

# FOOTPATH TRADING GUIDELINES 2024



# Guideline Governance

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City Growth and Development; Safety and Amenity

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**Relevant Legislation:**

Community Amenity Local Law 2023

Local Government Act

Road Management Act

Environment Protection Act

Planning and Environment Act

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**Associated Strategic Direction #:**

Strategy 4 - Vibrant Port Phillip

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**Associated instruments:**

Outdoor Trading (Dining) Policy

Business Parklet Guidelines

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**Supersedes:**

Footpath Trading Guidelines 2017

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# 1. Purpose

The Guidelines have been developed by the Council in consultation with the local community and traders to provide a framework for the sustainable use and management of footpath trading areas, and to ensure accessibility for all footpath users.

The Guidelines support Council's strategic direction 'Vibrant Port Phillip' – a flourishing economy, where our community and local businesses thrive, and will maintain and enhance our reputation as one of Melbourne's cultural and creative hubs.<sup>1</sup>

The Guidelines show commitment to supporting and enhancing the vibrancy of our local communities and the sustainable growth of local business. They demonstrate this by allowing private businesses to trade on the city's footpaths, enabling them to profit from the use of public land.

These Guidelines explain when and how to trade on the footpath. There are times when this would not be possible to use the footpath in the way that is desired by a business. In these instances, Council must balance the desires of traders with its legislative obligations and its obligations to the broader community in making its decision.

# 2. Outcomes

The Council's Outdoor Trading (Dining) Policy (November 2022) sets the strategic intent in relation to Outdoor Dining. These Guidelines provide specific details on how that Policy will be implemented in order to achieve the following Policy outcomes: Encourage activation and vibrancy in our main streets, activity centres and laneways, which makes them more enjoyable and safer for our community.

- Ensure that outdoor trading enhances the quality of streetscapes and activity centres.
- Ensure that the City of Port Phillip's 'brand' as a vibrant, sophisticated, arts-focused community is represented by strong design and visual outcomes being apparent in approved locations.
- Support our local businesses and economy to survive and thrive and be more resilient to future economic shocks.
- Balance the activation of public space with amenity requirements of surrounding businesses and the community more broadly.
- Ensure activation of public space meets (and in some cases exceeds) accessibility, public safety and sustainability requirements.
- Ensure businesses that benefit from use of public space make a fair contribution for this use through appropriate fees, charges and upkeep responsibility.
- Provide certainty to businesses, community, Councillors and staff on the way requests to use public space in new ways will be treated (and any fees, charges and engagement required) to ensure applications can be considered efficiently, effectively and in a timely manner.
- Ensure appropriate oversight and compliance measures are in place to provide our community with confidence that public safety, accessibility, maintenance and legislative requirements are being achieved and the policy objectives are being met.
- For temporary activities only, test and trial new uses of public space, which could inform longer-term public space priorities, projects and investment by Council.

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<sup>1</sup> City of Port Phillip Council Plan 2021-2031

- When considering shared public space, ensure a balanced and equitable sharing of opportunities between the public, hospitality traders and non-hospitality traders adjoining the public space.

The Guidelines are an incorporated document to the Community Amenity Local Law (2023)

### 3. Who is this document for?

- Businesses – who are required to manage the use of their designated footpath trading areas in accordance with relevant legislation, particularly the Local Law.
- Patrons, residents, ratepayers and visitors – who assist businesses' efforts to comply with legislative responsibilities and these guidelines.
- Council Authorised Officers who assess applications for footpath trading permits and who enforce the Local Law and permit compliance.

### 4. What is footpath trading?

Footpath trading involves the use of public footpaths for commercial purposes. The footpath is the area between the property boundary and the kerbside of a road that is provided for footpath users. Commercial purposes typically include the placement of advertising signs, display of goods, tables, chairs and other equipment such as umbrellas, heaters, screens and planter boxes.

Footpath trading can improve the look of our streets, adds life and vibrancy to our precincts. It also supports local businesses by increasing their floor space and advertising their presence. Footpath trading increases opportunities to shop, dine and drink outside.

With the many benefits come potential problems. The needs of businesses can conflict with the greater community. The Council has a responsibility to regulate the use of footpath areas for the good of all. Whilst seeking to provide benefits to businesses, Council must ensure that footpath trading is fair and consistent, that the public is welcome and safe, and that footpaths provides an accessible path of travel for all.



## 5. Definitions

Table 1 Definition of terms

Term	Definition
<b>Authorised Officer</b>	A person appointed pursuant to section 224 of the <i>Local Government Act 1989</i> as an authorised officer, for the purposes of the Local Law.
<b>Council</b>	City of Port Phillip
<b>City Permits Panel</b>	The Panel considers: <ul style="list-style-type: none"> <li>• Applications that do not meet the requirements of the Footpath Trading Guidelines, Mobile Food Vehicle Guidelines or Business Parklet Guidelines, but where there may be justification for support; and or</li> <li>• Applications where the applicant seeks a review of the Authorised Officer’s decision not to issue a permit.</li> </ul>
<b>Fairy lights</b>	Small, lightweight lights joined by wire and used for decoration.
<b>Fixed permanent outdoor cooking station</b>	A structure that remains in situ on public land within a footpath trading zone from which food is cooked and sold.
<b>Footpath trading area</b>	A permitted area shown on an endorsed plan that can be occupied, that excludes the pedestrian zone, kerb zone and all other clearances here.
<b>Guideline/s</b>	Footpath Trading Guidelines 2024.
<b>Infringement Review Panel</b>	A panel of three authorised senior Council officers, to review decisions of authorised officers that have been made under the provisions of Council’s Community Amenity Local Law 2023 and other acts or regulations for which they are authorised. The members of the panel are selected from outside the area of Council that issued the infringement.
<b>Kerb zone</b>	The area between the road and footpath trading zone.
<b>Local Law</b>	City of Port Phillip Community Amenity Local Law 2023.
<b>Pedestrian zone</b>	The area between the building line and the footpath trading zone.
<b>Permit</b>	Means a permit issued under the Local Law or subsequent Local Law, as adopted by <i>Council</i> , that authorises the use or activity.
<b>Permit holder</b>	Permit holder has the same meaning as the definition under the Local Law or subsequent Local Law, as adopted by <i>Council</i> .
<b>Planning Scheme</b>	City of Port Phillip Planning Scheme
<b>Smokers’ area</b>	An area within a footpath trading zone permitted for smoking and vaping in accordance with the <i>Tobacco Act 1987</i> .
<b>Temporary outdoor cooking station</b>	A removable structure within a footpath trading area from which food is cooked and sold.

## 6. Types of Permits available

### 6.1 Annual Permits

Annual permits allow for year-round activation, issued for up to twelve months and contain an expiry date. Permits may be subject to change at any time at the discretion of an Authorised Officer or Council.

### 6.2 Events Permits

Council supports various outdoor events within the city. These include markets, laneway activations, promotions, street stalls and collections. All outdoor events are assessed using the Events Strategy and Outdoor Events Policy. During these events businesses may be able to extend outdoor trading areas. For more information, search for Events on the City of Port Phillip website.

## 7. Considerations prior to making an application

### 7.1 Will your premises have enough toilet facilities?

Outdoor dining increases patron capacity. Each venue must have toilet facilities for customers and staff as required by the Building Regulations. View Volume 1 of the [National Construction Code | NCC \(abcb.gov.au\)](https://www.ncc.gov.au) Restaurants/Cafes are considered 'Class 6'.

### 7.2 Will you need to relocate any public infrastructure?

To relocate items such as seats, litter bins or bicycle stands, you can request Council consider relocating these public assets. Relocation should result in an equivalent, if not an improved outcome for the community.

If the infrastructure is to be relocated in front of another premises, you must obtain the written consent of the owner and occupant of each of the affected premises. All costs associated with the relocation including any reinstatement must be paid by the person/business requesting the relocation.

### 7.3 Will access to any services be compromised?

Access to services such as sewers, gas, water, telecommunications and electricity conduits should not be obstructed by footpath trading structures. Removable furniture like tables, chairs, umbrellas and heaters can be placed on top of underground service pits, with access to these services required at any time.

### 7.4 Will you include any advertising?

Include any proposed advertising.

- Removable screens and umbrellas may feature the name of your business or relevant products name.
- Glass screens can include your business/company logo on every second panel up to 15cm in height and 50cm wide.
- Advertising boards can be up to 1.2m in height and 0.7m wide.

