



**Gunnedah**  
Shire Council

## **PUBLIC EXHIBITION**

### **DRAFT POLICY – FOOTPATH OCCUPATION**

The draft Footpath Occupation Policy has been placed on public exhibition for a period of 28 days until Thursday, 18<sup>th</sup> April 2024.

If you have feedback on a draft plan, policy or item on exhibition, please submit it via one of the methods below:

- Email [council@infogunnedah.com.au](mailto:council@infogunnedah.com.au) with the name of the plan, policy or item in the subject line. Please include your name and contact details.
- Complete an online form on Council's website: [www.gunnedah.nsw.gov.au](http://www.gunnedah.nsw.gov.au).
- Post your submission to Gunnedah Shire Council, PO Box 63, Gunnedah 2380 or hand it over the counter at Council's Administration Building at 63 Elgin Street, Gunnedah.

Please be aware that if you make a submission, other people may have access to your comments. This may be as a result of a report to a Council meeting or as part of an application under the *Government Information (Public Access) Act 2009*. Further details are available on request from Council.

For more information, speak to our Customer Service team.

# COUNCIL POLICY



## Policy Name

Footpath Occupation Policy

## Abstract

The purpose of this policy is to provide clear and concise guidelines in relation to footpath occupation within Gunnedah's business zones and ensure that the provision of pedestrian access including those with disabilities is not inhibited by such activities.

<b>Dates</b>	Policy or amendment approved	TBA
	Policy or amendment takes effect	TBA
	Policy is due for review (up to 4 years)	TBA
<b>Endorsed by</b>	Executive Leadership Team at its meeting held 28 February 2024	
<b>Approved by</b>	Gunnedah Shire Council at its Ordinary Meeting held on TBA Resolution number: TBA	
<b>Policy Custodian</b>	Manager Development Assessment	
<b>Relevant to</b>	Business zone owners and occupiers Disability support groups Community Infrastructure Services Planning and Environmental Services	
<b>Superseded Policies</b>	Street Trading – Footpath Dining and Display of Merchandise Policy	
<b>Related documents</b>	Glen Eira City Council – Footpath Activities Guidelines Brisbane City Council – Footpath Dining Local Law 2011	
<b>Related legislation</b>	NSW Roads Act 1993 NSW Local Government Act 1993 NSW Disability Inclusion Act 2014 NSW Food Act 2003 NSW Environmental Planning and Assessment Act 1979	

## Contents

1. Purpose
2. Scope
3. Definitions
4. Policy principles
5. Policy statement
6. Accountability, roles and responsibilities
7. Acknowledgements
8. Version control and change history

## 1. Purpose

- 1.1 To establish an effective accessible pedestrian system throughout the business precinct through the maintenance of a continuous uninterrupted path of travel that meets the needs of all of the community, including older persons or people with a disability, by ensuring any street furniture, signs, trader's activities or displays are where ever possible located towards the kerb side, not along the building line.

## 2. Scope

- 2.1 This policy applies to business operators within the business zones of Gunnedah as defined by the Gunnedah Local Environmental Plan 2012 where occupation of the Council footpath is necessary for the purpose of undertaking business activities.

## 3. Definitions

### 3.1 Key Definitions:

Footpath Occupation	The occupation of the footpath as part of the operation of a business; including but not limited to: Footpath Dining Display of Merchandise Advertising Temporary Trading (Fundraising Activities)
Pedestrian Zone	The area that extends from the building line or shopfront of premises for a minimum of 1.8 metres
Trading Zone	The area of the footpath where merchandise, dining, furniture and ancillary items or activities, subject to this policy, may be placed or occur
Kerb Zone	A 0.60 metre wide buffer measured from face of kerb to allow for access to and from parked vehicles except where a disabled parking bay, angle parking or a loading zone exists where the setback from the kerb shall be 1.5 metres
Permit	The approval for the undertaking of footpath occupation
Gunnedah Local Environmental Plan 2012	The environmental planning instrument which outlines the zoning of land within the Gunnedah Local Government Area
Business Zones	The zones B2, B4 & B5 as defined by the Gunnedah LEP 2012.

#### 4. Policy Principles

- 4.1 Ensure the regulation of footpath occupation activities under the Environmental Planning and Assessment Act 1979, NSW Roads Act 1993, NSW Disability Inclusion Act 2014, NSW Local Government Act 1993 and the NSW Food Act 2003.

