

Footpath Trading and Parklet Guidelines

Document type	Supporting document - Guidelines
Classification	Public
Status	Draft
Author	Corporate Policy and Project Officer
Owner	Manager Safety and Amenity
Approved by	Manager Safety and Amenity
Date approved	
Version number	Draft version 3
Last reviewed	
Next review by	Risk and Corporate Information will update this section once the document has been approved.
Document suite	Local Laws, Activities on Council Land

Document control disclaimer

Minor amendments to this document may be required from time to time. Where amendments don't materially alter a document, they will be made administratively, without a requirement for formal approval.

Printed copies of this document are considered uncontrolled. Please refer to the [Corporate Document Library](#) to access the most current version of this document.

Acknowledgement of Country

Moonee Valley City Council respectfully acknowledges the traditional custodians of this land – the Wurundjeri Woi-wurrung people of the Kulin Nation, their spirits, ancestors, elders and community members past and present.

Purpose

Council owns and maintains the footpaths, roads and laneways in public spaces, and has a legal responsibility for the regulation of any activities undertaken in those spaces.

Council aims to provide a safe environment for people who move through the City of Moonee Valley, and this requires Council to provide clear unobstructed footpaths for the public. Council also supports local businesses by encouraging innovation and creative uses of road reserve, including footpath trading, parklets and laneway occupancy.

The Footpath Trading Policy (the Policy) has been developed to maintain the balance between pedestrian access, road safety, and trading activities, ensuring an enjoyable and safe shopping experience for everyone.

These Guidelines have been developed to support the Policy by providing clarity around the conditions of Council's Footpath Trading Permits, detailing what each permit covers and the conditions that must be followed.

Together the Policy and these Guidelines aim to promote and enhance the public realm by creating new public spaces and improving the pedestrian experience.

Scope

Council's Footpath Trading Policy and these Guidelines extend to all individuals and businesses within the municipality seeking to utilise footpaths, laneways, or on-street parking bays for commercial or other purposes.

This utilisation of the road reserve includes the temporary placement of infrastructure such as:

- advertising signs
- heaters
- parklet structures
- café screens
- planter boxes
- public art
- tables and chairs
- retractable awning and blinds
- street stalls
- umbrellas

Zones

Footpath zones

In order to provide a clean, attractive, safe, unobstructed path at all times for all abilities and commercial purposes, Council describes the footpath in the following four zones:

