



POLICY DOCUMENT

20.63.1

Policy Name	BUSINESS USE OF FOOTPATH
Policy No.	20.63.1
Version:	2
Strategic Reference:	
Responsible Department:	Environment & Infrastructure
Policy Adopted:	19 June 2023
Last revised date:	17 June 2019
Minute reference:	CO 23/109
Next review date:	Council will endeavour to review this policy 4 years after adopted date or following significant change to legislation or aspects included within this policy.
Applicable Legislation:	The following sections of the Local Government Act 1999: Section 222 – Permits for Business Purposes Section 224 – Conditions of authorisation or permit Section 242 – Time limits dealing with certain applications Disability Discrimination Act 1992 Planning, Development and Infrastructure Act 2016
Related Policies:	Corporate Risk Management Policy Risk Management Framework Relevant Australian Standards
Related Documents:	20-71-T1 Business use of Footpath Application City of Port Lincoln Fees & Charges Schedule

1. POLICY STATEMENT

- 1.1 The City of Port Lincoln (“Council”) recognises the importance of a culturally diverse dining and business precinct to add vibrancy and economic prosperity to the City.
- 1.2 The unregulated and ad-hoc use of footpaths to display business merchandise and objects used for promotional and aesthetic purposes, can create potential trip hazards and restrict the provision of a safe and clear path of travel for pedestrians, especially for persons who are visually and/or mobility impaired.
- 1.3 Council has a legal obligation to provide a safe and accessible environment for all users of its public roads (including footpaths) within the City. The policy will enable Council to safely manage the competing needs of pedestrians, road users and business owners.

- 1.4 Pursuant to section 222 of the Local Government Act 1999, the Council is vested with the power to grant a permit for the use of streets, roads and road related areas (including footpaths) held in its care for use for business purposes. The Council is also empowered to issue a permit subject to conditions.
- 1.5 This policy sets out the obligations of traders in respect to the display of business merchandise and objects on footpaths throughout the city and provides a consistent framework against which applications for permits for such displays are to be assessed.
- 1.6 Business use of a footpath must be formalised and permitted by the Council. Business use of a road (Permit) will be subject to general and specific conditions as determined by the Council.
- 1.7 Non-compliance with conditions will result in enforcement via penalty fees.

2. DEFINITIONS

Item/s – equipment, furniture, outdoor heaters, plants, goods, produce or other items that may be placed on the footpath adjacent to or in front of relating business premises to assist in the promotion of a business.

3. KEY PRINCIPLES

- 3.1 The Council aims to provide clear, safe and unobstructed access for pedestrians of all abilities on its footpaths in accordance with Council's statutory responsibilities and the requirements of the Disability Discrimination Act 1992.
- 3.2 The Council aims to ensure that competing uses of its footpaths are properly balanced and that public footpath use is in keeping with the desired future character of the city's retail and commercial precincts.
- 3.3 The Council acknowledges the importance of footpath trading and displays in enhancing the amenity, viability and safety of the city's retail and commercial precincts. However, trading on the footpath is not a right; it is a concession granted to traders by the granting of a permit.
- 3.4 The Council has a duty to properly manage land under its care and control and to protect the interests of the community at large in accessing and using land under its care and control.
- 3.5 The broad interests of the community and the Council should not be harmed, or the public unreasonably inconvenienced by private use of footpaths.

4. DESIGN, APPEARANCE & SIZE OF DISPLAYS AND OBJECTS

4.1 *Displays and Objects shall:*

- 4.1.1 be not less than 750mm high and cover an area of footpath no less than 600mm x 600mm, so that they are of sufficient size to not become trip hazards to pedestrians;
- 4.1.2 have a base designed to be detectable to a visually impaired person navigating the footpath with the aid of a cane (ie. the incorporation of a bar or panel spanning the otherwise open base of the object and having a minimum 30% luminance contrast with the footpath);
- 4.1.3 only be displayed during the hours of the business' normal trading.