#### 5. Policy Statement

To support and manage footpath occupation within the business sector that benefits not only commercial businesses, food premises and diners through a process that recognises the interest of business proprietors, pedestrians and disabled persons.

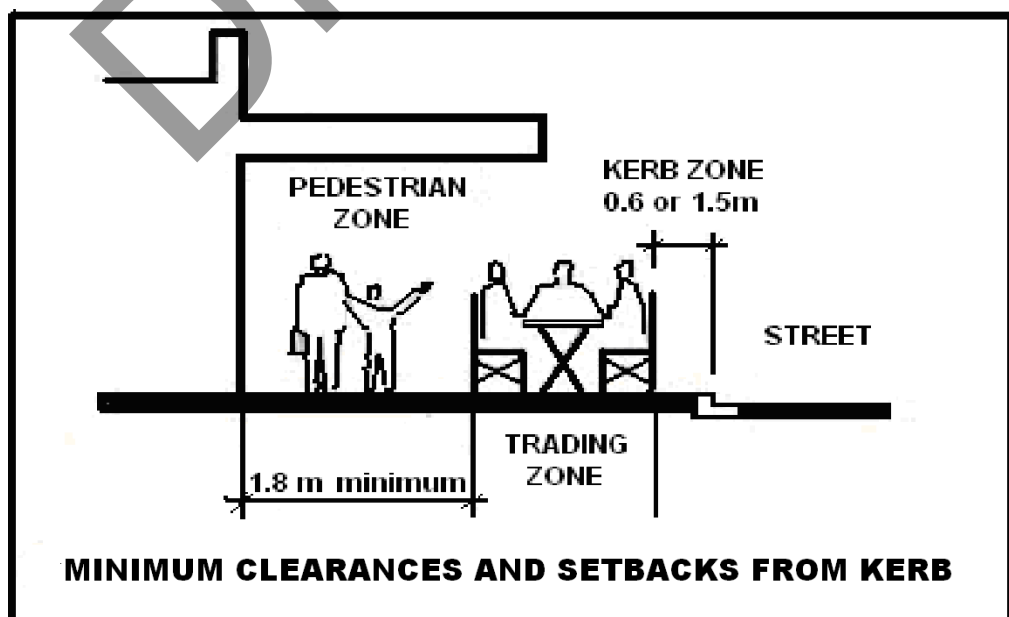
##### 5.1 Footpath Zones and Locations

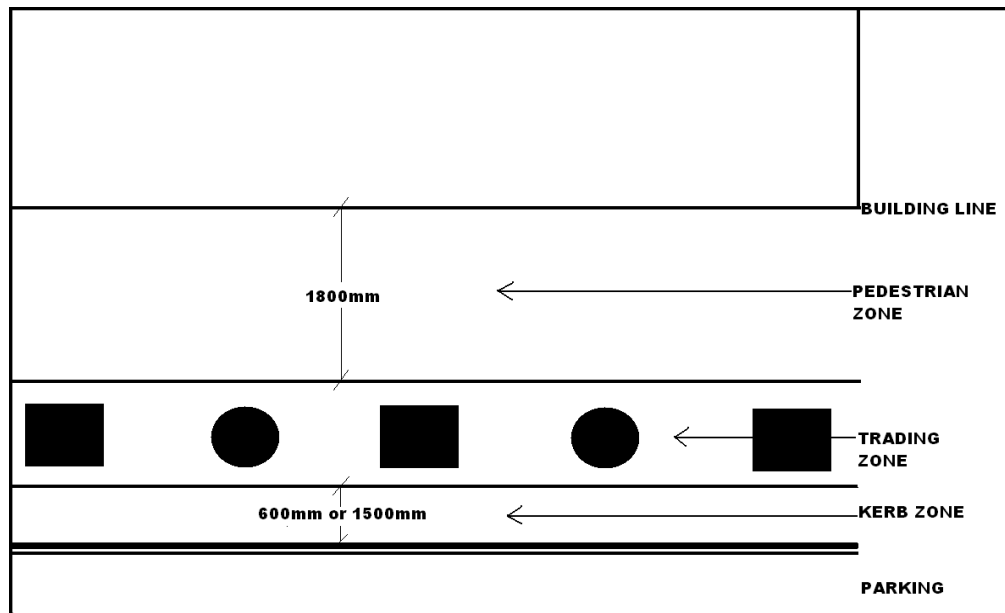
###### 5.1.1 Appropriate zones and locations

Council has developed three categories for trading relating to the footpath widths within Gunnedah Central Business District. The location of the trading on the footpath must provide for a clear, continuous and safe access of travel for pedestrians and also provide a relaxed environment that enhances the streetscape and other functions of the area.