- Pedestrian zone
- Kerb zone
- Trading zone
- On-street parking zone

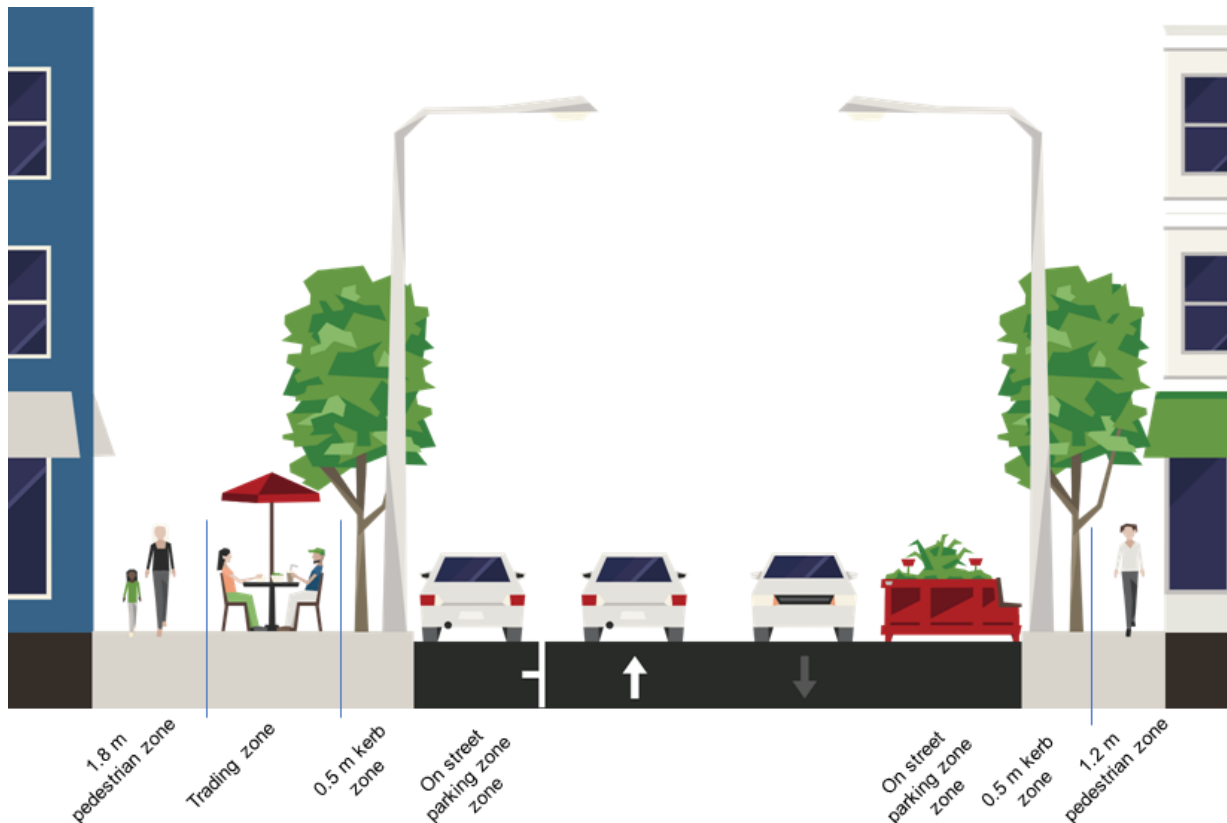


Figure 1 – A street cross-section showing the pedestrian zone, the trading zone, the kerb zone, and the on-street parking zone. The on-street parking zone on the right-hand side of the road is occupied by a parklet. Image not to scale and distances are indicative only.

Pedestrian zone

The pedestrian zone is the area that extends from the property line to the potential trading zone, to allow for a continuous and accessible path of travel for footpath

users¹. This area is for the exclusive use of pedestrians and must be kept clear at all times.

A minimum 1.8m clear pedestrian walkway (measured from the building line) must be maintained at all times in major pedestrian arterials:

- Puckle Street Moonee Ponds
- Union Road, Ascot Vale
- Racecourse Road, Flemington
- Keilor Road, Niddrie

The 1.8m pedestrian zone is the minimum width required for two people using wheelchairs to pass each other.

All other areas the minimum width of the pedestrian zone is 1.2m.

Note: Council reserves the right to prescribe at any time an alternative width to ensure a safe environment and unobstructed footpath for all people to move without hindrance or danger from trading activities.

Kerb zone

The kerb zone is the area between the face of the kerb and the trading zone. This zone is important for the safety of pedestrians entering and exiting the road, including access to and from parked vehicles, and access to loading and delivery bays. The kerb zone must be kept free from any items or structures at all times.

The minimum distance between the face of the kerb and the trading zone is half a metre. Council will determine the appropriate clearance rates in circumstances where the kerb zone clearance may need to be increased (reducing the trading area) e.g. where a shop front faces an existing or proposed loading zone, delivery bay, bus stop, tram stop and/or taxi rank or other infrastructure.

Trading zone

The potential trading zone is the only area of the footpath that allows for commercial activity (subject to an annual Footpath Trading Permit). It is the permit holder's responsibility to ensure items remain within the trading zone, and items within the trading zone must not present a tripping hazard to pedestrians.

A gap of one metre must be left between abutting property boundaries. This is to be achieved by a reduction of 0.5 metres at the side of each boundary. This is to ensure that adequate access is provided for pedestrian safety when crossing the road, and to allow passengers access to the footpath when exiting a vehicle.

