

# Activities on Footpath Policy

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**Reference number:** POL 041

**Approval date:** 17 October 2022

**Policy owner:** Manager Regulatory City Compliance Services

**Next review:** September 2029

The Roads Act 1993 and Local Government Act 1993 permit Council as a road authority, to grant approval for the use of Councils footpaths and car park areas. This Policy will facilitate the use of these areas for a range of activities including alfresco dining, filming, street stalls, busking, street festivals, fairs, vending, public address and other special events.

This policy details the variety of activities carried out on footpaths and car parks under Council's control. It also details the procedure on how to make application and what conditions are applicable to the approval. The intent of this policy is to encourage where appropriate, alfresco dining and street activities in a manner which will contribute to the commercial viability of an area whilst enhancing the ambience and streetscape of retail areas. The purpose of a conditional approval is to ensure a harmonious atmosphere between residents, businesses, visitors and other operators using Councils footpaths.

This Policy aims to ensure that activities undertaken for commercial gain by an individual or group will be subject to an appropriate fee fixed by Council. An activity carried out by/for a not for profit organisation will not incur a fee.

## Purpose

The objectives of the policy include:

- To manage the use of the road reserve more commonly known as the footpath to enhance the amenity of alfresco dining and other activities within the commercial/urban environment.
- To manage the display of goods for street sale/vending associated with commercial premises on the footpath area to ensure they are in good taste, attractive and equitable.
- To manage the location, use and style of A-frame signage and sandwich boards for advertising whilst minimising the risk to members of the public.
- To create a vibrant and attractive streetscape that will enhance and promote the City of Wagga Wagga.
- Maintain a safe environment for all users whilst preventing obstructions to pedestrian and distractions to drivers of motor vehicles.
- Ensure consistency with the placement of furniture and other goods to assist with the unobstructed movement of disabled or sight impaired persons.

## Scope

This policy permits approvals to be granted within community land and public footpaths. It does not allow for activities in certain areas including any public road or any portion of a road, laneway, reserve or stock route unless otherwise specified in this policy.

Approval on state-controlled roads may require the concurrent approval of the Transport for NSW and the NSW Police.

This policy does not grant exemption to activities which relate to approvals from other authorities.

Matters to be considered include:

- Width of footpath
- Signage and advertising associated with the displayed goods
- The nature, size, and number of display items
- The location of public utilities, road signs and other obstructions
- The cluttering effect of tables, barriers, umbrellas and chairs
- Providing a defined clear passage for pedestrians
- Accessibility to adjacent premises
- Acceptable visual impact
- Minimum clear passageway to be maintained free of all commercial activity in pedestrian areas
- Organisation status (Commercial, not for profit etc)
- Sight distance impact on intersections, pedestrian crossings and distraction for motorists
- Type of activity proposed.

## Policy Provisions

### 2.0 Alfresco Dining

#### 2.1 Requirements outline

This section outlines the requirements for food business operators to obtain Council approval under the Roads Act 1993 to use the footpath directly outside their premises as an alfresco/outdoor dining area. These requirements are applicable to all footpath areas within the Wagga Wagga Local Government area.

#### 2.2 Agreement

An approval under the Roads Act 1993 must be obtained by a business operator seeking to use a portion of the footpath for the purpose of alfresco dining.

In accordance with the Roads Act 1993 any application for approval for alfresco dining adjacent a classified road including the Hume Highway, Sturt Highway or Olympic Highway, may be referred to Transport for NSW for their information and approval.

## 2.3 Period of Agreement

The length of the license will be a maximum of five years. At the end of the five-year period a further application may be made for an additional five years.

License agreements are transferable. Refunds will not be made in the case of failure or sale of a business.

The initial application will include a six-month probationary period during which time the site will be monitored to assess the impact on stakeholders.

