



1.0 Purpose

The Commercial Use of Footways Policy (Policy) outlines Canterbury-Bankstown Council's (Council) management principles for the commercial use of footways under the care and control of Council.

This Policy aims to achieve a balance between public and commercial uses through the provision of specifications that promote an integrated approach to design, positioning and layout of the street environment and the commercial uses allowed within.

2.0 Scope

This Policy applies to the management and licencing of the commercial use of footways on land under the care and control of Council. It is to be read in conjunction with the Commercial Use of Footways Guidelines.

Note:

1. Any proposal for the modification, relocation or removal of existing infrastructure must submit a Work Permit Application for assessment prior to the licensing process and, if approved, would be carried out at the applicant's expense
2. Applications to install permanent infrastructure within the public space cannot be made as part of a Commercial Use of Footways license application. The installation of permanent infrastructure within the public space by the applicant may only include awnings and signage attached to the existing building above the existing ground level. For this infrastructure the applicant must submit a Development Application for assessment separate to the licensing process. All other permanent infrastructure within the public space shall be planned and managed by council.

3.0 Terms and Definitions

In this Policy the terms below have the following meanings.

Term	Definition
Applicant	The person who applies for the licence agreement and must be the owner of the associated business.
Commercial Use of Footways	Commercial use of footways includes but is not limited to activities such as outdoor dining, merchandise display and advertising through the use of freestanding and moveable furniture only which is managed by licence agreement under the <i>Roads Act 1993</i> .
Development Application	An application for consent under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> to carry out development but does not include an application for a complying development certificate.
Development Consent	Consent under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> to carry out development.
Exempt development	Development that is declared to be exempt development by an environmental planning instrument because of its minor impact.



<i>Licence Agreement</i>	Permission to use Council property for a particular purpose, or conduct business or occupation under a particular agreement with Council. Most commercial use of footways occupancies fall into this category.
<i>Licence</i>	Certificate that proves such granted authority under governmental license has been given.
<i>Licensee</i>	The holder of a licence from Council.
<i>Outdoor Trading</i>	Overarching term used to describe the commercial use of footways.
<i>Outdoor Dining</i>	The arrangement of tables, chairs and related furniture and fittings for outdoor café, restaurant or dining purposes placed on Council owned or controlled land.
<i>Permanent Infrastructure</i>	Any built or fixed element that that has been approved through the appropriate government processes such as awnings, retractable awnings, blinds, screens and signage.
<i>Premises</i>	The land on which the commercial business is approved to operate.
<i>Semi-permanent infrastructure</i>	Any moveable element that remains in place outside the approved hours of operation of the commercial use of footways licence such as planter boxes.

4.0 Policy Statement

Council is committed to providing residents, businesses and visitors with an inclusive, engaging and vibrant city in a manner that responsibly manages the shared use of its public spaces.

This Policy is aligned to the *Safe and Strong* destination of the *CBCity 2028* Community Strategic Plan.

5.0 Policy Criteria

5.1 Principles

Council will manage the commercial use of footways in order to:

- Maintain public safety
- Ensure equitable access
- Develop vibrant, open and multifaceted street life
- Provide an attractive city in keeping with the local character
- Support economic vitality and local commercial development
- Balance the use of the public space
- Maintain effective footways management
- Ensure the protection of infrastructure



5.2 'Commercial Use of Footways' license conditions

All commercial use of Council owned outdoor space requires approval. This is granted through a "Commercial Use of Footways" licence. Council will consider licence applications and renewals on an individual case-by-case basis.

These applications are processed as 'exempt development' licence applications and must comply with the provisions of this Policy, the associated Guidelines and documents, and relevant legislation, including the *Liquor Act 2007* (NSW) and *Smoke Free Environment Act 2000* (NSW).

5.2.1 Commercial Use of Footways application requirements

Applications for commercial use of Council's footway must be submitted by the business owner (referred to as the applicant).

The applicant is responsible for providing the required information to Council as set out in the Commercial Use of Footways Guidelines to allow for the reasonable assessment of the proposed use. Council will only enter into a Licence Agreement where the commercial business (to which the licence relates) is operating in accordance with the terms of any development consent or similar approval that regulates the use of the premises.

- a. The applicant must provide evidence of Public Liability Insurance with an Australian-based insurance company for a minimum amount of \$20,000,000 and must indicate Canterbury-Bankstown Council as the interest party on the Certificate of Currency.
- b. The applicant must provide certification by a certified structural engineer that any existing structure attached to the associated building and located over the associated public space (such as awnings) is structurally adequate and complies with Section B of Volume 1 of the Building Code of Australia.

5.2.2 Commercial Use of Footways Licence Agreement

- a. Once Council has entered into a licence agreement, the licensee (the associated business owner who has been granted permission) is responsible for complying with all conditions applicable to the licence agreement. A failure to comply with all conditions may result in Council taking action and may result in termination of a Licence Agreement. The expiry date for all approvals and licences is the 30th of June each year.
- b. Current licences will be automatically reviewed by Council for renewal at the end of each financial year and if approved, a request of licence renewal will be issued.
- c. Failure to pay the licence fees or provide evidence of current Public Liability Insurance will result in the Licence Agreement not being renewed.
- d. A full list of the relevant fees is listed in Council's Schedule of Fees and Charges.