If a trading zone extends greater than 10 metres in length, a gap or opening of no less than one metre must be created in the centre of the trading zone to allow pedestrian access to the kerb.

Where a parklet has been installed adjoining the footpath, all of the footpath and the parklet is considered a trading zone.

¹ As set out in the Australian Standards.

If the permit holder requires to make any alterations to any Council infrastructure, they are required to apply for a Consent for Works permit and pay a separate permit fee.

Note: Council reserves the right to prescribe an alternative width to ensure a safe environment and unobstructed footpath access for all pedestrians to move without hindrance or danger from trading activities. In some instances, footpath trading and parklet installation will not be permitted on grounds of road traffic and/or pedestrian safety.

On-street parking zone

The on-street parking zone is the area of the road immediately adjacent to the kerb zone. Parklets occupy one or more on-street parking spaces and are public seating platforms that convert curbside parking spaces into vibrant community spaces that can be used for street dining, display of goods or street activation such as green spaces offering public seating.

Permit types

Permit types

Council has four sub-types of footpath trading permits available:

- Advertising
- Display of goods
- Outdoor dining
- Street activation

Fees for each permit type are set annually as part of the budgeting process, and can be found on Council's website.

Advertising

Council supports the use of the footpath space to display materials that advertise the business name, products, or suppliers. This includes items such as:

- free standing signs
- A-frames
- menu boards
- banners
- flags
- stands used to display newspapers, catalogues or pamphlets
- bunting (a collection of small flags strung along a cord or rope)

While Council supports advertising materials being placed on or over the footpath, there are criteria that all advertising materials must meet:

Guideline – DRAFT ONLY

- Flags, signs or bunting are not to overhang a footpath at a height of less than 2.4m from the surface of the footpath.
- The sign or structure must be suitably designed and constructed (no hand-written signs, with the exception of menu boards), have no sharp edges, and must not have any further attachments, such as flags or moving parts, must not be internally illuminated, have flashing, revolving or spinning parts, or have reflective surfaces. The design of the advertising sign or board should be compatible with street furniture and landscaping in the activity centre.
- All signs must be removable, and designed not to be blown over by wind or storms. Signs are not to be attached or placed against Council owned assets or infrastructure such as poles, rubbish bins, or bike stands.
- The sign or structure may only be placed immediately in front of the business to which it relates, and only one such sign or structure must be allowed per business. Exceptions will apply to businesses within arcades or businesses located above a property that abuts the footpath.
- All signs and structures must be removed at sunset or at the close of business each day. Signs and structures used after sunset must be in adequately lit locations.
- A frame signage related to state and federal election processes and supplied by or approved by either the Australian or Victorian Electoral Commissions do not require permits or incur fees. Signs must not obstruct the pedestrian zone.

