

### 3 Presentation of officer reports

#### 3.1 Outdoor Trading Policy and Associated Guidelines

##### Executive Summary

###### Purpose

The purpose of this report is to seek a Delegated Services Committee resolution to adopt a policy that sets out a framework and the guiding principles for the activation and management of commercial trading opportunities on footpaths and roadways in Boroondara.

The Outdoor Trading Policy (Policy) (**Attachment 1**) is supported by activity specific guidelines. The Policy also provides a platform for the consideration of new and emerging commercial trading opportunities. A review of the current City of Boroondara Commercial Street Furniture Guidelines (**Attachment 2**) which has been retitled 'Footpath Trading Guidelines' (**Attachment 3**) was undertaken to continue to incentivise economic activity and to better reflect current safety requirements and community expectations. To support the introduction and enhanced utilisation of footpaths and roadways, new outdoor trading guidelines have been developed including Parklet Guidelines (**Attachment 4**) and Outdoor Dining Structure Guidelines (**Attachment 5**).

###### Background

A key strategy of the City of Boroondara Community Plan 2021-2031 is to provide opportunities to support the creation of a vibrant local economy with retail precincts that are accessible, attractive, and welcoming. Activating the use of public footpaths and roadways is an invaluable and integral part of how Council demonstrates its commitment to this strategy.

There are multiple opportunities provided by Council to activate outdoor trading. A review was undertaken to assess existing opportunities and recognise opportunities arising from outdoor activations that have emerged during the COVID-19 pandemic. These include:

1. Footpath trading
2. Parklets
3. Outdoor Dining Structures.

The introduction of an Outdoor Trading Policy recognises the need to provide guiding principles for the review of existing commercial trading opportunities. It is also recognised these opportunities have and will continue to evolve. The policy will provide the foundation to activate these in the future.

The preparation of guidance material for traders is informed by the Policy. The suite of guidelines supports the different opportunities which are currently available to activate commercial trading on footpaths and roadways.

A period of community consultation on the draft policy and guidelines ran from 23 August 2022 to 20 September 2022.

Key stakeholders were engaged including traders, trader associations, current Outdoor Trading permit holders and the community via the following channels:

- Engage Boroondara consultation page
- Letter to Trader associations and current Outdoor Trading permit holders
- Article in the Boroondara Bulletin
- Social media posts
- Website news article
- Communication with Boroondara Business Network
- Article in BizBits E-newsletter.

Overwhelmingly, the feedback was positive. Of the 161 respondents to an Engage Boroondara survey, nearly three quarters of respondents answered “Yes” to the following question: Do you think that Council is suitably supporting the activation of public footpaths and parking bays for the benefit of businesses and the local community?

### Key Issues

During the COVID-19 pandemic, Council supported traders to activate outdoor dining opportunities through various initiatives including the introduction of parklets on the road and temporarily increased outdoor dining and trade options. Fee relief from Footpath Trading permits was also provided. These initiatives, specifically the introduction of parklets, increased the activation of the precincts in which they are located by providing al fresco dining opportunities, becoming destinations in their own rights and providing new community gathering points.

With a return to normal trading activity on footpaths, it is opportune to be revisiting the way in which existing, new and emerging outdoor trading opportunities have evolved and can be activated. The three guidelines are:

## **1. Footpath Trading Guidelines**

The Commercial Street Furniture Guidelines have been renamed ‘Footpath Trading Guidelines’ in recognition that this trading opportunity is on Council footpaths. This term is typically used by other councils and is more widely recognised by traders. It aims to assist customers to easily identify, and access appropriate information related to their needs.

The Footpath Trading Guidelines have been revised to ensure they provide proportionate and contemporary trading opportunities, address impacts to Council infrastructure and acknowledge changes to safety requirements. Safety requirements have now been better aligned with the *Road Management Act 2004*, the Austroad Guide to Road Design and Yarra Trams Guide.

## **2. Parklet Guidelines**

In recognition of the success of Council’s Outdoor Dining Program, as funding from the Victorian Government is set to have the current program cease as of 31 January 2023, the Parklets Guidelines have been developed to support the introduction of an ongoing ‘Parklet Program’ proposed to commence from February 2023.

### 3. Outdoor Dining Structure Guidelines

Outdoor Dining Structures are an emerging outdoor dining opportunity. These structures are designed to allow for efficient air circulation while still providing shelter from the elements and can be left on the footpath overnight, and for an extended period of time.

None of the feedback from the consultations has led to any proposed changes to the Outdoor Trading Policy or the specific activity guidelines. The documents have been updated with Boroondara specific designs and images. (**Attachments 1, 3, 4 & 5**).

#### Next Steps

That the Services Delegated Committee adopts the Outdoor Trading Policy and associated guidelines, and they are then placed on Council's website and communicated to all key stakeholders.

### Officers' recommendation

That the Services Delegated Committee resolve to:

1. Adopt the Outdoor Trading Policy, Footpath Trading Guidelines, Parklet Guidelines and Outdoor Dining Structure Guidelines.
2. Place the Outdoor Trading Policy and associated guidelines on Council's website along with appropriate application forms and explanatory information.

**Responsible director:**      **Scott Walker, Director Urban Living**  
   **Carolyn McClean, Director Community Support**

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## **1. Purpose**

The purpose of this report is to seek a Services Delegated Committee resolution to adopt a policy that sets out a framework and the guiding principles for the activation and management of commercial trading opportunities on footpaths and roadways in Boroondara.

The Outdoor Trading Policy (Policy) (**Attachment 1**) is supported by activity specific guidelines. The Policy also provides a platform for the consideration of new and emerging commercial trading opportunities. A review of the current City of Boroondara Commercial Street Furniture Guidelines (**Attachment 2**) which has been retitled 'Footpath Trading Guidelines' (**Attachment 3**). The review has focused on undertaking changes which will continue to incentivise economic activity and to better reflect current safety requirements and community expectations. To support the introduction and enhanced utilisation of footpaths and roadways, new outdoor trading guidelines have also been developed including Parklet Guidelines (**Attachment 4**) and Outdoor Dining Structure Guidelines (**Attachment 5**).

## **2. Policy implications and relevance to community plan and council plan**

Council is committed to activating public spaces, public areas, safety and the local environment. There are multiple Council strategies, plans, local laws, planning schemes and State legislation which are relevant for consideration in this matter.

### **Boroondara Community Plan 2021-2031**

There exists a clear alignment with the following strategic objectives:

Theme 1: Community, Services and Facilities - Community services and facilities are high quality, sustainable, inclusive and strengthen resilience.

Theme 3: The Environment - The environment is considered in all decision making.

Theme 4: Neighbourhood Character and Heritage - Protect the heritage and respect the character of Boroondara, while facilitating appropriate, well-designed development.

Theme 6: Local Economy - Support local businesses and enhance shopping precincts, fostering a strong economy and welcoming places for the community.

Theme 7: Civic Leadership and Governance - Ensure that ethical, financial and socially responsible decision making reflects community needs and is based on principles of accountability, transparency, responsiveness and consultation.



Also relevant to this report is the Boroondara Community Plan 2021-31 health priority, 'Improving mental wellbeing and social connection'. As will be outlined, many survey respondents commented on increased social connection and enjoyment being part of their overall experience of outdoor dining.

### ***Amenity Local Law 2019***

Section 8 and 9 of the Amenity Local Law allows Council to determine whether a permit is required and either grant or refuse its issue. Section 9 refers to compliance with a permit.

### ***Local Government Act 2020 (Vic)***

The *Local Government Act 2020*, Division 3 of Part 77, provides provisions for the making of permits, licences, fees and charges with respect to any Act, matter or thing in respect of which the Council has a function or power under this Act or any other Act such as the *Building Act 1993 (Vic) and Regulations*, *Planning and Environment Act 1987*, *Boroondara Planning Scheme*, *Road Management Act 2004*.

Requirements for compliant footpath trading must meet multiple prescribed statutory requirements.

## **3. Background**

Council is committed to supporting the ongoing enhancement, long-term viability and sustainability of commercial and neighbourhood shopping precincts, and to facilitate their activation for the creation of a vibrant and healthy street life. The use of public footpaths and roadways is a valuable and integral element of how Council can support local traders.

Council also has a responsibility to ensure safe and unobstructed access is maintained for pedestrians and for, drivers and cyclists to have unimpeded lines of sight in accordance with the Austroad Guide to Road design Part 4A, 2021. Further, the installation of outdoor trading is done so on Council controlled land, in accordance with published guidelines, and only when and where, permission from Council is provided.

The impact on traders by the COVID-19 pandemic has changed the way we think about activating public spaces and providing environments and opportunities for commercial trading to enhance and extend their use as well as providing places where the community can come together.

The purpose of developing a policy with the broad application to outdoor trading, is to provide a foundation with guiding principles on how Council will activate public footpaths and roadways both now, and in the future. The Policy in conjunction with activity specific guidelines, forms a package of information to support traders in the creation of a vibrant local economy with retail precincts that are accessible, attractive, and welcoming.

Included under the Policy, outdoor trading consists of one existing guideline and two new guidelines which acknowledge the current evolution in commercial trading opportunities as follows:

- Footpath Trading Guidelines (existing)
- Parklets Guidelines (new)
- Outdoor Dining Structure Guidelines (new).

#### Footpath Trading

The Commercial Street Furniture Guidelines (now Footpath Trading Guidelines) have facilitated access to commercial trading opportunities for over 20 years by providing guidance to traders on the requirements to enhance the use of public footpaths while providing a safe environment for people moving through these shared community spaces. Since being adopted by Council in 2001, they have been subject to minor updates related mainly to fee structures.

The guidelines have now been enhanced to not only incorporate many of the existing requirements but include new and evolved options including planter boxes and the ability to secure umbrellas into the footpath (under certain conditions). Other important enhancements ensure current safety and risk management practices are considered to support community and trader safety.

The requirements for outdoor trading in Boroondara have been benchmarked with neighbouring councils (**Attachment 7**).

#### Parklet Program

As a result of the COVID-19 pandemic, the Victorian Government provided funding to Council to activate trading opportunities under the Outdoor Dining and Eating Entertainment Package and Outdoor Activation Fund programs where a financial contribution of \$1 million was received and funding for the current program is expected to be fully exhausted by 31 January 2023.

The current parklet program was highly successful in activating trading opportunities and received positive feedback from the community, traders and traders associations.

Engagement undertaken with traders with existing parklets indicated there is strong interest from many traders to retain parklets in the longer term and there is a preparedness to financially contribute to enabling this to occur.

Parklets assist to activate the precincts within which they are located, providing opportunities for al fresco dining, acting as destinations and new community gathering points in their own right, encouraging visitation and for people to spend more time exploring the surrounding area.

A review of the current program which included feedback from both operating traders and relevant traders' associations, as well as the wider community found there was an ongoing opportunity for Council to continue the program.

#### Outdoor Dining Structures

Outdoor dining structures are also a new innovation in outdoor trading which enables Council to assist traders to activate public footpaths and roadways. This type of installation can be located on a public footpath and remain in place overnight for an extended period of time. These structures provide more effective shelter and allow for outdoor dining all year round.

The requirements for these structures are more rigorous than those for temporary trading opportunities due to construction requirements and increased risk and impact to the safety and amenity of the local area.

### **Guidelines**

The content of the guidelines for each outdoor trading opportunity presented in this paper has been aligned to maintain consistency with shared processes and requirements where relevant.

The Footpath Trading Guidelines have been revised to provide enhanced clarity and accessibility for traders as follows:

- better reflects current commercial trading opportunities
- incorporates current safety requirements
- provides greater detail and clarity and includes some new elements that make up footpath trading
- improved user readability and brought into line with inclusive and accessible customer communication requirements.

Council will work with traders on a case-by-case basis where there could be an impact to footpath access.

The Parklet Guidelines have been developed to facilitate extended outdoor dining through a Council run parklet program where traders are provided the opportunity to apply for a seasonal parklet or an annual year-round parklet.

The Parklet Guidelines have been aligned with the requirements of the Footpath Trading Guidelines however, additional variations to certain requirements have been included which are unique to a parklet. The proposed fees for parklets based existing footpath trading permit fees have also been benchmarked with neighbouring councils (**Attachment 7**).