## 2.4 Site Requirements

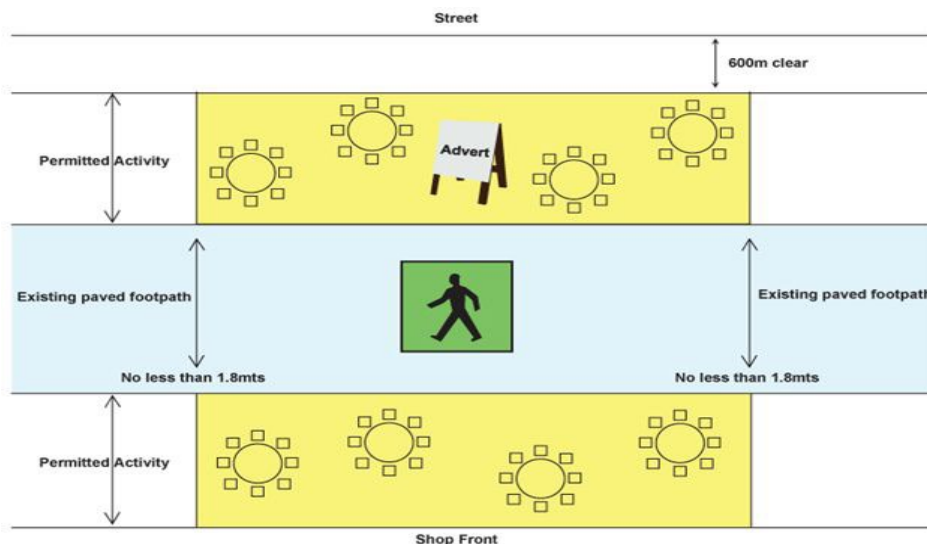
Alfresco dining approvals shall only be considered where the licensee can demonstrate that the supply of food is prepared on the premises and is to be served to patrons within the proposed licensed area.

The placement of tables, chairs and barriers will only be considered when a clear unobstructed path on the walkway can be maintained.

The footpath area is to be accessible without obstruction for all users particularly those that are mobility or vision impaired.

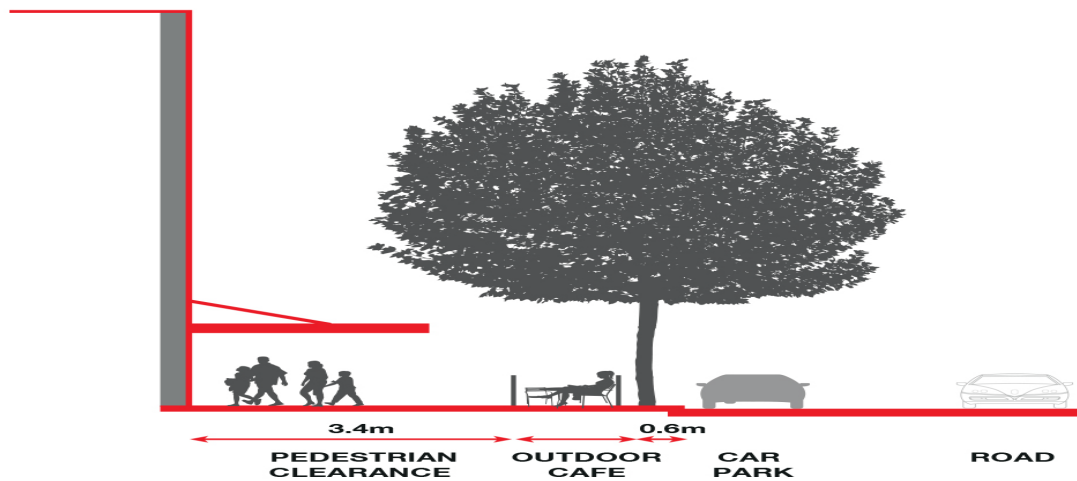
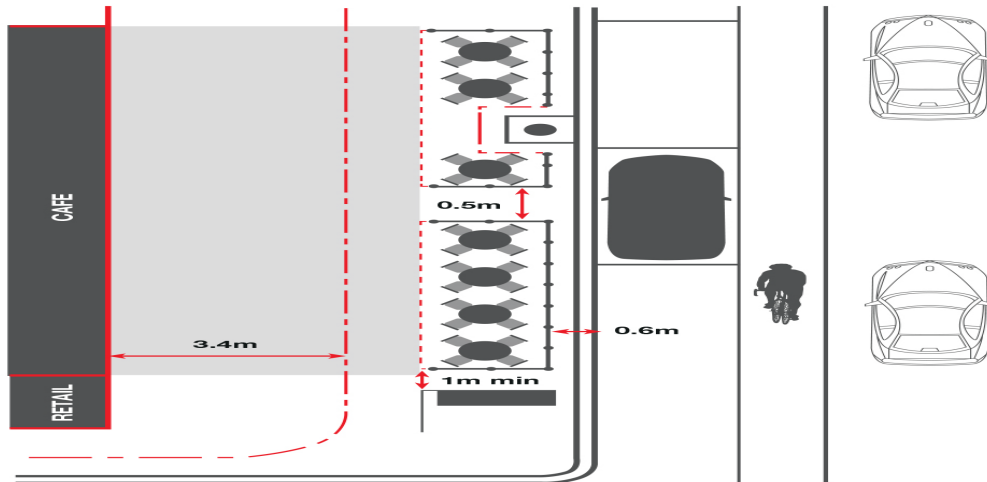
Trees, signs, light poles and any other structures which limit the footpath width will be deducted from the overall width of the footpath for the purpose of defining the licensed area.

