



5. COMPLIANCE

Policy 5.4

FOOTPATH TRADING

Draft Version 3

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5.4 FOOTPATH TRADING

- OBJECTIVES:**
- i) To control the display of goods for sale/display on the footpath/road reserve areas.
 - ii) To encourage the establishment of outdoor seating areas in accordance with clearly documented guidelines.

POLICY:

Council may permit the use of public footpaths for the display of goods (including signage) by an adjacent shop or outdoor eating areas in association with an adjacent restaurant or food premises.

1. General

- (i) Any person lawfully occupying a business premises adjacent to a Council footpath may apply to Council for approval to display goods, place advertising structures or place tables/chairs for dining subject to the terms of this policy.
- (ii) Council does not permit the obstruction of pedestrian accesses / crossings by goods displayed on footpaths, road reserves or other community/public areas unless Council has issued an approval in pursuant to this policy and/or any special conditions applied to any approval.
- (iii) Any approval issued under this policy is renewable annually and will expire on 30 June each year.
- (iv) Council will send a reminder notice to renew the approval at least one (1) month prior to the expiry of the approval which.
- (v) An application to renew an approval shall be submitted to Council no later than two (2) weeks prior to expiration of the expiry date referred to in 1(ii).
- (vi) Applications submitted for renewal within the timeframe referred to in 1(iv) shall ensure, subject to compliance with 1(vi), that the approval in does not expire on 30 June but will remain in place until Council has determined the renewal application and informed the applicant of the decision.
- (vii) Applicants or persons benefiting from and approval under this policy are required to hold a Public Liability Policy of at least \$20,000,000. Council is to be supplied with a certified copy of the insurance policy with application for approval; at least annually with the renewal application; within 7 days of the issuance of a new or replacement policy or upon request. Such a policy is to have Council's interest noted. The

applicant/proprietor must indemnify the Council from any liability arising from the agreement to a minimum of \$20,000,000.

- (viii) An approval issued under this policy is invalid in the event that the public liability insurance referred to in 1(vi) expires and the approval remains invalid until such time as a copy of any new or replacement policy is supplied to Council, Council acknowledges receipt and confirms such insurance policy complies with the terms of this policy.
- (ix) The Council reserves the right to cancel or suspend any approval issued under this policy at any time should the terms of this policy and any approval be contravened; should any fees remain unpaid; or should access to the footpath or nearby area be required for construction or repair works.
- (x) Should the requirements of this policy be varied from time to time then persons with the benefit of an approval may be required to comply with the terms of any new or updated policy.
- (xi) Any fees payable for an application for approval, renewal or any other aspect of this policy shall be the subject of annual review by Council in consideration of its annual fees and charges.
- (xii) Should an applicant for approval or renewal under this policy wish to seek a variation from the terms of this policy, then they should clearly state the reasons why the variation is sought and provide justification as to why Council should allow a variation from the policy.
- (xiii) Variations will not be considered for the insurance requirement as outlined in 1(vii) above.
- (xiv) The General Manager has the authority to consider variations in respect of any of the requirements of this policy relating to distances, measurements, clearances and dimensions. All other variations are to be considered by the elected Council.
- (xv) This policy does not apply to the use of footpaths in association with 'special events' (eg Celebrate Lithgow) which are subject to a separate process.

2. Goods on footpaths (including signage)

- (i) There will be clear identification of the area in which goods are intended to be displayed with any application for approval or annual renewal that the applicant supplies to Council.
- (ii) All display areas, if approval is given, shall allow a minimum clearance for pedestrian traffic of at least 1.5m.
- (iii) Goods shall be placed in an area no more than 1.5 metres from the shop front.
- (iv) Notwithstanding 2(iii) goods on footpaths may be displayed on the 'kerb side' of the footpath providing the clearance for pedestrian traffic

referred to in 2(ii) is provided and a minimum clearance of 600mm from the kerb is provided. (NB – The 600mm clearance from the kerb may be reduced where adjacent street furniture is already less than 600mm)

- (v) All goods displayed on the footpath shall be of good quality construction and finishes and shall (if necessary) be secured so as not to cause a hazard in times of high wind.
- (vi) The applicant/proprietor shall be responsible for the goods and any insurance issue arising from goods obstructing access.
- (vii) The applicant/proprietor shall be responsible for the removal of all goods on a daily basis at the close of trading.
- (viii) Display of goods shall be confined to the area of footpath adjacent to the premises. Before consideration would be given to areas not adjacent to the premises, the written consent of the adjoining owner and tenant must be obtained by the proprietor (to use the adjoining footpath frontage).
- (ix) Advertising signs shall have maximum dimensions of 1000mm wide and 1100m high and shall only contain content associated with the adjacent business.

3. Restaurant Seating

- (i) There will be clear identification of the area in which seating, tables and any associated items are intended to be displayed with any application for approval or annual renewal that the applicant supplies to Council.
- (ii) All restaurant seating, if approval is given, shall allow a minimum clearance for pedestrian traffic of at least 1.5m. Where seating is associated with a table this distance is to be measured with each chair setback 300mm from the table.
- (iii) Restaurant seating shall be placed in an area no more than 1.5 metres from the shop front.
- (iv) Notwithstanding 2(iii) restaurant seating on footpaths may be situated on the 'kerb side' of the footpath providing the clearance for pedestrian traffic referred to in 2(ii) is provided and a minimum clearance of 600mm from the kerb is provided. (NB – The 600mm clearance from the kerb may be reduced where adjacent street furniture is already less than 600mm)
- (v) All seating, tables and associated items to be situated on the footpath shall be of good quality construction and finishes and shall (if necessary) be secured so as not to cause a hazard in times of high wind.
- (vi) The applicant/proprietor shall be responsible for the seating, tables and associated items and any insurance issues arising from obstructing access.

- (vii) The applicant/proprietor shall be responsible for the removal of all seating, tables and associated items on a daily basis at the close of trading.
- (viii) The applicant/proprietor shall be responsible for the disposal of litter and cleaning of the footpath occupied by the outdoor eating area.
- (ix) Placement of chairs and tables shall be confined to the area of footpath adjacent to the restaurant premises. Before consideration would be given to areas not adjacent to the restaurant, the written consent of the adjoining owner and tenant must be obtained by the proprietor (to use the adjoining footpath frontage).
- (x) No advertisements will be permitted to be placed within the agreed outdoor eating area or in the adjoining footpath area unless it complies with the terms of this policy.
- (xi) Outdoor eating furniture shall not restrict the access to public seating facilities. The Council may in certain circumstances agree to the relocation of such facilities at the expense of the proprietor. No interference or use of the facilities will be permitted without the approval of the Council.

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