The footpath has been divided into three zones to ensure complimentary use of the area between public and commercial uses. The zones consist of:

- Pedestrian zone
- Trading zone
- Kerb zone





#### 5.1.2 Placement of goods, furniture and signs within the trading zone

It is important to note that although goods, tables, chairs, A-frame signs and banners are to be placed within the trading zone, if only part of the area is to be used (e.g. for one A-frame sign or small display) then the placement of the sign or display must start from the edge abutting the kerb side zone and not adjacent to the footpath zone. Please refer to the illustration above for correct placement of smaller displays and signs. This will ensure maximum safety of pedestrians by not providing any items in the middle of the footpath.

#### 5.1.3 Temporary Street Trading – Fundraising Activities

Temporary street trading activities will be required to be located within the trading zone.

Those activities that are to undertaken on foot and do not require any set up such as tables and/or chairs etc do not require approval from Council and can be undertaken in any of the footpath zones.

#### 5.1.4 Variations to trading zones

Requests for variations to existing trading zones will be considered by the Panning and Environmental Services team and are assessed using the following criteria:

1. The effect on pedestrian traffic flows and safety
2. The impact on the appearance of the street and its surroundings
3. The impact on residential amenity
4. The duration of use
5. The effect on vehicular traffic flows and safety
6. Whether it is complementary to the primary adjoining use
7. Whether it is less intensive than the primary adjoining use
8. The applicant's previous record of compliance

9. Relevant policies of Council
10. Any other matter relevant to the application.

#### 5.1.5 Access by relevant authorities

The granting of a permit to trade is made with the understanding that access by Council, road, or other utility authorities under relevant legislation, is to be maintained to ensure access to infrastructure within the footpath and roadway.

##### 5.1.5.1 Footpaths of a width greater than 3.5 metres

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

- The pedestrian zone: extends from the building line or shopfront of premises for a minimum of 1.8 metres. No items may extend into this zone at any time. There may be areas where a variation on this distance is appropriate.
- The trading zone: the only area of the footpath where goods, café furniture and ancillary items or activities, subject to this policy, may be placed. Where premises are adjacent to an intersection, the trading zone must not extend into the exclusion zone. Location of items within this zone is also subject to conditions.  
Please see section placement of goods, furniture and signs within the trading zone.
- The kerbside zone: (measured from face of kerb) a 0.60 metre buffer from the kerb to allow for access to and from parked vehicles. Where there is a disabled parking bay or angle parking, the setback from the kerb will be at least 1.5 metres. A setback of 1.0 metre from the kerb is to be maintained opposite a loading zone.
- No items may be placed in the pedestrian zone, kerbside zone or exclusion zone.

##### 5.1.5.2 Footpaths of width of 2.9 metres to 3.5 metres

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

- The pedestrian zone: extends from the property line or shopfront of premises for a minimum of 1.8 metres. No items may extend into this zone at any time.
- The trading zone: the only area of the footpath where goods, café furniture and ancillary items or activities, subject to this policy, may be placed. Where premises are adjacent to an intersection the trading zone must not extend into the exclusion zone.
- Location of items within this zone is also subject to conditions. Please see section placement of goods, furniture and signs within the trading zone.
- The kerbside zone: a 0.6 metre buffer from the kerb to allow for access to and from parked vehicles. Where there is a disabled parking bay or angle parking,

the setback from the kerb will be at least 1.5 metres. A setback of 1.0 metre from the kerb is to be maintained opposite a loading zone.

- No items may be placed in the pedestrian zone, kerbside zone or exclusion zone.

#### 5.1.5.3 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 street trading.

Due to the narrow width of footpath available, it will generally be difficult to carry out footpath trading on footpaths of width of less than 2.9 metres. In order to facilitate a clear and consistently unobstructed footway for pedestrian access, footpath trading will only be permitted where a pedestrian zone is greater than 1.5 metres and a kerbside zone of at least 0.5 metres can be provided.