In areas where the paved footpath is located midway between the kerb alignment and the shop front tables, chairs and advertising materials are to be placed as per the diagram.



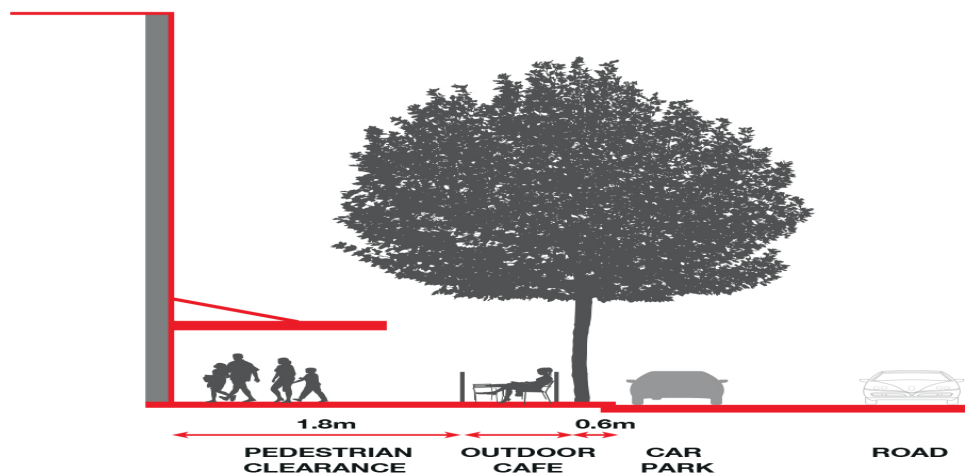
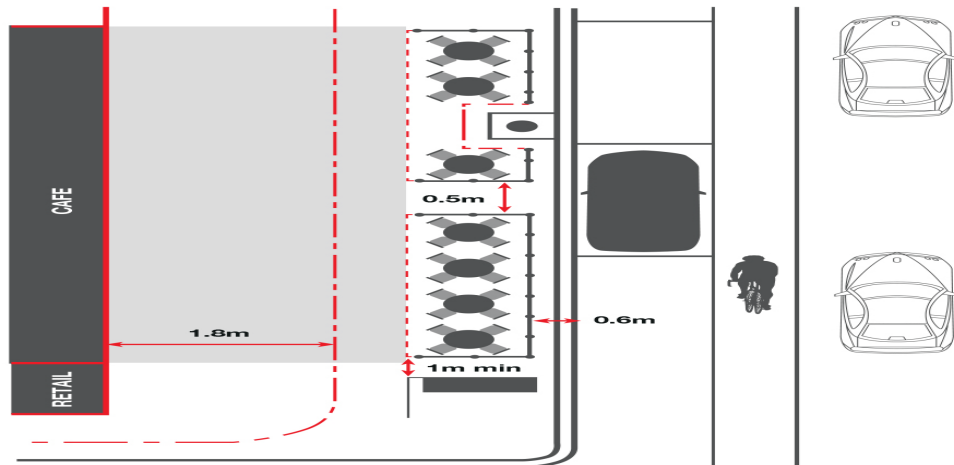
## 2.5 Baylis Street & High Pedestrian Areas (Diagram)

The defined area to be maintained free of all tables, chairs, barriers and umbrellas is denoted by the black tile located at 3.4 metres from the shop front. A distance not less than 600mm is to be maintained free of obstruction from the kerb alignment to allow vehicle door opening without obstruction.



