

## COMMERCIAL USE OF FOOTPATH GUIDELINE

### 1. Scope:

This guideline applies to all Local Government Controlled Areas and Roads within the Livingstone Shire Council.

### 2. Purpose:

To facilitate a guide for all business operators to ensure a safe and consistent method of operation is maintain for all business related footpath activities.

### 3. Related Documents:

#### Primary

*Local Law No. 1 (Administration) 2011*  
*Subordinate Local law No.1.2 2011*

#### Secondary

*Building Act 1975*  
*Disability Discrimination Act 1992*  
*Food Act 2006*  
*Local Government Act 2009*  
*Queensland Government office of Liquor, Gaming and Racing*  
*Sustainable Planning Act 2009*  
*Tobacco and Other Smoking Products Act 1998*  
*Local Law No.1 (Administration) 2011*

### 4. Definitions:

To assist in interpretation, the following definitions shall apply:

Kerbside zone	An area of footpath between the trading zone and the back of kerb.
Footpath dining	the use of the council-controlled public land for the purpose of extending the services of premises whose main function is the provision of food and/or beverages to the public; and premises may include restaurants, cafes, bars, deli and other food outlets, but does not include roadside stalls.
Footpath Zone	Includes a Pedestrian Zone, Trading Zone/s and Kerb Zone
Pedestrian Barrier	A structure/fence/screen provided to restrict the movement of pedestrians and restaurant patrons and can be permanent or portable. Barriers must be <ul style="list-style-type: none"> <li>• A minimum height of 900 mm.</li> <li>• Designed and constructed so that the barrier does not present a risk to public safety and is of a level of quality and design acceptable to council.</li> <li>• Must be incorporated and approved as a part of the application.</li> </ul> Permanent structures may require additional Council approval

Pedestrian zone	a minimum 1.5 meter wide section of footpath for the safe unobstructed through movement of pedestrians.
Trading zone	a defined area in which approved business use e.g footpath dining, placement of goods and signage is permitted by Council. All furniture and activities relating to the use e.g. Footpath dining tables and chairs must occur within this area. Council may require the use of pavement markers or other means of zone identification if considered necessary

**5. Guideline:**

**5.1 Footpath Zone**

A Footpath is an area between the property boundary and the kerb provided primarily for pedestrian use and access to services (e.g. electrical, telecommunications). Secondary uses such as commercial business use activities may also be approved.

Where commercial use is approved a foot path zone is created to assist Council in monitoring and regulating the interaction between public access and commercial uses within the foot path zone to ensure public safety and street amenity is maintained.

To maintain clear separation of activities three separate zones have been defined to prescribe specific activities; Pedestrian Zone, Trading Zone and Kerb Zone are established within the foot path zone. (Ref: **Diagram a, b, c**)

A footpath having an area less than 3.0 meters in width is recognised by Council as being unsuitable to accommodate foot path dining activities, however a trading zone for other uses such as placement of goods and or 'A' Frame signage may still apply.

**5.1.1 Pedestrian Zone**

The Pedestrian Zone is an area of footpath designed to maintain safe uninterrupted pedestrian passage. A pedestrian zone shall be between 1.5 meters and 1.8 meters in width and established for the exclusive use of pedestrian's. The width may be varied from street to street, depending on the overall width of the footpath, location and nature of adjacent uses.

**5.1.2 Trading Zone**

The Trading Zone is an area of footpath separate to the Pedestrian Zone and the Kerb Zone. This area is designated for business related use and may incorporate uses such as the placement of 'A' frame signage, display of goods and footpath dining.

A minimum width for a Trading Zone shall be 600mm however the width may increase from street to street depending on the specific use/s, overall width of the footpath, Pedestrian Zone and Kerb Zone and any clearances from infrastructure not located within the Trading Zone.

All items associated with a use within the trading zone must remain and be operated within the designated area of the trading zone. (e.g. Dining tables and chairs).

Where screening for safety and or amenity is deemed necessary an application for permit to include temporary/permanent pedestrian barrier may be required.

**5.1.3 Kerb Zone**

The Kerb Zone is an area of foot path leading from the face of kerb to an adjacent zone. This zone is important for the safety of pedestrians crossing the road and to allow passengers to gain access to and alight from parked vehicles.

The minimum width of a Kerb Zone shall be 500mm however may increase to 1.2m dependent upon type of fixed parking bays and other parking requirements (e.g. loading zones).

The Kerb Zone must remain clear of all items where an adjacent Trading Zone is approved.

Council reserves the right to vary the setback of a Kerb Zone, dependent upon pedestrian safety, vehicular and zone interaction and parking restrictions adjacent to the area.

