



Footpath Trading and Activity Guidelines

as adopted by Strathbogie Shire Council 17 June 2014

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Key Background Information

A busy, active, footpath area has a great impact on the viability of retail businesses and can constitute the heart of town life. Carefully promoted and controlled street activities, such as dining, entertainment and trading activities can enhance the overall experience.

In regulating this guideline, Council aims to provide a safe environment for people to move through by means of creating a pedestrian thoroughfare for people of all abilities.

Strathbogie townships generally have wide streets and footpaths. However, where space on a footpath is sometimes limited, more creative solutions may be required to accommodate tables, chairs, signs and people without compromising access or safety based on risk management assessments. For example, in some cases it may be required to develop street modifications that allow dining on steeper slopes or where width is limited, benches and stools may be a better option. Similarly a-frame signage in limited space areas could be replaced with finger signs mounted on existing infrastructure.

Council will assist and advise applicants on achieving the design outcomes that would result in a vibrant and aesthetically pleasing streetscape, which preserves the heritage and amenity of the area.

Council has a legal and moral responsibility to regulate footpath trading activities. In doing so, Council will be flexible with the issuing of permits so as to protect public safety but encourage diverse activities to take place by allowing businesses to extend their operation onto a portion of public land, subject to conditions of a permit.

Whilst the commercial benefit is a key consideration, pedestrian access and safety is the primary purpose of Council's Footpath Trading and Activity Guidelines.

This guideline supports;

- Council's Community Local Law No.6
- *Planning and Environment Act 1987*
- *Building Act 1993*
- *Disability Discrimination Act 1992*
- *Road Management Act 2004*
- *Food Act 1984*
- *Tobacco Act 1987*
- *Liquor Control Reform Act 1998*

The essential key to an effective pedestrian system throughout shopping precincts is the development and maintenance of an accessible path of travel. This should extend out from the building line to provide a consistent footpath environment inclusive of the needs of all of the community, including older persons or people with disabilities. In order to achieve this, any street furniture, signs, trader's activities or displays should be located towards the kerb side, not along the building line. Another key purpose of this guideline is to balance the opportunities that footpath trading may provide with responsible risk management and high quality urban design.

Purpose

The purpose of this policy is to set out the requirements for the conduct of trading and other activities on Council's footpaths in accordance with Council's *Community Local Law No.6* (as amended).

The Footpath Trading and Activity Guidelines are supported by a policy statement which aims to;

- Promote economic development;
- Safely establish exciting and vibrant streetscapes through a diverse range of activities;
- Promote aesthetically pleasing footpath trading infrastructure in accordance with Urban Design guidelines; and
- Enhance the shopping, dining or observers experience for visitors who engage in Footpath Trading and other footpath activities.

Scope

The Policy applies throughout the municipality on footpaths under Council's control.

Council's Policy Statement

In Council's support of the establishment of footpath trading activities as part of its commitment to creating safe, vibrant and commercially active streets and footpaths Council will;

- a) Adopt and implement the Footpath Trading and Activity Guidelines, which provide guidance and direction to all users of footpaths and the general community. These Guidelines support Council's *Community Local Law No.6* (as amended);
- b) Ensure that a clear, safe and unobstructed access exists on Council's footpath at all times for pedestrians of all abilities;
- c) The extension of commercial activities on to Council footpaths in accordance with the Footpath Trading Activity Guidelines is an added consent by Council not an entitlement to traders;
- d) Be mindful that any proposed Footpath Trading activity should not be perceived as 'privatising' public land and that the space is clearly maintained for the purpose of a shared public and commercial space;
- e) Through its legal responsibility to regulate Footpath Trading activities including ancillary activities such as sausage sizzles, street collections etc, exercise flexibility with the issuing of 'Footpath Trading and Activity Permits' so as to protect public safety but encourage diverse activities to take place such as Outdoor Dining ('Al Fresco Dining'), advertising signs, goods displays, street theatre/performers, and busking;
- f) Footpath activity and infrastructure must make a positive contribution to the urban character and amenity of the area and surrounding residential areas. A key principle of this Guideline is that as footpaths are public open spaces, any footpath trading activity must not significantly impact on view lines or shared access public amenity;
- g) Ensure compliance with relevant legislation including but not limited to the *Disability Discrimination Act 1992*, *the Road Management Act 2004*, *Building Act 1993*, *Planning and Environment Act 1987*, *Tobacco Act 1987*, *Food Act 1984*, *Liquor Control Reform Act 1998*, *the Charter of Human Rights and Equal Opportunities* and the application of risk management principles in authorizing footpath trading activities;
- h) Prescribe a Trading Zone to ensure that an absolute minimum width of 1.5 metres exists for the Pedestrian Zone, with a minimum desirable width of 1.8 metres;