## 2.6 Fitzmaurice Street & Low Pedestrian Areas (Diagram)

A defined area of not less than 1.8 metres from the front of the building alignment will be maintained free of all tables, chairs barriers and umbrellas. A distance not less than 600mm is to be maintained free of obstruction from the kerb alignment to allow vehicle door opening without obstruction.



## 2.7 Cleanliness

The licensed area together with all tables, chairs and associated furniture shall be maintained in a clean and orderly condition at all times by the licensee. This includes the footpath area and the removal and disposal of all rubbish and foodstuffs. Council street litter bins are not to be used for the disposal of these materials.

## **2.8 Liquor**

This policy does not automatically exempt activity in the Alcohol-Free Zone nor provide an extension to a proposed licensed area approved by the Office of Liquor, Gaming & Racing (OLGR).

Where the consumption of alcohol is proposed, procedures for the exemption to the Alcohol-Free Zone may be carried out following the approval of the street activity in accordance with the Local Government Act 1993. No activity is permitted until such time as both an exemption from the Alcohol-Free Zone and approval from Liquor & Gaming NSW or their nominated agency are granted.

Alfresco dining approval may be granted twenty-one (21) days prior to the commencement of the business to allow the application to Liquor & Gaming NSW.

The direct service of alcohol is not permitted in the licensed area.

## **2.9 Conduct of business**

Commercial use of the road reserve for alfresco dining must be related to the approved business.

All tables, chairs and other furniture must be removed from the road reserve when food preparation within the premises ceases and, in any case, not later than 10.30pm each evening.

Commercial activity is not to impact on the residents, visitors or users of the footpath.

All tables, chairs, umbrellas and wind breaks shall be securely anchored so they will not be displaced by adverse weather conditions.

Council's street furniture is provided for the use of community members. It is not to be used in conjunction with alfresco dining.

The site is to be maintained smoke free by the licensee as detailed in the Smoke Free Environment Act 2000. "No Smoking" signs are to be prominently displayed throughout the licensed area.

## **2.10 Signage**

Any proposed signage must be directly related to the business. Advertising may only be located upon the barriers and alfresco tables and chairs and is to be outlined in the application.

## **2.11 Furniture style**

All tables, chairs and barriers will be of a standard which is structurally sound, has an aesthetic quality and will be outlined in the application.

## **2.12 Public Indemnity Insurance**

The licensee is to affect a public risk policy to the minimum value of \$20 million, with the policy noting the interest of Wagga Wagga City Council. The policy must include a goods sold/supplied extension, that is, the policy must include the additional outdoor area to the main premises. This extension notification is to be included in the application.

The license holder is to exercise the highest standard of risk management practice at all times so as to avoid or reduce the likelihood of injury, loss or damage to members of the public or staff.

## **2.13 Fees and Charges**

The application fee is set annually in Council's Revenue and Pricing Policy and is not refundable

## **2.14 Barriers**

Where barriers are proposed within the application, they are to be set back a minimum 600mm from the kerb and are to be structurally stable.

They must not impede pedestrian traffic along the footpath area.

The position of barriers must take into consideration adjoining land uses.

Permanent barrier construction will require a Development Application.

Moveable barriers may have a maximum height of 900mm. They must be non-reflective and complement the colour scheme of the alfresco dining area.

These moveable barriers are not to be permanently secured to the pavement and must be removed from the outdoor leased area at the close of business and in any case by 10.30pm each day.

Advertising on barriers must only state the name and logo of the business or sponsor and not cover more than 10% of the area on an individual barrier.

## **2.15 Umbrellas and Outdoor heaters**

If umbrellas are to be used, they must be nominated on the application form and be of sturdy construction.

When erected and in place, the minimum clearance on the lowest part of the umbrellas above the footpath is 1.8 metres. The canopy of umbrellas or any other furniture is not to protrude beyond the licensed area.

Patio heaters and umbrellas must not be situated so as not to extend into the pedestrian corridor or overhand the roadway.

Patio heaters must be secured or situated in such a way as to be a minimum of 1.8 metres above the footpath, and not present a risk of injury to patron, pedestrians or vehicles.

Umbrellas are to be securely placed so as not to be affected by weather conditions. Colour must complement the colour scheme of the alfresco area.

