.

Permit holders will be responsible for the movement of all items and any associated costs.

Evidence of a Permit

Any business that is permitted to undertake a commercial activity on the footpath adjacent to that business must be able to produce a copy of the current permit to an Authorised Officer upon request.

The permit may include the permit number, date of issue and a summary of the items permitted to be placed on the footpath.

Reinstatement

Any damage to footpaths or alterations undertaken must be reinstated by the permit holder at their costs and to Council's specifications or the permit holder will be responsible for reimbursing Council for any reinstatement works.

General Conditions for Footpath Trading

Please refer to Attachment 1 of this Policy

Administration of the Policy

Applying for a Permit

Pursuant to Section 222 of the Local Government Act 1999, a permit is required for the use of streets, roads and road related areas (footpaths) held in Council's care for use for business purposes. Local government is also empowered to make the granting of a permit subject to conditions.

1) Apply

To apply for a permit an applicant must complete and sign the Footpath Trading Permit application form.

2) Assess

Staff undertake assessment, consult with the applicant and refer and consult with other Sections of Council and process the application. Other relevant areas include:

- Traffic Management – to assess EAB requirements and any other traffic management issues,
- Technical Services Design and Civil Infrastructure Construction – to assess the design and install of EAB's, and the costs for installation and to schedule install if approved, and any impacts from the use of forklifts.
- Community Services to assess Disability Access issues for applications that do not meet required parameters,
- Property Services – only if fixed items are proposed to assess any requirements for authorisations and implement that process with the applicant,
- Development Services – all applications are referred for assessment against previous approvals.
- Environmental Health - only for new applications associated with new food business start-ups or change of ownership.

In considering an application for Footpath Trading, Council shall have regard to the requirements under the Local Government Act, the specific and general requirements specified in this Policy and the specific local conditions relevant to the application, including

- a) the width of the footpath;
- b) the location of existing trees, street furniture or other public infrastructure;
- c) proximity to major roads, speed of road, disabled parking bays, loading bays, loading zones, clearways, and parking angles;
- d) the likely number of pedestrians, at particular times of day; and
- e) the location of nearby residences.

2) Notification

Before a permit is granted for the first time, or after a change of business use, Council may give notice of the application to persons who may be affected by the granting of a permit which will entitle those persons to make a submission which must be considered by Council before a determination is made on the application.

3) Issue Invoice and Permit or Refusal and Cancellation

Invoice and Permit - Staff will issue an invoice for all required fees and upon payment and presentation of insurance documentation, issue the permit.

Council may issue a permit in accordance with an application as submitted, or with modifications and with or without special conditions.

Refusal or Cancellation - Council may refuse to issue a permit, refuse to modify the conditions of an existing permit or cancel a permit if:

- a) any requirements of this Policy are not met;
- b) the sight and access of drivers, cyclists or pedestrians is interfered with so as to create a hazardous situation;
- c) there is likely to be detriment to the amenity of the area,
- d) personal safety is likely to be compromised,
- e) any existing permit conditions have not been complied with and there has been a failure to comply with any notice served, or
- f) the permit holder fails to maintain the stipulated minimum public liability insurance.

Fees and term

Fees and charges for footpath trading are determined by Council annually and provided in the fees & charges register and updated on the application form. Fees are subject to review and change annually or more frequently if so required and approved by Council.

Unless otherwise specified on the permit, the permit term shall expire one year from the date of issue, except in those instances where it is withdrawn by Council prior to the expiry date.

Permits are not transferable. A new permit must be obtained if the proprietorship of a business changes. This may not require any additional fees until such time that the permit is due for renewal.

A permit expires if the permit holder ceases to maintain the appropriate public liability insurance or to meet any of the conditions of the agreement and this Policy.

Enforcement of Policy and Legislative Provisions

Council authorised officers will check compliance with this Policy and the conditions of relevant permits on a regular basis.

Upon detection of a breach of the Footpath Trading Policy or a specific condition of any permit issued, Council will take action in accordance with the provisions of the Local Government Act as applicable.

Enforcement action may include a verbal direction or written notice to comply, an Infringement Notice or Council may impound the items on the footpath that do not comply this Policy and the conditions placed on any permit.

Insurance

The applicant/permit holder shall maintain a public risk insurance policy from a reputable insurer for the minimum amount of Twenty Million Dollars (\$20,000,000.00) per claim or such other amount as the Council may reasonably require from time to time. Such policy must indemnify the permit holder for any injury, loss or damage to other persons or property arising directly or indirectly from any activity associated with the permit holders footpath trading

The applicant/permit holder must not commence any activity on said footpath/road until the applicant has provided to the Council a copy of the public risk insurance policy (a Certificate of Currency) and the permit has been issued.