- 4.1.4 only display business merchandise or objects that advertises or promotes the relevant business or the goods or services available within the relevant business and displays must not include offensive or explicit advertising material.

5. **SITING CRITERIA**

5.1 ***Displays and Objects shall:***

- 5.1.1 Unless subject to Clause 5.1.3, be located either within the 600mm wide strip of footpath immediately outside the shop front or street alignment of the premises or 500mm from the kerb whichever allows a clear 1.5m access for pedestrians.
- 5.1.2 A single item which is wider than 600mm but less than 1m wide may be approved where there are at least three (3) metres of clear passage past such item on the footpath.
- 5.1.3 In localities with high pedestrian traffic, e.g. near pedestrian crossings, at entry to arcades, adjacent to bus stops or strips of footpath between nodes of high pedestrian population, a clear width of footpath available for walking of not less than 3m shall be maintained. In other areas this may be reduced to 2m.
- 5.1.4 Items must be situated at least 3m from building corners at vehicle crossings, arcade entries, streets or lanes.
- 5.1.5 not obstruct access to infrastructure or permitted activities, such as parking, public transport stops, loading zones, outdoor dining, underground services or building entrances;
- 5.1.6 not obstruct access to public street furniture such as seats, bicycle parking, drinking fountains, rubbish bins, telephone booths and post boxes;
- 5.1.7 not obstruct safe visibility for footpath and carriageway users; and
- 5.1.8 generally not extend beyond the width of the shopfront with which the display and/or object/s is associated.

5.2 ***Other Activities***

- 5.2.1 Charitable, non-profit stalls are permitted in specific locations only and applications for approval are subject to conditions as per Fundraising Activity on Local Government Land and Roads Policy 9.63.23.
- 5.2.2 Market stalls – approved on application in specific locations on specific days.

6. **OUTDOOR DINING**

In some instances, the establishment of an outdoor dining area may represent 'development' under the Planning, Development and Infrastructure Act 2016 or an encroachment under 221 of the Local Government Act 1999. Examples of where additional approvals may be required are:

- fixed shade and fencing exclusively or customers of the business
- advertising displayed on items in the outdoor dining area
- any changes affecting a State Heritage place including painting, planting or minor structures.

6.1. *Chairs, tables and ancillary items associated with outdoor dining shall:*

- 6.1.1 be positioned so as to not impede the free flow of pedestrian traffic along the footpath.
- 6.1.2 only be placed on the footpath during the normal trading hours of the business to which they relate, unless otherwise approved by Council.

7. OTHER REQUIREMENTS

- 7.1 Applicants will be required to indemnify the Council against any claims for loss and/or injury by third parties and to provide evidence of public liability insurance cover to the amount of \$20,000,000.
- 7.2 The Council may suspend a permit by giving reasonable notice (except in the case of emergencies) to the permit Holder, if the Council requires the footpath for events, festivals, footpath maintenance or works.
- 7.3 The Council will grant a permit to those applications which comply with the requirements of this policy. Once the permit is approved, the Council will notify the applicant and issue a permit. The permit becomes valid when a signed permit has been issued by the Council to the applicant. The Council may cancel or suspend a permit for a breach of condition or for any other reason set out in this policy. However, the Council will provide the permit holder written notice of the proposed cancellation or suspension stating the grounds on which the Council proposes to act.

8. FEES PAYABLE TO COUNCIL

- 8.1 Fees are payable either annually, or pro-rata if approval is granted for the first installation after the commencement of the financial year, and will be charged in accordance with Councils Fees and Charges Schedule.
- 8.2 Council reserves the right to vary the fees payable in determining individual applications in which agreement is reached to contribute to capital upgrades of public infrastructure. All item/s must be stable and be able to withstand wind gusts without any movement.

9 RELEVANT DELEGATED POWERS AND DUTIES

Any actions or decisions made regarding this policy, will be enacted upon as per Council's current Delegations Register.