5.2.3 Other requirements

- a. A licence will cease upon change of use or change of business of the associated premises and a new licence application will be required.
- b. A change of owner of the associated business must be registered with council along with documentation of current valid insurances and the licence transferred to the new owner.



- c. Council reserves the right to revoke or vary the licence at any time, notwithstanding any associated development consent that applies. Council will provide reasonable notice however the business will bear the costs associated with the revocation or variation.
- d. Any outdoor dining area where it is intended to serve alcohol requires a separate licence under the *Liquor Act 2007* (NSW). Further information can be obtained from Liquor & Gaming NSW.
- e. Smoking (including water-pipes) is banned within all commercial outdoor dining areas under the *Smoke Free Environment Act 2000* (NSW). Owners and occupiers must ensure that adequate “No Smoking” signs are displayed. This is enforced by NSW Health Authorised Inspectors. Further information can be obtained from the NSW Health.
- f. Any proposal for the modification, relocation or removal of existing infrastructure must submit a Work Permit Application for assessment prior to the licensing process and, if approved, would be carried out at the applicant’s expense.
- g. Applications to install permanent infrastructure within the public space cannot be made as part of a Commercial Use of Footways license application. The installation of permanent infrastructure within the public space by the applicant may only include awnings and signage attached to the existing building above the existing ground level. For this infrastructure, the applicant must submit a Development Application for assessment separate to this licensing process. All other permanent infrastructure within the public space shall be planned and managed by Council.

6.0 Approval and Review

6.1 Policy Owner

Manager City Transformation

6.2 Authorisation

Adopted by Canterbury-Bankstown Council on 25th of September 2018.

6.3 Reviews and Modifications

The next review is due on 09/06/2025.

Review Date	Modification	Approved by
09/06/2022	Minor updates to policy content, including definitions, inclusion of additional headings, and use of new Council policy template.	Acting Manager City Transformation
14/03/2024	Minor update to remove section 6.3 on transfer of licence requirements from the Guidelines.	Manager City Plan and Transformation



7.0 Related Documents

7.1 Laws and Standards

- *Environmental Planning and Assessment Act 1979*
- *Food Act 2003*
- *Food Regulation 2015*
- *Liquor Act 2007*
- *Local Government Act 1993*
- *NSW SEPP (Exempt and Complying Codes) 2008*
- *Public Health Act 2010*
- *Roads Act 1993*
- *Smoke Free Environment Act 2000*
- *Work Health and Safety Act 2011*

7.2 Policies and Procedures

- Advertising & Signage DCP 2005
- Alcohol Free Zones and Alcohol Prohibited Areas Policy
- Australia New Zealand Food Standards Code
- Bankstown Local Environmental Plan 2015
- Bankstown Development Control Plan 2012
- Building Code of Australia
- Canterbury Development Control Plan 2012
- Canterbury Local Environmental Plan 2012
- Commercial Use of Footways Application Forms
- Commercial Use of Footways Guidelines



COMMERCIAL USE OF FOOTWAYS GUIDELINES

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Image 1

The Guidelines

These Guidelines support the City of Canterbury Bankstown Commercial Use of Footways Policy and are to be read in conjunction with this Policy.

Council is committed to providing residents, businesses and visitors with an inclusive, engaging and vibrant city in a manner that responsibly manages the shared use of its public spaces.

Purpose

The purpose of these Guidelines is to establish the requirements regarding the use, design, maintenance and compliance for the commercial use of footways. They provide direction to applicants regarding applying for licences and Council Officers regarding assessment of applications and regulating licences.

Commercial use of footways includes activities such as outdoor dining, merchandise display and advertising through the use of *freestanding and moveable furniture only*. All Commercial Use of Footways licence applications must be prepared in accordance with these Guidelines.

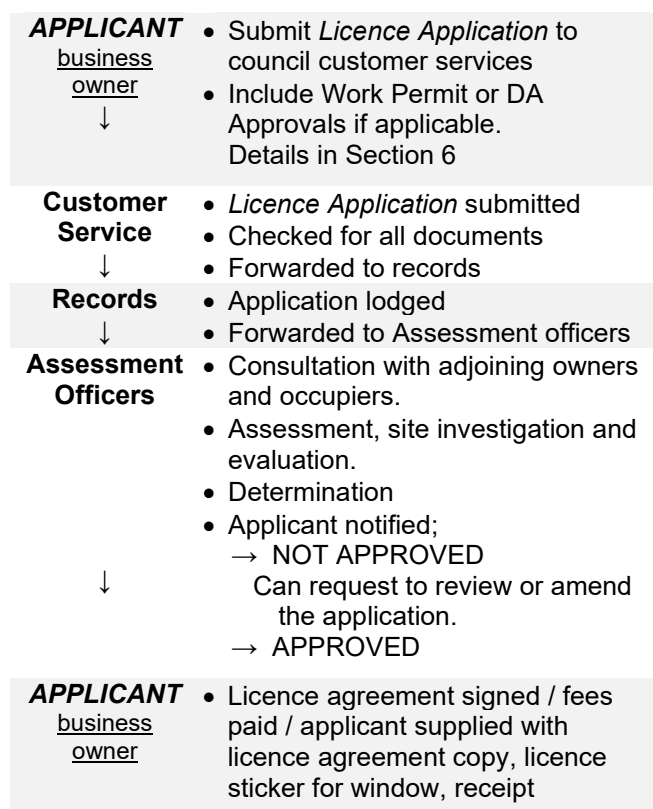
Please note;