## 7.5 Design considerations

To ensure the appearance of any structures associated with footpath trading are appropriate and in keeping with the Council's Urban Design and Heritage controls, the following standards apply:

- Permanent structures that may be considered include folding-arm awnings, glass screens, fixed heaters and planter boxes. Other approved items should be removed each day in accordance with the footpath trading permit.
- Structures within Heritage Overlay zones should not impede views to significant heritage buildings and the colour of any structures should complement the heritage objectives and location.
- Structures should comply with any of Council's existing streetscape master plans and designs. These can be found on Council's website.
- Structures must not unreasonably restrict access to the public footpath areas or; fully enclose them.
- Removable screens can be a maximum of 0.9m high and fixed glass screens to a maximum of 1.5m high.
- Transparent drop-down blinds are not permitted. This decision was made by the Council on 2 August 2017.

## 8. Footpath trading application process



### Apply

After considering these Guidelines, you can apply for a Permit via the Council's online portal at: [portphillip.vic.gov.au](http://portphillip.vic.gov.au). You will need to attach supporting information.



### Assessment

An Authorised Officer will:

- check the proposed use and activity would be associated with a use legally established under the Planning and Environment Act 1987
- check the request meets the requirements of the Local Law and the Footpath Trading Guidelines
- check the consent of owner, body corporate and/or occupier of neighbouring premises, if occupying area(s) in front of a neighbouring premises
- conduct a site assessment
- refer the proposal to other officers for technical advice
- consider the proposal against any relevant matters
- assess the application and if required, refer the proposal to the Coordinator City Permits and City Permits Panel
- contact you to discuss aspects of your application or seek further information.



### Permit issued

You will be invoiced the footpath trading fees for the current financial year, 1 July to 30 June, or part thereof. Fees are non-refundable.

When paid, a Footpath Trading Permit is issued including permit conditions and an endorsed plan.



### Using your permit

You must manage the footpath trading area in accordance with your permit, the permit conditions and the endorsed plan.

Authorised Officers periodically inspect footpath trading areas and will liaise with you to address any concerns. Non-compliance with your permit may result in enforcement action or the cancellation of the permit.



### End of Permit (Remove Items)

If a permit is not renewed or cancelled, all items must be removed and Council's assets including the footpaths must be returned to their original condition.

## 8.1 Applying for a footpath trading permit

The following information is required, with plans dimensioned and scaled 1:100 (1cm = 1m).

**Public Liability Insurance:** The City of Port Phillip requires the insurance policy to note Council's interest and be for the amount of no less than \$20,000,000 in respect of any single occurrence. Public liability insurance must remain current and valid for the life of the permit.

**Confirmation of the business** use via a Planning Permit or confirmation that a planning permit is not required.

**Liquor Licence** if applicable.

**Company and business registration;** with company name, ACN, ABN and business name.

**Photographs** of the existing footpath areas.

**Proposed plan** of footpath areas showing:

- the width of the building frontage
- neighbouring properties and business names
- all street features i.e. street trees, bicycle hoops, litter bins and parking restrictions
- area to be occupied.

**Furniture quantities and dimensions** of tables, chairs, screens, heaters, umbrellas and planter boxes. Bar-style height furniture is not encouraged.

**Advertising:** Photographs or detailed design including dimensions and locations on any items like screens and umbrellas. If the total advertising area exceeds 8m<sup>2</sup> a planning permit may be required.

**In-ground sockets:** Manufacturer's engineering drawings.

**Display of goods:**

- Display rack dimensions
- List of items proposed to display

**Temporary outdoor cooking stations:**

- Proposed items to be prepared, cooked and served
- Outdoor advertising and/or menu boards
- Plans showing:
  - elevations, layout, queuing, serving and waiting areas
  - materials and appliances
  - power and water supply
  - advertising
- Operational and Waste Management Plans, including hygiene/cleanliness, patron and emergency management, operational hours, storage of the cooking station structure and gas bottles outside operating hours

**Form of indemnity**, to indemnify the Council against all claims of any kind arising from any negligent act either by the permit-holder or their agents and users.

**Application fee** is payable on submission.

## 8.2 Applying for fixed items

For fixed items like glass screens, retractable awnings, fixed heaters or planter boxes, the following information is required:

**Existing site plan** as above, including existing verandah and/or awnings, outdoor dining furniture, public assets (i.e. including street trees, telephone poles and parking restrictions), and any underground services.

**Proposed site plan** showing use of footpath areas and the width of the building frontage and any glass screens, retractable awnings, fixed heaters, planter boxes, existing awnings, outdoor dining furniture and public assets.

**Proposed elevation plans** of each side:

- For retractable awnings the clearance from the kerb and any other structure.
- For fixed heaters the clearance from any other structure or Council asset
- For planter boxes, the height and clearance from the footpath to the underside of the planter box.
- For glass screens, the clearance between the top of the glass screens and anything above, including canopies, awnings and fixed heaters. Also, the clearance from the footpath to the underside of the glass screens.
- Any advertising to barriers, umbrellas, or fixed glass screens including size and positioning of advertising/company logos.

### Building Permit

Structural alterations to buildings like the addition of a retractable awning or a fixed heater may require a Building Permit. Further advice can be obtained from Council's Building department.

## 8.3 Amendments to an existing permit

Permit-holders can apply to amend a footpath trading permit. Examples include extending or reducing the footpath trading area or increasing advertising. An amendment fee is payable.

## 8.4 Transfer of business ownership

A footpath trading permit has no legal attachment to the sale or transfer of ownership of a business. A new business owner must apply for a footpath trading permit within 28 days of the sale. A Council Authorised Officer re-assesses each new application.

## 8.5 Renewal of an existing permit

Footpath trading permits are issued yearly with renewal notices sent to the current permit-holder who must ensure their contact details are correct, including public liability insurance and any other consents.

## 8.6 Expiry and cancellation

At the expiry or cancellation of a permit all items must be removed. Any items left behind may be removed by Council and any associated costs may be passed on to the business owner.

## 9. Decision making

The criteria below are a guide to the factors that Authorised Officers will consider when assessing each application.

Priority	Objectives
Public safety	<ul style="list-style-type: none"> <li>Streets are safe and have unobstructed passage on the carriageway and on the footpath.</li> <li>Streets have clear views for all modes of transport.</li> <li>Streets are safe and have unobstructed passage for those who may be physically or visually impaired</li> </ul>
Accessibility for all	<ul style="list-style-type: none"> <li>Streets are easily navigated by all footpath users.</li> <li>Should not impact the amenity and function of the footpath.</li> <li>Access to public transport stops is not impaired.</li> <li>Access to local businesses and residences is not impaired.</li> </ul>
Balancing a prosperous local economy with local amenity	<ul style="list-style-type: none"> <li>Supporting a prosperous local economy is balanced with ensuring that footpath trading activities do not cause any significant impacts on the function and amenity of surrounding areas in relation to nuisance, noise, and other amenity considerations.</li> </ul>
Vibrant street life	<ul style="list-style-type: none"> <li>Streets are vibrant and lively.</li> <li>Streets contribute positively to an area's sense of place and character.</li> </ul>
Attractive streetscapes	<ul style="list-style-type: none"> <li>Streets are clean and attractive.</li> <li>Significant heritage elements are not unreasonably obscured.</li> </ul>
Leisure opportunities	<ul style="list-style-type: none"> <li>Footpath trading activities support social interaction, alfresco dining and drinking as enjoyable leisure activities in a managed way.</li> </ul>

## 9.1 Variations

In cases where an application does not meet all the Guidelines and minor variations can be considered, the Authorised Officer will refer the application to the Coordinator City Permits who provides a recommendation.

In some cases where an application seeks significant or complex variations to the Guidelines, a recommendation is provided to a City Permits Panel for a recommendation. The Panel is comprised of three senior Council Officers.

Council reserves the right to vary or amend permit conditions as appropriate.

## 9.2 Review of decisions

If an applicant is dissatisfied with an Authorised Officer's decision, they may request a review within 28 days, including all information to be taken into consideration.

A City Permits Panel will consider decisions using the Footpath Trading Guidelines and City of Port Phillip's Community Amenity Local Law (2023) and any subsequent Local Laws adopted by Council.

The City Permits Panel provides a recommendation to the Authorised Officer to be relayed to the applicant.

## 9.3 Review of infringements

Where an appeal is made against an infringement issued, Council's Infringement Review Panel will review decisions of authorised officers that have been made under the provisions of Council's Community Amenity Local Law 2023, including the Footpath Trading Guidelines.