The Outdoor Dining Structure Guidelines is another way Council is addressing community expectation to provide greater outdoor trading opportunities. They will support traders and the local economy by creating safe community spaces to facilitate social connections and organised activities and, places for people to meet to celebrate events all year round.

This type of outdoor dining is possible in only certain locations in the municipality due to space requirements on the footpath. The assessment of these applications will be on a case-by case basis due to the complex nature of the construction, its permanency on Council land and potential impacts to safety and local amenity.

### Community Consultation

A period of community consultation on the Policy and Guidelines was undertaken from 23 August 2022 to 20 September 2022.

Key stakeholders were engaged including traders, trader associations, current Outdoor Trading permit holders and the community via the following channels:

- Engage Boroondara consultation page
- Letter to Trader associations and current Outdoor Trading permit holders
- Article in the Boroondara Bulletin
- Social media posts
- Website news article

- Communication with Boroondara Business Network
- Article in BizBits E-newsletter.

The Engage Boroondara consultation page gave the community the opportunity to have their say by responding to the following questions:

- What has been your overall experience of outdoor dining?
- By putting in place these three outdoor trading guidelines, do you think that Council is suitably supporting the activation of public footpaths and parking bays for the benefit of businesses and the local community?

Respondents were then asked to comment on the draft Footpath Trading Guidelines, draft Outdoor Dining Structure Guidelines, and draft Parklet Guidelines. Information was collected to determine if the respondent was a resident, a business owner or operator or had some other interest in the issue and their location.

Results of the community consultation included:

- The survey on Engage Boroondara was completed by 161 people.
- Overwhelmingly, respondents had a positive overall experience of outdoor dining. Written feedback highlighted the improved ambience and sense of community created by outdoor dining options, feeling safer from virus transmission and congratulated Council for supporting local businesses.
- In answering the question - do you think that Council is suitably supporting the activation of public footpaths and parking bays for the benefit of businesses and the local community? Options for response included Yes, No or weren't sure. Seventy-two per cent of respondents answered, 'yes' and 12 per cent answered 'no'. A small number of respondents answered that they 'weren't sure.'
- 125 (78%) of respondents were residents and 22 (14%) were business owners. The remainder worked or studied in Boroondara or visited to shop or dine.
- Sixty-four per cent of business owners' businesses were in Hawthorn or Hawthorn East.
- Just over thirty per cent of residents who responded to the survey live in Hawthorn or Hawthorn East. Another quarter of the respondents are residents of Balwyn or Balwyn North.
- Issues of concern relate to loss of car parking bays, footpath access for pedestrians and wheelchairs, cleanliness of footpaths and dining areas, perceived unfairness to businesses who cannot take advantage of outdoor trading, a waste of money, impact on heritage character, loss of trees and the process of applying for a permit.

**Attachment 8** contains a table detailing issues/concerns or specific suggestions in relation to the outdoor dining policy or guidelines and a response from Council officers.

#### Overall experience of outdoor dining

Most respondents reported a positive experience of outdoor dining. Key themes in the feedback included:

- creates community connection
- creates vibrancy and life in shopping strips
- increase in pedestrian traffic
- safety against virus transmission

- would like to have more opportunities and for it to be a permanent feature
- congratulations to Council for supporting traders.

The following two verbatim quotes capture the sentiment of many responses.

*I love it! I go out much more now, and enjoy the ambience, fresh air, amazing coffee and great food! I think it adds a great vibrancy to the shopping precincts too in Hawthorn, Hawthorn East, Camberwell and Surrey Hills!*  
(Resident, Canterbury)

*The outdoor dining experience for us has been SO positive!! Our parklet has brought our community together as they connect with each other over a coffee/wine or beer. We are so proud of what we have been able to achieve. The parklet has become somewhat of a hub. A meeting place, for this amazing community. It really is a win/win. We thank The City of Boroondara for their continued support these past few years. We also look forward to a parklet program continuing into the future.* (Business owner, Balwyn)

Of the 161 responses to the survey, only 13 had a wholly negative sentiment towards outdoor dining. Around the same number had mixed views. For example, outdoor dining was good during Covid-19 but not needed anymore. Themes to emerge included:

Issue/concern	Qty #	Officer response
Loss of car parking bays	8	<p>To limit parking loss, parklets are limited to a maximum of two parking bays per business.</p> <p>All Parklet applications will undertake an assessment from an internal panel made up of Council departments which will determine the impact of the parklet on amenity, road and traffic safety and impact on parking within the surrounding area.</p> <p>Disabled parking spots cannot be used for parklets.</p>
Problems with footpath access	9	<p>The policy has been developed to meet the requirements of the <i>Disability Discrimination Act 1992</i>.</p> <p>It is the permit holder's responsibility to ensure pedestrian access is maintained.</p> <p>Council officers undertake frequent inspections to ensure outdoor trading areas provide footpath access and remain within the permitted area.</p>

Cleanliness of dining areas and footpaths	2	<p>Amongst other conditions within a Council issued parklet permit, parklet operators will be responsible for the maintenance and upkeep of their parklets and outdoor dining areas.</p> <p>Council officers will undertake frequent audits to ensure parklets are kept in a clean and tidy manner.</p>
Perceived unfairness to traders who could not operate outdoor dining.	3	<p>Due to the semi- permanent nature, many locations will not be suitable as the structure cannot be placed over any existing underground infrastructure. Cost of building the structure will also be prohibitive as the structure needs to meet appropriate planning and building requirements in addition to the guidelines.</p>
Post-covid parklets are no longer needed.	2	<p>The feedback in the Boroondara Community Plan was that residents are eager for outdoor spaces to reconnect with each other and engage with the community. The parklets will provide attractive outdoor dining spaces that will help to encourage increased patronage across Council's shopping center precincts.</p>
Concerns about cost	2	<p>Council's original parklet program was Victorian Government funded. With the end of the funding, Council is proposing a hybrid co-contribution model where parklet operators will pay for their parklet infrastructure with Council funding road safety infrastructure to provide safe and practical dining spaces. The program is expected to be cost-neutral with minimal impact to Council's budget.</p> <p>The costs to administer the program are covered by the fees associated with undertaking an assessment. It is not expected that there will be any increase in costs and footpath trading numbers are not likely to increase significantly. The resource requirements for assessing an application have not changed, what has changed is the guidelines provide more concise requirements to enable an applicant to better understand what is achievable before applying for an Outdoor Trading Permit.</p> <p>Council funding the road safety infrastructure will ensure the spaces created for parklet dining are delivered in a safe and practical manner, it is anticipated these costs will be offset by the income from permit fees.</p>

Questions about the permit application process	3	<p>Permits are assessed on a case-by-case basis dependant on location and its attributes.</p> <p>Seasonal Permits will be available for those who want to trade over the summer months (Pro rata fee) with an application fee each year.</p> <p>Traders may also apply to Council for short term parklets outside of the seasonal program at any time.</p> <p>Outdoor structures are addressed through several mechanisms including planning, building and internal and external referrals to determine their suitability and compliance to the relevant legislation. The framework provides an opportunity to seek feedback from those directly impacted i.e. neighbouring residents. Some aspects of footpath trading also may require planning and building approval as well as external bodies such as public authorities. The guidelines indicate where, for example, a planning or building referral is required.</p> <p>For parklet installations only temporary infrastructure will be considered. The infrastructure must be able to be easily packed up and removed, if required. For seasonal parklets, applicants will need to reapply within the predetermined application timeframe. Traders may also apply to Council for short term parklets outside of the seasonal program at any time.</p> <p>Regarding annual parklet applicants, Council will undertake a review to consider if the parklet may remain in place for a further twelve months. Council will accept feedback from the surrounding traders and residents about a parklet location and collaborate with the local trader's association to ensure impacts are minimised.</p>
Heritage areas (extensive submission)	1	<p>A process is provided in the Guidelines to manage Heritage locations. It is the role of Council's Planning department to determine whether the requirement to refer a matter to the Heritage advisor is appropriate. Over administration of a process, not only extends application processing times, it increases cost of evaluation. Planners are appropriately trained to address this requirement.</p> <p>Advertising over a certain size and within a Heritage zone is considered under the Planning</p>

		Scheme to ensure the advertising is appropriate for the location. The importance of advertising to help promote businesses and aid with locating the business is acknowledged and accepted.
Damage/removal of trees (extensive submission)	1	Minimum setbacks to trees are provided in the Footpath Trading Guidelines. The Outdoor Structure Guidelines do not support the removal or pruning of a tree to accommodate the placement of an outdoor structure. Assessment is required on an individual basis to determine how close a structure can be to a tree before it has an impact on the root structure or canopy of the tree. Council values its trees and there is significant investment placed in trees to ensure their viability.
How many are anticipated/allowed? (extensive submission)	1	Council's most recent iteration of the parklet program supported 23 businesses across the municipality. The original program contained 31 parklets. Whilst there is no limit on the number of parklet permit applications, each parklet location will be scrutinised under the guidelines to determine the impact on parking, surrounding traders and wider community. It is anticipated there will be approximately 20-30 parklets spread across the seasonal and annual program.

The following two verbatim quotes capture some of the main issues that were raised:

*I rarely participate in outdoor dining on footpaths. However, as a pedestrian I am frequently inconvenienced or put at risk by it.*

*Patrons rearrange the furniture so it moves into the footpath area. Business operators are slow to or don't police it or put the furniture back when a patron leaves it on the footpath. Dog owners allow their dogs to lie down on the footpath area or to move about on the footpath. On occasion, dog leads become an additional trip hazard. (Resident, Hawthorn)*

*We are a fruit shop and have angle parking in front of our business. We have a very narrow footpath and the curb is very small. With council's proposal we will not be able to put our tables outside at all. That's our main business. It brings people not only to the store but brings people to the shopping strip. We are a family business and will not be able to survive. If we don't survive a lot of other businesses will be affected as well and potentially not survive either. (Business owner, Balwyn)*



### Activity specific guidelines

There were a small number of comments in relation to the draft Footpath Trading, Outdoor Dining Structure and Parklet Guidelines. They were similar to the positive and negative comments expressed about the overall experience of outdoor dining.

A proactive approach was undertaken to contact businesses that would be affected by the new requirements in the Outdoor Trading Guidelines (4.3 and 4.4 p.10) that requires a 10 metre setback from an intersection or a public transport stop in line with the Austroad Guide to Road Design, the *Road Management Act 2004* and guidelines provided by Yarra Trams. Previously this had been 5 metres. Of the 625 Footpath Trading Permit holders, nine (1.4%) would be affected. Four would have to remove some furniture and five will not be able to trade outside their premises.

Council officers engaged the individual businesses separately to discuss. Initial disappointment was tempered by the fact there is a period of 2.5 years before changes become mandatory. Officers spoke to the business owners about alternatives such as trading outside a next-door business if this was agreed upon. Some of the business owners indicated they would like a permit officer inspection to discuss options. The businesses will be engaged ongoing to support the best possible outcome.

A separate and comprehensive submission was received after community consultation had closed. It has been reviewed and addressed throughout the body of this report.

None of the feedback from the consultation has led to any proposed changes to the Outdoor Trading Policy or the specific activity guidelines. The documents have been updated with Boroondara specific designs and images. (**Attachments 1,2,4 and 5**).

## **4. Outline of key issues/options**

### **Proposed Permit Fee structure**

The proposed fee structure for all three outdoor trading opportunities will be the same as that detailed in the current Commercial Street Furniture Guidelines (**Attachment 6**) as follows:

*Per square metre fee is based on the unimproved capital value of the median price of the land within the shopping centre multiplied by 5%, but with a fee cap of \$328.00 per square metre. The minimum fee per square metre is \$149.50.*

Traders will be eligible to apply for the following permit:

- Footpath trading
- Annual permit

No change is proposed to the current permit fee structure and remains in accordance with the approved fee structure in the 2022/2023 Council Budget.

Other costs to a trader may occur where permission is sought to access Council assets, for example, when a sleeve mechanism is used to secure an umbrella in the footpath. In this instance, a Road opening permit is required and

the payment of a bond for footpath restitution when the umbrella is no longer needed.

- Parklets
  - Seasonal permit: six-month period between 1 November - 30 April
  - Annual Permit: 12 months

Traders may also apply to Council for short term parklets outside of the seasonal program at any time.