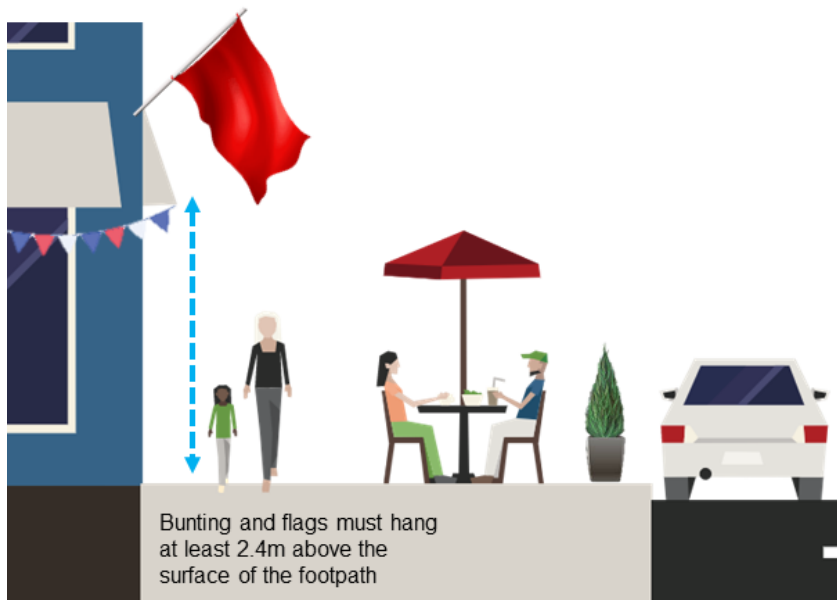


Figure 2 – Bunting and Flags must hang at least 2.4 metres above the surface. Image is not to scale.

Note: When assessing applications for advertising materials, the number of signs in the area, their impact on pedestrian safety, and the amenity of the street will all be taken into consideration.

Display of goods

Council allows the display of goods on footpaths which must comply with the following guidelines:

- Display structures must be secure, stable and portable, as well as of quality design. Stands must not be fixed to the footpath or any street sign pole or other infrastructure.
- All goods and structures must be removed at sunset or at the close of business each day. Structures displayed after sunset require specific approval and must be adequately lit.
- Temporary stalls are permitted for not-for-profit organisations (evidence will be required at the application stage)
- Temporary stalls or information stands related to state and federal election processes and run by either the Australian or Victorian Electoral Commissions do not require permits or incur fees.
- Temporary not for profit 'pop-up' shops are permitted within designated areas of Moonee Valley's business precincts, including:
 - Corner of Pratt and Puckle Streets, Moonee Ponds
 - Wallis Mall, Niddrie
 - Pridham Plaza, Flemington
 - other designated locations

Note: Consideration of congestion will be applied during the assessment of a display of goods permit application, with officer discretion to be applied to ensure equitable outcomes.

Submitting an application does not guarantee that a permit will be granted. Assessment of each application will be based on the answers and information provided for the temporary stall.

Outdoor dining

Council supports the use of footpaths or on street parking zone for outdoor dining, including the use of furniture and other infrastructure that encourages thriving activity centres. Use of the footpath for outdoor dining must conform with both relevant Australian Standards, Council's set clearance distances, and the following conditions:

- Tables and chairs must be of commercial quality. Furniture must be portable, and no fixed or permanent tables are permitted. Chair legs must not damage the pavement, and if any furniture causes damage to the pavement, Council will repair the pavement and recover the cost from the permit holder.
- All tables and chairs must be removed at sunset or at the close of business each day, and stored by the business owner. Tables and chairs designed to be used after sunset must be in adequately lit locations.

Guideline – DRAFT ONLY

- Tables and chairs are to be placed immediately in front of the business to which they relate. They may be placed in front of an adjacent business only if written agreement is received from the adjacent business owner.
- A current planning permit and liquor licence is required if liquor is to be sold, consumed or served within the footpath trading area. The footpath must be included as part of the 'licensed area' on the liquor licence, and permits will not be granted for licensed venues outside their property boundary.
- The applicant must keep the outdoor furniture clean, and in good repair at all times. The area around the tables and chairs must be kept tidy and litter free at all times.
- Signs and advertising are prohibited on tables and chairs, unless integrated into the design, related only to said business, and approved by Council.
- Employees and customers of outdoor dining venues must give way to pedestrians at all times.
- Separate cash register and counter facilities are not permitted.
- Umbrellas may be used if they are sturdy, safe, and secured at all times. The lip of umbrella/s must not be lower than 2.1m above the surface level of footpath, must not obstruct any parking or traffic signs or signals, or any footpath or vehicular movement or vision, and must be removed in times of high winds or storms.