#### 5.1.5.4 Grassed shoreline

In the circumstance where there is a centrally located footpath that is grassed on the property side, this grass area will be considered the shoreline. **Appropriate trading zones should be considered based on 5.1.5.1, 5.1.5.2 and 5.1.5.3.**

#### 5.1.6 Existing public infrastructure

The following clearances apply to existing public infrastructure and public street furniture:

- 1.0 metre clearance required from public infrastructure such as — fire hydrants, bins, payphones, public seats and bike stands.
- 0.5 metre clearance required at all times from other street furniture such as — bollards, telecommunication pits, backs of seats and poles. (Also including trees and/or planter boxes)
- 2.0 metre clearance from a pedestrian crossing and vehicle crossings.
- 2.0 metre clearance within the front and rear of bus zones to allow adequate clearance for passengers to alight from buses safely. This distance may be reviewed if goods do not interfere with safe pedestrian movement to and from busses.

Public infrastructure on footpaths has priority over commercial interests (footpath trading) at all times.

As a general rule, public infrastructure, already in place, will not be moved or removed (relocated or repositioned) as a result of unavailable space to trade within a designated trading zone. Should you have existing infrastructure at the front of your shop, an application to vary permit requirements may be made and a decision may be made to remove or relocate the infrastructure, if in Council's opinion this does not decrease the amenity of the area. All costs for removal and pavement

reinstatement will be borne by the person applying for the permit. Traders should take this into account when selecting a site.

Existing street furniture and infrastructure must not be used for any trading purposes including for business signage or displays.

#### 5.1.7 Adjacent premises

Should a trader seek to extend their trading zone across adjoining premises, written permission is required from the trader occupying the adjacent premises and remains subject to Council review and approval. As with the normal permit process, this agreement needs to be renewed annually and must be clearly marked on submitted plans (as per the application processes). This agreement would run with the owner of the adjacent business and not with the land/premises. Thus the agreement would be nullified if the business were to close or change hands.

Tables and chairs and goods/services are permitted only outside the premises to which they relate and must be contained within the property line, with the required set back, unless the above exemption/agreement is valid.

The footpath is a public zone and as such is not owned by any business. This means that no business is allowed to rent footpath space to adjoining premises seeking to occupy that area.

## 5.2 Design Standards

### 5.2.1 Tables and chairs

Street and display furniture design and construction are to be of a high standard in appearance and style, made of quality materials, with finishes that are safe, durable, attractive and in keeping with the amenity of each centre. In all circumstances, furniture must be approved by the council before permit is granted.

- All tables and chairs must remain within the trading zone for the duration of their use. Café furniture must be of a high standard in appearance and durable in nature. In all instances, Council must approve furniture design before use.
- For safety reasons, furniture that is constructed solely of plastic is unacceptable.
- The design and colour of any tables and chairs or portable display structures must be consistent with the Council Heritage and Urban Design Controls in the Development Control Plan. Opinions from Council's Planning & Environmental Services Department may be taken into consideration as to whether the street furniture/structures are appropriate in the streetscape context before being approved.
- Tables and chairs should be portable. However, need to be strong and windproof. This may include metal and timber or metal frame and plastic tabletop and chair back/seat.



- The base and ends of all café furniture or items must have suitable rubber stoppers (at least 30mm diameter) on the ends to prevent pavement damage. It is the responsibility of the café owner to ensure all public assets in contact with the goods/items placed on the footpath are not damaged.
- It is the responsibility of the café owner that no chairs or tables (or other items) on the footpath are moved by patrons and obstruct the pedestrian zone.
- Where possible tables and chairs should have a contrasting colour to their background to assist the vision impaired (this means that the colour must be different between the chairs/ tables to such elements as the concrete and shop front colour to allow easy identification).
- Table and chair legs should not extend on an angle that would cause tripping points to pedestrians
- For safety reasons, no café chairs should back onto the kerb and in instances where the trading zone is narrow (such as 0.9 metre in width) no chair should back onto the pedestrian zone.
- A set back of 0.5 metres is required from each side boundary of premises to ensure access points from the footpath to the road are retained between each premises.
- Table/chairs must not be placed within the exclusion zone or within 2 metres of a pedestrian crossing (unless special requirements exist).
- All tables and chairs must be removed at the end of business each day.

#### 5.2.2 Screens/windbreaks

Screens or screening devices must be placed where there are tables and chairs for safety reasons.