- i)** Ensure that the minimum width of a Kerbside Zone on any footpath is 750 mm where there is adjoining parallel parking and 1.5 metres where there is adjoining angle parking or a disabled persons parking bay;
- j)** Not approve any Footpath Trading activity on footpaths with a width of less than 2.9 metres;
- k)** In response to a request from a business owner, investigate possibilities to implement various engineering treatments to a footpath or road on a cost recovery basis, in order to safely accommodate a trading application in accordance with the Footpath Trading and Activity Guidelines;
- l)** As a general rule, not permit any Footpath Trading in a Pedestrian Zone, Kerbside Zone or Exclusion Zone. In exceptional circumstances, trading may be permitted in an Exclusion Zone subject to a risk assessment being conducted in accordance with Council's 'Alfresco Dining in Exclusion Zones Management Procedure';
- m)** Ensure that the quality of Footpath Trading infrastructure is safe and designed from materials that present a high standard;
- n)** Council will facilitate, assist and advise applicants on achieving footpath trading infrastructure design outcomes, that would result in a vibrant and aesthetically pleasing footpath and streetscape, which preserves the heritage and amenity of the area;
- o)** In instances where an initial design may not comply with the Footpath Trading and Activity Guidelines, Council may in conjunction with the respective business explore other options on a basis where it can be demonstrated that there is a broader benefit to general amenity of the area and to other local traders (i.e. Finger Boards, Bollards etc);
- p)** Ensure that inappropriate advertising that may promote tobacco, alcohol or sexually explicit messages/images is not permitted in conjunction with any Footpath Trading activity;
- q)** Ensure that the sale of food from an Outdoor Dining facility or other structure complies with the Food Act 1984;
- r)** Ensure that any Footpath Trading items, objects or infrastructure (except Fixed Barriers) are removed from the footpath by 1:00 a.m. or the close of business, whichever the earlier and not be placed out on the footpath prior to 7:00 a.m. on any day;
- s)** Support the placement of items/objects such as planter boxes on footpaths, which may enhance the attractiveness of a footpath, subject to such items/objects complying with the Guidelines and being removed from the footpath at the end of each days trading;
- t)** Approve 'portable' permits for Real Estate Agent signs that promote 'Auctions' or 'Open for Inspection' events in accordance with the Footpath Trading and Activity Guidelines;
- u)** Seek reimbursement from a permit holder for any repair or reinstatement required to any footpath or infrastructure as a result of damage due to footpath trading activities or the abandonment of the business by the permit holder;
- v)** Ensure that the application of the Footpath Trading Policy Guidelines is consistent with Council's Strategies and Strategic Planning Directions;
- w)** Ensure that any Footpath Trading activity shall not cause any amenity issues or nuisance to any other parties through noise, odour or other;
- x)** Support Victoria Police and Victorian Commission for Gambling and Liquor Regulation in their role of monitoring and enforcing Liquor License compliance within the footpath trading Permit Prescribed Area; and
- y)** Allocate resources to effectively monitor and enforce the Footpath Trading and Activity Guidelines.

Definitions

Alfresco Dining	see 'Outdoor Dining'
Advertising Sign	means any board, notice, structure, or other similar device used for the purposes of soliciting sales, provision of services or notifying people on an adjacent property where goods or services may be obtained.
Ancillary Activity	includes spruiking, pavement art, barbeques, raffles, street collection and any other activity that may be designated from time to time.
Authorised Officer	means an Authorised Officer of Council appointed under Section 224 of the Local Government Act 1989.
Business	the owner or occupier of a premises proposing to conduct activities on a Council footpath in accordance with these Guidelines.
Busking	includes a song, mime, statue, creative performance, dancing routine, playing of a musical instrument or providing a display of drawing artistry on relevant medium.
Council	means the Strathbogie Shire Council.
Exclusion Zone	means the following; <ul style="list-style-type: none">• A distance of 10 metres from an intersection• A distance of 20 metres from a pedestrian crossing, traffic lights or school crossing;• An area adjacent to a bus zone, loading zone, mail zone, taxi zone or a no stopping area.
Footpath Width	means the distance from the face of the kerb line to the outside edge of the building line (property line).
Kerbside Zone	means the area between the kerb line and the outer edge of the Trading Zone.
Outdoor Dining (Temporary)	means dining outdoors on Council footpaths where all furniture and other items are removed from such site by 1:00 am each day or at the close of business as approved in any Permit.
Outdoor Dining (Fixed Barrier)	means dining outdoors on Council footpaths where all furniture and other items are removed from such site by 1:00am each day or at the close of business except for furniture that has been approved to be fixed through sub ground footings or by lockable devices/systems.
Pedestrians	means any person traveling along a footpath whether walking, using a wheeled recreational vehicle, pram/stroller, shopping/delivery trolley, a guide dog other assistance animal or mobility aid such as a wheelchair, motorized scooter, walker, crutch or any other aid to assist mobility or orientation.
Pedestrian Zone	means the area between the property line and the inner edge of the Trading Zone with a minimum width of 1.5 metres and minimum height clearance of 2.5 metres.

Definitions (cont.)

Permit	means a Footpath Trading and Activity Permit issued under Council's <i>Community Local Law No.6</i> for the conduct of activities or use on a Council footpath of outdoor dining facilities, signs, goods for sale, items such as umbrellas, pots, gas heaters, barrier screens, musical equipment, performers and sundry items associated with all of the above.
Permit Holder	means the person named as the responsible person on the application form.
Permit Prescribed Area	means any area of the Licensed Premises where alcohol is to be served and is included in the Red Line Plan on the Liquor License for that premises.
Policy	Policy Statement as set out in Footpath Trading and Activity Guidelines.
Service Authority	means any company or public body responsible for the installation of telecommunications, gas, electricity, water, sewerage or drainage facilities in or on a road or footpath.
Trading Zone	means the area between the Pedestrian Zone and the Kerbside Zone.
Trader	means the permit holder of a footpath trading activity associated with the business for which that person is the owner.
Signs	includes A-frame structures and other objects that can be securely and safely positioned, being of a fixed or transient nature including being affixed to bicycles, tricycles, trolleys or other objects, to the satisfaction of Council to promote goods and services.
Street Performers	see 'Busking'

Part A - Footpath Trading Zones

Council has a series of standards for footpath trading in accordance with the width of various footpaths and the associated level of pedestrian traffic at each location.

1. Footpaths of Width of 2.9 to 3.5 metres

In order to provide a clear and consistently unobstructed footway for pedestrian access, the footpath is divided into three zones.

- 1.1 The Pedestrian Zone: extends from the property line or shop front of premises for a minimum of 1.5 metres. No items may extend or be placed into this zone at any time.
- 1.2 The Trading Zone – the only area of the footpath where approved goods, café furniture and ancillary items or activities, may be placed. Where premises are adjacent to an intersection, the Trading Zone must not extend into the Exclusion Zone unless otherwise approved by Council.
- 1.3 The Kerbside Zone – is a space 0.75 metres wide between the kerb and the edge of the Trading Zone to allow for access to and from parked vehicles. Where there is a disabled persons parking bay or angle parking, the Kerbside Zone will be required to have a minimum width of 1.5 metres. No items may extend or be placed into this zone at any time.

2. Footpaths of a width greater than 3.5 metres

In order to provide a clean and consistently unobstructed footway for pedestrian access, the footpath is divided into three zones.