- Applications to install permanent infrastructure within the public space cannot be made as part of a Commercial Use of Footways license application. The installation of permanent infrastructure within the public space by the applicant may only include awnings and signage attached to the existing building above the existing ground level. For this infrastructure the applicant must submit a **Development Application** for assessment separate to the licensing process. All other permanent infrastructure within the public space shall be planned and managed by council.
- Any proposal for the modification, relocation or removal of existing infrastructure must submit a **Work Permit Application** for assessment separate to the licensing process and, if approved, would be carried out at the applicant's expense. Please attach any applicable Work Permit approvals to the application.
- A **change of owner** of the associated business of a current approved licence must be registered with council along with documentation of current valid insurances and the licence transferred to the new owner for the licence to be valid.

If the property is occupied by a new business the current Commercial Use of Footways licence will be null and void and a new licence application must be submitted.

- The expiry date for all approvals and licences is the 30th of June each year. **Current licences** are automatically reviewed by Council for renewal at the end of each financial year and if approved a request of licence renewal with an invoice for the annual fees and request for current Public Liability Insurance will be issued. If there are outstanding issues the licence holder will be advised and the licence may not be renewed.

Licence application process



1 General requirements

These requirements are to be applied to all licence applications.

1.1 Neighbourhood Amenity

- Outdoor trading areas must be designed and operated to reflect the open and public nature of the street and ensure competing uses in the public space are properly balanced.
- The street use, styling and location of all outdoor furniture for commercial use must provide an attractive, safe and comfortable environment complimentary to the surrounding streetscape. Where heritage values are placed on an areas character, street use and styling must be complimentary to these heritage values.
- Businesses must ensure that the behaviour of their patrons maintains a pleasant and accessible environment for all including neighbouring residents, general public and adjacent businesses.
- Spruiking, broadcast, amplified speech or amplified music are not permitted in outdoor trading areas.

1.2 Location

- Council will not undertake any modifications to the public space to fulfil the licence requirements.
- Outdoor trading areas will only be approved in locations that Council deems safe and appropriate for the use such as maximum 60 km/hr traffic movement, adjacent to street parking and not at street intersections.
- The location of all furniture must provide a safe and logical path of travel along footways by locating path of travel on the same part of the footway for the length of the block.
- The location of the outdoor trading area must have a ground surface suitably constructed and sufficiently level to support the safe use of the required furniture and associated circulation.
- The location of outdoor trading areas must be on the footway wholly within the frontage of the business premises.

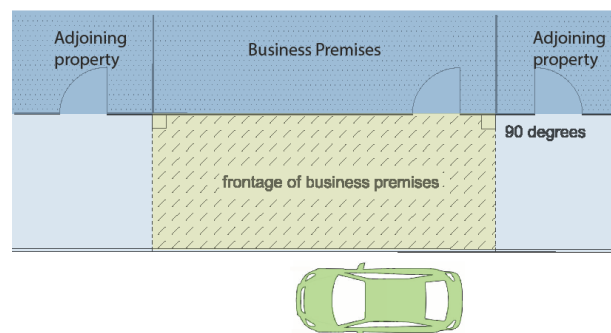


Figure 1; Location of business frontage

- All furniture, signage and operations of the commercial activity must be restricted to operate within the approved areas at all times.
- All furniture must be located;
 - To provide a clear 2m minimum width clear path of pedestrian travel along street length maintained at all times.
 - Minimum 0.6m from the face of the kerb adjacent to normal parking and 1.5m from the face of the kerb adjacent to disabled parking and loading zones.
 - Minimum 0.5m from existing tree pits, power poles, light poles, seats and any adjacent footway trading area.
 - Minimum 1m from payphones, litterbins, bicycle stands, fire hydrants and other public infrastructure.
 - Minimum 2m from building corners at street intersections, lanes, vehicle crossings, arcade and mall entries.
 - Clear of all required fire exits of the associated and adjacent premises.
 - So as to not interfere with the entrances and exits from buildings or with the smooth flow of pedestrians in high congestion areas such as bus stops and station entries.
 - In pedestrian streets and malls, to provide minimum 1m width clear path of pedestrian travel under awning along the awning length, maintained at all times.

1.3 Furniture

- All furniture must be constructed of high quality materials, be commercial grade, structurally sound, have smooth edges and be safe for staff, customers and pedestrians.
- All furniture must be freestanding, that is, not fixed to the ground surface or supported by a building, pole, tree or other structure.
- All furniture must be movable, that is, be able to be removed from the footpath by a maximum of two people.
- All furniture must be stable, suitably counter-weighted or adequately anchored.

1.4 Maintenance

- Businesses are responsible for the maintenance of all furniture and signage in a physically sound and visually appealing condition at all times to the satisfaction of Council.
- Businesses are to ensure that the approved area and associated furniture and signage are maintained to a clean and safe standard and kept free of spills, rubbish and food scraps at all times to the satisfaction of Council.
- The design and use of all furniture must not cause damage to the existing paving or other public infrastructure including damage to asphalt paving. Council reserves the right to claim repair costs from the License Holder.