Figure 3

- Café screens may be used in conjunction with chairs and tables. There are two styles of café screen considered appropriate for use in association with outdoor eating facilities: fixed screens and portable screens.
- Portable screens are preferred by Council and may include canvas screens, decorative fencing or planter boxes. All portable screens must be removed at sunset or at the close of business each day, and stored by the business owner. Portable screens designed to be used after sunset must be in adequately lit locations.
- The portable screen must have a lightweight frame and be securely anchored. The use of large sandbags, cement blocks and large containers is not permitted. The applicant must keep the screens clean and in good repair at all times.
- Fixed screens or glass screens are only permitted in special circumstances. They may be permitted subject to available space, urban character and the existing street infrastructure and traffic conditions. They are not permitted if they adversely affect the openness or character of the streetscape. Screens are used to assist businesses with containing their furniture within their approved trading zone. (Council can provide a Technical Note for Café Screens showing preferred designs). Fixed screen approval is granted as part of a Footpath Trading Permit; however installation of the screen/s requires approval via a Works in Road Reserve application (made online via Council's website).
- Responsibility for street cleaning where fixed screens are installed may sit with the footpath permit holder, particularly if the screens restrict the access of Council's ride-on street cleaning machines. Removal of the screens when they are no longer needed is the responsibility of the permit holder, who must also make sure that the footpath is returned to its original condition.
- Business signage and advertising on portable canvas screens must be limited to 30 percent of the total area.
- Gas heaters are permitted in conjunction with outdoor eating facilities that have café screens, and must comply with relevant Australian Standards.



Figure 4 – Gas heaters can only be installed or placed within the trading zone. They must sit at least 60cm from the kerb, and the bottom of the heater must sit at least 2.2 m above the footpath.

Street activation

Street activation describes commercial activities that promote and support a positive contribution to the urban character and amenity of a street. Commercial activities that support the principles of place making are encouraged in the following ways:

- Public artworks, both historic and contemporary, are an important part of our city's character. Council recognises that public art contributes to Moonee Valley's economy, cultural life and social life and create a lively and engaging city. Examples of public art could include:
 - art work integrated into the fabric of a building
 - a sculptural or decorative installation located in an open space
 - text or poetry inscribed in a footpath or on public seating
 - a mural, footpath design or wall relief, including green walls
 - creative markers which reflect the historical character of the precinct
 - performance or multimedia presentations.

Note: Public art is considered to add value to the urban character of the street, and as such incurs no fee. If the installation contains a business name or any call to action, such as a website or phone number, the installation will be considered advertising and incur the relevant fee.

- Pot and planter boxes may be used in conjunction with chairs and tables, or simply to add to the urban forest of the street. Pots and planter boxes in outdoor eating areas must comply with the following provisions:

Guideline – DRAFT ONLY

- All planters must be removed at sunset or at the close of business each day.
- Planter boxes may be placed within the designated trading zone.
- The applicant must keep the planter boxes and the plants clean, healthy and in good repair at all times.
- Signage and advertising on planter boxes is not permitted.
- Maximum combined height of plants and the planter box is 800mm.

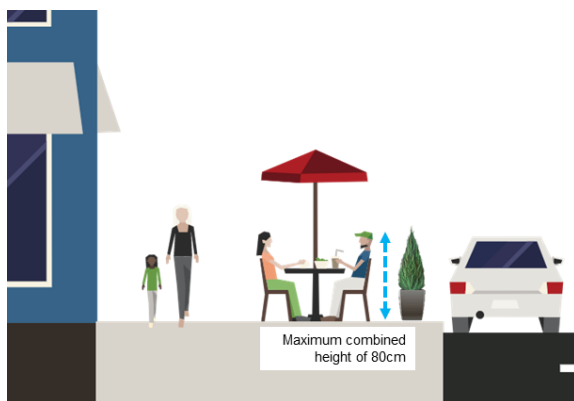


Figure 5 – the maximum combined height of planter boxes and the plants in them must not be more than 80cm.

Parklets

Parklets are on-street parking spaces that have been converted into extensions of the footpath, either to provide additional space for outdoor dining, or for public seating, or to otherwise provide additional space for public or commercial activities.