Advertising on umbrellas must only state the name and logo of the business and not cover more than 10% of the area on an individual panel. No advertising of alcoholic products is permitted on umbrellas.

### **3. Display of Advertising Billboards**

This section outlines the requirements that retail business operators are required to follow in order to obtain Council approval (under the *Roads Act 1993*) to use the footpath directly outside their premises for a business display or the placement of an advertising billboard (A frame). These requirements are applicable to all footpath areas within the Wagga Wagga Local Government area.

“A” frame applications lodged in conjunction with an alfresco dining application will not attract a fee or charge.

#### **3.1 Agreement**

An approval under the Roads Act 1993 must be obtained by a business operator seeking to use a portion of the footpath for the purpose of commercial display of goods or the placement of a business advertising billboard.

An application requires the completion of the prescribed application form, as well as providing a sketch plan with dimensions, photographs and confirmation of public liability, with the application and receipt of the application fee.

License agreements are not transferable. Refunds will not be made in the case of failure or sale of a business.

In accordance with the Roads Act 1993 any application for approval for this form of activity adjacent to a classified road, including the Hume Highway, Sturt Highway or Olympic Highway, may be referred to the RMS for their information and approval.

#### **3.2 Period of agreement**

The length of the license agreement will be a maximum of one year. At the end of the agreement period, a further application may be made for an additional year.

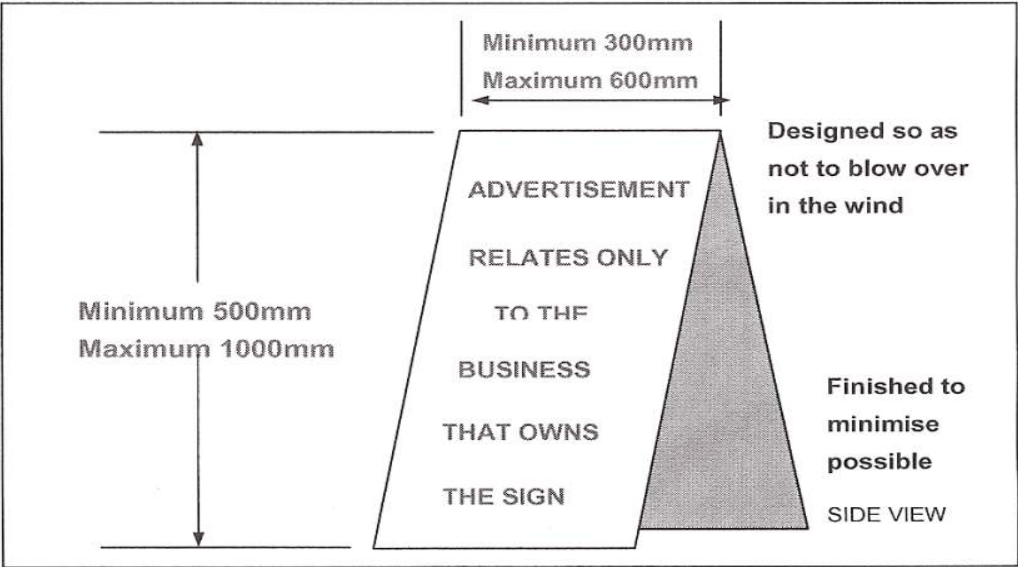
#### **3.3 Site requirements**

Placement of items must ensure a clear unobstructed path is maintained for pedestrian use. The distance which is to be maintained between the kerb alignment and display items is to be not less than 600mm to allow vehicle door opening without obstruction.

Baylis Street “A” frame is to be placed between the black tiles located at 3.4 meters from the shop front and not closer than 600mm to the kerb alignment.



Fitzmaurice Street “A” frame is to be placed between the shop front and the kerb at a distance not less than 1.8 meters from the shop front and not closer than 600mm to the kerb alignment.



Advertising billboards must meet the standard illustrated.



## 4. Display of Goods-Retail Sale

This section outlines the requirements that retail business operators are required to follow in order to obtain Council approval (under the Roads Act 1993) to use the footpath directly outside their premises for a business display. These requirements are applicable to all footpath areas within the Wagga Wagga Local Government area.

### 4.1 Agreement

An approval under the Roads Act 1993 must be obtained by a business operator seeking to use a portion of the footpath for the purpose of commercial display of goods.