1.5 Compliance

- All approvals must be prominently displayed and Council officers must be able to inspect the approval easily.
- All furniture and signage may only be placed on the footway during the approved licence hours. All furniture and signage must therefore be removed from the footway and stored elsewhere outside these licence hours.
- All commercial street trading shall be consistent with that available from the associated business premises. The operation of the commercial use of footways must be consistent with the licence approval and conditions.

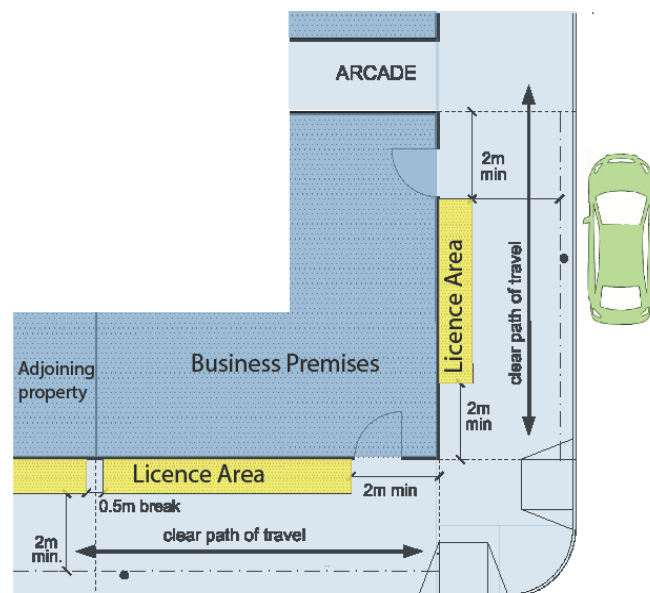


Figure 2; indicative layout for Licence areas located adjacent to the shop front.

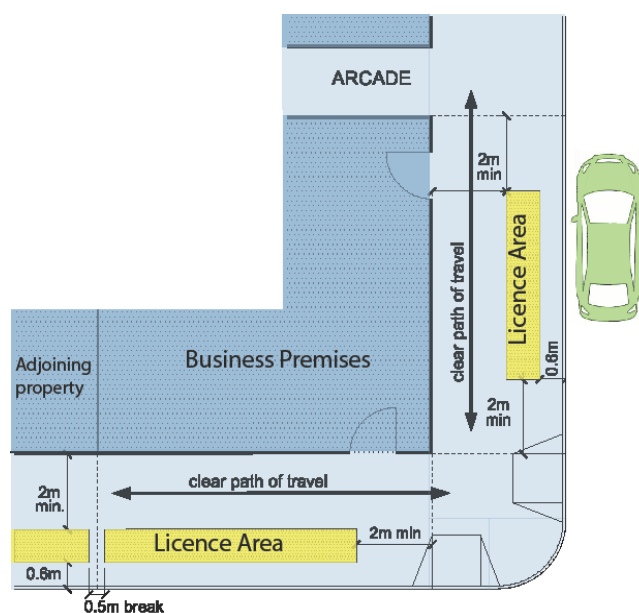


Figure 3; indicative layout for Licence areas located adjacent to the kerb.

2 Outdoor Dining

Also refer to the General Requirements of this document.

2.1 Location

- Outdoor dining areas will be considered where the existing footway is a minimum 3m width.
- Outdoor dining areas may be located against building or adjacent to the kerb depending on the site conditions and logical path of travel for the location.
- Ample room must be provided for both restaurant staff and customers to circulate and so that there is no conflict between restaurant staff and pedestrians.
- Outdoor dining areas are to have a 1m break when extending for more than 6m.

2.2 Layout

- All outdoor dining furniture must be located within the defined area including tables, chairs, umbrellas, and heaters.
- The style, layout and orientation of the furniture must consider the extent and shape of the available space.
- The minimum areas required for outdoor dining are;
 - 2 person table – 2m² with 1m minimum dimension
 - 3 person table – 3m² with 1.5m minimum dimension
 - 4 person table – 4m² with 2m minimum dimension



Image 2

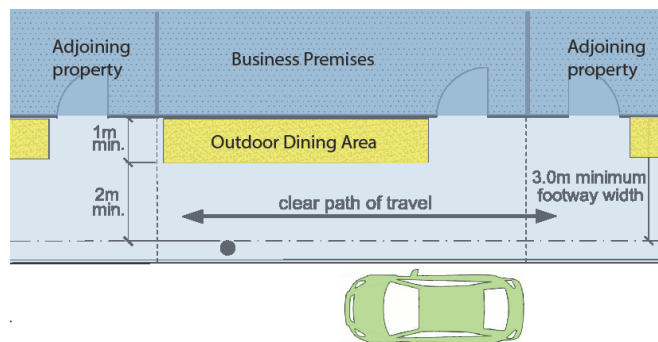


Figure 4; general layout for Outdoor dining areas located adjacent to the kerb

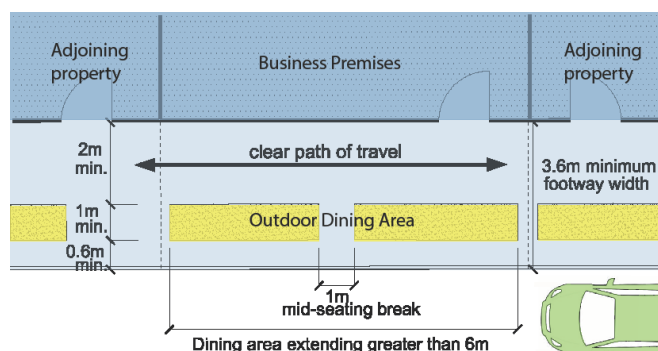


Figure 5; general layout for Outdoor dining areas located adjacent to the shop front



Image 3

2.3 Furniture

- All outdoor dining furniture must be located within the approved area including tables, chairs, umbrellas, and heaters.