- 2.1 The Pedestrian Zone – extends from the building line or shop front of premises for a minimum of 1.8 metres. No items may extend or be placed into this zone at any time.
- 2.2 The Trading Zone – the only area of the footpath where approved goods, café furniture and ancillary items or activities, may be placed. Where premises are adjacent to an intersection, the Trading Zone must not extend into the Exclusion Zone unless otherwise approved by Council.
- 2.3 The Kerbside Zone – is a space 0.75 metres wide between the kerb and the edge of the Trading Zone to allow for access to and from parked vehicles. Where there is a disabled persons parking bay or angle parking, the Kerbside Zone will be required to have a minimum width of 1.5 metres. No items may extend or be placed into this zone at any time.

3. Footpaths of Width of less than 2.9 metres

In order to facilitate a clear and consistently unobstructed footway for pedestrian access, footpaths of less than 2.9 metres cannot be used for trading purposes.

4. Duty of Care

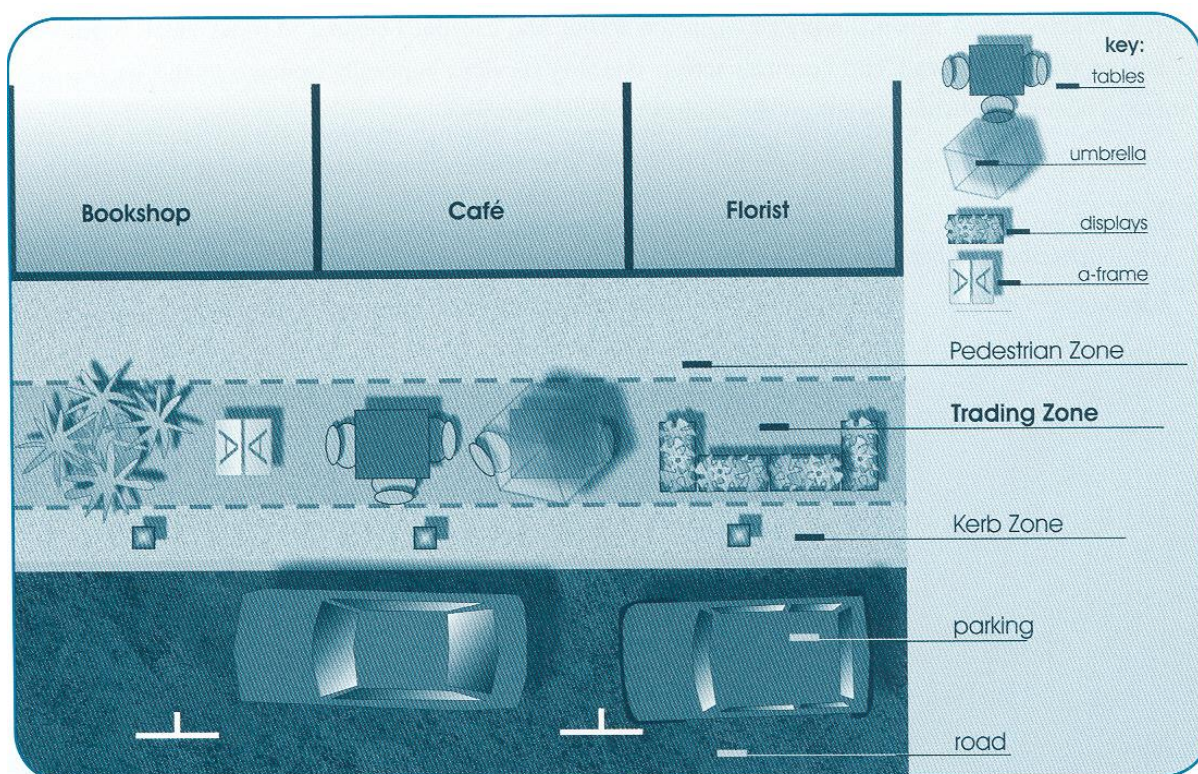
A permit holder has a duty of care to comply with the requirements of these Guidelines and is responsible for advising and supervising his/her customers of their obligations to also comply. Examples of activities that the permit holder needs to supervise includes but is not limited to the positioning of pushbikes, prams, wheelchairs/walking aides, shopping trolleys, motorbikes, pets, movement/location of people, tables, chairs that are being relocated.

5. Multiple Permits

Traders are permitted to hold permits for multiple footpath trading activities at any one time. Multiple permits may only be issued in relation to the following in accordance with these Guidelines. These would be in accordance with the specific section for each Permit type within these guidelines.

- Alfresco dining and A frame sign
- Goods for sale and A frame sign

A Footpath Trading Scenario highlighting the Pedestrian Zone, Trading Zone and Kerb Zone



Part B - Outdoor Dining

Within a footpath Trading Zone, the following applies to outdoor dining.

6. Conditions of Outdoor Dining

The intent of permitting outdoor dining is to enable businesses to present dining options for patrons and to contribute to creating a vibrant trading ambience in the street. The establishment of an outdoor dining facility should not create an enclosed 'outdoor room' by the walls and roof creating a "tunnel" effect along a stretch of footpath.

The quality and design of outdoor dining infrastructure shall be of a high standard and presentation that does not detract from the general amenity and style of the street.

A Footpath Trading and Activity Permit for the purposes of Outdoor Dining will only be issued to premises that are registered with Council as Food Premises under the *Food Act 1984*. All furniture, equipment and appliances associated with an Outdoor Dining facility shall comply with the above Act and corresponding food safety regulations. Such premises are also required to comply with the requirements of the *Tobacco Act 1987*.

In an Exclusion Zone, where an alternative and suitable location can not be found, an Applicant/Permit holder for an Outdoor Dining facility may occupy a suitable area in front of the immediate adjoining neighbouring property subject to written agreement between all parties involved. This will only apply to Temporary Outdoor Dining Facilities and not the Fixed Outdoor Dining Facilities. If at any time the agreement is revoked, the permission to occupy such an area as part of the Permit is also revoked.

If either business changes ownership the Permit must be renewed or transferred and any agreements renewed.