The proposed fees aim to mitigate the cost of Council administration and provide an equitable charge according to space utilised for the installation of parklets within parking bays.

This model will influence and encourage trader investment thereby assisting with activating Boroondara's shopping centre precincts and facilitating economic recovery.

A review will be undertaken after a 12-month period to understand the feasibility of continuing to use footpath trading permit fees or whether fee adjustments for alternative outdoor trading opportunities is required.

Existing parklet operators have been consulted and Council officers will assist each parklet operator with the transition from the current program to the new program as proposed under the guidelines.

- Outdoor Dining Structures
  - Biennial permit

In addition to a permit fee, a bond will be taken for reimbursement for any damage to Council assets on the removal of any Outdoor Dining Structure.

### **Loss of revenue**

The installation of a parklet, either seasonal or annual, will result in a net loss of revenue for the related parking bays that Council would have received through parking meter fees and associated parking infringements.

### **Enhanced details and graphics to improve customer experience**

All guidelines have been reviewed and created to ensure:

- an enhanced scope
- readability: plain English has been employed wherever possible and language improved in line with inclusive and accessible customer communications requirements
- quality graphics: accurate and contemporary graphics have been included in the guidelines to support and enhance the written guidance
- simplicity: key information is highlighted and repeated sparingly.

### **Application of guidelines**

The three guidelines presented in this paper will apply automatically to all new applicants. Existing permit holders will have a grace period to come into line with the new guidelines as prescribed below.

### Footpath Trading Guidelines

All current outdoor trading permits have been issued in accordance with the current Commercial Street Furniture Guidelines. While the impact to the majority of permit holders is anticipated to be minimal and indeed there will be greater benefits derived from the new requirements, it is acknowledged there will be an impact on a small number of traders. For example, some traders with temporary outdoor dining located close to an intersection will need to be reviewed to determine whether they can comply with an increased setback distance from an intersection in line with the Austroad Guide to Road Design and the *Road Management Act 2004* and, as such, whether their current Trading zone can remain.

It is anticipated the impact will be limited and Council will identify, review and engage with those traders on a case-by-case basis. A common-sense approach will be taken to apply this to existing trader setups to reduce impacts and make practical determinations. The intention is to improve safety and not limit trader opportunities.

In the instance where existing traders are ineligible to undertake outdoor trading, it is proposed to allow existing arrangements to continue until:

- The business ceases to trade or is sold and transferred to a new trader (anecdotal evidence indicates on average business's turn over every 2-3 years)
- The trader seeks to change or cancel their permit
- Council revokes or cancels the permit
- The installation of critical infrastructure by Council or a public authority results in a reduction of the available area to trade or;
- Until permit renewal in March 2025 (a period of approximately 2 and a half years).

New opportunities and requirements have been introduced into the Footpath Trading Guidelines (**Attachment 10**). Not all relate to Parklets and Outdoor dining structures. These include:

- Installation of awnings (not previously permitted)
- Installation of planter boxes (not previously permitted)
- Installation of umbrellas into the Council footpath (not previously permitted)
- Increased setback from intersection
- Increased clearances for tram and bus stops.

## 5. Consultation/communication

Internal consultation has been undertaken with:

- Civic Services
- Liveable Communities
- Traffic and Transport
- Asset and Capital Planning
- Building Services
- Planning and Placemaking
- Environmental Sustainability and Open Spaces

A communications and consultation plan has been prepared for key stakeholders including traders, trade associations, current Outdoor Trading

permit holders and the community. The plan includes the following communication channels:

- Engage Boroondara consultation page
- Letter to Trader associations and current Outdoor Trading permit holders
- Article in the Boroondara Bulletin
- Social media posts
- Website new article
- Communication with Boroondara Business Network
- Article in BizBits E-newsletter.

## 6. Financial and resource implications

The application of these guidelines is intended to incentivise commercial trading on footpaths and roadways for the benefit of traders and the community. It is anticipated in support of this that Council will bear some cost.

The guidelines seek to provide greater clarity for traders, enhance compliance, mitigate the risk of damage to Council assets and minimise expenditure in the repair of assets when damaged as a result of commercial trading activities.

### Footpath Trading

With the introduction of safety related requirements and setbacks, it is also anticipated a small number of permit holders may be unable to maintain their current trading activities. A period of approximately two and a half years is proposed to allow for the transition of all permit holders.

Compliance and enforcement activities have been limited as a result of COVID-19 lockdowns and it is anticipated some traders may not be complying with the current requirements. An increase in enforcement activity is anticipated.

### Parklets

It is proposed traders fund the parklet infrastructure and Council will fund the cost of the installation of the road safety infrastructure, including traffic management and road safety audits. Traders will also be required to pay for an application and a permit fee based on existing footpath trading permit fees (**Attachment 7**).

In considering the costs of funding road safety infrastructure, the cost to Council will be minimal and largely offset by the permit fee.

Council funding road safety infrastructure and going through necessary internal and external approvals will ensure spaces created for parklet dining will be consistently applied and delivered in a safe and practical manner.

### Outdoor Dining Structures

The installation of Outdoor Dining Structures will likely result in only a small increase in the fee revenue from permits. Few applications are anticipated due to the limited suitable locations to support the significant space requirements for an outdoor dining structure in addition to the significant cost of purchasing and installing the structure.

These applications will, however, require appropriate resourcing due to the comprehensive administrative requirements needed to assess the suitability of an application. The permit fee proposed for Outdoor Dining Structures is unlikely to cover anticipated costs and will otherwise be absorbed as part of business-as-usual costs.

## **7. Governance issues**

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

The officers responsible for this report have no direct or indirect interests requiring disclosure.

## **8. Social and environmental issues**

The Policy and guidelines have been designed to facilitate activation of commercial trading opportunities to support economic recovery and provide vibrant, safe and welcoming places for the community to gather and enjoy.

They also aim to assist Council to maintain and protect valuable community assets from damage caused by or as a result of outdoor trading activities and prioritise the safety of the community.

Feedback from the community about outdoor dining opportunities was overwhelmingly positive. The community values the vibrancy and atmosphere they add to street life and appreciate the opportunity to dine and socialise locally.

## **9. Conclusion**

Council aims to support, facilitate and incentivise traders to activate commercial trading opportunities through the provision of an outdoor dining package. This is central to meeting our commitment to the Boroondara Community Plan 2021-2031 and other specific Council strategies and plans.

This package encompasses a foundational policy with guiding principles that inform current, new and future outdoor trading opportunities. The Policy currently informs three outdoor trading opportunities on public footpaths and roadways. These consist of contemporary footpath trading and those that have emerged through the COVID-19 pandemic, namely Parklets and Outdoor Dining Structures.

To incentivise traders to undertake outdoor trading for the benefit of the local economy and the community, the fee structure proposed is in line with that charged in other municipalities and in some cases somewhat less than other councils.

The guidelines, underpinned by the Policy have been developed to provide clear, contemporary and accessible guidance to support traders in activating available outdoor trading opportunities. The guidelines aim to balance the expectations of traders to be able to activate with ease, outdoor trading, with that of the wider community by maintaining user access, protection of Council assets, accessibility, neighbourhood character, heritage and amenity.

**Manager:**                **Paul Mitchelmore, Manager Civic Services**  
                                 **Nick Lund, Manager Liveable Communities**

**Report officers:**    Wendy Smith, Social Policy Consultant  
                                 Mirella Manfre, Coordinator Permits Appeals Protection of Assets

November 2022

Attachment 1



# Outdoor Trading Policy





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## **1. Introduction**

### **1.1. Background**

A key strategy of the City of Boroondara Community Plan 2021-2031 is to provide opportunities to support the creation of a strong and vibrant local economy with retail precincts that are accessible, attractive and welcoming for the benefit of the community and visitors to the municipality.

The Policy supports the activation and promotion of greater outdoor trading opportunities. The aim is to enhance the use of shared footpaths and roadways while maintaining safety and local amenity.

The valuable contribution of activating outdoor areas for commercial trade for the benefit of traders and the community is widely recognised as is the potential for new opportunities to emerge. Council continues to support this innovation and balances this with community expectations and public safety.

Outdoor dining is a significant element of the wide-ranging potential of outdoor trading and one which continues to grow in popularity both on footpaths and on the road. New and enhanced guidance has been developed in recognition of this evolution to support traders to increase the vibrancy and functionality of retail precincts.

### **1.2. Purpose**

The purpose of the City of Boroondara Outdoor Trading Policy (Policy) is to provide a framework for Council's guiding principles on activating public footpaths and roadways for commercial purposes and for the broader community benefit while maintaining a balance between the safe passage for pedestrians and vehicles through these shared spaces.

### **1.3. Scope**

Outdoor trading encompasses Council incentivising traders to activate and enhance the use of public footpaths and roadways for commercial purposes.

Public footpaths and roadways can be activated by the installation of temporary, semi-permanent or permanent installations for defined periods of time in accordance with any permit or licence issued by Council.

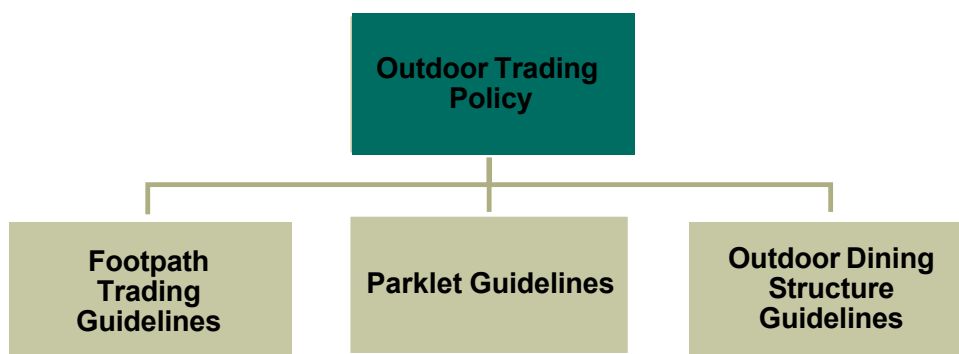
The use of footpath areas includes:

- installation of temporary infrastructure for dining and the display of goods
- installation of Outdoor Dining Structures
- display of signage to advertise a trader's business.

The use of roadway areas includes:

- repurposing parking bays or laneways for dining
- use of Council carparks.

Detailed guidelines for a range of commercial trading opportunities are informed by the Policy as shown below.



The Policy considers the needs and expectations of:

- residents
- traders, their patrons, and employees
- trader groups and associations
- visitors to the municipality
- public authorities
- government departments.

Decision making is underpinned by several government Acts, Regulations and Council Local Law and, is enhanced by existing plans to support local traders and residents as detailed in the City of Boroondara Community Plan 2021-2031, Placemaking Framework 2019, Economic Development and Tourism Plan and Shopping Centre Improvement Plan.

#### 1.4. Corporate framework

The community vision statement expressed in the Boroondara Community Plan 2021-2031 is '*A sustainable and inclusive community*'.

The application of the Policy supports this vision across the following themes:

- Theme 1 Community, Services and Facilities - Community services and facilities are high quality, sustainable, inclusive and strengthen resilience.
- Theme 3: The Environment - The environment is considered in all decision making.
- Theme 4 - Neighbourhood - Character and Heritage - Protect the heritage and respect the character of Boroondara, while facilitating appropriate, well-designed development.
- Theme 6 Local Economy - Support local businesses and enhance shopping precincts, fostering a strong economy and welcoming places for the community.

## 2. Policy environment

Public footpaths and roadways managed and maintained by Council and other relevant coordinating road authorities are a finite resource. There are multiple competing uses of these spaces as well as expectations from the local community to activate these while balancing this with maintaining accessibility and ensuring the protection of neighbourhood character, heritage and amenity.

The Policy provides the foundation to manage existing commercial trading opportunities and enable new ones. It is applied alongside activity specific guidelines and the City of Boroondara Amenity Local Law.

### 2.1. Guiding Principles

Outdoor trading is guided by four principles to support and provide opportunities for traders to bring the community together in welcoming and safe spaces.