There are several types of screens approved by Council:

- Temporary canvas coffee screens — of the type commonly provided by coffee companies; and,
- full-length awnings/blinds attached from veranda to the footpath — require a planning permit, most appropriate for protection of perishable goods displays such as fruit or flowers.
- Other screen designs which can be shown on application to council as adding to the amenity of the streetscape and be approved by council.

#### 5.2.3 Canvas screens

May only be placed in the Trading Activity Zone. A set back of 0.5 metre is required from each property boundary to ensure a 1.0 metre access point between premises.

Temporary canvas barrier screens must be placed so that the screens are stable and secured or weighted so that they will not be moved by patrons or weather condition screens must be removed from the footpath when a premise is not open. The signs should not be used for excess advertising other than for identification purposes.

#### 5.2.4 Glass screens

Glass screens will be permitted for use within the CBD of Gunnedah providing applications are supported by engineering designs showing compliance with relevant Australian Standards or codes as applicable.

#### 5.2.5 Full length awnings/blinds

Must be fitted in accordance with manufacturer's specifications. A planning permit may also be required (if any advertising is proposed) in addition to a trading permit.

Lock in devices must be approved by Council's Infrastructure Services Assets department before a permit can be granted.

If a lock in device is fitted without prior Council approval and required specifications are not met, an authorised officer will require that the lock-in device is removed and the footpath is reinstated to its original condition. If premises changes hands and the future operator will not be using the awnings, the current owner is responsible for reinstating the footpath to its original condition, to the satisfaction of the authorised officer prior to vacating the premises.

#### 5.2.6 Planter boxes

Planter boxes will only be allowed in the Trading Activities Zone. The placement and location of the planter boxes must be approved by Council forming part of the permit conditions.

Planter Boxes must provide a positive contribution to the visual amenity of the street. Permits that allow planter boxes require that they be well maintained with healthy plants. If this is not adhered to permission for the planter boxes will be revoked and the planter boxes will be removed.

Permission may only be given for temporary planters — must be brought in during non-trading hours.

#### 5.2.7 Umbrellas

- Umbrellas are to be used only in areas where there are no canopies overhead or where the use of the umbrella will not interfere or damage existing items.
- Where umbrellas are allowed they must be of a minimum (at the lowest point) of 2.2 metres above the level of the footpath (min clearance of 2.2 metres).
- All umbrellas must be removed at the end of business each day.
- Umbrellas must not extend beyond the trading zone into the kerbside zone or roadway.
- They must be of robust design and secured at all times. The business owner must ensure that the umbrellas are to be adequately fixed or weighed down to prevent dislodgment.

- Umbrellas must be secured to the satisfaction of an authorised officer.
- Must be removed or closed in times of strong winds or storms.
- Refer to advertising guidelines.

#### 5.2.8 Heaters

- Any heating device must comply with Australian Standard AS 1956 and be certified by the Australian Gas Association.
- Heaters must be located within the trading zone only and not in a position in which pedestrians passing can come into contact with the heater.
- All portable heaters must be removed at the close of business each day.
- Due to narrow footpath widths, outdoor heaters should, wherever possible, be affixed to the awnings or verandas so as to be located off the footpath but only if a minimum height clearance of 2.7 metres can be achieved. A planning permit may be required to undertake this activity.
- Installation, training and safe use of portable heaters must comply with the safety guide for use of portable gas heaters in public spaces including guidelines for staff and guideline for employers prepared by the Office of Gas Safety in collaboration with other relevant organisations.
- Heaters are to be licensed as part of a permit and covered by trader's public liability insurance.

#### 5.2.9 Advertising

Council understands the need for businesses to engage in marketing and advertising as a part of their comprehensive business strategy. As such, Council allows for identification and promotion signs that meet the needs of the business and also considers the amenity of the area and streetscape appearance for the whole community.

- The name or logo of a business may be displayed on every alternate panel of a café screen or umbrella as long as the size and/or logo cover no more than 33 per cent of the total area of the panels.
- Screens or umbrellas within the trading zone may have commercial advertising (such as the name of the screen provider) on alternate panels only, on no more than 20 per cent of the surface area.
- Details of any proposed signage on furniture must be submitted with any application to trade on the footpath.
- No café or commercial advertising is allowed on chairs or tables unless required for identification purposes ONLY and placed in an unobtrusive manner allowing for identification by traders, of business property.
- Should a trader have existing (existing advertising is advertising that is on any item or furniture that is owned/purchased prior to December 2006 — after this date all new furniture must comply with policy guidelines) advertising on any surface, over the allowed indicated level, this information should be submitted with the application for review. Each application will be reviewed and approved/not approved on a case- by-case basis.