- 6.1** A set back of 0.5 metres within the Trading Zone is required from each boundary of a premises to ensure access points from the footpath to the road are retained between each premises.
- 6.2** The Permit holder is responsible for the conduct of patrons at tables and chairs in the outdoor seating area and must;
 - 6.2.1** ensure that patrons do not move tables and chairs from the Trading Zone;
 - 6.2.2** not serve food and/or beverages to patrons standing on the footpath, except for take away sales.
 - 6.2.3** where food is sold to customers within the Trading Zone, position the food appliance/stand at 90° to the kerb within the Trading Zone thereby allowing customers to queue along the footway in the Trading Zone without impeding the Pedestrian Zone;
 - 6.2.4** ensure that prams, bikes, trolleys or any other personal items do not obstruct the Pedestrian Zone; and
 - 6.2.5** ensure that patrons adequately supervise their dogs by ensuring that their dogs;
 - do not create a nuisance and/or disturbance;
 - do not impede, whether permanently or intermittently, the pedestrian access area; and
 - are securely tethered and under effective control so as to reduce any possibility of an incident;

- 6.2.6** The dog owner shall ensure that any droppings or other spillage is adequately cleaned.
- 6.2.7** Any receptacle used for dogs to drink/eat from shall not be sourced from the premises crockery/receptacle inventory and shall not be washed in facilities dedicated for appliances used in preparing of food for human consumption.
- 6.3** An Authorised Officer may place a condition on a permit requiring a permit holder to place written reminders to patrons in the outdoor seating area, regarding the above, if deemed appropriate by an Authorised Officer.
- 6.4** The holder of an Outdoor Dining Permit is not permitted to display goods for sale on the footpath in conjunction with the Outdoor Dining operation. A-frame signs and/or menu boards may be placed on the footpath in conjunction with the Outdoor Dining activity if deemed appropriate by an Authorised Officer and provided that the applicable permit/s has been obtained.
- 6.5** A Permit holder must supply each table outside with a wind-proof ashtray at all times. Traders are responsible for cigarette ash, butts and any other litter generated by patrons of their footpath dining areas. Outdoor Dining facilities should not be designated as dedicated 'smokers areas' and should be accessible to all members of the community.
- 6.6** Staff who conduct serving functions at food premises with outdoor dining facilities shall facilitate free access by pedestrians and give pedestrians passing priority over their own movements into and out of such premises.
- 6.7** Each Permit holder must keep Outdoor Dining areas in a clean, sanitary and well maintained condition so as not to create any safety or health risk or to detrimentally impact on the amenity of the area. This includes maintaining the Pedestrian Zone in a clean and tidy manner.
- 6.8** Tables and chairs shall have a contrasting colour to their background to assist people with vision impairment.
- 6.9** Tables and chairs may only be displayed outside the premises to which they relate and must be contained within the property boundary line, with a minimum setback from each side boundary of a premises of 0.5 metres to ensure access points from the Pedestrian Zone to the road are retained between each premise in an exclusion zone.
- 6.10** Items which are placed on the footpath must be stable and of good design and are not able to damage the footpath or any other infrastructure, premises, vehicles or property. It is recommended that rubber or other suitable materials be fitted to the base of chair and table legs.
- 6.11** The Permit holder will be responsible for reimbursing Council for any reinstatement works as a result of damage to footpaths caused by chairs/tables etc.
- 6.12** The Permit holder for Outdoor Dining Facilities with temporary fixtures/furniture shall ensure that the fixtures/furniture are removed from such site at the close of business each day or no later than 1am, whichever the earlier, as approved in any Permit condition based on the opinion of an Authorised Officer that the amenity, safety or access by any person to that area will not be affected. An extension to this time may be considered on a case by case basis where the Permit holder can demonstrate that there will be no detrimental impact to safety and neighbourhood amenity.
- 6.13** Any premises that propose to serve alcohol on the footpath is limited to the Permit Prescribed Area as endorsed on the Liquor Licence for that premises. The sale or consumption of liquor must be in accordance with the conditions set

out in a planning permit associated with the permitted use of the adjoining land and a liquor licence under the *Liquor Control Reform Act 1998*.

- 6.14 Within the Permit Prescribed Area, permit holders are required to display in a prominent manner and not contrary to this Guideline, relevant 'responsible serving of alcohol' brochures/posters as issued by Responsible Alcohol Victoria.
- 6.15 An Authorised Officer reserves the right to prohibit chairs backing on to the pedestrian zone and the kerbside zone.
- 6.16 Ancillary items such as umbrellas, gas heaters, planter boxes and barrier screens may be permitted as part of an Outdoor Dining Permit unless prohibited by an authorised officer for safety and amenity reasons.

7. Barrier Screens (Temporary and Fixed (*fitted by lock in device to the footpath*))

- 7.1 Screens or screening devices must only be placed alongside tables and chairs used for dining facilities within the Trading Zone.
- 7.2 There are several types of screens approved by Council:
 - 7.2.1 Temporary Screens – of the type commonly provided by coffee companies;
 - 7.2.2 Fixed Barrier Screens – made of safety glass or rigid transparent material which is fitted to the footpath with a locking device; and
 - 7.2.3 Full length awnings/blinds attached from the verandah to the footpath may be permitted in special circumstances subject to a Planning Permit and Building Permit. These circumstances include the protection of perishable food/goods from sunlight.
- 7.3 The connection of canopies, tarpaulins and the like from the top of a fixed barrier screen to verandas and umbrellas is not permitted.
- 7.4 Temporary and Fixed Barrier Screens may only be placed in the Trading Zone unless otherwise approved by Council. A set back of 0.5 metres is required from the extended property boundary line to ensure a 1.0 metre pedestrian access point between premises at the Kerbside Zone (to enable pedestrians to cross the road). Temporary Barriers must be removed from the footpath at the close of business trading or prior to 1:00 am, whichever is the earlier. The barriers should not be used for excess advertising other than for identification purposes.
- 7.5 A temporary barrier shall be secured by weighted items attached to the legs/feet of the barrier (and not to any other infrastructure) in such a manner that does not create trip hazards.
- 7.6 Screens must not exceed 6 metres in length and for larger shop frontages where there may be multiple screens, there must be a break of a minimum 1.0 metre between screens to allow for pedestrian access from the Kerbside Zone.
- 7.7 In the case of Fixed Barrier screens, which are fitted by locking devices to the footpath, applicants must gain special approval by application to Council's Engineering Services to ensure compliance with proper standards and safety requirements and to safeguard Council assets.
- 7.8 For Fixed Barriers and other fixed footpath infrastructure, the occupancy of this area shall be subject to an annual Permit. A Permit shall be issued in the name of a person/business/company and shall not be sub-let to any other person/business/company.

