

PURPOSE

This policy provides a framework for businesses to undertake trading on our footpaths which involves A-Frame signs, display of good and outside dining whilst still providing the community with safe and unhindered access along our footpaths.

The objectives are:

- To ensure that footpaths provide for safe, convenient, and accessible pedestrian passage
- To provide controls and guidance for certain commercial activities on footpaths
- To ensure that any commercial activity enhances the existing character of a locality and is otherwise not inconsistent with any streetscape master plans

SCOPE

This policy applies to all footpaths in the Glenorchy municipality that are owned or administered by Glenorchy City Council for the placement of A-Frame signs, display of good and outside dining by businesses in areas with a road speed limit of 60km/h or less.

A Footpath Trading Guideline has been developed which outlines in detail Council's requirements for the use of its footpath areas. This Policy should be read in conjunction with the Footpath Trading Guidelines.

STRATEGIC PLAN ALIGNMENT

Valuing Our Environment

Objective 3.1 Create a liveable and desirable City.

Strategy 3.1.3 Manage the City's transport network and the associated infrastructure to promote sustainability, accessibility, choice, safety and amenity for all modes of transport.

Leading Our Community

Objective 4.1 Govern in the best interests of our community

Strategy 4.1.1 Manage Council for maximum efficiency, accountability and transparency

RELATED DOCUMENTS

- Footpaths Trading Guidelines
- Footpath Policy

STATUTORY REQUIREMENTS

Acts	Local Government (Highways) Act 1982 Vehicle and Traffic Act 1999 s.56C Commonwealth Disability Act (DDA)
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Regulations	Council’s Public Place and Infrastructure By-law No 1 of 2021 (“By-law”) Tasmanian Planning Scheme - Glenorchy
Australian/International Standards	AS/NZS 1428.1 (2009) design for access and mobility, general requirements for access – new building works AS/NZS 1158 (2005) street lighting including footpath lighting requirements

DEFINITIONS

Council means Glenorchy City Council

Owner means the legal owner of the property in which a business operates

Permit means written approval issued by Council for the purposes of this policy or a relevant by-law, including a letter, ticket, license, lease or other approval

Service Provider means TasWater, TasNetworks or any other legitimate electricity, gas, water or telecommunication provider.

BACKGROUND

Footpath Trading creates vibrant and dynamic street frontages and provides opportunities for business to enhance their presence. Well planned and maintained footpath trading adds to the amenity of the street scape and encourages active street life which in turn adds to the overall safety of the area.

Footpath trading needs to be facilitated in appropriate locations to ensure that the safety and convenience for pedestrians, parked vehicles and road users is maintained. It also needs to ensure that services within our footpaths such as parking, seats, bins, street lighting, underground infrastructure can still be accessed.

POLICY STATEMENT

This policy sets out a framework for businesses to undertake trading on our footpaths and should be read in conjunction with the Footpath Trading Guidelines. The guidelines outline the trading areas that are suitable for footpath trading and requirements within those areas.

Permits from Council are required for the display of goods and outside dining. The instalment of A-Frame signs can be undertaken without a permit but needs to comply with the guidelines.