When considering current and emerging commercial outdoor trading opportunities, Council adopts the following four policy priorities:

1. Vibrant street-life and a prosperous economy  
Ensuring Boroondara streets and roadways remain vibrant, lively and contribute positively to an area's sense of place and character and one where shopping precincts can thrive and prosper by providing a platform to incentivise traders to enhance their trading opportunities.
2. Public safety and amenity  
Provide and manage the safe and unobstructed passage for all pedestrians, drivers and cyclists in accordance with the *Road Management Act 2004* and *Austroad Guide to Road Design*. Ensuring footpaths and roadways are maintained to provide for safe, healthy and equitable use and enjoyment.
3. Accessibility  
Outdoor trading aims to ensure suitable locations are made available which maintain usability and inclusion for people of all ages and abilities in accordance with the *Disability Discrimination Act 1992*.
4. Welcoming and attractive  
Ensuring the variety and design of installations and infrastructure are vibrant, inviting and constructed to suit prolonged outdoor conditions.

Activity specific guidelines have been developed for each of the following available outdoor trading opportunities:

- Footpath Trading Guidelines
- Outdoor Dining Structure Guidelines
- Parklet Guidelines.

Compliance with these guidelines is enforced in accordance with the City of Boroondara Amenity Local Law 2019 and permit conditions.

### 3. Implementation and monitoring accountabilities

For all queries or feedback regarding this Policy, please use the contact details for the responsible departments below.

Contact department	Contact number	Contact email
<ul style="list-style-type: none"><li>Urban Living - Permits and Appeals team (Footpath Trading and Outdoor Dining Structures)</li><li>Liveable Communities team (Parklets)</li></ul>	9278 4444	<a href="mailto:boroondara@boroondara.vic.gov.au">boroondara@boroondara.vic.gov.au</a>

## 4. References

Related documents:

- Austroad Guide to Road design Part 4A, 2021
- City of Boroondara Amenity Local Law 2019
- City of Boroondara Footpath Trading Guidelines
- City of Boroondara Outdoor Dining Structure Guidelines
- City of Boroondara Parklet Guidelines
- *Local Government Act 1989*
- *Planning and Environment Act 2004*
- *Road Management Act 2004*
- Road Management (General) Regulations 2016
- City of Boroondara Register of Public Roads 2016
- City of Boroondara Parking Management Policy 2017
- City of Boroondara Traffic Management Policy 2018
- City of Boroondara Disability Action Plan 2018-22
- City of Boroondara Asset Management Policy 2019
- City of Boroondara Shopping Centre Improvement Plan
- Boroondara Planning Scheme
- *Disability Discrimination Act 1992*
- *Charter of Human Rights and Responsibilities Act 2006*
- City of Boroondara Community Plan 2021-2031
- City of Boroondara Placemaking Framework 2019
- City of Boroondara Economic Development and Tourism Plan 2016-2021
- *Privacy and Data Protection Act 2014*

Attachment 2



City of Boroondara

# COMMERCIAL STREET FURNITURE GUIDELINES

Prepared by the Local Laws Department  
Approved by Council at its meeting on 26 February 2001  
**Fees updated July 2022**

Supplementing Amenity Local Law Part D



## The City of Boroondara

Camberwell Office  
8 Inglesby Road Camberwell 3124

Kew Customer Service Centre  
Cnr Cotham Road and Civic Drive Kew 3101

### Postal Address

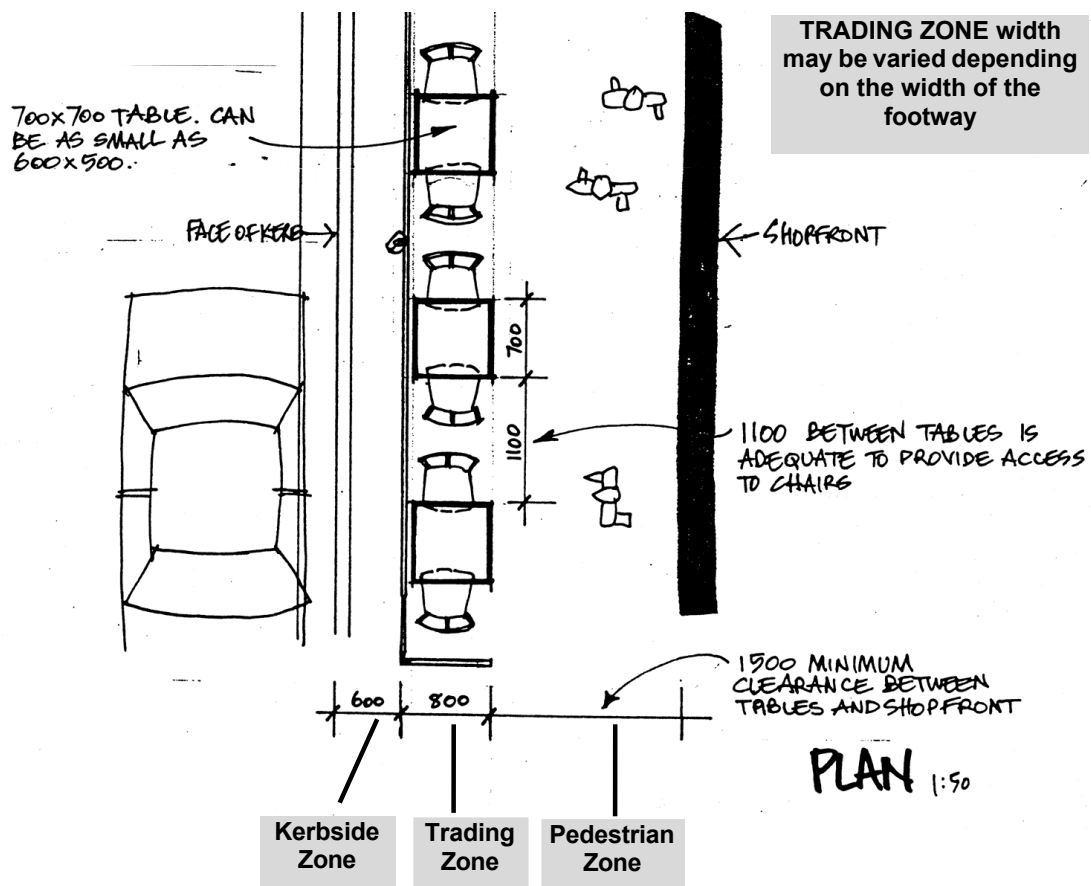
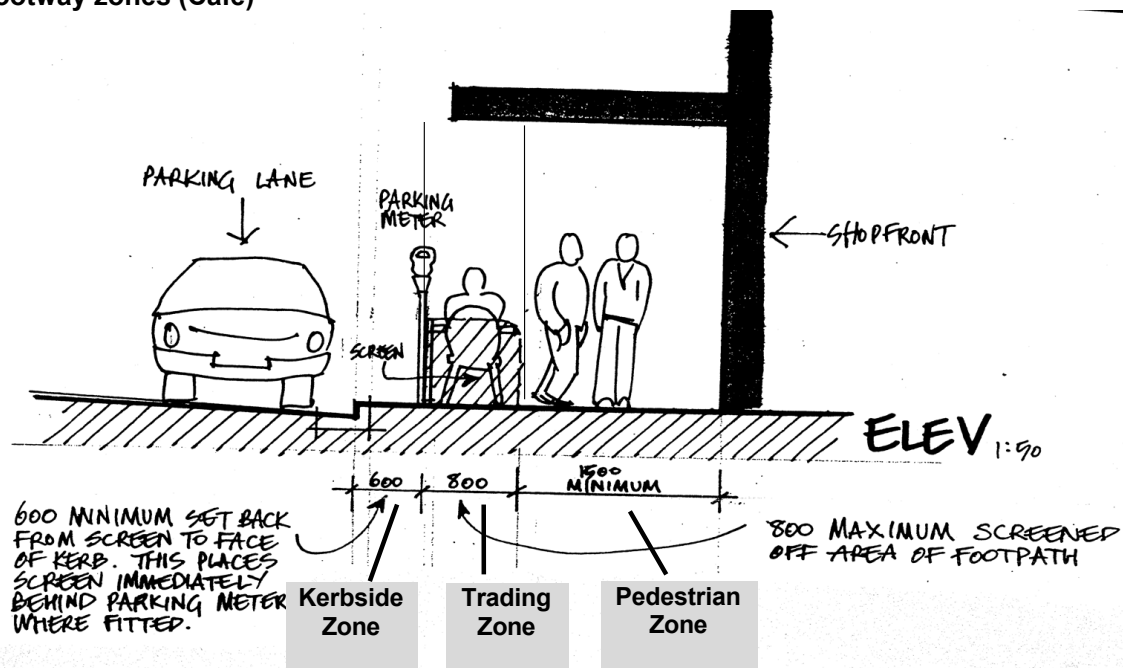
Private Bag 1 Camberwell 3124

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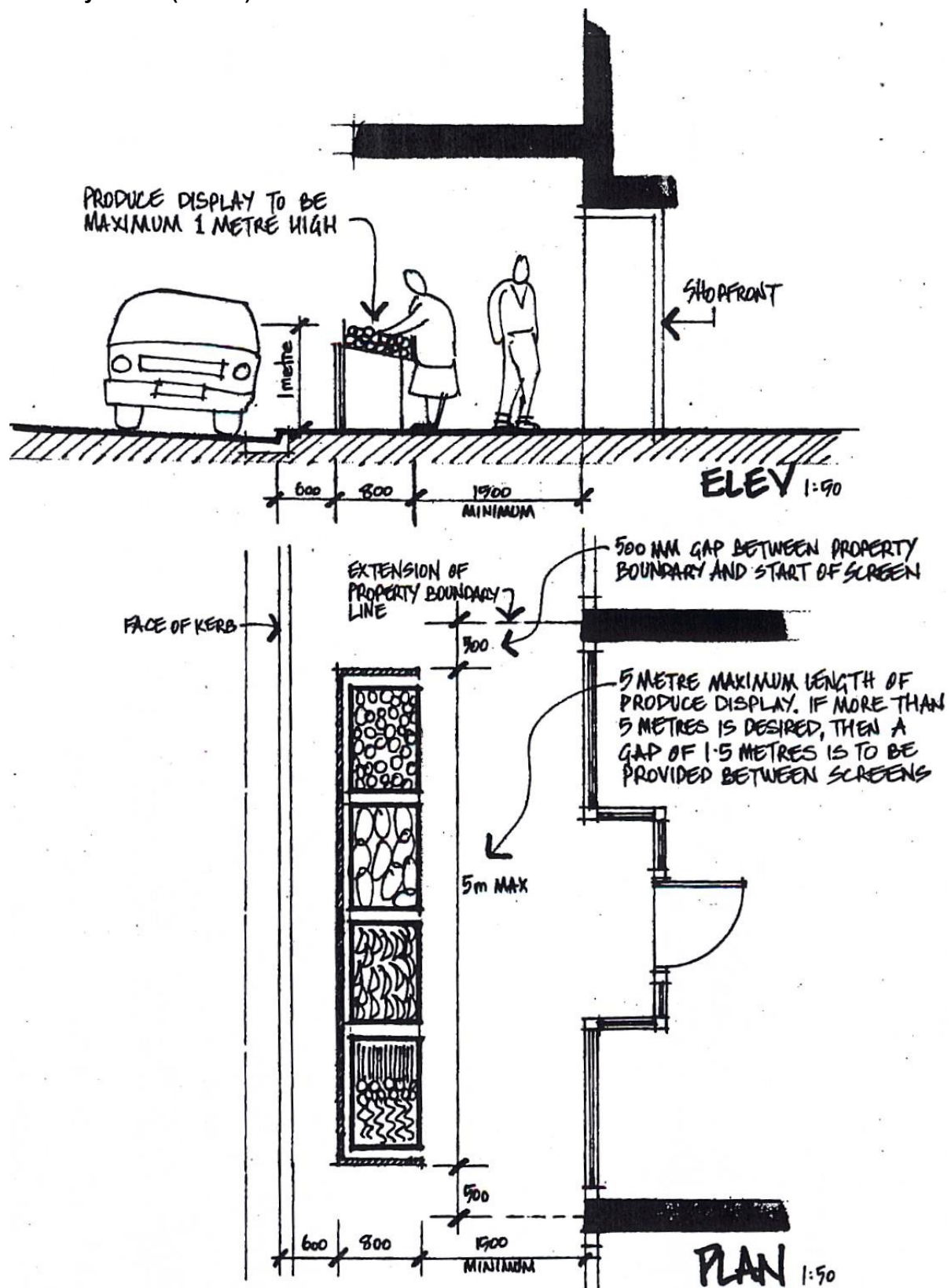
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## Footway zones (Café)





## Footway Zones (Goods)



## Fees

### (Note transition period under Enforcement, page 15)

The fees Council collects help to defray the costs of inspections by the dedicated Commercial Street Furniture Officer. He will liaise with shopkeepers prior to their application for a permit, and then visit the premises to ensure the policy conditions can be met. Education and negotiation are the key words here. The officer will assist traders to comply with the guidelines through constructive advice and supportive comments. Random and frequent inspections will be made to ensure that all necessary licences have been obtained, and that licence conditions are being adhered to, but with the stated aim of helping the trader comply with the guidelines, rather than punishing him for non-compliance. The licence-holder may receive a written report if the Officer determines **One-off** that licence conditions have been breached, and the officer will then assist the trader to rectify the situation.