- 7.9** Fixed Barriers must comply with Clauses 7.12 to 7.19 inclusive. Where a fixed barrier does not terminate at a verandah post etc. the ends of the barrier must have a minimum 1.0 metre return.
- 7.10** Unless it can be demonstrated that there is no health or safety risk, other structures associated with the Outdoor Dining areas shall not be stored on the footpath whilst the business is not in operation.
- 7.11** Where Barriers or other fixed structures are to be removed, the Permit holder shall be responsible for the cost of such removal and the reinstatement of the area to its former state.
- 7.12** Fixed Barrier engineering specifications will be required for those structures greater than 1.5 metres in height to ensure stability.
- 7.13** Barriers, whether fixed or temporary, shall be a minimum of 1.0 metre high from ground level to avoid trips and falls. In the case of Fixed Barriers, a clearance of 150mm from the ground to the bottom of the structure is required to enable street cleaning.
- 7.14** Fixed Barrier screens must be a minimum of 1.0 metre and a maximum of 1.5 metres in height (unless approved by Council's Engineering Services), be transparent and constructed of safety glass or rigid transparent material. Each fixed screen must have writing or symbols on all surfaces of the barriers between 1.0 and 1.5 metres above the ground level to provide a visual reference point for pedestrians. In particular, prominent contrasting writing and symbols are required at the barrier ends to alert visually impaired persons.
- 7.15** Fixed and temporary barrier screens may contain a minor level of advertising but must not be used as an opportunity for wholesale advertising. The name of the business, brand products used within that business or appropriate symbols may be used on temporary screens and advertising shall not exceed 30% of the total area of such screens. Fixed barrier screen advertising is in accordance with temporary screen advertising but shall not exceed 10% of the total area of that screen so as to maintain the primary objective of transparency. Signage should be of a fixed nature such as being embossed, engraved or etched.
- 7.16** For both fixed and temporary barriers, advertising and signage must not promote tobacco, alcohol, gambling or contain any offensive image or message. The promotion of "specials", "discount", "sales" or the like may not be displayed on any barrier screens.
- 7.17** If a lock in device is fitted without prior Council approval or does not meet required specifications, an Authorised Officer can require that the lock-in device is removed and the footpath is reinstated to its original condition. If a business changes ownership and the future operator does not intend to use the Fixed Barrier screens, the current permit holder is responsible for reinstating the footpath to its original condition, to the satisfaction of an Authorised Officer.
- 7.18** Barriers must be kept in a clean, sanitary and well maintained condition so as not to create any safety or health risk or to detrimentally impact on the amenity of the area.
- 7.19** The Permit Holder shall be responsible to repair any damage to any Barrier structures, footpath or buildings caused by vandalism to the Barrier structure and to reinstate such to a safe condition to the satisfaction of an Authorised Officer. The Permit Holder is also responsible for the removal of graffiti from such structures.

Part C - Goods/Signs/Ancillary items and Activities on the Footpath (Goods, Signs, Umbrellas, Heaters, Pot Plants, Speakers, Barriers)

8. Goods for Sale

A Footpath Trading and Activity Permit for the purposes of displaying Goods for Sale may be issued on Footpaths for any premises. "A" frame signs may be utilized together with goods for sale provided businesses are the holder of both current permits as approved by Council.

- 8.1** Goods for display shall be a small representation of the goods for sale within the premises that are subject the permit;
- 8.2** In order to provide a consistent, unobstructed walkway, goods for display and ancillary activities may only be displayed or conducted in the Trading Zone (as detailed in Sections 1, 2, 3, 4 and 5 of the Guidelines) of the footpath.
- 8.3** Goods for display or advertising that promote the alcohol or tobacco shall be prohibited. Goods or advertising of a sexually explicit nature shall also be prohibited.
- 8.4** Goods for display and ancillary activities will not be permitted in an exclusion zone unless otherwise approved by Council.
- 8.5** Goods for sale shall be displayed in accordance with Council design guidelines with respect to stalls, trestles, trolleys and other display furniture. Stands must be secured in a manner which ensures that adverse weather conditions will not create a risk for pedestrians, property and passing traffic. Stands must not cause any damage to the footpath. Any damage caused by displays will incur a reinstatement cost payable to council.
- 8.6** Goods for display should not exceed a height of 1.5 metres, with a minimum height of 1.0 metre. In exceptional circumstances, goods for display exceeding 1.5 metres may be considered on the basis that there is no safety risk to any person and/or the line of sight for pedestrians/vehicles is not impaired. There must be a minimum of 1.0 metre of space between goods displays.
- 8.7** Goods displayed should be temporary in nature and reflect the products sold within the business premises.
- 8.8** White goods and bulky items such as beds, furniture and cupboards are prohibited;
- 8.9** Goods for display and display furniture on which goods are displayed are to be removed at the end of trading for that day or earlier as instructed by an authorised officer should safety issues arise.
- 8.10** A permit is required for goods to be displayed in accordance with Council's *Community Local Law No.6* and subject to these Guidelines. Goods must not be displayed prior to the appropriate permit being issued.
- 8.11** Goods for display infrastructure should have a contrasting colour to their background to assist people with vision impairment.
- 8.12** Goods for display will not be permitted to encroach into the Kerbside Zone or Pedestrian Zone and must be accessible by customers only from the Trading Zone. Full-length shop awnings to protect goods may only be installed with an approved planning permit and/or building permit as per 7.2.3.
- 8.13** Goods such as perishable foods, food that may deteriorate or food products on display without supervision if subjected to the external environment, shall not be permitted to be displayed.
- 8.14** Where supervised, the sale of food on a footpath shall be done in accordance with the following;

- food shall be prepared within the food premises and sold as a pre-packaged item that is stored at appropriate temperatures in approved equipment
 - the food shall be associated with foods sold at the premises which are subject of the permit;
 - food shall be at all times protected from dust, fumes and sunlight;
 - food selling shall comply with the Food Act and associated regulations
- 8.15** A set back of 0.5 metres is required from each side boundary of a premise to ensure access points from the pedestrian zone to the road are retained between each premises.