- Advertising on any awnings or blinds which are affixed to the building may require a planning permit.

#### 5.2.10 Portable advertising signs (A frames) and Tear Drop Banners

- A frames and Banners may only be displayed within the Trading zone and must be securely placed and windproof.
- Portable electric, illuminated or flashing, revolving/spinning signs are prohibited at all times.
- An advertising sign must not exceed a height of 1.0m or width of 0.75m and a minimum of height of 0.75m must be achieved.
- Signage can only be displayed during the business' normal hours of operation and must be removed from the trading area at the close of business.
- Only one sign per premises will be considered for permit.
- A frames or advertising signs must not be fixed to any footpath, pole or other structure.
- Permission may be granted for an application where the business has no street frontage and the sign is placed outside premises not occupied by the applicant. In this instance the owner of the premises where the sign is to be placed must provide written permission and there must be public liability extended to cover the goods/sign. Permission will need to be renewed annually or on change of business ownership.
- A frames and Tear Drop Banners must not be placed within an exclusion zone or within 2 meters of a pedestrian crossing (unless special requirements exist).
- The placement of the sign must start from the edge abutting the kerb side zone and not adjacent to the footpath zone.
- Tear Drop Banners must be of robust design and secured at all times. The business owner must ensure that the Tear Drop Banners are to be adequately fixed or weighed down to prevent dislodgment.
- Tear Drop Banners must be placed as not to occur at eye height or have any points protruding from the banner where in close proximity to pedestrian walkpaths or near entry to dining or entries to business premises.

#### 5.2.11 Display of goods

Street and display furniture design and construction are to be of a high standard in appearance and style, made of quality materials, with finishes that are safe, durable, attractive and in keeping with the amenity of each centre. In all circumstances, furniture must be approved by Council before a permit is granted.

- Goods for sale or display must be located within the trading zone.
- Placement of goods must start from the edge abutting the kerb side zone giving maximum clearance for pedestrians.
- Goods and goods stands must only be placed on the footpath during the normal business hours.
- All goods stands must be suitable, stable and approved by the responsible authority.

- All goods and stands must be secured so they are not displaced by wind or other elements. Appropriately designed stands incorporating wind shields should achieve this.
- Goods or their displays must not be fixed to any footpath, building, asset, pole or other structure unless approval is given for approved methods of connection to council's footpath.
- Goods displays must not exceed a height of 1.5m or width of 0.75m (where this fits with respective kerb and trading zones). Appropriately designed displays may (upon approval from Council) exceed this measurement if in the opinion of council that the stand enhances the amenity of the streetscape and meets with safety considerations.
- Goods should have a contrasting colour to their background to assist the vision impaired.
- Should the type, style or number of goods stands change, a variation to the permit must be obtained prior to placing or altering from the approved permit.

#### 5.2.12 Permits

- The operator is responsible for obtaining all necessary approvals to trade from the footpath area (eg permits).
- All food associated uses must receive a permit from Council's Department of Planning and Environmental Services.
- If alcohol is to be served from the outdoor eating facilities, a liquor licence permitting such sale and consumption must be obtained prior to a planning permit being issued.

Note that the Gunnedah CBD is a declared Alcohol Free Zone via Council resolution and the consumption of alcohol is not permitted in outdoor dining areas unless an exemption has been endorsed via a resolution of Council and the relevant liquor licencing permits and planning permits have been issued.

#### 5.2.13 Hygiene, cleanliness and noise controls

- Litter must be cleared from the trading area at all times by the business operator.
- Food scraps or other rubbish within the immediate area must be removed and deposited within the operators own bins kept within the premises.
- Business operators must clean spills from footpath as soon as possible to prevent possible slips or falls by persons using the footpath.
- Litter generated by footpath trading must not be swept into the street gutter or adjacent footpath areas and must be picked up and deposited within the operators own bins kept within the premises.
- Operators must ensure that no trade waste from their premises is placed in public street litterbins.
- Any items placed on the footpath area must not cause any undue obstruction or danger, restrict the reasonable access or exit from any premises, or obstruct the vision of motorists at intersections.