Council supports both commercial and non-commercial use of parklets. The following criteria must be fulfilled for an organisation to apply to Council for a parklet:

- The nominated location must be located in front of or immediately adjacent to the organisation applying for the parklet (Council is aware that car spaces marked out on the road will not perfectly align with business boundaries, and a parklet may not sit fully within those boundaries)
- The nominated location must be within a standard Council carpark (an area clearly marked out on the road reserve for cars to park in)
- The nominated location must not be within a designated loading zone, bus zone, mail zone, accessible parking zone, taxi zone or clearway area
- Parklets to be located in streets where appropriate traffic calming measures are in place, on roads with a maximum speed limit of 50kph (or lower), and on Council managed (local) roads
- Parklets must adhere to traffic regulations and not obstruct driver, pedestrian sight-lines, or traffic signs,
- Parklets must provide a 10m set-back from intersections.

- Parklets cannot be accommodated on sloping streets because of the complexity a slope adds to the build (OH&S, stormwater flow) – the gradient of the street must be no more than 5 degrees
- Parklets may not obstruct access to underground services, drains, access lids, manholes, fire hydrants, rubbish bins, ticket machines, mailboxes, street parking signs and similar
- Parklets support the general business area, parklets will remain public infrastructure and as such are not to be branded with business logos or advertising signage.

The Permit Holder can make minor changes as required such as changing the arrangement of furniture or adding plants. For major changes to the appearance or structure of the parklet, such as changing the materials, function or size, Permit Holders will need to apply for an amendment to their parklet permit.

Existing Temporary Parklet Permit Holders

Businesses that were part of the 2020/21 COVID response Temporary Parklet Program and who already have a temporary Parklet Permit will need to:

- demonstrate that the existing parklet meets current safety, accessibility and cleaning guideline requirements as detailed in this policy and the permit conditions
- pass a building and safety inspection
- pay the required Footpath Trading Permit fees
- agree to all permit conditions, including the requirement to transition across from the existing temporary program to holding an approved permit.

Parklet Agreements Terms and Conditions

Hosting a parklet will require a signed undertaking that permit holder understands and abides by the following Terms and Conditions:

Maintenance

Ensure that the parklet remains clean, safe and in a state of good repair for everyone to enjoy. Maintenance requirements include:

- Keeping the parklet well maintained and in good repair ensuring it is free of debris, grime, and graffiti, and keep any plants in good health;
- Sweeping the parklet and surrounds, and keeping it rubbish-free, removing any debris that is impeding drainage flow along the kerb; and
- Removing any slip / trip hazards from the parklet.

Public Liability Insurance (PLI)

Guideline – DRAFT ONLY

- PLI must be kept up to date for \$20 million liability for the footpath area outside your business and proof will need to be provided. Council will undertake full PLI for the parklet space and its public use.

Trading Hours and Licencing

The parklet can only be used for trading that mirrors the business' Council planning permit. The service of alcohol will only be permitted where there is an extension of an existing liquor licence. The consumption of liquor must only occur when patrons are seated in the parklet space. Receiving a footpath trading permit from Council is not a Liquor License.

Use of the Parklet

Council does not permit smoking in the parklet space.

The permit holder must ensure adequate lighting is in place for customer use.

Any external music must be kept at a low decibel and be in accordance with Environment Protection Authority (EPA) requirements.

Public Process

If for any reason, significant public concern is expressed about the parklet, a review by a Moonee Valley City Council Officer may be required. This may result in removal of my parklet space.

Other Matters

The permit holder must agree that if the parklet sits on top of sensitive utilities, there may be instances where the parklet will need to be removed with little notice, for emergency works.

Council reserves the right to remove the parklet at any point.

Council also reserves the right to manage parklet “saturation” as it sees fit, including measures such as:

- Limiting the maximum length of time a single business can have a parklet
- Restricting the number of parking spaces a business is able to occupy
- Wait-lists for parklets
- Choosing not to renew permits for businesses that have had parklets for a long period of time in order to free up capacity in the area for other businesses to have parklets

Laneways and Council-led activations

Laneways are a type of road constructed of concrete, asphalt or bluestone, and maintained by Council.