9. Advertising Signs

- 9.1** All permitted signs are to be secured in place by a means that is not reliant on, or physically tied to any Council infrastructure. The means by which these signs are to be secured must not extend beyond the circumference of the permitted sign and must be to the satisfaction of an Authorised Officer. Any securing device or object is to be removed with the sign in accordance with the permitted display times.
- 9.2** Inflatable signs, portable electric signs, illuminated, revolving, spinning or flashing signs, flags and banners are not permitted to be placed on the footpath, posts, walls, fences or verandahs unless permitted by a Planning Permit.
- 9.3** Approved signs need to be of a temporary relocatable nature and may only be placed on the footpath or nature strip during the normal hours of trade. Permanently fixed signs are not permitted unless through planning and, where applicable, building permit approval.
- 9.4** Approved signs may not be placed on road carriageways, roundabouts or median strips. Approved signs shall not be permitted in Exclusion Zones or council reserves unless approved by an Authorised Officer as per 9.14.
- 9.5** Approved signs shall not be tied to poles, trees or any other street fixtures, must only be on the footpath while a business is operating and must only be outside the premises to which they relate. In exceptional circumstances such as arcades, laneways etc where signs are not able to be placed outside the business, consideration may be given for alternative options.
- 9.6** Advertising signs, goods, chairs and tables shall have a contrasting colour to their background to assist vision impaired persons.
- 9.7** An advertising sign for a business must not exceed the following dimensions;
- 0.6 metres in width and 1.2 metres in height (0 - 60 km/hr speed zone)
 - 0.7 metres in width and 1.4 metres in height. (61 – 80 km/hr speed zone)
 - 0.8 metres in width and 1.6 metres in height. (81 + km/hr speed zone)
 - A minimum height of 1.0 metre.
- The top edge of any sign attached to an object including bicycle and tricycle must not exceed the heights listed in the speed zones above. (Measurements are taken as height above pavement).
- 9.8** The maximum number of signs permitted per premises is one (1). Consideration will be given to an additional permit where the frontage of the business premises to the street is greater than 8 metres.
- 9.9** In exceptional circumstances for multi-tenanted businesses, more than one (1) sign can be displayed providing that;

- A minimum of 1.5 metres of access exists between each sign;
 - The stability of the sign and the line of sight is not compromised so as to create safety hazards; and
 - There are a maximum number of three (3) signs for that building which may be approved subject to each applicant producing evidence of their ABN details.
 - The installation of finger boards, bollards and the like may be permitted subject to a Planning Permit and consent from Council's Urban Design Unit.
- 9.10** Fees applicable for the display of signs shall be charged on an annual basis.
- 9.11** The maximum number of signs that a Community Market may display is three (3).
- 9.12** All Community Market signs must be located within 200 metres of the market location.
- 9.13** Community Market signs may only be displayed on the day of the market event.
- 9.14** Advertising signs may be permitted in Exclusion Zones where the footpath width is greater than 2.9 metres and pedestrian access and/or safety is not compromised.
- 9.15** An annual permit to display signs may be issued to Real Estate Agent businesses subject to the following conditions;
- 9.15.1** A maximum of three (3) signs may be permitted per 'open for display' or 'auction' event;
 - 9.15.2** No sign shall be placed on any roundabout, median strip, council reserve or other location that may impede and/or distract motorists and/or pedestrians;
 - 9.15.3** Signs shall be placed kerbside in accordance with Part 1 of these Guidelines;
 - 9.15.4** Auction signs may only be displayed on the day of the auction event listed in 9.15.1 and shall be removed no later than 4:00 p.m. on the day of the auction event;
 - 9.15.5** 'Open for Inspection' signs shall only be permitted to be displayed during the times that the property is open to the public;
 - 9.15.6** Signs shall not be larger than 1200mm high x 600mm wide;
 - 9.15.7** Signs shall be identified by the business (Permit Holder), its purpose (auction or open for inspection) and contact details of the Permit Holder.

10. Ancillary items (umbrellas, enclosures, heaters and pot plants)

- 10.1 Unless approved by an Authorised Officer, ancillary items such as umbrellas, gas heaters, planter boxes and barrier screens are permitted only in conjunction with food premises furniture within the 'prescribed area' relevant to the Permit, and for premises that are registered to serve food and/or beverages under the *Food Act 1984*.

11. Outdoor Speakers/Amplification Equipment

- 11.1 Amplified music is not permitted in an outdoor dining area or in conjunction with a business, unless approved by a Planning Permit, in order to protect the amenity of the area by preventing the occurrence of any nuisance conditions.
- 11.2 Where these items are fitted without permission, an Authorised Officer will require the items to be removed.
- 11.3 Live entertainment is only permitted with the written permission of an Authorised Officer (see 'Busking').

12. Noise Emission

- 12.1 The Permit Holder of any footpath trading activity within the Trading Zone must ensure that the activity does not create any unreasonable noise or other disturbance which may interfere with the reasonable use and/or occupancy of neighbouring properties or cause detriment to the general amenity of the neighbourhood.

13. Heaters

- 13.1 In some locations due to narrow width of certain footpaths, outdoor gas heaters should wherever a reticulated gas supply is available, be affixed to the awnings or verandas so as to be located off the footpath. A Planning Permit is required to undertake this activity and a Building Permit may also be required.
- 13.2 If relocatable patio heaters with a stable base are to be used, they must be included on the permit application and be covered by the traders' public liability insurance.
- 13.3 All heaters must be placed within the Trading Zone in such a manner as to not create trip hazards, burn hazards and/or access restrictions.
- 13.4 Any gas heater used must carry the appropriate certification by the Australian Gas Association and be used in accordance with the manufacturer's instructions. Furthermore, compliance with safety and technical advice available through the Office of Gas Safety is also required.

14. Umbrellas

- 14.1 Umbrellas may only be placed in the Trading Zone and must be brought back into the premises in accordance with 6.12.

- 14.2 Where umbrellas are permitted, they must at all times be a minimum of 2.5 metres high above the footpath surface at the lowest point of the canopy and must not protrude over the Kerbside Zone. At times during rainfall, water from large umbrellas should be discharged in the areas outside pedestrians walking path.
- 14.3 Umbrellas must be secured and positioned in a stable manner to the satisfaction of an Authorised Officer.