- Operators must ensure that no noise or other disturbance emanates from the footpath activity so as to cause a nuisance to others or detriment to the amenity of the neighbourhood.

### 5.3 Management and Responsibilities

#### 5.3.1 Operator's responsibilities

The operation of footpath trading is the responsibility of the permit holder.

The permit holder must operate in accordance with the conditions of the permit and the requirements set out in this document, must monitor the footpath trading at all times, and must meet all obligations to a high standard.

#### 5.3.2 Council responsibilities

The Gunnedah Council will continue to maintain and manage the use of public land at all times and reserves the right to reclaim access to and remove all footpath trading at any time for any purpose deemed suitable by Council.

Where service authorities and others are required to carry out works within the road reserve (or works at or adjacent to the permit holders footpath trading area) which require removal and/or alteration to the footpath trading arrangements, no compensation is payable for any removal of fittings or fixtures associated with the footpath trading permit or for the loss of trade experienced due to these works. Any reinstatement of fixtures or fittings to do with the footpath-trading permit is the responsibility of the permit holder (this does not include refitting public infrastructure).

Council regularly requires access to footpath areas for the purposes of maintenance and asset renewal programs. Due to the necessity to source labour and materials during business hours, it is impractical to program these works outside shop trading hours. Except for emergency works, Council will give reasonable notification of such works but reserves the right to occupy the trading zone for the purpose of asset maintenance or renewal. No compensation will be payable by Council for the loss of use of the trading zone. In special circumstances, such as if works take a prolonged period of time, at Council's sole discretion a partial reimbursement of the permit fees on a pro-rata basis may be given to the permit holder.

#### 5.3.3 Compliance protocol

Council staff will monitor and evaluate ALL footpaths trading on a regular basis. Any observed infringement of the Footpath Trading Guidelines or permit conditions will be looked into and enforcement action taken.

Upon detection of a breach of the Local Law, Footpath Trading Policy or a specific licence condition, Council (including its staff and authorised officers) may take the following action:

1. Verbal notice to comply issued to the permit holder — a first and final verbal warning — must comply within the time limit stated (e.g. 1 week).
2. Written notice to comply (or caution) issued — a first and final written notice — must comply within the time limit stated (eg 1 week).
3. Infringement Notice issued — fine for non-compliance.
4. Further fines or permit suspension for a minimum period of three months and/or prosecution.
5. Revocation/cancellation of the permit. Council may also impound any items that are placed on the footpath that do not comply with Local Laws, this Policy or any conditions placed on a permit.

Prior to cancellation of a permit, Council will provide to the permit holder an opportunity to make comment on the proposed cancellation. Incidents of non-compliance will be noted and may be taken into consideration for future permit applications. Second and subsequent fines will be issued without additional warning for further acts of non-compliance. Failure to maintain public liability insurance is considered a serious breach.

#### 5.3.4 Review of fee structure and application process

Council will undertake a review of the fee structure and application process every 12 months to ensure it is in line with any changes in legislation and to make changes to fee structures as required.

#### 5.3.5 Applying for a permit – process

Please read and ensure your understanding of the guidelines contained within this document, prior to submitting your application to Council for footpath trading. All footpath-trading permits expire on the 30 June of **the year indicated on the street trading permit** (See renewals of existing permit).

To apply for a permit you must obtain an application form and checklist and submit this with the following:

#### 5.3.6 Obtaining a permit

Upon receipt of the application form, fill in all the relevant sections.

Send the application form together with a copy of your public liability insurance (10 million) back to Council including the following if applicable to your application:

- Site plan of existing conditions 1:100 — accurately showing the width of the building frontage and the footpath from kerb to building line, location of building lines and the type of abutting properties, existing infrastructure and other features (including Council infrastructure, such as bins or parking metres,

and disabled parking or loading zone bays). All dimensions associated with the footpath area should be shown.

- Site plan of proposed conditions 1:100 — accurately showing the area and layout of the proposed footpath activity, including the proposed location of all items.
- Photographs of the site (if able) — clearly showing the proposed footpath activity zone relative to buildings and existing features of the footpath area.
- Details of furniture — including colour drawing (architectural/design) or colour photograph (e.g. tables, chairs, screens, planter boxes, heaters, umbrellas, etc).
- Details of advertising — a colour photograph or detailed design drawing of proposed advertising logo, and clear indication of its size and location within the trading zone.
- Details of liquor licence (including plan of licensed area).
- Letter/s of consent — in writing from the tenant and landlord if the applicant wishes to operate from in front of the adjacent property. This permission must be submitted to Council each year.
- Upon lodgement of your application with Council and, providing all details have been filled out correctly, an Officer will visit your premises to determine the correct metrage or inspect the area you require.