- **First-time application - \$88.50**
- **Transfer (eg: shop relocation with no changes to licence) - \$88.50**
- **Real estate agents (portable signs) - \$680.00 per year per company**
- **Portable signs - one square metre\***
- **Display of goods - per square metre\***
- **Cafes - per square metre\***
- **Barbecues and food sampling - per square metre\***
- **Directory boards - one-off \$428.00 per entry**
- **Fingerboards - one-off \$428.00 per entry.**

\* Per square metre fee based on the unimproved capital value of the median price of the land within the shopping centre multiplied by 5%, but with a fee cap of **\$328.00** per square metre. The minimum fee per square metre is **\$149.50**.

## Fees - Burke Road Camberwell

Licence fees will reflect the trading differences in the shopping centres. High-return centres, such as in parts of Burke Road, Camberwell and the Market Plaza at rear, will cost more per square metre, as will parts of Glenferrie Road, Hawthorn.

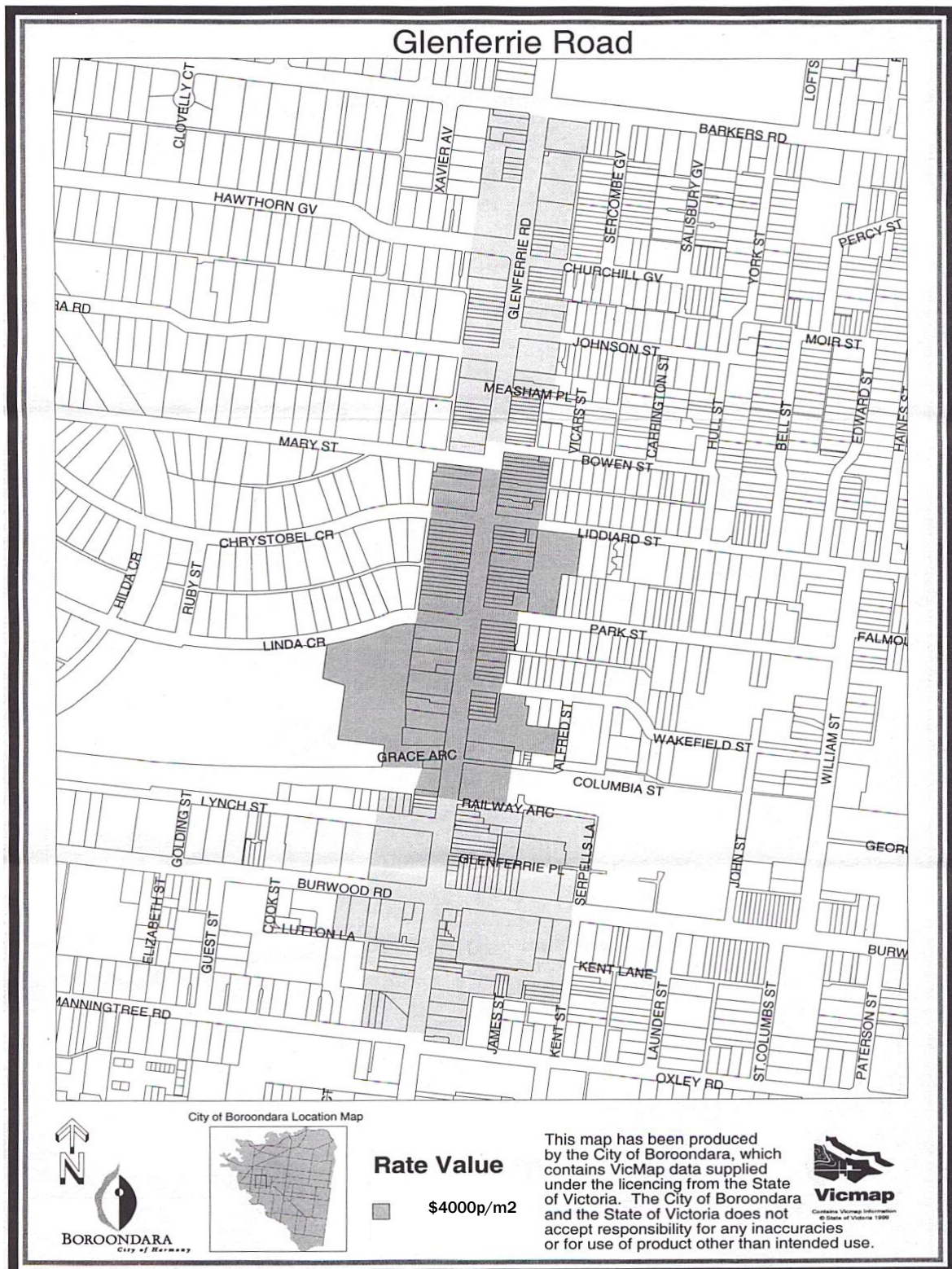
These are only areas where the licence fee per square metre, for the commercial use of a community asset, is more than the minimum **\$149.50**. All other shops will pay the minimum fee per square metre.

The shopping centre plans on pages 7 and 8 illustrate the various rate value areas. Fees in these areas are based on a calculation of median unimproved capital value (UCV) per metre multiplied by 5% but with a cap of **\$328.00** per square metre. (Figures from Boroondara's Valuations Department.)

Shopping centre	Median unimproved capital value per square metre	UCV x 5% (per m <sup>2</sup> per annum)	Fees Effective 1 July 2020
Burke Rd (part of)			
Camberwell	\$6,000	300	<b>\$328.00</b>
Glenferrie Rd (part of)			
Hawthorn	\$4,000	200	<b>\$252.00</b>
All other areas			<b>\$149.50</b>







### What do I get for my money?

When a licence is granted, licencees gain the use of public land for a commercial activity. In most cases they receive added exposure for their businesses in the retail area. The fees are based on the rental value of a square meter within each shopping centre, with a minimum fee of **\$149.50**, and compare favorably with other commercial rental costs in shopping centers.

Public Liability Insurance is provided to the permit holder which is limited to activities sanctioned by the permit and only applies if those activities are carried out strictly in accordance with the guidelines and any special conditions applicable (which, if any, are stated on permit).

A licence sticker indicating what activities the licence permits will be issued, to be adhered to the front window of the premises, or in another conspicuous place. In the case of cafes the sticker will indicate the number of tables and chairs allowed under the licence.

### How will my application be assessed?

The Commercial Street Furniture Officer ("the Officer") will assess each application on its own merits. Generally speaking, if the application satisfies the guidelines, and the **FOOTWAY ZONING PLAN** as set out on page 3 and 4 of this document, a licence may be issued.

**However, under no circumstances will a licence be granted for an application that does not meet the guidelines.**

When assessing applications, Council will give particular consideration to the following criteria:

The application must meet the policy conditions and:

- must not negatively impact on the streetscape and appearance of the area;
- must not negatively impact on vehicular traffic flows and safety;
- must not negatively impact on pedestrian movement and safety;
- must not prejudice any proposed road widening, installation of traffic lights, building setback or a Council planning policy; and
- must take into account any relevant urban design guidelines or health and safety issues.

### Trading zone

Based on the average footway width of 2.9 meters, a typical **TRADING ZONE** will be 800mm wide and will usually be located 600mm in from the kerb in front of the business premises. The width of these zones may be varied at the discretion of the Officer depending on the total width of the footway. (See Footway zone plan on pages 3 and 4).

Areas such as courtyards and plazas will be assessed on an individual basis.

Traders should place items of commercial street furniture in this zone on the footway, enabling Council to conform with the requirements of the Australian Standards AS1428.2 and the Disability Discrimination Act 1992.

### Pedestrian zone

This is the area immediately adjoining the shop front in which traders have historically displayed goods, tables, chairs and signs. Although Council recognises that this may be the preferred location for some traders, this practice has generated the greatest number of complaints. Most complaints relate to signs, goods or cafes narrowing the footway, forcing those with sight difficulties or those who use a cane, to zigzag along the footway trying to avoid obstacles outside shop windows.

The zone will provide an uninterrupted, accessible path of travel with a minimum width of 1.5 meters for at least six meters between the shop front and the **TRADING ZONE**. After that distance, the minimum width should be increased to 1.8 meters for a distance of 1.6 meters.

### **No commercial street furniture will be permitted immediately in front of any premises.**

To address these issues Council will only allow commercial street furniture items such as goods, signs, and tables and chairs, to be placed in the **TRADING ZONE**.

## Kerbside zone

This zone will create a safety buffer between the face of the kerb and any commercial street furniture.

The following minimum clearances will apply at:

- Parallel Parking Bays**

**600mm**

This distance will allow passengers to safely open doors of vehicles without coming into contact with commercial street furniture, and also provide sufficient space for the passenger to safely alight without being obstructed.
- 90 degree Parking**

**800mm**

The additional clearance is required to allow the front of a vehicle to overhang the footway when parking at a 90-degree angle-parking bay.
- Disabled Parking Bays**

**1000mm**

This clearance will provide a safe area for disabled persons to load/unload wheel chairs onto the footway from a vehicle.
- Loading Zones**

**1000mm**

This clearance will provide safety when opening truck doors, and allow drivers to place goods onto the footway during loading/unloading. If this clearance cannot be achieved on a narrow footway, furniture may be placed in the Trading Zone along the front half of the Loading Zone with a 600mm clearance from the kerb. This will provide the required unload/loading area at the rear half of the zone for large delivery vehicles.
- No Stopping/No Standing Zones**

**600mm**

At No Stopping/No Standing Zones (this distance will ensure standards of safety are maintained).



## Display of goods

- Goods may **only** be displayed for sale within the **TRADING ZONE**, usually adjacent to the licence premises. The maximum width of usable footway space is illustrated on the Footway Zone Plan (see page 4).
- The maximum height of any display is one metre.
- Screens may be placed around the goods for added security, but must be within the size limits as specified for screens and kept within the footprint of the Trading zone.
- Display stands must not be fixed to the footway or any street sign or pole, or other item.
- A space of 500mm must be left for each business back from the projected property line to provide a gap between adjoining businesses. This will avoid an unbroken line of obstacles on the footway, and as to allow a person to safely step onto the footpath from the road. A gap of 1.5 meters must be left every five meters.
- Commercial street furniture must not be placed within 1.5 meters of multi-bay parking meters, or within 500mm of the number/arrow painted on the footway at a parking bay.
- No display of goods will be allowed in areas of high pedestrian movement, or where pedestrians gather at intersections, tram or bus stops.

## Portable signs

Portable signs in retail shopping centres are of particular concern to Council, as they tend to clutter the footway and detract for a street's overall appearance.