15. Full Length Awnings/Blinds

- 15.1 Full length awnings/blinds may be only approved in accordance with Planning and Building approvals.

16. Planter Boxes

- 16.1 Planter boxes that are not part of an Outdoor Dining activity will only be permitted in the Trading Zone and subject to a Permit.
- 16.2 Planter Boxes must provide a positive contribution to the visual amenity of the footpath. The condition of a Permit for a planter box requires that these items be well maintained with healthy plants and must be kept clean of litter, cigarette butts and the like. If this is not adhered to, permission for the planter boxes may be revoked and the planter boxes will need to be removed by the Permit Holder.

17. Indication of the Footpath Trading Zone.

- 17.1 Council may place markers to clearly define the Footpath Trading Zone along any footpath when deemed necessary to ensure appropriate minimum pedestrian access corridor is maintained at all times.

18. Permanent Fixtures on the Footpath

- 18.1 Bike racks, seats, bins, pedestrian crossings, fire hydrants and other emergency assets, parking meters, traffic signal boxes, public transport shelters and other permanent fixtures placed on the footpath are public assets and have priority over commercial interests. Any item covered by these Guidelines shall not be located closer than 0.5 metres either side of the abovementioned infrastructure.
- 18.2 As a general rule, parking meters, parking controls and special use zones will not be relocated at the request of a trader.
- 18.3 In exceptional circumstances and subject to no impact to any party, relocation of such infrastructure, as per 18.1 and 18.2 may be considered with any associated costs being borne by the applicant/permit holder.
- 18.4 Permit holders shall not obstruct footpath tactile ground surface indicators (for the visually impaired) and where this may not be possible, the Permit Holder shall be responsible to install modified tactiles to the footpath in accordance with the relevant standards.

Part D – Busking/Street Performing

19. Busking/Street Performing

- 19.1** No person shall perform busking activities on a Council footpath without prior conditional approval through a Footpath Trading and Activity Permit for the purposes of busking;
- 19.2** Busking is permitted on Council footpaths subject to the following conditions;
- 19.2.1** Within the trading/shopping precinct at a suitable locations to the satisfaction of an Authorised Officer;
 - 19.2.2** The applicant is required to obtain consent from business owners in front of which he/she intends to perform;
 - 19.2.3** Busking activities shall take place between sunrise and sunset unless otherwise approved by an Authorised Officer;
 - 19.2.4** Busking activities shall not create any nuisance or disturbance as outlined in 12.1, Noise Emission, of these Guidelines.
 - 19.2.5** Busking activities shall not be located in front of any doorway, driveway or other entry point to any building.
- 19.3** Busking activities shall not be undertaken;
- 19.3.1** In Exclusion Zones;
 - 19.3.2** Within 10 metres of any major commercial or public building;
 - 19.3.3** For a period longer than one (1) hour at any specific site unless approved by an Authorised Officer.
- 19.4** Buskers shall be permitted to sell CD's providing that it is their own original recorded music. The selling other types of CD's or merchandise is prohibited.
- 19.5** A Footpath Trading and Activity Permit for the purposes of busking will not be issued to any person under the age of 16 unless that person is accompanied by a parent, adult or guardian.
- 19.6** A Footpath Trading and Activity Permit for the purposes of busking must be on display at all times during the busking performance and shown to any Authorised Officer upon request.
- 19.7** The use of an A frame sign is not permitted in conjunction with a busking permit.

Part E - Enforcement

20. Enforcement of Footpath Trading and Activity Guidelines

- 20.1** Upon detection of a breach of the *Community Local Law No.6* and or the Footpath Trading and Activity Guidelines, an Authorised Officer may take the following action:
- 20.1.1** Issue a verbal instruction to remedy any observed breach of a minor nature;
 - 20.1.2** Issue a Notice to Comply for subsequent breaches or where serious breaches are observed;
 - 20.1.3** Issue an Infringement Notice for non-compliance with the Notice to Comply;
 - 20.1.4** Issue an Infringement Notice for a serious breach;
 - 20.1.5** Cancellation of a Permit and/ or Prosecution for continuing offences.
- 20.2** An Authorised Officer may impound any items that are placed on the footpath that do not comply with *Community Local Law No.6* and Council's Footpath Trading and Activity Guidelines and any conditions placed on a Permit.
- 20.3** Second and subsequent Infringements will be issued without additional warning for further incidents of non-compliance.
- 20.3** Incidents of non-compliance will be taken into consideration when requests to vary or add to a Permit are considered for approval.
- 20.4** In signing the annual Permit renewal form, traders acknowledge their understanding of the compliance requirements associated with that Permit.
- 20.5** Victoria Police and Victorian Commission for Gambling and Liquor Regulation are responsible for monitoring and enforcing Liquor License conditions associated with any Footpath Trading and Activity Permit. Council will exercise its duty of care to refer any observed licensing breaches to these authorities.
- 20.6** A second offence relating to any Liquor License breach (as referred by the relevant agency) may result in the Footpath Trading and Activity Permit being revoked.

PART F - Administration

21. Contacts

Council's Customer Service will be the reference point for enquiries and/or applications for all footpath trading matters. Referral processes may be implemented involving input from relevant agencies and other sections of Council but not limited to the following:

- Local Laws
- Engineering Services
- Asset Management
- Strategic Planning
- Statutory Planning (if applicable)
- Building Services (if applicable)

22. Street Cleaning

- 22.1** All items such as tables, chairs, umbrellas, plants, goods displays, A-frame signs and other ancillary items must be removed and the footpath kept clear to facilitate cleansing between 1:00 a.m. and 7:00 a.m. on any day, unless otherwise approved.
- 22.2** The Permit Holder is responsible for keeping the Trading Zone area clean at all times. This would involve the reasonable removal of food/drink stains, cigarette butts, chewing gum or other contaminating matter from the pavement within the Trading, Kerbside and Pedestrian Zone in front of that premises. In instances of significant staining of the footpath where Council requires to conduct additional and intensive cleaning, the Permit Holder may be charged for that service.