Traders may be permitted to utilise part of a laneway for commercial use as long as the commercial use does not prevent or obstruct required access.

Prior to application business applicant must seek letters of support from local business, residents and trader association or group if in operation.

All laneway applications must meet the following criteria:

- Must satisfy safety and amenity requirements
- Application may depend of further engagement with local business and residential communities
- Other business within the street/laneway should be invited to take part in the street trading or extended outdoor dining program. Noting that each business will be responsible for their portion of the allocated space and that for hospitality businesses communal ‘mixed venue’ dining is not encouraged
- Laneway/streets must have adequate clearance for pedestrians, emergency vehicle access and the outdoor street trading or dining set-up

Guideline – DRAFT ONLY

- Applicants still require a Footpath Trading Permit based on sqm area of use
- Compliance with Disability Discrimination Act 1992;
- minimum 1.5m clear path from the building and 0.5m from kerb
- Provision for a mobile platform for wheelchair must be provided if there is a step into the extended space

Very short-term and temporary activations of a road reserve may be better covered via a [Road Occupancy Permit application \(made online via Council's website\)](#).

Where Council has initiated an activation in a road reserve, either to drive pedestrian engagement with the area, or to trial possible future improvements to the space, Council will not charge footpath trading fees for involved traders.

Further information

Parking and transport

Footpath trading has the potential to restrict the delivery of goods to abutting properties, restrict passengers' access to vehicles, impact on access to public transport and restrict driver visibility and impede safe driving.

Any application that has these potential impacts will be referred to the Technical Services Department for assessment, and may not be permitted / may be restricted.

Temporary retractable awnings

Awnings can provide protection from the weather and can complement the streetscape. Awnings should be simple in style and appearance, and made of quality materials which are safe and durable. Awnings must be at least 2.2 metres above the footpath at their lowest point. Installation of all new non-retractable awnings requires a permit.

Design guidelines for temporary retractable awnings

Awnings should be designed to ensure that shop fronts are visible and to avoid clutter. If they are full length, they should be transparent where possible, to allow views for pedestrians. Council will only permit temporary retractable awnings that meet the following conditions:

- Horizontal, and fixed to buildings to form a veranda
- Partial drop-downs that end at least 2.2 metres above the footpath level
- Full length drop-downs that are transparent, with the exception of the bottom 1 metre of the awning
- Drop-downs which are transparent and attached to a fixed screen.

Full length awnings are only to be used for a premise that either offers outdoor dining or sells fresh produce which may be impacted by weather conditions, and should contain no advertising signage.

Supported temporary retractable awning

- Horizontal awnings that are fixed to buildings to form a veranda.
- Partial drop-down awnings which are at least 2.2 metres above the footpath level.
- Full length drop awnings should be transparent. The awning may include a non-transparent section for the bottom 1 metre of the awning.
- Drop-down awnings which are transparent and attached to a footpath trading barrier.

Note: No signage or side wings are permitted on awnings.

Charity collectors

- Only not-for-profit groups or individuals are permitted to conduct charity collections on footpaths, following the issuing of a permit. Applicants will not be provided with a designated location and are expected to be mobile.
- The total number of days that any one organisation can collect within the municipality is three (3) days per application. The maximum number of collections per year is three (3). A minimum of 14 days is required to process the application. Applications made more than six months prior to the proposed collection period will not be considered.
- Collection of subscriptions, automatic debiting or ongoing payment subscriptions is not permitted as part the permit to operate. Collections may only be undertaken for monetary donations or sale of charity promotional items.
- Operators will be required to show documentation of their not-for-profit status at application stage. If approved, charity collectors will be required to display an identification card while undertaking collections within the municipality.

Note: Submitting an application does not guarantee that a permit will be granted. Assessment of each application will be based on the answers and information provided.