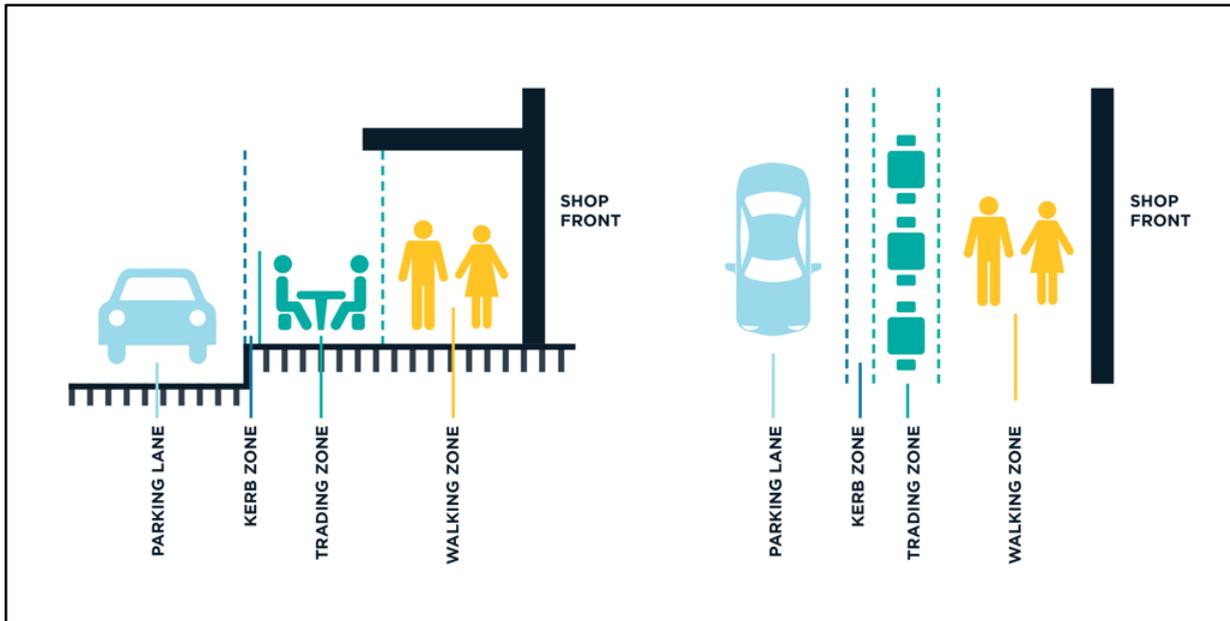
FOOTPATH TRADING GUIDELINES

Council has developed and will continue to maintain and review, a Footpath Trading Guidelines for the provision of businesses to trade on the footpath. The main elements of the guidelines are summarised below.

The footpath has been divided into three zones being:

- Kerb Zone
- Trading Zone

- Walkway Zone



The **kerb zone** is a minimum of 0.6m from the vertical face of the kerb to allow for access to and from parked vehicles and to provide separation between the trading zone and traffic. At an accessible parking space this shall be increased to 1.5m and at a loading zone to 1m.

The **trading zone** is the available space between the walkway zone and the kerb zone for trading. The width of the trading zone is likely to be a minimum of 0.6m to allow for a table and two chairs or for an A-Frame sign.

The trading zone will be limited near pedestrian crossing and intersection to ensure the safe passage of pedestrians and vehicles. No footpath trading will be permitted within the first 6m from an intersection point or within the first 2m from a pedestrian crossing point or driveway unless safety at this point will not be compromised.

To allow access points through the trading zone from the footpath to on-street parking spaces, there should be a minimum of a 1m unobstructed travel path at reasonable intervals. Where there is an accessible parking space, there must be an unobstructed path measuring 1.5m in width.

The height of infrastructure within the trading zone shall be no more than 1.1m unless for an umbrella pole with the umbrella being above 2.2m in height.

The following **walking zone** widths are required based on the footpath hierarchy outlined in the footpath policy:

- CBD / Primary – target 2m and minimum 1.8m
- Secondary / Local – target 1.5m and minimum 1.2m

Where a squeeze point occurs, Council may consider varying the minimum walkway zone width to an absolute minimum for no greater than 3m as follows:

- CBD / Primary – 1.5m
- Secondary / Local – 1m

Clearance will be required on either side of any public asset unless permitted by Council. Clearance shall be 0.5m from infrastructures (i.e., bollards, pits, fire hydrants, poles, trees) and 1m from pedestrian services (i.e., bins, public seats, bike stands). At bus stops, clearance shall be 1m on the arrival side and 8m on departure side of the bus stop pole. At taxi ranks, clearance shall be within the first two taxi spaces.

Permanent infrastructure such as screens and umbrella footings maybe considered. The installation of parklets can also be considered subject to Council approval and items undertaken by applicant such as a safety audit, plans and fees.

FEES AND CHARGES

The sale of goods and outside dining gain significant cost benefit to the business and involve Council staff time to assess application and manage.

The 2021/22 annual fee and charges for the Footpath Trading Code are to be indexed annually and to be set at:

- A-Frame signs - No Fee or Charge
- Sale of Goods – \$44 per square meter (excluding GST)
- Outside Dining - \$44 per square meter (excluding GST)

LEGISLATION

Council's Public Place and Infrastructure By-law No 1 of 2021 ("By-law") regulates the use of the Council's roads and road reserves, including footpaths and shall be used for the purpose of the footpath trading. The By-law notes that a person must not occupy a road or road reserve (including display of goods, signs, and footpath dining) without first obtaining a license from the Council or an approved Council policy explicitly identifies the activity as one which does not require a Permit under this By-law.