#### 5.3.7 Application assessment

On receipt of an application a Council officer will:

**Check all relevant information has been received.** If incomplete, the applicant will be contacted to discuss and clarify outstanding requirements and make arrangements for the information to be provided.

**Check application to ensure it meets all set requirements.** A permit will only be issued when any matters are resolved and application fees paid. It is the responsibility of the applicant to ensure all other relevant approvals/permits are obtained. Approval of a footpath trading permit does not imply that other permits are not required nor does it imply precedence over these permit requirements. Inspect site and check accuracy of application, issue or refuse a permit

#### 5.3.8 Re-application for a permit

Permits are to be renewed prior to **expiry date indicated on the street trading permit**. It is the responsibility of the permit holder to ensure all required information is submitted to Council prior to the expiry date. That they hold a current permit for to ensure the permit remains valid for the next period and that any conditions of this permit including compliance with these guidelines are met.

#### 5.3.9 Consumption of liquor within a kerbside café area



Should the applicant intend to serve alcohol from the outdoor eating facilities, it will be necessary to obtain a liquor licence. (Proof of licence is required when applying for a Footpath Trading Permit).

#### 5.3.10 Public liability/indemnity

Every applicant for a permit to trade on the footpath/Council land, shall have and maintain for the term of any permit issued public liability insurance cover of at least ten million (\$10,000,000) dollars. This cover must be demonstrated when the application is lodged. It is the responsibility of the permit holder that the insurance remains up to date for the duration of the permit issued.

Failure to maintain public liability insurance is considered a serious breach.

If gas heaters are to be used and form part of the permit, the insurance cover must include cover for the gas heater installation.

#### 5.3.11 General conditions

It is the responsibility of the permit holder to ensure Council contractors, including street cleaning staff, have full access to the footpaths during cleaning periods. This generally occurs prior to 7:00am each morning. However, should you require goods/services or chairs/tables to be outside prior to this time please inform Council of this when making your application. It is the responsibility of the permit holder to ensure that no refuse is emitted from, or remains after the removal of any goods/services or furniture.

Traders must apply in writing to amend an existing permit. Amendments can include changes to furniture design or amount of advertising. Amendment fees will apply and Council will advise the permit holder of the success of the application as per the assessment procedure.

~~The permit sticker must be displayed at all times on the shop front window facing out to the street, so it can be seen outside the premises to which they pertain.~~

All goods/services and furniture must be removed from Council land when the business to which they pertain is closed.

Council may from time to time by resolution vary any condition for the issue of permits for Footpath Trading. No refund or partial refund will be made for any unused period of the duration of the permit, or for a permit refusal. Permits are non-transferable between business owners and traders. An application to amend the permit must be made to Council with authorisation from the new business owner and the leaving business owner.

#### 5.3.12 Transition period

There will be a transition and compliance period for renewal permit holders only for a period of no more than 3 months to TBA. During this time Council officers can engage with individual shop owners to discuss how best to comply with the new guidelines.

Each existing permit holder will then be required to meet all of the new policy standards or it will be considered an infringement and will be enforced accordingly. All new permit holders after the adoption of this policy will be required to meet all application requirements immediately.

## 6. Accountability, roles and responsibility

6.1 Policy Custodian  
Director Planning and Environmental Services

6.2 Responsible Officer  
Manager Development Assessment

## 7. Acknowledgements

Brisbane City Council  
Glen Eira City Council

## 8. Version Control and change history

Date	Version	Approved by & Resolution No.	Amendment
25 July 2012	Draft Version 1		Draft Footpath Occupation Policy
15 May 2013	Amended	Resolution 362	Amended 5.1.4.3
28 August 2013	Amended	Resolution 475	
19 March 2014	Amended	Resolution 14.03/14	Amended to Clause 3 and Insert 5.1.3
17 February 2016	Amended	Resolution 21.02/16	Amendment to Clause 5.3.5 and 5.3.8
28 November 2023	Version 5		Amendment to Clause 4.1, 5.2.10, 5.3.5, 5.3.8 and 5.3.11