# 10. Permit-holder responsibilities

The permit-holder must:

## Daily management

- operate in accordance with the permit, its conditions and endorsed plan(s).
- monitor use of the area, ensuring patrons consuming food and drinks are seated and manage any behaviour that impacts with the use, enjoyment and comfort of others, including footpath users and nearby residents.
- ensure adjoining areas are not obstructed.
- keep furniture and surrounding areas clean, with litter deposited in bins kept inside the premises. Litter must not be swept into the street gutter or adjacent footpath areas.
- ensure planters are watered and maintained.
- ensure all non-fixed items are removed at the end of trading hours. If a business operates internally when the outdoor permitted hours have ceased, footpath items must be stacked within the footpath trading area until the close of business.
- comply with all relevant Acts and Regulations.

## Safety and accessibility

- ensure patrons do not impact the flow of footpath users, bicycles or vehicles.
- ensure footpath trading in proximity to an intersection does not obscure a driver's line of vision, or traffic signs.
- maintain all permitted clearances and traffic lanes, public and other street infrastructure.
- ensure the footpath trading area remains clean and safe.

## Community amenity

- comply with the permitted use, hours and conditions of the Footpath Trading Permit, and comply with all other relevant Acts and Regulations.
- prevent adverse impacts on the amenity of the area from the emission of noise, smell or appearance.
- comply with Environment Protection Authority (EPA) requirements in respect of noise, and ensuring that no external address system, outdoor speakers or sound amplification equipment is used, without the written consent of the Council.
- ensure the prompt removal of graffiti and rectification of any damage.
- not place commercial waste in public litter bins.

## Queuing and waiting

- ensure queuing arrangements maintain accessible footpaths and queues contained internally of the premises where possible.

# 11. Council responsibilities

## Maintenance of the footpath

Council manages and maintains the public land and reserves the right to reclaim access to the footpath and remove all items at any time.

## Compensation and loss of trade

No compensation is provided for any inconvenience or loss of trade resulting from activities or works carried out by the Council, its contractors or service authorities.

## Access to underground services

Council and other service authorities may access underground services within the footpath trading area at any time, without notice to the permit-holder.

## Monitor compliance with approved permit

Council’s Authorised Officers monitor footpath trading areas to ensure compliance with permit conditions. If a breach is observed the permit-holder would be contacted.

Where the Authorised Officer considers there to be public safety risk, this would be considered to be a serious breach and may require immediate action.

Where the Authorised Officer considers there to be an amenity/nuisance concern, this would be considered to be a breach and may also require immediate action.

Actions may include the issuing of a Notice to Comply, fines, amendment or cancellation of the permit and/or the impounding of footpath items.

Depending on seriousness of the breaches, further action may be taken in accordance with the Community Amenity Local Law 2023.

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## Relevant policy, regulations or legislation

City of Port Phillip Community Amenity Local Law 2023 or updated versions.

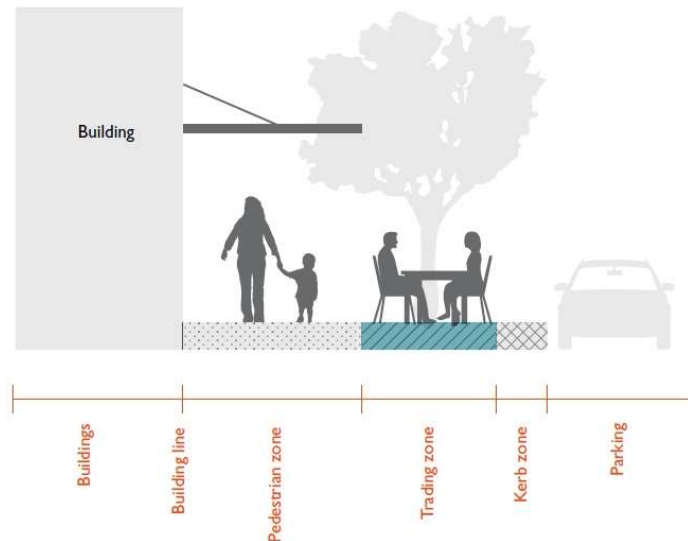
Outdoor Trading (Dining) Policy.

# 12. The footpath

## 12.1 Footpath zones

The footpath of being made up of three zones. Pedestrian zone, trading zone and kerb zone

Diagram 1 - Footpath zones



## 12.2 Pedestrian zone

The pedestrian zone is the area between the building line and the footpath trading zone, to provide an accessible path for all, including those with mobility aids and prams. The minimum width of a pedestrian zone can vary, depending on the width of the footpath and a precinct's levels of pedestrian traffic.

Table 2 - Minimum pedestrian clearances for commercial precincts

Precinct	Minimum pedestrian zone width
Carlisle Street, East St Kilda Glenhuntly Road, Elwood Glen Eira Road, Ripponlea Ormond Road, Elwood	1.5m
Acland Street, St Kilda Armstrong Street, Middle Park Bay Street, Port Melbourne Bridport Street, Albert Park Clarendon Street, South Melbourne Victoria Avenue, Albert Park	2.5m
Fitzroy Street, St Kilda	3.0m

Table 3 - Minimum pedestrian clearance outside of commercial precincts

Footpath width	Minimum pedestrian zone width
2.49m or less	Prohibited
2.5m - 3.0m	1.5m
3.1m – 4.0m	1.8m
4.1m – 5.0m	2.3m
5.1m – 6.9m	2.5m
7.0 or greater	3.5m

### 12.3 Trading zone

The trading zone is the area left between the pedestrian and kerb zones and any other clearances.

A minimum 1m gap is required between neighbouring trading zones, generally setback by 0.5m from adjacent trading zones to provide footpath user access to road areas.

When a trading zone is more than 12m in length, a minimum 1.5m wide gap must be provided.

### 12.4 Kerb zone

The kerb zone is the area between the road and footpath trading zone. On-street parking adjacent to a kerb helps protect footpath patrons from moving vehicles.

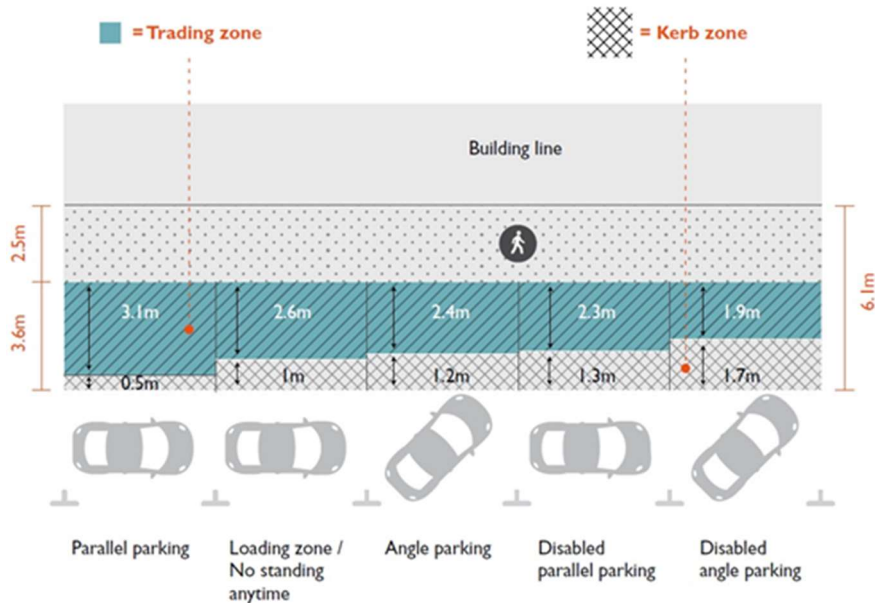
Council reserves the right to vary the setback of a kerb zone, depending upon matters including, likely levels of footpath user traffic, adjacent parking restrictions and if a business parklet has been permitted within an adjacent parking bay.

Table 4 - The minimum distance between the face of the kerb and the trading zone

Scenario	Minimum setback from kerb	Variations
*Angle parking	1.2m	Ormond Road – 0.7m Blessington Street - 0.7m
*Bike lane	0.6m	
Disabled parking:		
Parallel	1.3m	
Angle	1.7m	
Loading zones	1.0m	
*No standing	1.0m	A trading zone within 10m of a signalised or un-signalised intersection must be supported by Council’s Traffic Engineer.
Parallel parking	0.5m	
Taxi zones	1.5m	

\*Fixed screens, removable barriers or weighted planters may be required for patron and footpath user safety.