#### **5.1.4 Distance between Trading Zones**

It is important to maintain clear ways between each approved business activity within trading zones for pedestrian movements to kerb.

A distance of no less than 1.2 meters between business activities is required to be maintained at all times.

## **5.2 Footpath Dining**

Footpath dining is upon application and approval a permitted activity which facilitates the consumption of food and beverage within a trading Zone. Footpath Dining may incorporate the use of furniture such as tables and chairs and may include associated furnishings, such as planter boxes, menu displays, umbrellas and screens/barriers.

All items associated with a Footpath Dining use must be approved and positioned generally in accordance with the plan submitted at time of application or amended as required. Amendments to a plan must be submitted in writing and approved prior to implementation.

All items must be maintained in a safe and hygienic condition.

All items unless approved as permanent fixtures must be removed from the Footpath Zone at close of each business period.

### **5.2.1 Barriers/Blinds/Umbrellas**

All removable Barriers must be no higher than 900mm approved as a part of an application, maintained in good condition and must be fixed or weighted down (e.g. Sand bags) during use in a safe manner.

All drop-down blinds may be approved as a part of an application subject to available space, prevailing urban character, existing street infrastructure and traffic conditions.

All drop-down blinds must be contained within the Trading Zone and must be rolled up and secured at close of each business period.

All umbrellas must be approved as a part of an application and must not protrude into the Kerb Zone and must be no less than a minimum of 2.1m from the underside of the umbrella to the footpath surface and securely fixed or weighted down (e.g. Sand bags) during operation and removed from the Footpath Zone at close of each business period.

### **5.2.2 Flags and Banners**

Flags and Banners may be approved for use within a Footpath Zone where the item is contained within a trading zone adjacent to the kerb zone, is manufactured and constructed having regard for public safety and does not interfere with or obstruct activities within a pedestrian zone or parking area. Flags and Banners approved under Councils Events Program are exempt from permit requirements.

### **5.2.3 Alcohol consumption**

The consumption of alcohol is only permitted where the premises have been approved through application to Queensland Government office of Liquor, Gaming and Racing and where a person is dining.

### **5.2.2 Smoking**

Smoking is permissible only in accordance with the *Tobacco and Other Smoking Products Act 1998*

### **5.3 Goods on Footpath**

The placement of goods on a footpath is an activity permitted to be undertaken within a Footpath Zone upon approval of application. All goods must be relative to the business making application i.e. Sold on premises and all goods must be retained within the Trading Zone at all times. The trading zone must be of a width adequate to cater for perusal of items without interrupting safe pedestrian passage. All goods must be maintained in a safe and orderly manner and removed from the Footpath Zone at close of business.

### **5.4 Signage 'A' Frame**

Signage within a Footpath Zone is restricted to 'A' Frame signs of a size no greater than 900mm high and 600mm wide and must be subject of an application and approval.

'A' Frame signs may be considered in addition to a sign (menu board) associated with foot path dining. One sign per frontage of a business is permitted and all 'A' Frame signs must be located within a Trading Zone. An additional sign may be approved where clear and unobstructed frontage greater than 5 meters is available. All 'A' Frame signs must be maintained in a good and safe condition at all times and all advertising must be relevant to the business and must not be discriminatory or depict profanity.

All 'A' Frame signs must be removed from the foot path zone at close of business period each day.

### **5.5 Risk Management**

Public liability insurance of \$20,000,000 must remain current and valid for the life of a permit. A copy must be forwarded to Council each year at time of renewal.

The permit holder indemnifies and releases the Council 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.

Council must be notified immediately of any damage to Council's assets, as well as any other condition that creates a hazard to the public. The footpath Zone is occupied and used by the permit holder at the permit holder's own risk.

### **5.6 Venue Management**

All patrons must be within the Footpath Trading Zone and the Pedestrian Zone must be kept clear of objects / items at all times. The area under licence must be kept clean and clear of waste and furniture and other approved items must be cleared away at close of business unless otherwise approved.

### **5.7 Waste Management**

Litter generated from footpath must not be swept into the street gutter or adjacent areas and must be deposited within the operator's own waste disposal bins relevant to the premises.

In relation to Footpath Dining all tables must be cleared of all food scraps, bottles, glasses and tableware as soon as practicable after patrons have left and tables must be wiped clean to ensure safety and cleanliness is maintain at all times.

## **6. Changes to this Guideline**

This Guideline is to remain in force until otherwise amended/replaced or other circumstances determine change is required.

**7. Repeals**

Nil



**Brett Bacon**  
**Director Community and Planning Services**