Dining furniture

Outdoor dining furniture must be;

- Capable of easy storage.
- High quality, commercial grade and satisfy the relevant Australian Standards.
- Waterproof, weatherproof, strong and durable and able to withstand the general wear and tear of commercial use.
- Of the same 'family group' and ensure visual unity and enhance the streetscape.
- Constructed of sturdy welded metal frame with metal, timber, canvas, wicker, synthetic wicker or similar seat and back. Full plastic construction is not permitted.
- Furniture colour schemes should be chosen for their contribution to the streetscape, serviceability and maintenance. Tabletops must be non-reflective.
- The use of disposable tableware and utensils is not permitted in the outdoor dining areas.
- Where the footway surface is asphalt the chair legs must have end caps and must not damage, mark or indent the surface.



Image 4



Image 5

Umbrellas

Commercial grade, portable, collapsible, market style umbrellas are permitted.

Umbrellas must;

- Be a maximum 3mx3m canopy area and not wider than the approved outdoor trading area.
- Have a minimum vertical clearance of 2m from the lowest point of the underside of the structure to ground level.
- Be manufactured of fire retardant material.
- Umbrella colour schemes must compliment the streetscape, and contribute to their serviceability and maintenance
- Be capable of easy removal and closure in extreme conditions.
- Be stable, suitably counter-weighted and adequately anchored with a suitable, removable stand to ensure no movement.
- Be closed in windy weather conditions.



Image 6

Other shade structures

Drop-down shade structures attached to the existing street awning may be permitted subject to the Council's approval process requiring a development application separate to the Commercial Use of Footways license.

Drop-down shade structures must;

- Have a minimum vertical clearance of 2m from the lowest point of the underside of the shade structure to ground level.

- Be located only along the outer edge of the street awning closest to the street and parallel to the building line/street edge.
- Be manufactured of fire retardant material.
- Be capable of easy removal or closure in extreme weather conditions.

Drop down screens and enclosures to ground level are not permitted.

Shade structures requiring permanent or semi-permanent infrastructure or fixing to the ground are not permitted.

Lighting

Where the approved footway trade extends to after-dark lighting must be provided to the outdoor area.

Lighting must;

- Be suitable for the commercial use and location and ensure safety and amenity.
- Not cause a nuisance to the neighbours.
- May be mounted on the exterior walls and under awnings.

Outdoor Heaters

Outdoor heating devices are permitted.

Outdoor heating devices must;

- Be suitable for the commercial use and location. Specialist advice must be sought to ensure safe and appropriate equipment is provided.
- Not use gas mains or electrical extension cords.
- Turn off automatically if overturned.
- Be turned off when not in use.

Barriers

Portable barrier screens are permitted.

Portable barrier screens must;

- Be a maximum dimension of 0.9m high and 2m long.
- Only be used to frame a maximum two external sides of the trading area.
- Be constructed of sturdy welded metal frame with washable canvas or plastic insert. Timber and full plastic construction is not permitted.



Image 7

Planter Boxes

Planter boxes may be incorporated into outdoor dining areas. Please refer to Part 4 Planter Boxes for more information.

2.4 Advertising and Signage

Advertising and signage panels may be incorporated into umbrellas and portable barrier screens. Please refer to Part 5 Advertising and Signage for more information.

3 Outdoor Trading Merchandise Displays

Also refer to the General Requirements of this document.

3.1 Location

- Display of merchandise for sale will be considered where the existing footway is a minimum 3m width.
- Display furniture must be located immediately against the street front wall of the business premises.

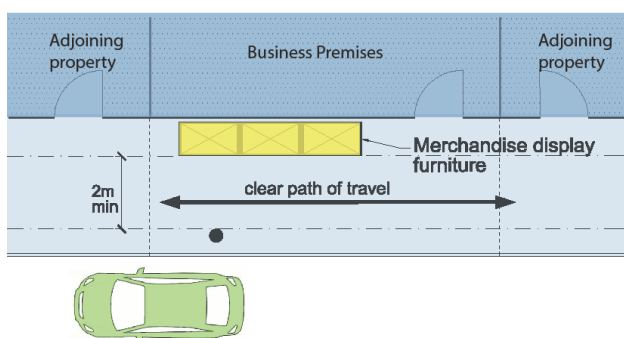


Figure 6; general layout for Merchandise display furniture

- Merchandise must be purchased/transacted within the shop and not on the footway.
- Customer trolleys must be stored within the business premises at all times.

3.2 Merchandise Display

- All merchandise must be displayed on stands or in suitable receptacles raised above the footway a minimum of 150mm.
- Where food items are displayed or produced all requirements under the relevant legislation for safe food production, storage, display, packaging and handling must be met. Please refer to the relevant controls including the Food Act 2003, Food Regulation 2015 and the Australia New Zealand Food Standards Code.
- Overhead hanging articles must have a minimum clearance of 2.0m above the footway and are not to unreasonably obscure signs or adjacent shops.
- Merchandise displayed must only include products associated with the adjoining business.