An application requires the completion of the prescribed application form, as well as providing a sketch plan with dimensions, photographs and confirmation of public liability, with the application and receipt of the application fee.

License agreements are not transferable. Refunds will not be made in the case of failure or sale of a business.

In accordance with the Roads Act 1993 any application for approval for this form of activity adjacent to a classified road, including the Hume Highway, Sturt Highway or Olympic Highway, may be referred to Transport for NSW for their information and approval.

### 4.2 Period of agreement

The length of the license agreement will be a maximum of one (1) year. At the end of the agreement period, a further application may be made for an additional year.

### 4.3 Site requirements

Placement of items must ensure a clear unobstructed path is maintained for pedestrian use. Council allows for the placement of items for retail sale on either the footpath adjoining the kerb or against the shoreline of the shop. The requirements for each option are outlined below.

### 4.4 Baylis Street (Kerbside)

In all areas the minimum distance to be maintained free of any obstructions is denoted by the black tile located at 3.4 metres from the shop front. A distance not less than 600mm is to be maintained free of obstruction from the kerb alignment to allow door opening without obstruction.



#### 4.5 Fitzmaurice Street (Kerbside)

In all areas the minimum distance to be maintained free of any obstructions is 1.8m shop front. A distance not less than 600mm is to be maintained free of obstruction from the kerb alignment to allow door opening without obstruction.

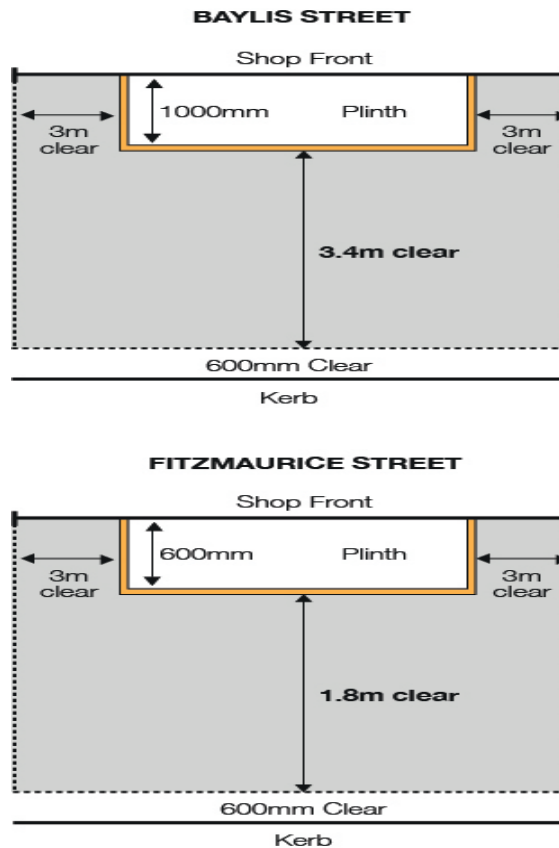


#### 4.6 Baylis/Fitzmaurice Street (Shopfront)

The placement of items for retail sale against the shoreline is permitted provided:

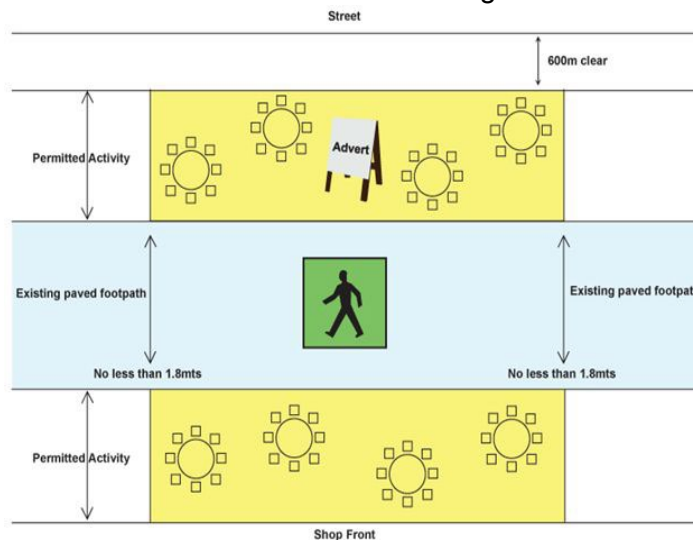
- a display table/rack/item is permitted to be placed against the shoreline provided all exposed sides are of fixed solid panels or are surrounded at ground level by a plinth not less than 200mm high.
- the items are clearly visible at a height not less than 750mm
- the materials must be placed against the shop front and do not protrude into the footpath area for a distance greater than 600mm in Fitzmaurice Street and 1000mm in Baylis Street
- the display is to be surrounded
- the plinth is to be placed in the manner detailed in the diagram
- the plinth is to be made of timber, metal or a polymer material, white in colour without sharp edges
- adequate unobstructed path is maintained for pedestrians the placement of items against the shoreline will only be permitted where there is no other street furniture or advertising materials within a 5 metre radius of the plinth
- additional advertising materials, alfresco dining tables, chairs, barriers or umbrellas are not permitted in the pedestrian area between the display table/rack toward the kerb alignment as detailed
- all items are placed securely and avoid being a trip hazard.