Diagram 2 – Example kerb zones with 6.1 metres wide footpath



## 12.5 Clearances within trading zones

### Intersections – line of sight

To ensure adequate sight lines for road users, trading within 10m:

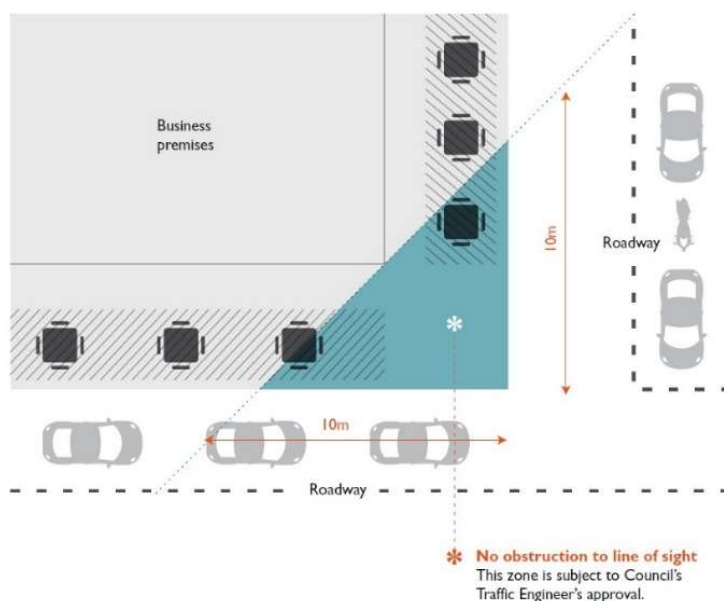
- **Un-signalised intersections**

No obscuring of the road users' line of sight by structures within the trading zone. Low height structures may be acceptable.

- **Signalised intersections**

No obscuring of the road users' line of sight by structures within the trading zone.

Diagram 3 – Intersections – line of sight



**Clearance from existing public infrastructure**

*Table 5 – Clearances from existing street infrastructure*

Public Infrastructure	Minimum clearances required
Tram power pole	0.3m
Street tree pit edge Naturestrip and garden bed Electricity box	0.5m
Australia Post box Bicycle stand (from outer edges of stand) Fire hydrant Litter bin Payphone Parking meter Public seat Footpath user-operated light Vehicle crossing	1.0m

*Diagram 4 – Example clearances from public infrastructure*

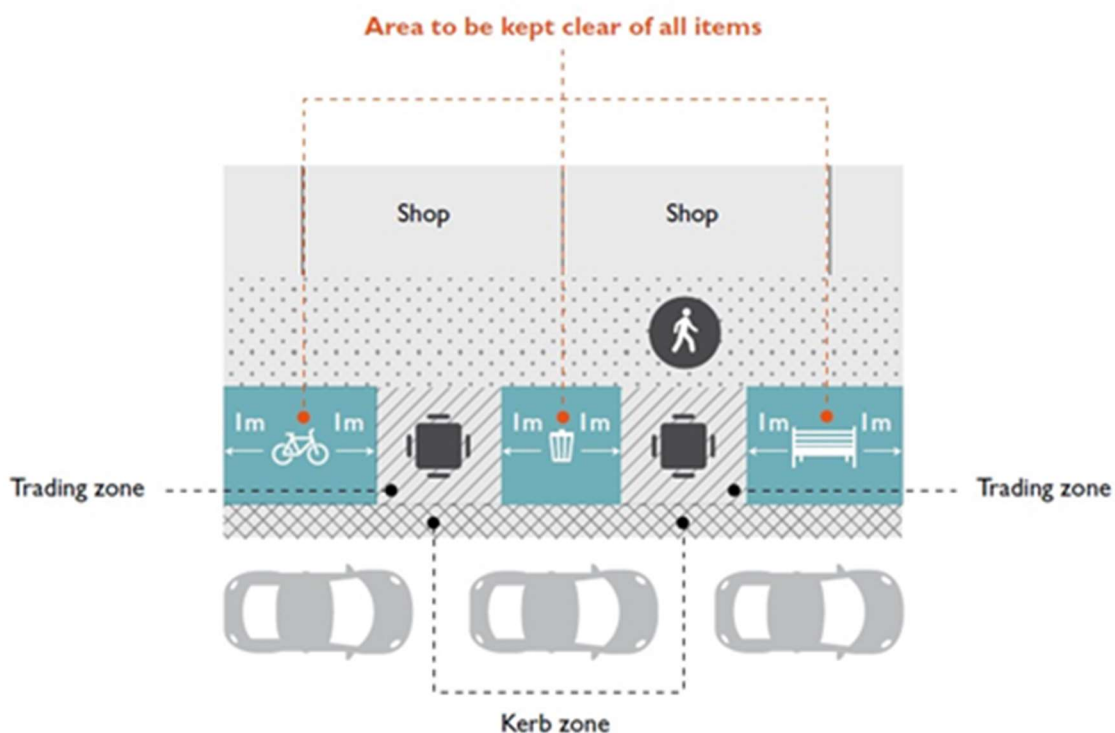


Table 6 – Clearances from existing public transport infrastructure

Public transport infrastructure	Minimum clearances required
<b>Tram stops</b>	A minimum 1.5m clearance must be kept from the departure side of a tram stop sign and 10m from the approach side, to ensure that direct access from the pedestrian zone
<b>Bus zones</b>	A minimum 1.5m clearance must be kept from the departure side of a bus stop sign to ensure adequate access for bus users.  For the access and safety of bus users, outdoor seating is prohibited where a bus zone is 20m or less. Outdoor seating will be considered near bus zones over 20m.
<b>Taxi zones</b>	A minimum 1.5m clearance must be kept to either side of taxi zone signage to ensure adequate access for users and to maintain visibility for taxi drivers.

## 12.6 Smokers' area

A permit is required for a smokers' area and may be allowed within a trading zone. Its use must comply with the *Tobacco Act 1987*. The capacity of a smokers' area is 1 person per 0.75m<sup>2</sup>.

The permit-holder must ensure:

- patrons who are smoking or vaping stand inside the smokers' area
- the smokers' area is delineated from other areas by barriers, rope or bollards
- no beverages or food must be consumed within the smokers' area
- windproof ashtrays are provided

## 12.7 Queuing and waiting

### Unlicensed venues

A business with queuing and waiting patrons including those with servery windows can result in an obstructed pedestrian zone. Patrons that cannot be contained inside a venue must ensure the safe management of the pedestrian zone and outdoor dining furniture may be limited.

### Licensed venues

A permit is required for a queuing and waiting area on the footpath at a licenced venue. The permit-holder must ensure the safe management of patrons queuing. The Victorian Liquor Commission's Design Guidelines for Licensed Venues requires queues to be contained within the venue where practical.

If the venue is in a precinct or streetscape where Council supports the containment of queuing along the building line:

- an appropriate level of staffing must be provided to manage the queue,
- queuing areas must not impede the continuous accessible path of travel for all persons past the premises,

- queuing areas must be delineated from any smokers' areas,
- bollards/queue barriers/guides must not extend in front of the adjacent premise(s), unless the written consent of the owner, body corporate and/or occupier of the adjacent premise(s) has been obtained,
- a Queue Management Plan must be provided and include:
  - a dimensioned plan of the area detailing queuing arrangements, and
  - a Venue Management Plan detailing how queuing patrons are managed, including advising queuing patrons of wait times, the placement of bollards/queue barriers and guides, ensuring there is room for footpath users to pass and any other relevant matter.

## 12.8 Relocating public assets and streetscape works

### Public assets

Council can consider requests to relocate public seats; litter bins or bicycle hoops, that increase outdoor dining. Relocated items should be proposed to be relocated within 10m of the existing location and result in an equal, or better outcome for the community.

For proposed relocations in-front of another property, the applicant must obtain the written consent from that owner, to submit with their request.

All costs for relocations including any reinstatement to Council assets, are payable by the applicant.

### Streetscape works

Council replaces and upgrades footpaths across the City on an on-going basis. An applicant can request an upgrade of a footpath to improve footpath trading opportunities. These are considered on a case-by-case basis, taking into account the benefits of the proposed works for the community.

## 12.9 Occupying footpath of an adjacent property

The annual, written consent of the owner, body corporate and/or tenant of the adjacent property is required. If the ownership of the neighbouring property or business changes, a new consent must be obtained.

Applications to occupy adjacent footpaths require dimensioned plans, signing of the indemnity form and a copy of certificate of currency each noting both premises.

If the use of the footpath is not adjacent to a business, Council may take into consideration the benefits to the business, streetscape and greater community.

Consent from the adjacent owner, body corporate and/or occupier may be withdrawn at any time. Depending on the circumstances, if consent is withdrawn during the permit period, the permit holder may be permitted to trade in front of the adjacent premises until the permit expiry date.