The By-law also includes penalties for non-compliance within its provisions.

The Tasmanian Planning Scheme – Glenorchy, "outdoor dining facilities, signboards, roadside vendors and stalls on a road that is managed by a relevant council" is exempt from requirement to obtain a planning permit "in a road reserve or on public land" unless:

- works are undertaken that constitutes development such as permanent infrastructure
- the Local Historic Heritage Code extends onto the footpath
- there are significant trees

The *Vehicle and Traffic Act 1999* s.56C also prohibits the display and storage of goods on the footpath without a permit. It is also an offence under the *Local Government (Highways) Act 1982* to obstruct part of a road including a footpath.

OPERATORS RESPONSIBILITIES

1. Daily Management

The management of a footpath trading zone and licence is the responsibility of the licence holder. To ensure appropriate management, licence holders are required to:

- Operate in accordance with the conditions of the licence, endorsed plans and the requirements and objectives as outlined in the Footpath Trading Guidelines
- Monitor the trading zone i.e., always observe patrons and respond to behaviour that may interfere with the use, enjoyment and personal comfort of others using the footpath area
- Always maintain access for all users in and around the footpath, repositioning furniture when moved outside of the trading zone by patrons
- Uphold the cleanliness of the footpath area, ensuring tables and chairs are kept clean and litter is removed and placed within bins kept inside the premises. Businesses must not sweep or deposit any litter (including cigarette butts), food scraps or any other rubbish left by patrons into the gutter. Businesses found guilty of such an offence will immediately forfeit any further rights to trade on the footpath
- Remove all approved furniture (other than approved permanent items) from the footpath area each evening when the premises are closed or subject to permitted hours (whichever is the lesser)

2. Indemnity Requirements

The licence holder must indemnify Council against all claims of any kind arising from any negligent act either by the licence holder or the licence holder's agents and users. The licence holder must ensure the footpath trading zone is adequately covered by public liability insurance.

The licence holder must not do anything or permit anything that would result in the cancellation or voiding of the insurance applying to the footpath trading area.

COUNCIL'S RESPONSIBILITIES

1. Maintenance of Footpath

The Council will continue to always manage the use of the land and reserve the right to reclaim access to and remove all footpath trading at any time for any purposes deemed suitable by Council.

2. Compensation and Loss of Trade

Where service providers or Council (or their contractors) are required to carry out works within the road reserve which require the permanent and/or temporary removal; and/or alteration to the footpath trading arrangements, **no compensation** is payable for any removal of fittings, fixtures etc. associated with the footpath trading licence or for the loss of trade experienced due to these works. The responsibility to reinstate these fittings, fixtures, etc. will remain the responsibility of the licence holder, not the person, authority, contractor, etc. undertaking works such as executing. As such Council reserves the right to cancel an approval if so required. The above terms will be included as a condition on the approval.

Any problems, inconvenience, or loss of trade, which may result from activities or works, carried out by service providers or Council staff, contractors, subcontractors, or agents, at or adjacent to a licence holder's footpath trading area will not be considered grounds for payment of compensation.

3. Access to Underground Services

Services such as sewers and electricity should not be obstructed by any permanent structures including fixed screens, umbrellas, or footings for structures. Removable tables and chairs are permitted above underground services.

4. Monitor Compliance with Approved Licence

Action will be taken in accordance with Council's By-Law if a breach of the By-Law occurs. Such action may include fines, cancellation of the license and /or legal action.

5. Waiver of Obligations / Requirements of the Footpath Trading Guidelines

At the discretion of the General Manager, one or more of the requirements of the Footpath Trading Guidelines may be waived. Such waiver would only occur if the following criteria could be met:

Waiver of a requirement would not create or maintain:

- A hazard to safety
- A barrier to pedestrians
- A barrier to the proper use of a motor vehicle

The General Manager may decide not to waive a requirement of the Guidelines even if the above criteria are met.

A waiver will not be granted in relation to the placement of objects on the building line.

DOCUMENT CONTROL

Version:	1.0	Adopted	27 June 2022	Commencement Date	28 June 2022
Minutes Reference	Council Meeting, 27 June 2022, Item 12			Review Period	4 Years from adoption
Previous Versions:	N/A				
Responsible Directorate	Infrastructure & Works	Controller:	Manager Infrastructure Engineering and Design		
ECM Document No.:					