All applications for the placement of goods for retail sale will be subject to these clearances.



In low pedestrian areas a distance of not less than 1.8 metres is to be maintained free of all advertising materials, tables, chairs and barriers.

Where a paved footpath is located in the centre of the road reserve, the placement of advertising materials, tables, chairs and barriers is detailed in the diagram.



#### **4.7 Cleanliness**

The licensed area shall be maintained in a clean and orderly condition at all times by the licensee.

#### **4.8 Conduct of business**

Commercial use of the footpath for the display of goods or the placement of a business advertising billboard must be related to the associated business.

Advertising frames, tables, sale items and all other materials may only be placed on that part of the footpath adjacent to the front of the business. These items are not to extend beyond the business property boundary.

Commercial activity is not to impact on the residents, visitors or users of the footpath. No sale items or any other materials are to be suspended from awnings or verandas.

All items associated with the commercial display of goods or the placement of a business advertising billboard shall be securely anchored so they will not be displaced by weather conditions.

Council's street furniture is provided for the use of community members. It is not permitted to be used in conjunction with these activities.

#### **4.9 Signage**

Any proposed signage should be included within the Display of Goods application.

#### **4.10 Public Indemnity Insurance**

The licensee is to effect a public risk policy to the minimum value of \$20 million, with the policy noting the interest of Wagga Wagga City Council. The policy must include a goods sold/supplied extension, that is, the policy must include the additional outdoor area to the main premises. This extension notification is to be included in the application.

The license holder is to exercise the highest standard of risk management practice at all times so as to avoid or reduce the likelihood of injury, loss or damage to members of the public or staff.

#### **4.11 Fees and charges**

Continued approval is subject to the payment of a prescribed annual fee applicable to each or any part of a square meter of road reserve area used for the display of retail goods or placement of advertising billboards.

The application and rental fee applicable for this activity are set out in Council's Revenue and Pricing Policy.

The application and rental fees are not refundable.

## **5. Raffles, Street Stalls, Filming, Busking, Public Address and Audible Product Advertisement, Special Events**

### **5.1 No-Fee Applicable Activities**

Civic events and functions are excluded from this policy

Raffles, filming, busking, public address (religious or other) and audible product advertising do not require approval from Council. However, all persons participating in these activities are to comply with the requirements as outlined within this Policy.

Having regard to the 'not for profit' nature of raffles, street stalls, busking and public addresses, no Council application fee for the conduct of these activities will apply.

Street stalls require approval from Council. Approvals will allow for a permitted activity for a period of up to thirty days. Alternatively, where an applicant provides written consent from the store holders in close proximity to where their proposed activity is to be undertaken approval may be granted for a period of up to 6 months.

Activities are to be conducted for the benefit of recognised charitable institutions, an organisation raising money for public benefit or registered sporting organisation, which has a local committee or auxiliary, based within the Wagga Wagga Local Government Area.