A licence may be granted to place a portable sign, such as an A-board, in the **TRADING ZONE**, but only if the following conditions are met:

- If the application relates to a business in a Heritage zone, such as Maling Road, Canterbury, it must be accompanied by a Town Planning application.
- Only one sign/board per property frontage will be licenced, or at the discretion of Council.
- Signs may only be placed in the **TRADING ZONE**
- Signs must be no more than one metre high and 700mm wide, and no less than 500mm wide.
- They must be well constructed from quality materials (no hand written signs), and weighted sufficiently to avoid causing damage in windy conditions; any materials used must be shatterproof.
- Signs may only be displayed when the business is open and removed when it is closed, or to allow street cleaning (see "Safety/Hygiene").
- Signs must not extend more than 500mm.
- Signs must not be chained, attached, or placed upon against any street pole, rubbish bin or other fixture.
- Signs must not have oscillating or moving parts, and no sharp, pointed, or jagged edges, corners or protrusions.
- Flags or rotating signs are prohibited (see "Safety").
- Signs must not be reflective or illuminated by any power source.
- Signs must not emit any sound.
- No notices, signs or other objects are to be attached to the sign.
- Signs will not be licenced in a residential zone.

Where the applicant cannot meet the conditions of this guidelines regarding signs, it may still be allowable to place a portable sign on the footway outside another premises provided the owner/occupier of that premises gives permission in writing. The owner/occupier would then relinquish his/her right to a portable sign.

In certain circumstances, such as where a business is near a main road, or in an arcade or side street, Council may place a fingerboard or directory board on a pole nearby in lieu of the business having a portable sign outside their premises.

### **Real estate agents signs**

- Real estate agents' portable signs must comply with the conditions previously described.
- Licences issued to real estate agents allow signs to be placed at or near a property for which the agent is acting, providing that the sign is removed at sunset and is not placed on any road or road related area, or is a hazard to pedestrians or vehicles.
- One licence allows up to six signs and one flag to be used at any one time (per site).
- Auction flags or banners that overhang the footway must have a minimum height of 2.4 meters at their lowest point to ensure people with sight difficulties can safely walk underneath.
- Open for inspection signs at premises for sale (not including display premises) must not be placed out for more than 2 hours prior to opening and must be removed on closing.

**Please note that portable signs placed on footway within a Heritage Zone, such as Maling Road, Canterbury, will also require a Town Planning Permit.**

### **Safety/hygiene**

Safety is paramount. If people don't feel safe, the streets will not be used and if people consider the footways are cluttered they may decide to shop elsewhere, which will have a negative impact upon local business. Commercial street furniture should not create hazards for pedestrians. It should also be able to withstand hot and windy conditions.

Portable signs have blown over in strong winds damaging cars and property; and in some instances causing people to trip over them. Motorist sometimes complain that their car doors are damaged by bumping into commercial street furniture that has been placed too close to the kerb.

Umbrellas must be 2.4 meters high at the lowest point. They must not protrude over the roadway and must be secured (e.g. sand bags) in case of a sudden gust of wind.

Applications for cafes must be accompanied by a Certificate of Registration of Food Premises.

**KERBSIDE ZONE.** This minimum height, which is the same as the Building Regulations 1994 Part 3, will ensure pedestrians are not at risk of receiving head or facial injuries.

Another important safety consideration is that glass or other material used in the construction of commercial street furniture must be shatter proof.

Street furniture must not exceed height restrictions and must have no moving parts, or sharp, pointed, or jagged edges, corners or protrusions.

## Insurance

The public liability provided by Council may not cover your entire range of possible exposures to risk of liability from the activity stated in the permit and you should seek professional advice as to whether you should take out some separate liability insurance in that regard.

All commercial street furniture (with the exception of semi-permanent cafes), must be removable for footway cleaning, and must be removed between 9pm and 6.30am Monday to Sunday.

Street litterbins must not be used to dispose of trade waste as this will reduce the capacity of the bins to accept general rubbish from the public. Trade waste should be disposed of in a Council-approved bin, or a commercial bulk rubbish container.

## Clearances

The following clearances will apply when street furniture is placed on the footway at:

- **Multi-bay parking meters**  
This will allow motorists to see and access the meter.

**1.5 meters**
- **Numbers painted on the footway indicating the bay number and direction of the multi-bay machine**  
It is vital that motorists be able to easily identify the bay at which they have parked, and the direction of the meter.

**500mm**
- **Council rubbish bin and street seating**  
Contractors who empty bins must be able to locate and have easy access to them.

**1.5 meters**
- **Kerb line at any intersection**  
For safety reasons this distance must be left clear at intersections. Street furniture near intersections can cause safety and sight problems for motorists. Also, small children can run onto the road from behind furniture without being seen by motorists.

**5 meters**

## Advertising

While Council accepts that traders may require advertising on commercial street furniture, it should not simply be a vehicle for advertising. To avoid excessive advertising a limit of 30% of the total area of a screen surrounding a cafe, or display of goods, will apply.

Business should distinguish themselves by using appropriate building signage, and by the quality and originality of their commercial street furniture.

## Temporary cafes

**(Tables and chairs that are removed from the footway at the close of business each day.)**

Tables and chairs may be placed within the **TRADING ZONE**, the width of footway that can be utilised is illustrated in the **FOOTWAY ZONE PLAN (Page 3 and 4)**.

Tables and chairs should be accessible by all users. Therefore, tables should be of a height to accommodate wheelchairs, and seats robust enough, and of suitable design, to be used by those with a disability.

Screens around cafes are mandatory to ensure distances are maintained from the kerb for safety. (Effective from 28 February 2001. See - **KERBSIDE ZONE** for details.

Umbrellas must be 2.4 meters high at the lowest point and must not protrude over the **KERBSIDE ZONE** or over the road.

Outdoor heaters that conform to Australian Standards may be placed in line with the table and chairs within the footprint of the **TRADING ZONE**.

Tables and chairs are to be placed parallel to the kerb in the 800mm trading zone. Chairs must not be placed so as to back onto the **PEDESTRIAN ZONE** or **KERBSIDE ZONE**. (Refer to Footway Zones plan).

A space of 500mm must be left for each business back from the projected property line to avoid an unbroken line of screens on the footway, and so as to allow a person to safely step onto the footpath from the road. A gap of 1.5 meters must left every five meters

At an intersection see "**CLEARANCES**".

Furniture associated with cafes must be displayed adjacent to the licence premises, however in certain circumstances a cafe may be extended onto the footway Trading zone in front of one adjoining property. The owner and occupier of the adjoining property must first advise Council in writing that they have no objection to the extension of the cafe in front of their property. Please note, extra fees will apply.

**Applications for 12 seats or more on the footway will be considered as semi-permanent.**

**Semi-permanent cafes**

**(Tables and chairs built into the footway and left out overnight).**

Lodge applications for a semi-permanent cafe with the Local Laws Department. A detailed plan will be required illustrating the location, layout, materials etc. Applications will then be referred to other Council departments for assessment. Council will consider these issues:

- Any proposed road or footway works/construction/maintenance
- Town planning zoning requirements
- Car parking requirements
- Sight distance if the proposal is near an intersection, pedestrian traffic lights, etc
- Pedestrian access
- Height and the unbroken length of any screens
- All furniture must be easily removed and only fixed to the footway by a locking mechanism
- The percentage of advertising on any screens
- Access for footway cleaning by Council contractors. A minimum two-metre pedestrian screen is required.
- The location of any existing street furniture owned by Council, or other statutory authority, i.e. PTC, Vic Roads, Telstra, Melbourne Water. The proposal must ensure continued access.

**Screens (temporary)**

Screens up to a maximum height of one metre may be placed on the kerbside of the TRADING ZONE, provided they are confined within the Trading zone.

(See **FOOTWAY ZONES** plan on page 3.)

Screens must be placed where there are tables and chairs for safety reasons, but they *may* be placed around goods at the trader's discretion. Screens must be brought inside when tables and chairs are removed. They must not be placed independently in a quasi-advertising role.

Screens must not be fixed permanently to the footway or other street fixtures, but may be secured by a locking mechanism, or spike into the pavement, for stability.

A space of 500mm must be left by each business back from the projected property line, to avoid an unbroken line of obstacles on the footway, and so as to allow a person to safely step onto the footpath from the road. A gap of 1.5 meters must left every five meters.

This is particularly important where adjoining premises have commercial street furniture placed in the **TRADING ZONE**.

## Barbecues (food sampling)

Traders who wish to place barbecues etc on a footway for food sampling must:

- Have an Application for Temporary Registration under the Food Act approved by Council's Health Services Department.
- Submit the approved registration with a plan of the structure to the Local Laws Department.
- All barbecues (food sampling) must be located in the **TRADING ZONE and must be placed at a 90-degree angle to the kerb**. This will allow customers to stand in front of, and queue along the footway in the Trading zone, leaving the Pedestrian zone clear for pedestrians to walk past.
- Customers must not be served on the side of the barbecue facing the Pedestrian zone.
- The structure, screen and any staff cooking food samples must stay within the **TRADING ZONE**.
- Cardboard, or associated material, must be placed on the footway to absorb any food or other spillages.
- Comply with the conditions as set out in **CLEARANCES, SCREENS** and **SAFETY/HYGIENE** sections of this policy.

## Planter boxes

Planter boxes are prohibited because they require a high level of maintenance; they have a high mortality rate, and they are frequently and irresponsibly used as ashtrays and rubbish bins by members of the public.

## Nightclub queues

A licence may be issued to a nightclub for the "roping off" of a section of the footway for crowd management purposes, if their commercial activity extends onto the footway.

However, at all times a minimum width of 1.5 meters of clear and unobstructed footway must be maintained to ensure pedestrians have free, uninterrupted passage to walk past the venue.

The premises must provide insurance as set out in the Insurance - Public Liability section of this policy.

This licence is free, but the liability remains with the nightclub.

## Special events

Traders' association special events, festivals etc that are recognised by Council, may have some of the policy conditions varied. For example, commercial street furniture may be permitted on a larger area of the footway during the event. Trader groups preparing for special events should contact Council's Economic Development Department.

## Renewals

Licence renewal fees must be paid annually from the date of approval, and accompanied by the renewal form. Renewal notices will be sent to licence holders in the month prior to their licence expiry date.

Renewals are not automatic. Council will consider whether the guidelines have been met; whether the quality of the commercial street furniture, including signs and screens, has been maintained, and if all reasonable requests made by Local Laws Officers have been complied with.

Also, Council will consider whether there have been any breaches of the licence conditions, or if the licence is suspended.

Where Council considers a renewal is not appropriate, licence holders will be notified in writing of the reasons why their licence is not being renewed.

## Enforcement

Where there is confusion in relation to the Trading zone, Council may line-mark the footway.

Local Laws officers will be advising and liaising with traders in relation to the policy conditions and issuing Notices to Comply. Traders demonstrating an unwillingness to comply with the policy may receive infringement notices and the continuation of their licence will be reviewed.

Council's enforcement philosophy is that a cooperative approach will achieve compliance with the guidelines. Only after several warnings have been issued will infringements or legal action be taken against a trader. Where a trader is found to be breaching licence conditions:

1. A verbal warning will be issued in the first instance,
2. If non-compliance with licence conditions continues, a Notice To Comply will be issued,
3. For continued or repeated non-compliance following these steps, a Local Laws penalty notice will then be issued,
4. Possible suspension of licence and/or prosecution of offender/



November 2022

Attachment 3



# Footpath Trading Guidelines



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## 1. Introduction

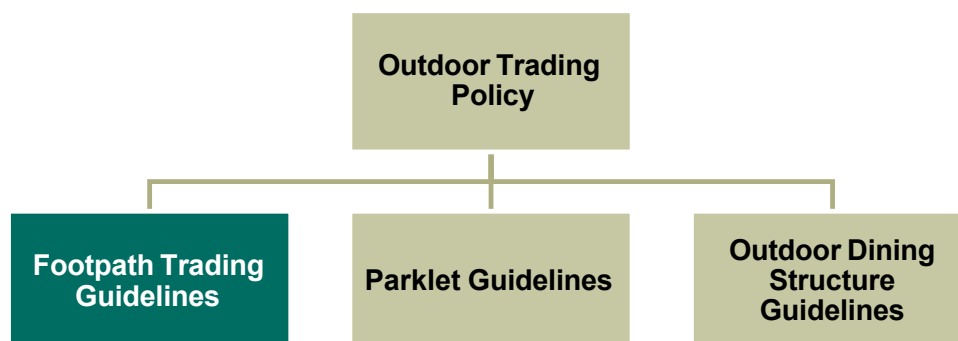
Outdoor trading has played a significant role in activating public footpaths and roadways for commercial activity. Outdoor trading works best when it is aligned with community expectations and facilitates additional patronage for businesses. Activating shopping strips brings social and economic benefits that are valued by the community and traders in Boroondara.