## 12.10 Toilets

Outdoor dining increases patron capacity. Each venue must have toilet facilities for customers and staff required by the Building Regulations. View Volume 1 of the [National Construction Code | NCC \(abcb.gov.au\)](https://www.ncc.gov.au) Restaurants/Cafes are considered 'Class 6'.



## 12.11 Delineation markers

Delineation markers are installed to footpaths between the pedestrian zone and kerb zone. These assist permit holders to set-up furniture correctly and acts as a visual aid. Delineation markers may not be required if screens and sockets are installed that indicate the trading zone. When Council installs delineation markers, there is a one-off cost to the permit-holder.

# 13. Footpath dining

## 13.1 Patron numbers

The number of patrons that can be accommodated in an outdoor dining area will be determined by:

- any relevant planning permit or liquor licence,
- the number of toilets available,
- the size of the footpath trading area,
- whether additional seating would have a significant impact on parking,
- the size of the proposed furniture and any additional items,
- the ability to store all removable furniture inside of the premises outside of opening hours,
- A minimum of 4m<sup>2</sup> is required for one table and four chairs, with a clearance of 0.5m between adjoining settings for unobstructed access for patrons and staff to safely move around. Examples:
  - A two-person table requires a minimum of 2m<sup>2</sup>, unless a narrow footpath,
  - A three--person table requires a minimum of 3m<sup>2</sup>,
  - A four-person table requires a minimum of 4m<sup>2</sup>,

## 13.2 Tables and chairs

A table should be no higher than 0.8m and a chair or seat no higher than 0.5m.

Higher, bar-style furniture is not encouraged as gathering patrons can obstruct the pedestrian zone. It can also limit access to wheelchairs and mobility aids.

Different heights of tables and chairs may be requested. Refer to section 9.1 Variations.

Tables and chairs:

- must be sturdy for outdoor use and to able to withstand wind gusts,
- must be easily removable, stackable for storage outside of opening hours,
- must be easy to clean,
- may include bench style seating,
- must not include advertising,
- are not permitted on permeable surfaces, like grass, naturestrip or a tree pit,
- may be restricted opposite a servery window to accommodate queuing and/or waiting.

### 13.3 Furniture storage

Adequate storage for all removable items must be provided inside the premises.

If the business operates beyond the hours of the outdoor dining area, furniture must be stacked and rendered un-usable until it can be stored inside.

Care must be taken when removing and storing furniture at the end of each day, to avoid causing unreasonable noise and disturbance to nearby residents.

### 13.4 Removable screens

A permit is required for removable screens. Screens help contain furniture within the approved trading zone and should preserve the general appearance and openness of the streetscape. Removable screens will be assessed according to available space, footpath user traffic, streetscape, amenity and traffic conditions.

Removable screens:

- must not exceed 0.9m in height
- must be securely installed using in-ground sockets. Refer to Section 13.9.
- must be lightweight to ensure that they can be removed outside operating hours
- must not be attached to other structures. i.e. drop-down blinds, awnings, menu boards.
- must be easily removable for storage outside of opening hours
- may vary in design but must complement the streetscape
- may only be permitted between the kerb zone and trading zone elevation in narrow streets

If the business operates past the hours approved on the permit, the applicant must show the Council where and how the items will be stored and moved between the end of footpath trading and the close of business.

You may feature the name of your business or relevant product/s name on removable screens. The business/company logo can be displayed on every second barrier and on each ends.

### 13.5 Glass screens

A permit is required for glass screens which help businesses to use their footpath trading zone in windy conditions. They also help protect the openness of streetscapes and views of heritage building facades. Glass screens are assessed according to available space, footpath user traffic, streetscape, amenity and traffic conditions.

Glass screens may be considered if:

- the footpath is 4m wide or greater, and
- the pedestrian zone is 2m wide or greater.

Glass screens must:

- be no higher than 1.5m,
- maintain a gap of 0.10m between the base of the panels to the footpath,
- not be attached to other structures. i.e. drop-down blinds, awnings,

- be transparent, clean and maintained,
- respond to the design specification on Council’s website. Refer to Council’s Standard Drawing – Glass Screens.

Glass screens may include the business/company logo on every second panel. The maximum size of a logo is 0.075m<sup>2</sup> (15cm height x 50cm width).

A Working Within Road Reserves consent must be obtained prior to installation. Refer to Council’s website.

### 13.6 Transparent drop-down blinds

Transparent drop-down blinds were prohibited by the Council on 2 August 2017.

### 13.7 Retractable awnings

A permit is required for a retractable awning attached to a building. A Planning Permit and/or Building Permit may also be required. Advice can be obtained from Council’s Planning or Building departments.

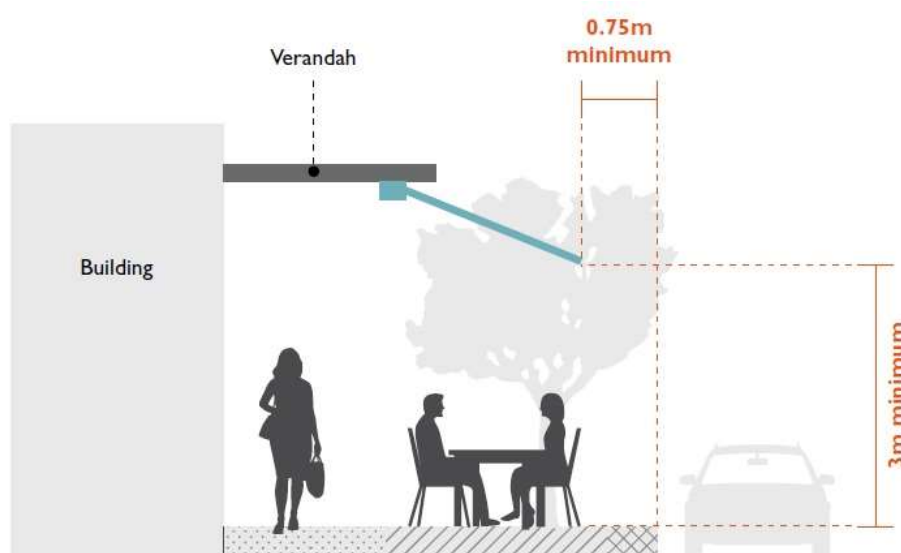
A retractable awning must comply with the requirements of the Building Regulations for projections beyond the street alignment.

#### Verandahs - Building Regulation 103

A verandah must not project beyond the street alignment:

- unless it is set back not less than 0.75m from the kerb; and
- at a height less than 3m above the level of the footpath.

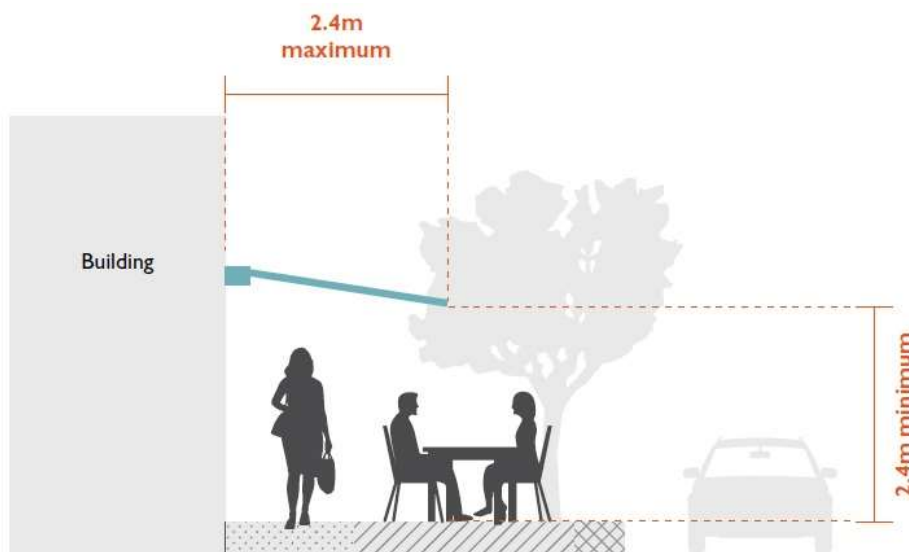
Diagram 5 – Retractable awning attached to a verandah



#### Sun blinds and awnings - Building Regulation 104

A sunblind or awning must not project beyond the street alignment more than 2.4m horizontally and be not less than 2.4m above the footpath.