Image 8



Image 9

3.3 Furniture

- Display furniture must have a base designed to be detectable to a visually impaired person navigating the footpath with the aid of a cane such as incorporating a panel spanning the otherwise open base of the furniture.
- Display furniture must be solid, suitable colours to coordinate with the appearance of the store and compliment the overall streetscape.
- Display furniture must be waterproof, weatherproof, strong and durable.
- Display furniture must have no items that protrude into the pedestrian thoroughfare such as plastic bag dispensers.

3.4 Advertising and Signage

Advertising and signage panels may be incorporated into the merchandise display. Please refer to Part 5 Advertising and Signage for more information.

4 Planter boxes

Also refer to the General Requirements of this document.

- Planter boxes are permitted and may remain on the footway outside the license hours. Applications will be referred to the City Design team for approval.

4.1 Location

- Planter boxes will only be considered where the existing footway is a minimum 3m width.
- Planter boxes in association with outdoor dining will be considered where the existing footway is a minimum 3.6m or 4.2m width as required, refer to figures 7 - 8
- Planter boxes may only be located against building or adjacent to the kerb depending on the site conditions and logical path of travel for the location. Planter boxes are not to be located adjacent to disabled parking and loading zones.

- Planter boxes must be located in accordance with the general requirements of this document as set out in section 1.2 including;
 - Minimum setbacks of 0.6m from the face of the kerb adjacent to normal parking,
 - To provide a clear 2m minimum width clear path of pedestrian travel along street length maintained at all times.
- All planter boxes must be located so as to orientate the long side of the planter along the length of the footway and not at right angles to it. Planter boxes are not permitted to surround or enclose an outdoor dining area
- Planter boxes are to have a 0.6m break between each 1.2m length of planter box when located adjacent to the kerb.

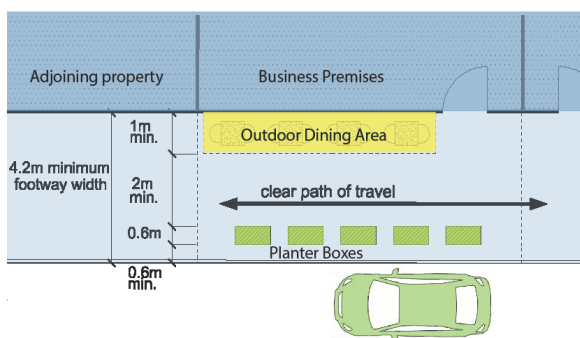


Figure 7a; layout for planter boxes adjacent to the kerb

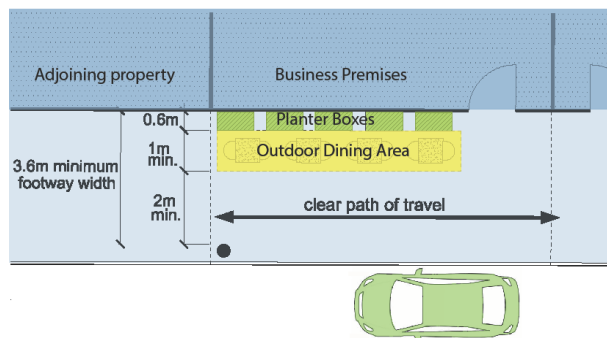


Figure 8a; layout for planter boxes adjacent to the building line

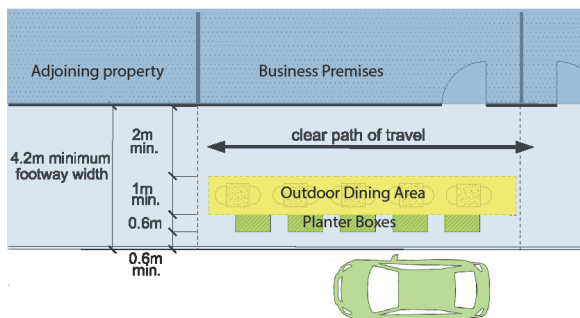


Figure 7b; layout for planter boxes adjacent to the kerb

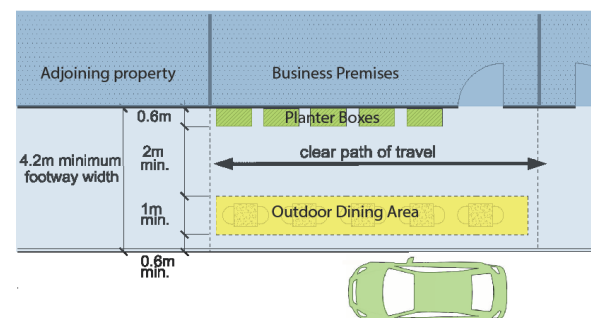


Figure 8b; layout for planter boxes adjacent to the building line

4.2 Furniture

- Planter boxes must be a maximum external dimension of 0.6m wide x 1.2m long x 0.6m high (with a maximum overall height of 1.2m including planting), unless otherwise specified.
- Planter boxes must be a minimum internal dimension of 0.4m wide and 0.4m high.
- Planter boxes must be elevated a minimum of 20mm above the pavement for drainage.
- Planter boxes must be planted to provide full, healthy planting at all times with suitable species for the use and location.
- The style and construction of the planter boxes must be complimentary to the surrounding streetscape, aesthetically pleasing, high quality, durable and safe.
- Planter boxes must not have any sharp or protruding edges or corners that could injure a passer-by.



