



POLICY DOCUMENT

20.63.1

Policy Name COMMERCIAL USE OF FOOTPATH

Policy No 20.63.1

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Executive Director Development & Environment

CEO Authorisation Rob Donaldson CEO

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1. PURPOSE

The purpose of the policy is to supplement provisions of the Local Government Act 1999 (the Act), and Local Government (General) Regulations 1999 for the use of Footpaths adjacent to Commercial Premises for the Display of Item/s and Street Stalls in other locations by:-

- Specifying criteria for Council's consideration when determining the merits of an application for the purpose of issuing a permit pursuant to Sections 222 of the Act. and
- Specifying other matters relating to approvals not dealt with by the Act or Regulations.

2. DEFINITIONS

Item/s – equipment, furniture, outdoor heaters, plants, goods, produce or other items that may be placed on the footpath adjacent to or in front of relating business premises to assist in the promotion of a business.

Footpath – that part of a road between the property boundary of the road and the edge of the carriageway on the same side as that boundary or a footway, lane or other place made or constructed for the use of pedestrians and not for the use of vehicles.

Road – as per the definition for public road in the Local Government Act 1999.

3. OBJECTIVES

The policy aims:-

1. To inform the business community and general public of the criteria which will be applied by Council when determining applications under the Act;
2. To inform the business community and general public of the procedures to be followed when applying for approval of an activity specified in the Act;
3. To establish criteria for approval which will limit activities on footpaths so as to ensure the safe and convenient passage of pedestrians including persons with visual and other physical disabilities;

4. To ensure that the visual and physical amenity of a locality is not impaired by the unattractive and ill-considered proliferation of items on public footpaths;
5. To allow shop proprietors the opportunity to display goods on the footpath where appropriate to assist in the promotion of their business; and
6. To contribute to the market place retail atmosphere of central business district and shopping area of the City;
7. To allow contractors to park in areas longer than permitted time to unload/load tools, materials required and to enable them to carry out works e.g. builders/painters etc.

4. CRITERIA FOR CONSIDERATION WHEN DETERMINING APPLICATIONS

The following is a list of criteria, which Council would apply in determining an application for approval:

4.1. *Outdoor Dining*

4.1.1 Chairs, tables and ancillary items associated with outdoor dining:-

- a. Must be positioned so as to not impede the free flow of pedestrian traffic along the footpath.
- b. May only be placed on the footpath during the normal trading hours of the business to which they relate, unless otherwise approved by Council.

4.1.2 Outdoor dining proposals shall meet the requirements as set out in the "Roadside Dining Protection" guidelines and produced by the Department for Transport, Environment & Infrastructure, 2003.

4.2. *Goods on Display*

4.2.1. No food, except for whole fruit and vegetables, are to be displayed.

4.2.2. Clothing stands, magazine stands, sweets and drink dispensing machines - only one of these articles per 6m of shop frontage.

4.2.3. Pinball machines, amusement devices – not permitted on footpath except when approved during street carnivals.

4.2.4. Cut flowers and pot plants – should be arranged so that displays are at least 750mm in height above the footpath. Note: Separate permit to sell living plants will need to be obtained.

4.2.5. Buckets of flowers on footpath surface must be under other displays if overall height is less than 750mm.

4.2.6. Hanging of baskets, detachable signs, roll-up blinds under the awning or over the footpath must be securely fixed.

- 4.2.7. Minimum clearance of bottom edge of article is to be 2.1m above footpath; Hanging items are not to unreasonably obscure pedestrian viewing of under awning signs or neighbouring shops.
- 4.2.8. Hanging items are to be placed so as not to protrude beyond the front edge of the awning.
- 4.2.9. Spread sheets, rugs, stands or hanging displays not associated with adjoining premises – will not be approved, except during carnivals or festivals.

4.3. ***Other Activities***

- 4.3.1 Charitable, non-profit stalls are permitted in specific locations only and applications for approval are subject to conditions as per Fundraising Activity on Local Government Land and Roads Policy 9.63.23.
- 4.3.2 Market stalls – approved on application in specific locations on specific days.

5. **FOOD/BEVERAGE CARTS OR SIMILAR**

- 5.1. An application for the temporary installation of a food/beverage cart or similar must be made to Council on the designated application form, accompanied by a plan of the footway area and the appropriate fee as set out in accordance with Councils Fees and Charges Schedule.
- 5.2 The applicant and owner of the structure/s must hold current a public liability insurance policy to the satisfaction of Council (minimum amount \$10,000,000) indemnifying council against all risks associated with the structure, sign and activity.
- 5.3 The plan of the footway must be drawn to scale and nominate all existing fixtures on the footway, the critical spacing between these objects and the proposed location of the item/s, the distance to doorways and/or building corners, with width of shop frontage and width of footpath. Photographs of the item/s may also be provided. Alternatively, a detailed description of the item/s must be provided to Council.

6. **OTHER REQUIREMENTS**

- 6.1. The activity must be related to the business of the adjacent shop, hotel or business and not associated with any residential premises, with the exception of moveable directional signage.
- 6.2. Items can only be displayed during the hours of business's normal trading.
- 6.3. Unless subject to Clause 6.5, items must be located either within the 600mm wide strip of footpath immediately outside the shop front or street alignment of the premises or 500mm from the kerb whichever allows a clear 1.4m access for pedestrian.
- 6.4. A single item which is wider than 600mm but less than 1m wide may be approved where there are at least three (3) metres of clear passage past such item on the footpath.

- 6.5. In localities with high pedestrian traffic, e.g. near pedestrian crossings, at entry to arcades, adjacent to bus stops or strips of footpath between nodes of high pedestrian population, a clear width of footpath available for walking of not less than 3m shall be maintained. In other areas this may be reduced to 2m.
- 6.6. For each 6m of shop frontage, items may occupy a maximum area of 1.5m² frontage. The fee payable will be incremental for each 0.5m² occupied.
- 6.7. Items must be situated at least 3m from building corners at vehicle crossings, arcade entries, streets or lanes.
- 6.8. Items on footpaths must not interfere with the lateral sight line vision of drivers entering or leaving premises.
- 6.9. Items must not interfere with exits from buildings.

7. FEES PAYABLE TO COUNCIL

- 7.1. Fees are payable either annually, or half yearly if approval is granted for the first installation mid year, and will be charged in accordance with Councils Fees and Charges Schedule.
- 7.2. Council reserves the right to vary the fees payable in determining individual applications in which agreement is reached to contribute to capital upgrading of public infrastructure. All item/s must be stable and be able to withstand wind gusts without any movement.

8. REVIEW

This policy shall be reviewed by the City of Port Lincoln within twelve months after the conclusion of each periodic election or on significant change to legislation or aspects included within this policy.

9. REFERENCES

The following sections of the Local Government Act, 1999

Section 222 – Permits for Business Purposes

Section 224- Conditions of authorisation or permit

Section 242 Time limits dealing with certain applications

Business use of Footpath Permit Application 20-71-T1

City of Port Lincoln Fees & Charges Schedule

“Roadside Dining Protection Guidelines” – by Department for Transport, Environment & Infrastructure, 2003