Diagram 6 – Retractable awning attached to a building



Sunblinds and retractable awnings:

- proposed to significant heritage buildings, a Planning Permit may not be supported. Contact Council's Statutory Planning department for advice.
- attached to a building or verandah - require a Building Permit.
- must not be attached to any types of screens or item on the footpath.
- must not include advertising.
- must be retracted when the outdoor area is not operating.

Sunblinds and retractable awnings that do not comply with Building Regulations detailed above require the Report and Consent of Council. Information can be obtained from Council's Building department.

## 13.8 Umbrellas

A permit is required for umbrellas. Umbrellas help support the use of outdoor dining areas during inclement weather. Umbrellas will be assessed according to available space, footpath user traffic, streetscape, amenity and traffic conditions.

Umbrellas:

- may protrude into the pedestrian zone, at a minimum height of 2.2m above the footpath,
- must not obstruct traffic signals,
- must not protrude into the kerb zone,
- must be securely installed using in-ground sockets. Refer to Section 13.9.

You may feature the name of your business or relevant product/s name.

## 13.9 In-ground sockets

In-ground sockets must be installed for use with umbrellas and removable screens.

In-ground sockets must:

- be cast aluminium or stainless steel
- have a lid to prevent tripping when not in use
- include a pin to lock umbrellas to the socket
- be installed into concrete, to ensure the sockets remain intact during footpath maintenance works. If the footpath is also concrete, this must be a saw-cut joint
- be installed, used and maintained in accordance with manufacturer's specifications.

After Footpath Trading approval is obtained, a Working Within Road Reserve consent is required before installation. Refer to Council's website. The installer must also request and check for underground services using Dial Before You Dig.

### **13.10 Outdoor gas heaters – freestanding patio heaters**

Outdoor gas heaters help support the use of outdoor dining areas. These must be stable, properly managed and maintained.

Outdoor gas heaters must:

- be operated in accordance with the manufacturer's instructions, including required clearances from combustibles, maintenance and performance of safety checks
- comply with Australian standards and regulations

#### **Outdoor gas heater management:**

- the business must assign the role of a gas supervisor to monitor the safe use and storage of gas heaters and cylinders
- the gas supervisor should be familiar with the manufacturer's instructions, clearances requirements, safety checks and how to safely store and handle cylinders
- all staff should be trained in operating gas heaters and safety procedures.

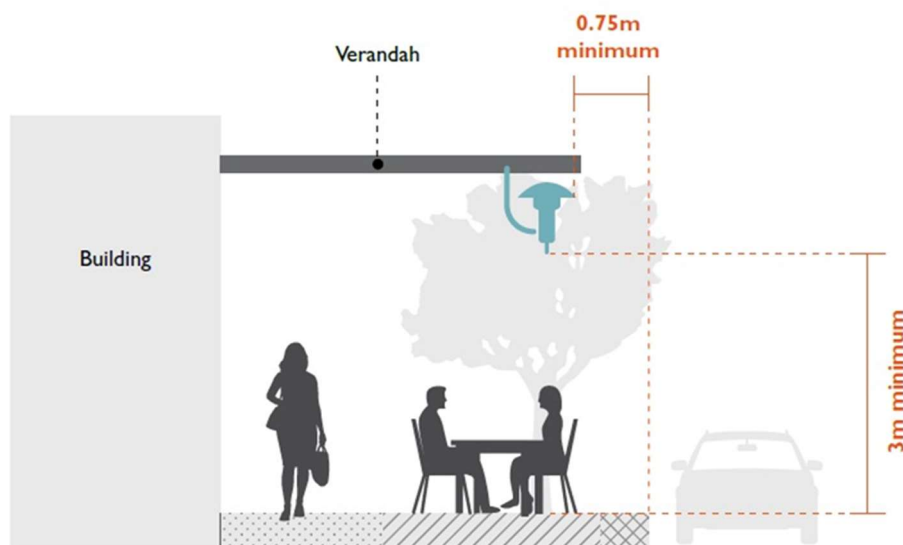
### **13.11 Outdoor fixed heaters**

A permit is required for fixed heaters. These help support the use of outdoor dining areas and can be mounted to existing structures. The assessment of fixed heaters will include streetscape, heritage and safety.

Outdoor fixed heaters must:

- be installed in accordance with the manufacturer's specifications
- comply with the requirements of the Building Regulations for projections beyond the street alignment as detailed above.

Diagram 7 – Heaters attached to a verandah



Fixed heaters that do not comply with Building Regulations detailed above require the Report and Consent of Council. Further information can be obtained from Council’s Building Department.

### 13.12 Windproof ashtrays

Where smoking is permitted under the *Tobacco Act 1987*, windproof ashtrays must be provided. The permit-holder must remove and dispose of cigarette litter using their own bins. Cigarette litter must not be swept into the gutter, street or other areas.

### 13.13 Consumption of liquor

A Planning Permit and a Liquor Licence are required to sell or consume liquor on the footpath (in the Trading Zone) and the footpath becomes part of the licensed area of the premises.

Liquor must not be sold, served or consumed in an approved footpath trading area unless approved by a Planning Permit and the Victorian Liquor Commission.

The granting of a Footpath Trading Permit does not remove the right for Council to refuse a Planning Permit application or lodge an objection to a Liquor Licence application (pursuant to Section 40 of the Liquor Control Reform Act 1998), if it considers the proposal would be detrimental to the amenity of the area. For more information about liquor licensing, contact The Victorian Liquor Commission.

## 13.14 Outdoor speakers

Approval is required to use outdoor speakers. Background music can contribute to ambience and vibrancy to a footpath trading area. This must be carefully balanced to ensure amenity is not unreasonably compromised, particularly noise levels that can impact residents, noise-sensitive persons, or nocturnal wildlife.

Authorised Officers will consider all relevant matters including:

- any planning permit, building permit and/or liquor licence restrictions that may prohibit, or limit the use of outdoor speakers,
- the venue location, with outdoor speakers not supported in residential zones, as defined by the Planning Scheme,
- the proposed location and type of outdoor speakers. Wireless speakers may be preferable as anything affixed to building structures including awnings may require a planning or building consent,
- any power supply must be at a minimum height of 2.2m above the footpath and suitable for outdoor use,
- the ability of the permit-holder to comply with Environmental Protection Act (EPA) requirements relating to outdoor speaker noise,
- the proposed hours of operation.

Outdoor speakers must:

- provide ambient, background level music, to the approved outdoor dining area and must not unreasonably impact other persons or businesses,
- have volumes regularly checked by the permit-holder, to ensure ambient, background music levels,
- be suitable for outdoor use and used in accordance with the manufacturer's specifications,
- be installed by a qualified Electrician (if fixed speakers have been permitted), in accordance with Energy Safe Victoria Standards,
- not to be attached to any trees or other public assets,
- be used only during the hours detailed on the permit. If no hours are stipulated, operating hours are from 9am until 9pm daily.

Authorised Officers will monitor the use of outdoor speakers to ensure these are operating within suitable noise levels. If amenity impacts cannot be reasonably managed or permit conditions complied with, Council reserves the right to revoke approval for outdoor speakers.

## 13.15 Fairy lights

Fairy lights can enhance ambience to a footpath trading area when added to furniture including screens, planters or umbrellas. Battery powered; solar lights ensure these can be easily detached when outdoor dining furniture is required to be removed from the footpath.

The use of fairy lights must ensure amenity is not unreasonably compromised, particularly colour and brightness levels that could impact road users light-sensitive persons, or nocturnal wildlife.

Fairy lights must:

- be suitable for outdoor use,
- be coloured warm white and remain static, (no fade, flash, chase or other),
- provide low-level, ambient lighting only,
- be adequately secured, to remain stationary in windy weather conditions,
- not be attached to any surrounding public infrastructure, including street trees,
- be used and maintained in accordance with the manufacturers instructions,
- be easily removable.

## 14. Advertising boards

A permit is required for advertising signs/a-boards that give businesses the opportunity to advertise their goods and services on the footpath. One advertising board can be permitted per premise and must not create a safety hazard, visual clutter or detract from the streetscape.

Assessment includes available space, streetscape, footpath user activity, amenity and traffic conditions.

Narrow footpaths and laneways may not be able to safely accommodate an advertising board and alternative ways of advertising should be explored.

Advertising boards must:

- be displayed outside the premises to which it relates, during opening hours,
- be a maximum of 1.2m high and 0.7m wide,
- be displayed adjacent to the kerb zone and not placed against in the pedestrian zone,
- not be affixed to the footpath, public asset or structure,
- be sufficiently weighted to withstand wind. This can be a water or sand filled base, or weighted discs or sandbags on each leg.