The Permit holder must maintain this insurance for the duration of the permit.

F - LEGISLATION

1. Local Government Act 1999
2. Disability Discrimination Act 1992
3. Australian Standard 1428 (Parts 1 and 2) Design for Access and Mobility.

4. Planning, Development and Infrastructure Act 2016
5. Tobacco and E-cigarette Products Act 1997
6. Food Act 2001 and Food Regulations 2017
7. Dog and Cat Management Act 1995

G - REFERENCES

1. Local Government Association – Outdoor Dining Background Paper
2. Adelaide City Council Outdoor Dining Guidelines 2014
3. City of Holdfast Bay Outdoor Dining Policy
4. Banyule City Council Footpath Trading Policy
5. City of Yarra Footpath Trading Policy
6. <http://www.humanrights.gov.au/>

H - ASSOCIATED PROCEDURES

1. City of Salisbury Application for a Permit to Use a Public Road for Business Purposes.

Document Control

Document ID	Footpath Trading Policy
Prepared by	John Darzanos
Version	6
Document Status	Endorsed
Issue Date	29/03/2021

Attachment 1

General Conditions for Footpath Trading Permits

Trading Activity Zone

- 1) The Trading Activity Zone will be in accordance with the approved plans as per application and permit issued by Council and may also be delineated on site with markers or indicators that are installed by Council.
- 2) All trading and approved activities are to occur within the approved Trading Activity Zone.
- 3) The number of consumers/customers present at any one time and use of items such as trolleys or baskets must be considered in the capacity of the trading activity zone, and any impediment on pedestrian access may affect the permit area and Trading Activity Zone.

Encroachments

- 4) A setback of 0.5m is required from each side boundary of premises when there are adjoining premises that have footpath trading in order to ensure a 1.0m wide access way is maintained between premises from the kerb to the Pedestrian Zone. Where there is no additional footpath trading or there is sufficient alternate access then the trading can be up to the adjoining premises boundary.
- 5) Footpath Trading Activity Zone cannot encroach in front of adjoining premises without consultation with the adjoining property owner and / or tenants and the approval by Council within the permit.
- 6) Encroaching trading activity zone may result in permits for an area for more than one party and may be subject to special conditions.
- 7) Any change in property or business ownership or requests for footpath trading from the affected property owner will require additional consultation and the permit is subject to review and amendment.

Outdoor Dining

- 8) Any chairs, tables and ancillary items associated with outdoor dining:
 - a) may only be placed in the Trading Activity Zone of the footpath;
 - b) may only be placed on the footpath during the normal trading hours of the business to which they relate, unless otherwise approved by Council;
 - c) must be of a suitable design and in particular:
 - i) must be of a style, appearance, materials, finishes and colours which are of a high standard, attractive, durable, shatterproof, unobtrusive and complement the character of the streetscape.;
 - ii) must be uniform in style and design for each premises;
 - iii) must contrast with their background to assist people with vision impairment;
 - iv) must be portable, yet sturdy and windproof.
- 9) The permit holder must:
 - a) maintain the footpath dining area in a clean and tidy condition at all times and immediately clean up any spills and litter;
 - b) ensure that patrons do not move tables and chairs or ancillary items from their positions and obstruct the Pedestrian Zone;
 - c) ensure that patrons do not allow pets, prams or any other personal items to obstruct the Pedestrian Zone;

- d) ensure that food and beverages are not served to patrons standing on the footpath within the Pedestrian Zone;
 - e) ensure that no noise or other disturbance creates a nuisance or causes detriment to the amenity of the neighbourhood; and
 - f) be responsible for reimbursing Council for any reinstatement works as a result of damage to footpaths or street fixtures and furniture.
- 10) A condition may be placed on a permit requiring a permit holder to place written reminders to patrons in the outdoor eating facilities on the footpath, regarding the above responsibilities, if deemed appropriate by an Authorised Officer.
- 11) Liquor is not to be sold, consumed or served within the Trading Activity Zone unless approved by Consumer and Business Services.
- 12) Any premises where alcohol is served or consumed on the footpath must have its liquor license endorsed with the footpath as part of the "licensed area" on the liquor license for those premises.
- 13) Waiting staff at premises with outdoor eating facilities on the footpath must facilitate free access by all footpath users within the Pedestrian Zone and give all footpath users priority right of way.
- 14) Separate cash registers, counter facilities or storage facilities are not permitted on the footpath.
- 15) No food or drink is to be prepared, cooked or heated in the footpath eating area except in accordance with any permit granted for temporary food premises.
- 16) The handling and serving of food and drinks to patrons within the footpath eating area must be conducted in accordance with the requirements of Food Act and Food Safety Regulations and Council's Public and Environmental Health Services Section.