The Outdoor Trading Policy provides the foundation and guiding principles for outdoor trading within Boroondara and aims to support a strong and vibrant local economy for the benefit of the community and visitors to the municipality while maintaining safety and local amenity in shared spaces.

The City of Boroondara offers the following opportunities for outdoor trading:

1. **Footpath Trading:** activities occurring on the footpath, where dining furniture, display of goods, advertising signs and other associated infrastructure needs to be brought in at the end of trade.
2. **Parklets:** activities occurring within car parking spaces.
3. **Outdoor dining structures:** activities occurring on the footpath within a fixed structure that can remain in place overnight.

This document, the Footpath Trading Guidelines, is underpinned by the Outdoor Trading Policy.





## 1.1. Definitions

Term	Definition or description
Applicant	Person making the application for Outdoor Trading.
Arterial Road	Roads which provide the principal routes for the movement of people and goods between major regions and population centres, and between major metropolitan activity centres.
Authorised Officer	A person appointed by Council under section 224 of the <i>Local Government Act 2020</i> .
Council	City of Boroondara.
Council-controlled land (definition as per Amenity Local Law)	Any land which Council owns, occupies, manages, has leased or licensed to another person or is otherwise under Council's control and management.
Commercial Area	A locality where business and commercial activities are primarily conducted.
Footpath trading	Use of public footpaths for commercial purposes.
Outdoor Trading Activity	Nature of activity as defined by the Footpath Trading, Parklets and Outdoor Dining Structures guidelines.
Outdoor dining structure	A structure installed on a footpath which can remain in place overnight but able to be removed at the end of the permit.
Parklet	Outdoor dining area within a car parking bay(s).
Patron	Customer of a business.
Permit holder	The person or company named as the applicant in a Footpath Trading, Parklet or Outdoor Dining Structure agreement and to whom the permit is issued. In the case of a company, the director, or directors will be considered the permit holder.
Planning Permit	A permit issued under the Boroondara Planning Scheme.
Registered trader	A person, organisation or group of persons who conduct a business either under a registered business name and/or registered company.
Public Authority	Australian Government body established through legislative instruments for a public purpose.
Trader	A person, organisation or group of persons who conduct a business either under a registered business name and/or registered company.
Footpath Trading Furniture	All footpath dining furniture including tables, chairs, umbrellas, heaters, planter boxes, screens, signage and display of goods.
VGCCC	Victorian Gambling and Casino Control Commission.

## 1.2. Diagram legend

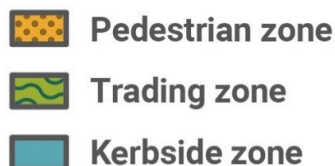


Figure 1: Legend for diagrams used in the document

## 2. What is footpath trading?

Footpath Trading is defined as commercial trading on public footpaths. It includes dining furniture (such as tables, chairs and umbrellas, heaters) display of goods and advertising signs which are placed on the footpath for the purpose of trading and removed from the footpath at the close of each trading day.

All furniture or other items associated with footpath trading must be located within the Trading zone (see Section 4) and only directly in front of the business with the permit. In some cases, Council may consider extending footpath trading to an adjoining property.

## 3. Footpath zones

A footpath trading permit can only be considered in a location where the footpath width is greater than 2.4 metres.

To ensure a clear, safe and unobstructed walkway for pedestrians, footpath trading is made up of three zones (see Figure 1 Footpath trading zones):

1. Pedestrian zone
2. Trading zone
3. Kerbside zone

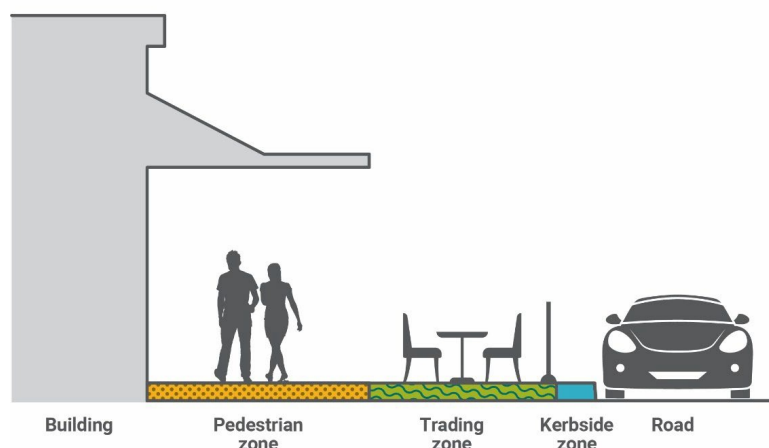


Figure 2 Footpath trading zones



### **3.1. Pedestrian zone**

The pedestrian zone is located on the footpath and extends immediately from the property line to the trading zone. This allows for an uninterrupted and accessible path of travel for pedestrians. This area is for the exclusive use of pedestrians.

The pedestrian zone must be a minimum width of 1.5 metres for a footpath that is up to four metres wide, and 1.8 metres for a footpath that is four metres wide or more, measured from the property line. This area must always be kept clear.

Council reserves the right to vary the pedestrian zone depending on pedestrian needs, vehicle traffic and access, and existing footpath widths.

### **3.2. Trading zone**

The Trading zone is the area located between the pedestrian and kerbside zones after the appropriate clearances are applied. The Trading zone will vary depending on the overall width of the footpath, the Pedestrian zone, the Kerbside zone and any clearances from infrastructure located within the Trading zone. It is the only area of the footpath where commercial activity can be conducted in accordance with a permit.

Where the use of the footpath is not directly in front of a business, for example a plaza or courtyard, Council may use its discretion to approve a permit if the outcome is to the benefit of the streetscape and the community.

Council will assess such applications on a case-by-case basis and reserves the right to approve or refuse any application.

### **3.3. Kerbside zone**

The Kerbside zone is located between the Trading zone and the face of the kerb/road. This zone is important for the safety of pedestrians crossing the road, allowing access to and from parked vehicles including loading and delivery bays. It must always be kept free from any items or structures.

The minimum distance between the face of the kerb and the Trading Zone is 0.5m.

Council may vary the width of the kerbside zone to achieve minimum clearances for pedestrian activity, existing public infrastructure, essential services, adjacent parking restrictions and public transport access requirements.

## **4. Minimum clearances and setbacks**

The following clearances and setbacks from an object ensure access can be maintained safely for the duration of the occupation of Council land for outdoor trading. These safety standards are aligned to the *Road Management Act 2004* and the Austroad Guide to Road Design.

#### 4.1. Minimum clearances from an object

Object	Minimum clearance
Council or public infrastructure; examples include: <ul style="list-style-type: none"> <li>• Litters and recycling bins</li> <li>• Public seating</li> <li>• Bicycle stands</li> <li>• Drinking Fountains</li> <li>• Garden beds and climber frames</li> <li>• Way finding signs</li> </ul>	1 metre
<ul style="list-style-type: none"> <li>• Trees</li> </ul>	Determined on application
Essential services; examples include: <ul style="list-style-type: none"> <li>• Substations</li> <li>• Exit doors incl. Fire Exit doors</li> <li>• Switchboards</li> <li>• Hose reel cupboards and fire equipment</li> <li>• Boosters</li> <li>• Fire Hydrants/fire plugs</li> <li>• Payphones</li> <li>• Traffic lights</li> <li>• Pedestrian-operated lights</li> </ul>	1 metre
<ul style="list-style-type: none"> <li>• Electricity boxes</li> </ul>	0.5 metres
Street light poles and electricity poles	No minimum set back

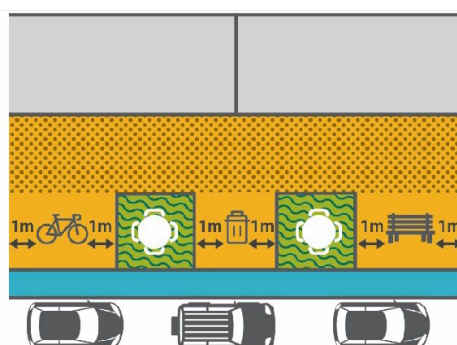


Figure 3: Minimum clearances from an object



## 4.2. Minimum clearances from the kerbside zone

Parking	Minimum clearance
Parking meters and multi-bay parking meters	1 metre
Parallel parking bays	0.5 metres
No stopping and no standing zones	1 metre
Angled Parking	1.2 metres
Disabled Parking Bays	1.5 metres
Loading zones	1 metre
Kerb line at any intersection	10 metres
Numbers painted on the footpath indicating bay number and direction of the multi-bay machine	0.5 metres

## 4.3. Setback from an intersection and required line of sight

Outdoor dining located next to intersections must be set back from the intersection to allow a clear line of sight for turning vehicles, cyclists and pedestrians.

Applications within the 10-metre setback from the intersection, will be considered on a case-by-case basis taking into consideration speed of vehicles and existing obstructions.

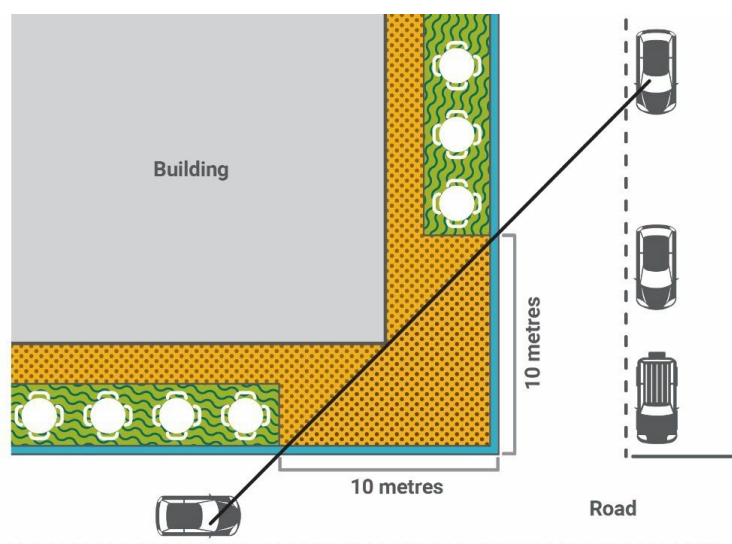


Figure 4: Setback from an intersection and required line of sight

#### 4.4. Setback from tram and bus stops

Clearances from tram and bus stops must be maintained to ensure direct access from the Pedestrian zone is provided to passengers boarding and alighting from a tram/bus. A minimum of 1.5metres clearance must be kept from the departure side of a tram stop sign and 10m from the approach side.

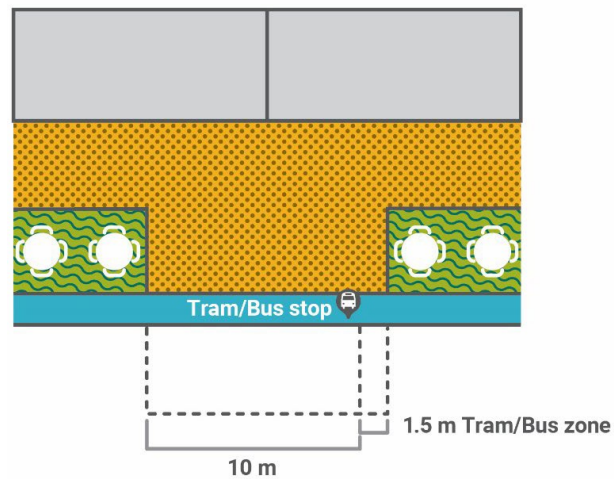


Figure 5: Setback from tram and bus stops

#### 4.5. Setback from taxi zones

Clearances from a taxi zone must be maintained to ensure direct access from the Pedestrian zone is provided to all users of this service. A minimum of 1.5 metres clearance must be kept to either side of taxi zone signage to ensure adequate access for users and maintain visibility for taxi drivers.