### **5.2 All Street Activities Must Comply with the Following Requirements**

- Busking and public address activities may be located against the shop front provided they offer no obstruction to pedestrians.
- Identification details must be displayed prominently on all street stalls/raffles identifying the organisation conducting the stall/raffle and the organisation or object to which the proceeds will be directed.
- The conduct of street raffles is prohibited on any roadway, median strip or on any intersection
- All food displayed for sale shall be in accordance with the standards prescribed by Council with regard to the preparation and sale of food
- The maximum overall length of any street stall must not exceed six metres
- Busking, public address (religious or other) or product announcement activities are not permitted within parks, gardens or within community land without approval in accordance with *Section 68 Part D Local Government Act 1993*.
- Busking, raffles, street stalls, public address (religious or other) or product announcement activities are permitted on footpaths. Areas excluded from these activities are:
  - Western side of Baylis Street between Morrow Street and the Wollundry Lagoon.
  - Within the vicinity of Victory Memorial Gardens.
  - Within 20 metres of the midpoint of the public entrances to the Marketplace or the Sturt Mall - Baylis and Forsyth Streets.
  - Within 10 metres of any intersection measured from the extension of the kerb line of the intersecting street.
  - Within 10 metres of any pedestrian crossing to be measured from the edge of the break in the kerb line.

- Within 20 metres of any alfresco dining location to be measured from the outer perimeter of the licensed area.
- Organisers must carry out their activity in such a way as not to be a nuisance or offensive to the general public by way of poor location, manner of address, noise level or the material used. Activities are to be conducted so as not to disrupt, confront, personalise or offend any member of the public.
- On occasion, Police or Council may request that activities be relocated or cease. These requests MUST be complied with promptly by the persons conducting the activity.
- Buskers shall be permitted to seek monetary donations from individual members of the public provided such donations are offered by the public in a voluntary capacity.
- No activity is to restrict the pedestrian use of the footpath in any way.

The activity is to be conducted from a stationary point other than charity work or raffles. Soliciting or unwanted approach to members of the public is not permitted.

### **5.3 Filming**

Filming activities within the Wagga Wagga Local Government area on Public Land need to consider environmental protection, public safety, traffic management, cultural sensitivity, business, visitor and pedestrian activities.

All crew and cast must park their vehicles in accordance with normal requirements and comply with traffic parking regulations. Filming from a public road is not permitted.

Identification must be worn by volunteers indicating the organisation.

Filming of any persons within the area without that person's consent is not permitted. All relevant conditions for non-fee applicable activities will apply.

This section does not apply to filming associated with recognised news or current affairs broadcast or media outlets.

### **5.4 Fee Applicable Activities**

Businesses that conduct a one-off special event to promote the financial interest of their concern will incur a fee set out in Council's Revenue and Pricing Policy.

All relevant conditions for non-fee applicable activities will apply.

## **6. Approval Arrangements**

### **6.1 Approvals**

Applications will be processed within fourteen days of receipt. Applications which are incomplete, have insufficient detail or where information is required from external agencies will be delayed.

All applications will be assessed on merit and must meet the objectives of this policy.

## 6.2 Revoking of approval

The approval for the activities within the policy may be revoked where Council officers are satisfied that there has been a failure to comply with the plan requirements, licence or approval conditions. Lease holders will be notified in writing that they have breached the terms of their lease. If the leaseholder does not return to compliance with the terms of the approval within 7 days of the notice, approval may be revoked. If two or more breaches are detected within a 12 month period, approval may be revoked.

## 6.3 Application for amended policy condition

An application for a Policy condition may be applied for. These applications would be assessed on merit and an individual basis and is subject to extenuating circumstances. A fee to vary the application may apply.

## Legislative Context

- Local Government Act 1993
- Roads Act 1993
- Work Health & Safety Act 2011

## Definitions

Term	Definition
Licensed area	Denotes the area of the footpath agreed to by Council for alfresco dining, commercial display of goods or business advertising billboards
Licensee	Person entering into a formal agreement
Public address	Includes spruiking, public meetings, religious address or any other religious service or activity
License	A formal agreement between an organisation /individual and Council
Street stall	A booth, bench, table, or stand on which merchandise is displayed or exposed for sale
Plinth	A timber, metal or polymer frame designed to surround the base of a table or rack



## Revision History

Revision number	Council resolution	Council meeting date
1	Res No: 10/0172	29 June 2010
2	E-Team	May 2013
3	Res No: 13/224.1	August 2013
4	Res No: 14/034.14	24 February 2014
5	Res No: 16/148.8	27 June 2016
6	Res No: 17/279	28 August 2017
7	Revision approval under General Manager delegated authority	24 June 2021
8	Res No: 22/354	17 October 2022