Goods

- 17) Any goods for display:
- a) may only be placed in the Trading Activity Zone of the footpath;
 - b) the viewing and selection of goods on display, and the positioning of any trolleys must also be conducted within the trading activity zone
 - c) may only be placed on the footpath during the normal trading hours of the business to which they relate;
 - d) must not exceed a height of 1500 mm, and the width shall allow for the viewing and selection of goods on display, and the positioning of any trolleys within the Trading Zone,
 - e) must be kept in a clean and tidy state, including the area around the display; and
 - f) if a display of foodstuffs, this must comply with the requirements of the Food Act and Council's Public and Environmental Health Services Division.
- 18) Goods (except furniture) must be displayed on stands approved by Council, which in particular:
- a) must be of a style, appearance, materials, finishes and colours which are of a high standard, attractive, durable, shatterproof, unobtrusive and complement the character of the streetscape;
 - b) must not have sharp, pointed, or jagged edges, corners or protrusions;
 - c) must be stable and able to withstand adverse weather conditions;
 - d) must be secured in a manner that ensures that adverse weather conditions will not create a risk for any footpath users, property or passing traffic but may not be affixed to any footpath, building, street furniture, pole or other structure;
 - e) must contrast with their background to assist people with vision impairment;

- f) must not comprise any movable parts (e.g. spinning, flapping);
- g) must not be illuminated externally or internally; and
- h) must not cause any damage to the footpath surface.

19) Goods for display will not be permitted:

- a) where access to a loading zone or disabled parking bay will be impeded;
- b) where they will cause difficulty to any footpath users, including pedestrians and people exiting or accessing parked vehicles or the footpath;
- c) to overhang either the kerb or Pedestrian Zone.

Moveable Advertising Signs

20) In addition to the requirements of By Law 2 Moveable Signs, a footpath trading permit relating to moveable signs shall also comply with the following requirements:

21) One movable advertising sign only may be displayed for each street frontage of a business.

22) Any movable advertising sign:

- a) may only be placed in the Trading Activity Zone;
- b) may only be displayed outside of the frontage of the business to which it relates;
- c) must not exceed 600 mm in width or 900 mm in height;
- d) must be secured in place by a means that is not reliant on, or physically tied to any infrastructure or trees. The means by which these signs are to be secured must not extend beyond the perimeter of the permitted sign and must be of a type approved by Council. Any securing device is to be removed with the sign in accordance with permitted display times;
- e) may only be displayed during the normal trading hours of the business to which it relates;
- f) must contrast with its background to assist people with vision impairment; and
- g) may only feature the business name or service provided by the business to which it relates.

23) Inflatable signs; portable electric signs; illuminated, revolving, spinning or flashing signs; flags and banners are prohibited.

24) The display of a movable advertising sign is not permitted where a business is conducting any other commercial activity on the footpath.

Outdoor Speakers/Amplification equipment

25) Permission will be required to affix speakers to a building or veranda.

26) Any sound or noise produced must not be annoying or cause a disturbance, which in the opinion of Authorised Officer, creates a nuisance or causes detriment to the amenity of the neighbourhood.

27) No sound amplification equipment or jukeboxes may be utilised in the footpath area.

Outdoor Heaters

28) Any outdoor heater:

- a) must be associated with the use of the footpath for an outdoor eating facility;
- b) may only be placed or fixed in the Trading Activity Zone; and
- c) must comply with all relevant safety standards

Umbrellas

29) Any umbrellas:

- a) may only be placed in the Trading Activity Zone;
- b) must be not less than 2100 mm high at the lowest point other than the pole and must not protrude over the kerb or into the pedestrian zone;
- c) Any moveable item that protrudes into the pedestrian zone must not be below a height of 2200mm.
- d) must be weighted and/or secured so as not to pose a safety hazard.

30) At times when it is raining, water from umbrellas must not be discharged within the Pedestrian Zone.

31) Umbrellas may be secured to the footpath by a lock-in device. Lock-in devices will only be approved where the device lies flush with the footpath when the umbrellas are not displayed. Applications for approval for lock-in devices should be made to Council Property Services. Plans and specifications of the items will be required to be lodged with Council prior to any umbrella being placed with a lock-in device.

Barrier Screens

32) Barrier screens include:

- low barrier screens, which are predominantly made of canvas or vinyl;
- high barrier screens, which are usually made of clear material such as safety glass or heavy duty plastic and are fitted to the footpath by lock-in devices; and
- full-length awnings/blinds, which are commonly attached from a verandah to the footpath.

33) The form and construction of any barrier screen must be suitable for its functional requirements and location, taking into account prevailing weather conditions.