## 15. Display of goods

A permit is required for display of goods that gives businesses the opportunity to showcase items. Assessment includes the available space, streetscape, footpath user activity, amenity, traffic conditions. Items displayed could detract from the desired look and feel of a precinct. An Authorised Officer may limit or specify the items that can be displayed.

A display of goods must:

- be used to display visually appealing items and not detract from the streetscape,
- be secured and displayed in an appropriate rack with lockable wheels,
- be sufficiently weighted to withstand wind gusts,
- allow for transactions of sale to occur inside the premises,
- not exceed a height of 1.5m above the footpath,
- include a viewing area within the trading zone, a minimum of 0.4m wide,
- not include advertising,
- not be affixed to the footpath, public asset or structure, or cause damage to public assets.

Table 7 – Examples of items for display goods

	Examples
May be displayed	Fruit, vegetables, plants, flowers, clothing, shoes, greeting cards, wrapping paper, newspapers, magazines
Not supported	Buckets, brooms, mops, storage containers, pool noodles, white goods

## 16. Planter boxes

A permit is required for planter boxes and are encouraged to improve the look of outdoor trading area and the streetscape. Planter boxes can remain on the footpath for the duration of the permit.

Planter boxes must:

- be placed outside the premises to which they relate, as indicated on the permit,
- be visually appealing, with plants maintained throughout the year,
- not exceed a height of 0.9m above the footpath, including vegetation, with a 0.1m gap between the underside of the planter box and the ground,
- not be affixed to the footpath, public asset, or structure,
- not cause unreasonable damage to the footpath surface,
- not include advertising.

## 17. Temporary outdoor cooking stations

Cooking on the footpath can enhance street-life, showcasing a food business's products. To support existing food businesses, the opportunity to provide a temporary outdoor cooking station is for fixed businesses with an available footpath trading zone.

A cap on the number of temporary outdoor cooking stations that can be accommodated in each precinct may be considered by Authorised Officers, to support the desired economic mix.

To safely accommodate an outdoor cooking station and its activities, the number of outdoor dining patrons that can also be accommodated in the footpath trading zone may be reduced on a permit.

The following standards must be met to ensure the safety of all members of the community.

### Safety and Accessibility

A temporary outdoor cooking station must:

- be contained within an approved footpath trading zone, including queuing, waiting and serving customers, to ensure unobstructed pedestrian and kerb zones and all other clearances,
- provide direct access from the pedestrian zone and not via a roadway,
- be maintained during daily use to remain inviting, clean and safe,
- not cause a distraction to drivers,
- promote orderly patron behaviour.

### Community Amenity

- Must ensure the amenity of the area surrounding is protected and enhanced, the following standards must be met.
- Must not unreasonably impact upon residential amenity, by complying with the Environment Protection Authority requirements, particularly with respect to noise, fumes or odours.
- Must avoid obstructing signage or the desired design outcomes of a precinct.

### Hygiene and Cleanliness

Council and business operators have a responsibility to keep the public realm clean and must work together to ensure this is achieved. Council's street cleaning services generally operates in the early morning hours to ensure minimum disruption to local businesses.

Temporary outdoor cooking stations undergo regular inspections by Environmental Health Officers, to assess ongoing compliance with the Food Act and National Food Safety Standards.

A temporary outdoor cooking station must:

- be kept clean and free of litter,
- include a litter bin to service the needs of patrons,
- ensure preparation, handling and serving of food and drinks is conducted in accordance with the requirements of the Food Act 1984 and Council's Health Services Unit.

Council may require an Asset Protection Permit and refundable bond, for the duration of an approved temporary outdoor cooking station to cover the costs of any cleaning or damage to public assets. The bond amount is determined on a case-by-case basis and returned subject to satisfactory inspection by the Asset Inspection Officer.

### **Sites and locations**

To ensure appropriate locations, a temporary outdoor cooking station:

- must not be located within an area zoned as Residential, (R1Z) by the Planning Scheme,
- will not be considered where gas bottle storage requirements cannot comply with Energy Safe Victoria (ESV),
- will not be considered when the footpath width from the property boundary to the kerb is less than 6m,
- must not be located within 10m of any intersection,
- must not be adjacent to a loading zone or disabled parking bay,
- must not be within 3m of an existing pedestrian/pram crossing,
- must be located on the kerbside, in-front of the business to which it relates,
- the cooking structure must not exceed 5.76m<sup>2</sup> (2.4m x 2.4m),
- must be set back a minimum of 1m from any adjoining footpath trading zone,
- must provide for an unobstructed pedestrian zone with a minimum 1m wide queuing area.

### **Daily Management**

The permit holder must:

- monitor the surrounding area to promote orderly patron behaviour,
- ensure the cleanliness of the surrounding area,
- ensure unobstructed access to surrounding areas for all.

## 18. South Melbourne Market precinct standards

The South Melbourne Market Precinct is the area delineated by the kerb edges of Cecil Street, Coventry Street, York Street, and the light rail. The Market is Melbourne's oldest continuing market and trading days see high volumes of footpath user traffic.

These Precinct Standards aim to support current and future activities, recognising the Market as a unique destination where footpath uses must be carefully balanced to achieve a vibrant and prosperous Market with safety and accessibility for all.

Unless stated below, all other Footpath Trading Guidelines and standards apply.

### Pedestrian Zone

Outside the building there must be unobstructed footpath user access along the footpath immediately adjacent to the front of the building line. No items of furniture, including waiters' tables, planter boxes, advertising signs or furniture must be placed in the pedestrian zone.

Table 8 – South Melbourne Market minimum pedestrian zone widths

Location	Typical footpath width	Minimum pedestrian zone width
Cecil Street	8.6m	2.4m
Coventry Street	6.2m	2.5m
York Street	4.2m	2.3m

### Trading zone

Outdoor dining and other permitted uses must be contained to an approved trading zone. No 'point-of-sale' trading is allowed within a trading zone, except where fixed outdoor cooking stations have been permitted and for 'end of day' sales of perishable goods that support social equity.

### Fixed outdoor cooking stations

Fixed outdoor cooking stations are a feature of the Cecil Street elevation of the Market and take into account all relevant matters including building, gas, electrical safety and health requirements, as well as the ability of each operator to manage their patron activities including queuing, waiting and the serving of customers, while retaining an accessible footpath for all.

Fixed outdoor cooking stations must be setback within the trading zone a minimum of 2m from the pedestrian zone.

To safely accommodate an outdoor cooking station, the number of patrons that can be accommodated in the footpath trading zone may be reduced on a permit.

The following standards must be met to ensure the safety of all members of the community.

### Safety and Accessibility

A fixed outdoor cooking station must:

- be setback within the trading zone a minimum of 2m from the pedestrian zone.

- including a designated area for queuing, waiting and serving customers, to ensure unobstructed pedestrian and kerb zones and all other clearances
- promote orderly patron behaviour
- provide direct access from the pedestrian zone and not via a roadway
- not cause a distraction to driver's

### Community Amenity

A fixed outdoor cooking station must:

- ensure the amenity of the area surrounding is protected and enhanced,
- not unreasonably impact upon residential amenity, by complying with the Environment Protection Authority requirements, particularly with respect to noise, fumes or odours.
- avoid obstructing signage or the desired design outcomes of the precinct.

### Hygiene and Cleanliness

Council and business operators have a responsibility to keep the public realm clean and must work together to ensure this is achieved. Council's street cleaning services generally operates in the early morning hours to ensure minimum disruption to local businesses.

Fixed outdoor cooking stations are subject to regular inspections by Environmental Health Officers, to assess ongoing compliance with the Food Act and National Food Safety Standards.

A fixed outdoor cooking station must:

- be kept clean and free of litter
- include a litter bin to service the needs of patrons
- ensure preparation, handling and serving of food and drinks is conducted in accordance with the requirements of the Food Act 1984 and Council's Health Services Unit.

### Daily Management

The permit holder must:

- monitor the surrounding area to promote orderly patron behaviour
- ensure the cleanliness of the surrounding area.
- ensure unobstructed access to surrounding areas for all

### **Displays of goods**

Displays of goods can extend to the 'yellow line' along the building. Any displays of goods beyond this line are subject to the Footpath Trading Guidelines and must include areas for customers to view and manage an accessible footpath for all.

## Queuing

Business operators and Market Management must ensure the safe queuing for patrons and an accessible footpath for all. Queues should first be contained within the venue, Food Hall or any ancillary trading zone, with footpath areas providing a secondary area for queue over-spill during peak times.

Where Council has approved queuing along the building line, the following arrangements apply:

- Queuing must:
  - not impede an accessible path for footpath users
  - not extend past the venue unless the written consent of the affected tenant and Market Management has been obtained
  - be clearly delineated by barriers.
  