23. Service Authority Works and Special Events

- 23.1** At times Utilities Services, Emergency Services or Council will require the use of a footpath or adjacent area to undertake works or to allow a Special Event or Activity to occur. This may include repair to infrastructure as a result of emergency works being undertaken. During such periods it is normal practice to give the Permit Holder a minimum of seven days notice to vacate the Trading Zone prior to the event.
- 23.2** In cases of an emergency, the Trading Zone may need to be cleared immediately by the Permit Holder. Council and/or the Utilities/Emergency Agencies shall not be responsible for any claim for loss of trade during the time of an emergency.

24. Public Liability Insurance and Indemnity

- 24.1** A Permit will not be issued unless the Applicant indemnifies Council against any law suit, action, proceeding, judgement, claim, demand, cost, expense, loss or damage for which Council becomes or may become liable in relation to the death or injury to any person or the damage to any property caused by a service, activity or structure authorised by a Permit, subject to clause 24.3.
- 24.2** The Permit holder must maintain a public liability policy of insurance, noting the interests of Council, for an amount of not less than **\$10 million**. The policy must be able to meet any possible claim which may be sustained against the

Permit holder or Council in relation to the death or injury to any person or the damage to any property arising out of the occupancy authorised by the Permit, subject to clause 24.3.

- 24.3** The Applicant will not require public liability and indemnity if the application is for a group recognised as a Section 86 Committee of Council.

25. Applying for a Permit

To apply for a Permit, applicants need to:

- 25.1** Complete and sign the application and indemnity form;
- 25.2** Provide a site plan of existing conditions at a scale of 1:100 that accurately shows the width of building frontage and of the footpath from the outside edge of the kerb to the building lines, location of building lines and the type of abutting properties, existing trees, light poles, signs, existing street furniture, pits, fire hydrants, car parking and other features;
- 25.3** Provide a site plan at a scale of 1:100 that accurately shows the area and layout of the proposed footpath activity including the proposed location of chairs, tables, screens, heaters, umbrellas, advertising signs, goods displays or other items or activities;
- 25.4** State the number of internal seats as per the occupancy permit for the building as well as the number of external seats to be provided;
- 25.6** Provide toilets for patrons in accordance with the Building Act 1993 and the ratios prescribed in the National Construction Code, Volume 1;
- 25.7** Provide photographs or detailed drawings of the proposed furniture, item, activity or advertising logo including its size and location within the trading zone. This includes advertising on barriers and any equipment;
- 25.8** Provide a Certificate of Currency (Subject to Clause 24.3) in relation to a public liability policy of insurance, insuring against liability for the death of or injury to any person or damage to any property arising out of the occupancy that may be authorised by the permit which lists:
- 1. 'Strathbogie Shire Council' as an interested party**
 - 2. A minimum of \$10 million in public liability**
 - 3. The insured (including situation of risk)**
 - 4. The Company insuring you**
 - 5. Expiry Date**
 - 6. Policy Number**
- 25.9** Forward the prescribed application and fees (payable to "**Strathbogie Shire Council**"); and deliver the application form together with the above information and fee to:

Customer Service
Strathbogie Shire Council
PO Box 177
Euroa VIC 3666

26. Permit Amendments

A new Permit is required and additional fees may apply;

- 26.1** If the Permit holder wishes to place additional items within the Trading Zone.
- 26.2** If the Permit holder requires significant changes to existing Permit conditions. (eg changing barrier types from canvas to glass, seating capacity, food displays etc.)
- 26.3** Upon change of ownership of a business where it is intended to change structures, seating capacity, barriers etc. If the same fixtures are intended to be used by the prospective proprietor, a transfer of the Permit can be processed subject to appropriate consents being obtained from both parties and the prescribed transfer form and fee being completed and lodged with Council.
- 26.4** When a business with a Permit for Fixed Barriers either wishes to discontinue with the use of Fixed Outdoor Dining Barriers or changes ownership and there is a declaration from prospective proprietor/s that the Fixed Barriers are not required, the current Permit holder is responsible for the removal of such structures and the reinstatement costs of Council infrastructure.

27. Decision Making

- 27.1** Local conditions will influence where items may be placed. An Authorised Officer cannot permit activity where it would compromise pedestrian or vehicle traffic safety or cause detriment to the amenity of the area. Relevant local conditions include the width of the footpath, proximity to major roads, parking restrictions, clearways, trees, angle parking, the number of pedestrians at particular times of day and the location of residences.
- 27.2** An Authorised Officer has the right to reject an application, modify the conditions of an existing permit or revoke a permit if:
 - 27.2.1** the sight of pedestrians crossing at an intersection or crossing is interfered with so as to obscure oncoming traffic;
 - 27.2.2** the sight of the driver of a vehicle is interfered with so as to not properly see pedestrians, signals or signs;
 - 26.2.3** the Permit requirements have not been complied with and there is continuing failure to comply;
 - 27.2.4** the permit holder fails to maintain public liability insurance;
 - 27.2.5** the Authorised Officer believes the activity will create a safety hazard to pedestrians, motorists or cyclists or cause detriment to the amenity of the area;
 - 27.2.6** the health and amenity of the area is compromised through the inability to provide toilet facilities where the total seating capacity of the business exceeds 20 seats.

28. Permit Fee and Period of Permit

- 28.1** Fees may vary from year to year as adopted by Council.
- 28.2** Unless otherwise specified on the Permit, the Permit duration is for 12 months set over the financial year commencing 1st of July with expiry on the 30th of June each year, except in those instances when it is revoked by an Authorised Officer.
- 28.3** If an application is refused, the Permit fee is refunded to the applicant.
- 28.4** Upon written request and notification of cessation of use by a Permit holder, within the first three (3) months of the annual permit period, a pro-rata refund may apply to a level not exceeding 50% of the Permit fee.
- 28.5** additional fees may apply in cases where permits are not renewed by 30th of June.

29. Guidelines Alterations

- 29.1** The Strathbogie Shire Council will review the Footpath Trading and Activity Guidelines from time to time as required and reserves the right to make any alterations it deems necessary.

30. References

Clearance distances for the movement of pedestrian traffic in these guidelines reference *Austroads 2009, Guide to Road Design, Part 6A: Pedestrian and Cyclist Paths, Section 6: Design Criteria for Pedestrian Paths.*