34) Low Barrier Screens

- a) must be associated with the use of the footpath for an outdoor eating facility;
- b) may only be placed in the Trading Activity Zone;
- c) may be no more than 1200 mm high;
- d) may only be in place during the normal trading hours of the business with which they are associated;
- e) must be placed so that the screens are stable and secure or weighted so that they will not be moved by patrons or prevailing weather.
- f) must contrast with their background to assist people with vision impairment;

35) High Barrier Screens

- a) must be associated with the use of the footpath for an outdoor eating facility;
- b) may only be placed in the Trading Activity Zone;
- c) may only be in place during the normal trading hours of the business to which they relate;
- d) must be at least 1500 mm high (except where the premises are located on corner), be transparent and constructed of safety glass or heavy-duty plastic;
- e) must have a 75 mm wide band 1000 mm above the ground that contrasts with its background to provide a visual guide for all pedestrians;
- f) must be fitted to the footpath with a lock-in device, but be removable. Applications for approval for lock-in devices should be made to Council Property Services.

36) High barrier screens must be removed after the normal trading hours of the business with which they are associated in order to facilitate street cleaning by vehicles.

- 37) High barrier screens may not be used for advertising other than the name of the business or unless otherwise approved.
- 38) Lock-in devices will only be approved where the device lies flush with the footpath when the barriers (or part thereof) are not in place. Applications for approval for lock-in devices should be made to Council's Property Services. Plans and specifications of the items will be required to be lodged with Council prior to any screen being placed with a lock-in device. Please refer to the Section on Authorisations for further information.
- 39) Permanent screens will require a separate application for authorization under Section 221 of the Local Government Act from Council's Property Services Section. Please refer to the Section on Authorisations for further information.
- 40) Where the premises are located on a corner an application for screen will be assessed by Council's Traffic Management Section with regard to line of sight and a lower screen may be required.
- 41) Full Length Awnings/Blinds
- a) Full length awnings or blinds may only be placed in the Trading Activity Zone.
 - b) Full length awnings or blinds may only be fitted subject to the approval and requirements of Council's Development Services Section and Council's Property Services Section.

Planter Boxes

- 42) Planter boxes:
- a) may only be placed in the Trading Activity Zone and plants shall not extend beyond that zone;
 - b) may only be in place during the normal trading hours of the business to which they relate;
 - c) must provide a positive contribution to the visual amenity of the street;
 - d) must not exceed 1200 mm in height above the footpath level (including plants);
 - e) must be well maintained with healthy plants of suitable form, hardiness and species
 - f) must not be watered in a manner which results in the growth of mosses, algae or slime moulds;
and
 - g) must be free of litter, including cigarette butts.
 - h) must contrast with their background to assist people with vision impairment
 - i) Planter boxes may not be used for advertising purposes.

Cleaning

- 43) The permit holder is responsible for maintaining the trading area and associated footpath areas in a clean and sanitary condition at all times, and responsible for cleaning the footpath and paved surfaces and maintaining the area in a good state of cleanliness.
- 44) Some areas may only be cleaned by Council, and if soilage is attributed to the Footpath Trading then the costs may be attributed to the permit holder.
- 45) All tables, chairs, goods, displays, movable advertising signs and ancillary items must be removed and the footpath kept clear to facilitate any additional Council cleaning at times required by Council.

Reinstatement

- 46) Any damage to footpaths or alterations undertaken must be reinstated by the permit holder at their costs and to Council's specifications or the permit holder will be responsible for reimbursing Council for any reinstatement works.

Street Traffic and Forklifts

- 47) All vehicle and or forklift activity on roads and footpaths associated with the footpath trading applicants must be in accordance with approvals and approved traffic management plan.
- 48) All vehicles and forklifts used on roads must be compliant with all relevant and applicable legislation including vehicle registrations as required.

Safety

- 49) All items placed on the footpath shall be stable, must not pose a hazard to pedestrians or road users and shall not:
 - include sharp or protruding items;
 - be capable of shattering;
 - include moving or oscillating parts;
 - include reflective items that pose a risk to traffic; or
 - be located where pedestrian or driver sightlines will be obstructed.

Lighting

- 50) All foot path trading activities that occur at times of low lighting conditions or at times after sunset may require the provision of additional lighting to ensure the approved area is adequately lit and all areas visible to users, pedestrians and road users.
- 51) Additional lighting requirements will be provided by the permit holder and shall comply with any requirements or conditions by Council.
- 52) If an approved footpath trading area cannot provide sufficient lighting then the area may not be suited to trading at times of low lighting conditions or at times after sunset and or the trading times may be restricted to daylight hours.

Other Legislative Compliance Requirements

- 53) A footpath trading permit does not exempt the permit holder from compliance with any other legislative provision that may be applicable to their trade or operations.
- 54) It is the responsibility of the permit holder to ensure compliance with any other legislative provisions.