Image 10

4.3 Maintenance

- Planter boxes must be maintained at all times to Council's satisfaction including watering, replacement of plants, mulch and soil as required, the removal of any rubbish or cigarette butts and replacement of damaged planters.
- Maintenance of planter boxes will be regularly assessed by council's Compliance Officers and written notification given of any maintenance issues. Any planters not maintained to Council's satisfaction must be rectified or removed from the footway within 14 days of notice given by Council at the licence holders expense or risk their licence being revoked.

4.4 Advertising and Signage

Advertising and signage panels may not be incorporated into the planter boxes.



Image 11

5 Advertising and Signage

Also refer to the **General Requirements of this document**.

This includes freestanding, movable signs and advertising and signage panels incorporated into merchandise display and outdoor dining furniture.

- All proposed advertising and signage including the proposed graphic design must be included in the original application or stated in a licence renewal application.
- Signs must not be internally illuminated, have movable parts, have reflective surfaces or resemble a traffic sign.

5.1 Freestanding signs

Freestanding movable signs are advertising panels designed to be placed on the footpath independent of other furniture and include pedestal, A-frame and sandwich boards.



Image 12



Image 13

- Freestanding signs may be located at the shop entry or adjacent to the kerb depending on the site conditions. Shop entry preferred.
- A maximum of one free standing sign is permitted on the footway for each business premises.

- Free standing signs must have a base designed to be detectable to a visually impaired person navigating the footpath with the aid of a cane i.e. incorporate a bar or panel spanning the otherwise open base of the object.
- Free standing signs must be;
 - maximum width 750mm,
 - minimum height 600mm,
 - maximum height 1100mm.

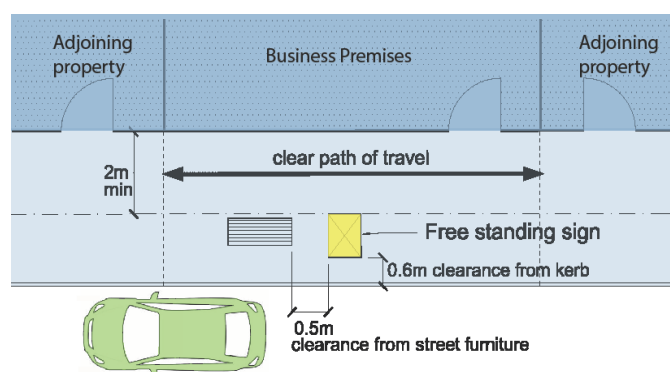


Figure 9; general layout for freestanding signs adjacent to the shop entry

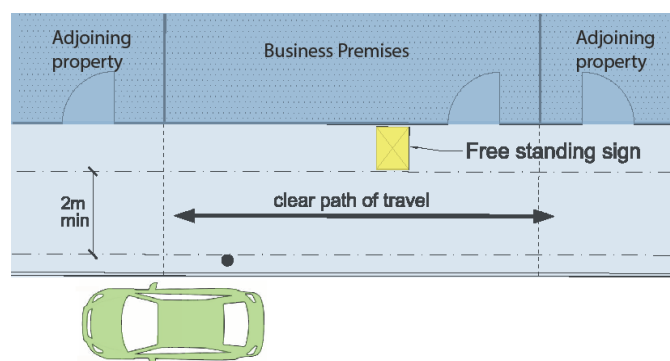


Figure 10; general layout for freestanding signs adjacent to the kerb

5.2 Merchandise display signage

Advertising and signage panels may be incorporated into the design of display tables thus performing a similar function to free standing signs.

- Tables may have a maximum number of two display panels only.
- Signage panels must be;
 - maximum height 1100mm
 - maximum width 750mm
 - within the form of the display furniture.

5.3 Dining furniture signage

Advertising and signage panels that include the name of the business or advertising logo may only be incorporated into the umbrellas and portable barrier screens of outdoor dining areas.

- Advertising must involve only one coffee product or the business name being promoted in each premises.
- The graphic image must be in the nature of a corporate logo or identification.
- Advertising must be of a minor and integral element of the furniture design and not have an excessive impact on the area of the cafe or the streetscape.
- Product names or logos must not exceed 30% of the total available space on each furniture object.



Image 14

5.4 Graphic display

- The advertising and signage panels must depict material in a professional manner and to a high visual standard in terms of lettering and graphics. Amateur signs or similar are not acceptable.
- The advertising panel must identify the business or advertise products which are a core part of the business and are supplied by that business to the public.
- Where languages other than English are used, an English translation of the text must also be provided immediately before or after the original text and of a sufficient size to be easily read.

6 Application

6.1 Application process

All “Commercial Use of Council’s Footpaths” licence applications must comply with the provisions of this Guideline and the associated council policies and documents.