- A Queue Management Plan must be provided, including:
  - a dimensioned layout plan
  - details of staff/security responsibilities for managing queues
  - how patrons are managed such as signage advising of wait times, placement of queue barriers and any other relevant matters.

## Outdoor speakers

Outdoor speakers at the South Melbourne Market are used for announcements and background music. Amplified noise from outdoor speakers must not cause nuisance or unreasonably impact the amenity of nearby residents.

## Partnership with Market Management

Council manages stall holder's footpath activities using the Footpath Trading Guidelines, in partnership with the South Melbourne Market Management, to manage trader's requests and compliance through their on-site presence on Market days.

Authorised Officers meet with Market Management periodically to review current and future footpath activities.

## 19. Footpath trading standard conditions

The permit-holder must operate in accordance with the Local Law, and Council's Footpath Trading Guidelines.

1. The layout and use of the footpath must always accord with the endorsed plan.
2. Council reserves the right to revoke the footpath trading permit should there be a breach of the Local Law or Council's Footpath Trading Guidelines or the permit. Any action taken by Council will be in accordance with the Community Amenity Local Law 2023.
3. The permit holder must take all reasonable steps to ensure that the use of the footpath for the purposes of footpath trading has a limited impact on the residential amenity and neighbourhood.
4. All clearances must be maintained including pedestrian zones, kerb zones and clearances from public infrastructure.
5. All non-fixed items must be removed from the footpath/land in accordance with the hours of operation on this permit. If the hours are not stipulated on the permit, all non-fixed items must be removed by 11pm each day.
6. Council reserves the right to reclaim access to the land at any time for maintenance purposes. Should any fittings fixed to the footpath need to be removed temporarily due to the nature of the maintenance, Council will reinstate them accordingly and to the best of its abilities. Costs associated with the removal and reinstatement will be at the expense of the permit holder.
7. Council and service authorities reserve the right to access all underground services within the footpath trading area at any time, without notice to the permit holder.
8. No compensation will be 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.

### Venue Management

9. Patrons must be seated within a footpath trading area and must not exceed the maximum patron numbers specified.
10. Liquor must not be sold, consumed or served within the footpath trading area unless covered by a current valid liquor licence.
11. Queueing must operate in accordance with any Queue Management Plan and approved layout plan.

### Waste management

12. Litter including cigarette waste, must not be swept into the street, gutter or adjacent areas and must be deposited within the operator's own waste bins.
13. Where smoking is allowed under the Tobacco Act 1987, windproof ashtrays must be provided.
14. When vacated, tables must be cleared of all empty bottles, glass, items and other waste.

### Noise

15. No form of external public address system, outdoor speakers, or sound amplification equipment must be used outside the premises, without the written consent of Council.

16. The use of the footpath trading area must not, through the emission of noise, be a nuisance or detrimentally affect the amenity of the area.

### **Risk management**

17. \$20 million Public liability insurance must remain current and valid for the life of the permit and a copy submitted to Council each year.
18. The permit-holder indemnifies and releases the City of Port Phillip from all liability arising from the use of the footpath trading area, including any claims made by any person for injury, loss or damage arising in any matter.
19. Council must be promptly notified of any damage to Council's assets, and any conditions that creates a safety hazard.
20. The footpath/land is occupied and used by the permit-holder at their own risk.

### **Tables and chairs**

21. A table must be no higher than 0.8m and the seat of a chair no higher than 0.5m unless specified on the permit.
22. Tables and chairs must be sturdy and able to withstand wind gusts.
23. Tables and chairs must be stackable and easily removed and stored inside the business, unless specified on the permit.
24. No furniture is permitted on grassed areas or naturestrips.
25. No form of advertising is permitted on tables and chairs.

### **Heaters**

26. Free standing gas heaters must comply with Australian Standard AS 1596.
27. Free standing gas heaters must be stable and maintained in accordance with the manufacturer's specifications.
28. Fixed heaters must have a valid Building Permit.

### **Removable screens**

29. Removable screens must be securely fixed with an in-ground socket into the footpath in accordance with Council's requirements.
30. Removable screens must be no higher than 0.9m.

### **Umbrellas**

31. Umbrellas must be securely fixed with an in-ground socket into the footpath in accordance with Council's requirements.
32. Umbrellas must maintain a minimum distance of 2.2m between the underside of the umbrella and the footpath.
33. Umbrellas must not protrude into the kerb zone.
34. Umbrellas must not be attached to any street furniture, pole, or other structure.



### **Advertising boards**

- 35. An advertising board must be a maximum 1.2m high and 0.7m wide.
- 36. An advertising board must not be placed outside of the trading zone.
- 37. Advertising boards must be sufficiently weighted to withstand wind gusts.
- 38. An advertising board must not be fixed to any footpath, building, street furniture, pole or other structure.

### **Display of goods**

- 39. Display of goods must only include allowed items specified on the permit.
- 40. Display of goods must be no higher than 1.5m, unless specified otherwise on the permit.
- 41. Display of goods must not be placed outside of the trading zone.
- 42. Display of goods must be secured and displayed in an appropriate rack with lockable wheels to withstand wind gusts.
- 43. Display of goods must allow for the transactions of sale to occur inside the premises.
- 44. Display of goods must not be fixed to any footpath, building, street furniture, pole or other structure.

### **Outdoor speakers**

- 45. Outdoor speakers must provide background music levels, only to the approved footpath trading zone and must not unreasonably impact other persons.
- 46. Outdoor speakers must have volumes regularly checked by the permit holder, to ensure background music levels.
- 47. Outdoor speakers must be suitable for outdoor use and used in accordance with the manufacturer's specifications.
- 48. Outdoor speakers must be installed by a qualified Electrician (if fixed speakers have been permitted), in accordance with Energy Safe Victoria Standards.
- 49. Outdoor speakers must not to be attached to any trees or other public assets.
- 50. Outdoor speakers must be used only during the hours detailed on the permit. If no hours are stipulated, operating hours are from 9am until 9pm every day.

### **Fairy lights**

- 51. Fairy lights must be suitable for outdoor use and used in accordance with the manufacturer's instructions.
- 52. Fairy lights must not be placed outside of the trading zone.
- 53. Fairy lights must be coloured warm white and remain static.
- 54. Fairy lights must provide low-level, ambient lighting only.
- 55. Fairy lights must be battery or solar powered.
- 56. Fairy lights must be secured to withstand wind gusts.
- 57. Fairy lights must be easily removable.

58. Fairy lights must not be fixed to any street tree, street furniture, pole or other structure.

### **Temporary outdoor cooking stations**

59. A temporary outdoor cooking station must only be for the preparation of food items specified on the permit.
60. A temporary outdoor cooking station must not be placed outside of the trading zone.
61. A temporary outdoor cooking station must comply with any Patron Management Plan submitted.
62. A temporary outdoor cooking station must comply with any Waste Management Plan submitted.
63. Patrons queuing, ordering, and waiting associated with a temporary outdoor cooking station must be contained within the area designated in the approved layout plan
64. All gas cylinders and appliances must be certified and display their approval badge as proof of certification.
65. All staff that use gas bottles must be trained in the safe use, handling and storage of gas appliances and cylinders.
66. Any clearances required from public seating, litter bins and any other infrastructure must be maintained in accordance with the endorsed plan.
67. A temporary outdoor cooking station and any associated items must be removed daily from the footpath/land in accordance with the hours of operation on this permit. If no hours are stipulated, operating hours are from 9am until 9pm every day.
68. A temporary outdoor cooking station must be maintained in a safe condition, be of sturdy construction to ensure public safety and not damage the footpath or other public infrastructure.
69. A temporary outdoor cooking station must not be fixed to any footpath, building, street furniture, pole or other structure.
70. The preparation, handling and serving of food and drinks to patrons must be conducted in accordance with the requirements of the *Food Act 1984* and Council's Health Services Unit.

### **Major events**

71. Major events include St Kilda Festival and New Year's Eve. During these events:
- a) St Kilda Festival conditions apply for the duration of the festival within the St Kilda Festival designed precinct.
  - b) New Year's Eve conditions apply across the City.
72. No glass bottles or glassware are permitted within the footpath trading zone during major events, unless expressly permitted.



City of Port Phillip

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If you are deaf or hard of hearing, you can phone us through the National Relay Service (NRS):

TTY users, dial 133677, ask for 03 9209 6777

Voice Relay users, phone 1300 555 727,  
then ask for 03 9209 6777.

[relayservice.gov.au](http://relayservice.gov.au)