Delineation markers

- Delineation markers (circular marker disks) are supported by Council, as these assist traders and pedestrians to distinguish the permitted trading zone from the required pedestrian zone
- Installation of delineation markers by Council will be progressively undertaken as part of any future capital works upgrades, at the time of installation of fixed screens, and in situations where continual non-compliance exists. The installation of delineation markers will be covered by the permit fee where relevant (mandatory with the placement of fixed screens and tables and chairs).

Application process

Applicants are advised to familiarise themselves with the Policy and these guidelines before to making an application to Council.

Understanding the responsibilities involved in managing the footpath area, design requirements, legal obligations, costs involved and other relevant matters is important. Applicants must:

- Complete and sign a Footpath Trading Application Form (available on Council's website).
- Where relevant, provide a copy of the approved Liquor Licence for the premises to which the outdoor area relates.
- Provide a copy of a valid Public Liability Insurance policy for indemnity up to \$20 million.
- Provide a plan, drawn to 1:100 scale, detailing:
 - The location and dimensions of the principal shop frontage, the adjoining shop frontages (and their business names), the width of the kerb zone and pedestrian zone and the length of the trading zone.
 - All existing fixed street and footpath features within or near the proposed footpath trading area, such as trees, light poles, rubbish bins, bike racks, public transport shelters, fire hydrants, signs, pits, car parking and parking restrictions.
 - Details of any proposed advertising including a clear indication of its size and location.
- Pay the nominated fee once the application has been approved.
- Failure to submit any of the above information required for the application will result in delays in processing the application and / or refusal of the application.
- Where a trader has applied for a permit for dual frontage property, such as a corner business, or for both footpath trading and a parklet, one fee will apply based on the total area applied for.
- Assessment of parklet applications requires a cross-council approach from relevant departments. Consideration of parklet saturation will be applied during the assessment process, with officer's discretion to be applied to ensure equitable outcomes.
- There are needs, and preferences, for some people to drive to local shopping centres, and so there is a limit to how many car spaces can be converted into parklets. Council will measure and determine a 'saturation point' by ascertaining availability of parking at different times as well as recording trader, residents and customers in different areas when feedback is received.

If there is an upper limit of possible parklet numbers in an area, this creates issues of fairness and which businesses are allowed to get the direct benefit of a parklet. If this situation occurs a waiting list or lottery will be put in place

which may lead to parklet hosts needing to relinquish a parklet to give another business an opportunity.

Permit renewals

Permits are issued for the financial year on an annual basis. A renewal notice is issued for all existing permit holders.

It is the responsibility of the permit holder to ensure all change to permit details, including changes to public liability insurance policies, are provided to Council.

Permit transfers

Requests to amend an existing permit must be made in writing to Council by the permit holder.

Permits cannot be transferred to any other trader. Permit holders can apply to Council for a refund of the unused annual permit fee.

Enforcement

If the application is approved, a permit sticker will be provided to the applicant. This sticker must be displayed in the shopfront window. Failure to display the permit sticker is a breach of the permit conditions.

The permit holder is responsible for any breach of conditions set out in this policy, including those committed by their staff or patrons. If non-compliance is detected, depending on the severity and / or repetitive nature, an Authorised Officer may undertake the following enforcement action:

- issue a verbal direction
- issue a Notice to Comply
- issue an infringement notice
- cancel, suspend or amend a permit
- impound objects associated with footpath trading, if a permit has been cancelled or suspended, or if a trader doesn't hold a current permit.

Public liability

The permit holder is responsible for all items placed on the footpath, as well as the activities of persons participating in footpath trading, whether a proprietor, staff member or customer.

The trader must maintain a public liability policy of insurance for at least \$20 million. The insurance policy must be able to meet any possible claim which may be sustained against the licensee or Council in relation to the death or injury to any person or the damage to any property arising out of anything authorised by a Footpath Trading Permit.

Guideline – DRAFT ONLY