Please note:

- Applications to install permanent infrastructure within the public space cannot be made as part of a Commercial Use of Footways license application. The installation of permanent infrastructure within the public space by the applicant may only include awnings and signage attached to the existing building above the existing ground level. For this infrastructure the applicant must submit a **Development Application** for assessment separate to the licensing process. All other permanent infrastructure within the public space shall be planned and managed by council.
- Any proposal for the relocation or removal of existing infrastructure must submit a **Work Permit Application** for assessment prior to the licencing process and, if approved, would be carried out at the applicant’s expense.

The licence application process includes the following steps;

Step 1: Application

The applicant submits the completed application with all requirements as listed in Part 6.2 *Application requirements* including payment of the required application fees. The applicant must be the person who is the business owner of the associated business premises.

Step 2: Assessment

Council officers will assess the application through site investigation and evaluation of the submitted documentation against Council policies and relevant strategic and planning documents.

Consultation will be undertaken with adjoining owners and occupiers who may be affected by the proposal.

Step 3: Determination

Where the commercial use complies with the guidelines set out in this policy and the application meets the requirements, Council staff will make a determination and notify the applicant in writing.

If the application is refused commercial use of the footpath is *not* permitted.

Applicants may request a review of a decision to refuse or amend their application and such requests will be referred to the Team Manager for determination.

Where the application is approved, written approval from Council will be provided and the applicant is then required to pay appropriate licence fees as determined by Council.

Step 4: Licence and Fees

The applicant must pay appropriate fees to Council prior to the licence agreement being entered into and operation of the commercial use. Pro-rata fees will apply when an application is submitted part-way into the financial year. The licence agreement contains conditions that must be complied with once the use is established and will designate the exact area available for use. The Licence Agreement between Council and the applicant is formed from:

1. The application form;
2. Council’s signed letter of approval including any special conditions and;
3. The Commercial Use of Footways Policy and Guidelines.

All approvals and licence agreements expire on the 30th of June of the financial year current to the approval date.

The Licence permit must be displayed prominently in the front window of the business premises for inspection by members of the general public and Council Compliance Officers at any time.

If any of the conditions of the licence agreement are breached Council may issue orders for non-compliance and terminate the licence agreement.

A change of owner of the associated business must be registered with council along with documentation of current valid insurances and the licence transferred to the new owner.

A licence will cease upon change of use or change of business of the associated premises and a new licence application will be required.

Step 5: Renewal

The expiry date for all approvals and licences is the 30th of June each year. Current licences are automatically reviewed for renewal by council at the end of each financial year.

If the licence renewal is approved a notification of renewal will be issued with a request for current valid insurances documentation and an invoice for the annual fees. Failure to pay the licence fees or provide evidence of current valid insurances will result in the licence not being renewed.

If the review identifies outstanding issues regarding compliance with the licence conditions the licence holder will be advised and the licence may not be renewed.

If the licence is revoked, terminated or significantly changed or altered, a new full licence application will be required.

6.2 Licence application requirements

In order to apply for a licence to use a footpath for commercial use in accordance with this guideline and the associated policy the correct documents and information as detailed below must be lodged with Council and the requisite application fees paid.

Documents required

Applications must include;

1. A completed application form (available from our Customer Service Centre during business hours, or from our website).
2. A Site Layout Plan of the proposal as detailed below.
3. A statement of the proposal including size and location, hours of operation, heritage impact, specify merchandise to be displayed.
4. Colour photographs of the site and surrounding context, and features in the footpath.
5. Details of the proposed furniture including photographs, brochures or samples of colours and finishes.
6. Location, layout and text of any signage or advertising.
7. Evidence of Public Liability Insurance requirements as listed below.
8. Certification of structural adequacy requirements as listed below.
9. The relevant application fees.

Please note;

Any outdoor dining area where it is intended to serve alcohol requires a separate licence under the Liquor Act 2007 (NSW). Separate permission must be obtained from the Police Local Area Command. Further information can be obtained from the NSW Office of Liquor and Gaming.

Fees and charges

Please consult the published Annual Adopted Fees & Charges for the current charges for use of footways. A copy of the fees for the current year is available from our Customer Services Counter. Each activity is listed separately.

Public Liability Insurance

The applicant must provide evidence of Public Liability Insurance with an Australian-based insurance company for a sum not less than 20 million dollars (\$20,000,000). The Certificate of Currency must jointly acknowledge the applicant and Canterbury Bankstown Council in the details of the cover.

Certification of Structural Adequacy

The applicant must provide certification by a certified structural engineer that any existing structure attached to the associated building and located over the associated public space (such as an awing) is structurally adequate and complies with Section B of Volume 1 of the Building Code of Australia.

Site Layout plan

The Site Layout Plan of the proposal is to be legible, easily understood and drawn to scale (1:100 preferred) accurately showing both existing and proposed features as detailed below.

- Dimensions and boundaries of the proposed trading area.
- Area (in m²) of the outdoor trading area.
- Layout and location of all furniture, equipment, signs and displays within the outdoor trading area.
- Kerb-line of the street.
- Location of the shop front and entrances.
- Width of the existing footpath adjacent to the subject premises and its residual width after the encroachment by the proposed commercial use area.
- Location of side and front boundaries of the applicant's premises; the location of all public utility structures, power poles, bus stops, trees, street furniture, street litter bins, post office boxes, parking/street signs and other similar structures, adjacent to the site.
- Details of existing and proposed lighting.
- Details of any parking restrictions applying at the kerb.