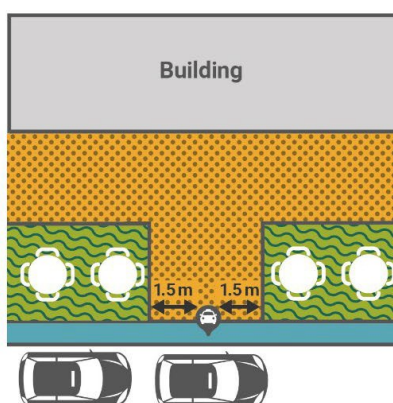


Figure 6: Setback from taxi zones

#### 4.6. Pedestrian access

##### 4.6.1. Minimum gap between neighbouring Trading zone

A gap of one metre is required between adjoining Trading zones to ensure pedestrian safety when crossing the road or to allow access for vehicle passengers entering or exiting their vehicle.

Each trader is required to set back their Trading Zone 0.5m from the adjacent property line to achieve the 1m gap. This also applies for the placement of screens.

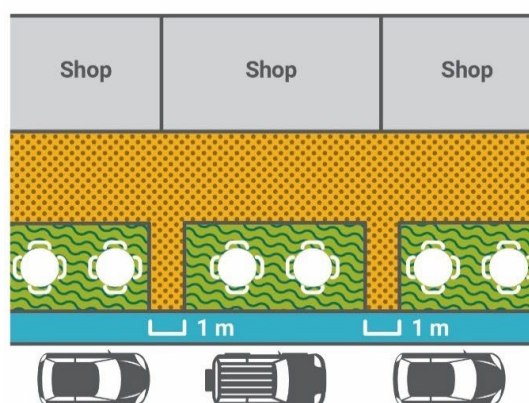


Figure 7: Minimum gap between neighbouring Trading zones



#### **4.6.2. Minimum gap with extended Trading zone**

Where a Trading zone exceeds 10 metres, a gap of 1.5 metres must be left.

### **5. Access to public infrastructure**

In the event of an emergency, maintenance or renewal works, access to any Public Authority or Council infrastructure will be required.

To determine if this may impact a proposed trading area, an application to 'Dial before you Dig' should be made via the website [Dial before you Dig](#). This service is free and will provide information regarding any infrastructure beneath a proposed trading area.

If assistance is required to understand how the infrastructure may impact an application, please contact Council on 9278 4444. Council may deem the location proposed by an applicant not suitable for outdoor trading.

Council does not provide compensation for any loss of availability to use the trading area, or any costs incurred to temporarily remove the structure or other related components where entry is required to maintain, access or create new public infrastructure.

### **6. Waste service vehicle access**

The installation of outdoor trading activities must not compromise access by essential waste vehicles, obstruct loading and construction zones or entrances to private buildings and carparks.

It is essential access to services of the permit holder's property and neighbouring properties is maintained, therefore:

- Footpath trading should not impede pedestrian flow including waste transport trollies and bins, and access to waste bin storage areas including Council's communal waste service locations
- Waste collection and service vehicle access must be maintained to all properties or public land where bins are stored.

### **7. Advertising**

Council accepts traders may have advertising on commercial street furniture. There is a limit of 30% of the total area of footpath trading furniture to avoid excess advertising.

Signage/advertising over 8 m<sup>2</sup> or in a heritage zone may require a planning permit. Contact Council's planning department on 9278 4444 or email [boroondara@boroondara.vic.gov.au](mailto:boroondara@boroondara.vic.gov.au) for further information.

## 8. Heritage zones

Our community values our local heritage and footpath dining locations need to consider heritage impact. Footpath trading in these locations has the potential to impede views to significant heritage frontages and detract from the significance of our heritage buildings.

Applications will be referred to Council's planning department and/or heritage advisor where an application is received for a parklet within a heritage zone.

## 9. Awnings and verandas

Awnings can be horizontal and fixed to a building and project over a footpath to form a veranda. They can also be vertical and drop down either partially or full length and are fixed to a veranda and/or project over a footpath.

The installation of an awning or veranda attached to the building will require Building approval and may be subject to Planning approval.

Horizontal awnings must have a vertical clearance of at least 2.4 metres from the ground to its underside and must not extend over the roadway or adjacent carpark.

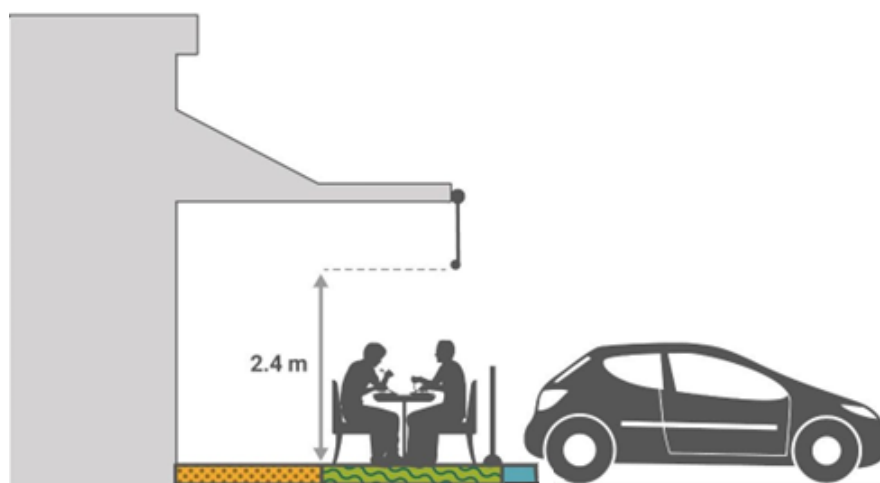


Figure 8: Awning

Café blinds must be clear and retractable and secured at the base. They can only be placed adjacent to the road. Café blinds attached to a veranda or awning require building approval. Retractable Café style blinds must be retracted at the end of each trading night.

It is not permitted to place the Café blind on the side of the trading area as this encloses the space and reduces airflow.

## 10. Patron numbers and hours of operation

Planning permits determine how many patrons can receive seated service and the hours of operation. Applications may be referred to Council's planning department to confirm these details.

## 11. Supporting structures and facilities

### 11.1. Planter boxes

Planter boxes are permitted and must be located within the Trading zone.

The construction of the planter box can be a maximum height of one metre with planted foliage a maximum height of 0.5 metres or a total combined height of 1.5 metres.

Planter boxes must be removed at the end of the trading day and are required to be regularly maintained by the trader. Maintenance includes regularly watering and pruning and the removal of any rubbish or debris.

Planter boxes cannot be located within 10 metres of an intersection as they may impede line of sight for oncoming vehicles, pedestrians, and cyclists.

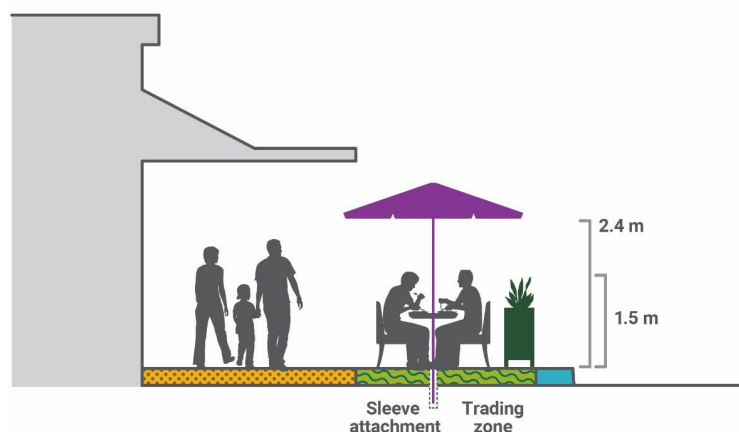


Figure 9: Planter boxes and umbrellas with heights and installation options

### 11.2. Umbrellas

The lowest edge of an umbrella canopy must be 2.4 metres above the footpath and must not protrude over the road. An umbrella must be securely anchored to the ground using a sandbag or a sleeve attachment.

Prior to installation of a sleeve attachment, a Road Opening permit and payment of a bond is required. In the event an umbrella is no longer required, or the permit holder ceases to trade, the sleeve is required to be removed and footpath reinstated at the Permit holder's cost. If this work is not undertaken by the Permit holder, the bond will be used to undertake these works. See [road opening permit](#).

Sleeve attachments must be:

- installed flush to the level of the footpath, and no parts should protrude above the level of the footpath when not in use.
- Made of stainless steel and have an auto shut lid to prevent the lid staying open and creating a hazard on the footpath when not in use.
- The installer must check for underground services by contacting Dial Before you Dig. [Dial before you Dig.](#)

### 11.3. Temporary screens

Screens can be placed around outdoor dining areas within the Trading zone. Screens provide additional safety for patrons within outdoor dining areas and provide separation from other traders.

Screens:

- must be secured by a locking mechanism or sandbags for stability
- must be no higher than one metre
- must be placed so as to provide a gap of 1.5 metres every 10 metres to allow for pedestrian access.
- Must be set back a minimum of 0.5 metres from the adjacent property
- must be placed in the Trading zone
- must be brought inside at the end of the trading day
- Screens must not be placed independently to serve the purpose of quasi-advertising.



Figure 10: Example of advertising on screens

### 11.4. Gas heaters

Outdoor free-standing heaters conforming to Australian Standards may be placed in line with the table and chairs within the Trading zone.

Council will consider a gas heater or a fixed heater attached to an awning.

Fixed heaters attached to a veranda require a building permit and will be referred to Planning if in a heritage zone.

Where permanent heating is installed, a certificate of compliance issued by a registered gas fitting plumber who is licenced and registered to undertake gas fitting work is required to be produced to Council on the completion of works.

Heating attached to an umbrella is not permitted.





## 12. Lighting

To ensure lighting is provided safely, the following options are available:

- Solar power
- Light supply from an overhead structure.

Light supplied from an overhead structure is required to be installed by a licensed electrician. A certificate of compliance issued by a licensed electrician is required to be produced to Council on the completion of the works.

Portable power leads cannot be run from the property to the outdoor trading area.

## 13. Toilet and sanitary conveniences

Outdoor dining increases seating capacity and additional toilet facilities may be required for staff and customers. Where Outdoor dining increases seating capacity greater than 20 seats, additional facilities may be required for staff and customers. Council's Building Services Department will confirm if this applies.

Contact Council's Building Services Department on 9278 4444 or [boroondara@boroondara.vic.gov.au](mailto:boroondara@boroondara.vic.gov.au) for further information.

## 14. Service and amenity

### 14.1. Cleanliness of trading area

Permit holders are responsible for maintaining the safety and cleanliness of their Trading zone including the equipment and structures contained within. Regular cleaning is required to ensure rubbish does not accumulate or is not windblown into neighbouring areas.

Permit holders are also responsible for providing hand sanitising stations and other patron management systems as part of any legislated health directives.

Footpath trading furniture, fittings and other infrastructure should not create hazards for pedestrians and be able to withstand hot and windy conditions. Appropriate selection of furniture and fittings as well as regular maintenance of items is required.

### 14.2. Managing noise and amenity

Where permitted, loudspeakers directing sound to the outdoor dining area must not be used outside the permitted trading hours provided in the conditions of the permit and must always be limited to background levels, unless otherwise specified on a permit.



## 15. Service of alcohol

Permit holders and staff must practice responsible service of alcohol and are responsible for monitoring and managing patron behaviour.

Applicants will need to apply for a Planning Permit and Liquor Licence to serve alcohol within the Trading zone. A Liquor Licence is required to be applied for separately through the Victorian Gambling and Casino Control (VGCCC). Please visit [Liquor licensing | Victorian Government \(www.vic.gov.au\)](https://www.vic.gov.au/liquor-licensing) for further information.

## 16. Smoking and vaping

Smoking or vaping must comply with the requirements of the *Tobacco Act 1987*.

## 17. Patron queuing

A trader is responsible for ensuring the pedestrian zone in front of their business remains clear of patrons queuing outside their premises to gain entry.

A minimum of 1.5 metres of unobstructed footpath must always be maintained to ensure pedestrians can walk past a venue unimpeded.

A trader can apply to Council for a permit to rope off a section of the footpath at no cost to meet the requirements set out above.

## 18. Display of goods

The display of goods can only be located within the Trading Zone in front of the traders' business who has been issued a permit and is nominated on the permit.

The following standards apply to the display of goods:

- must be located within the Trading zone
- Display of goods must not exceed 1.5 metres
- A gap of 1.5 metres is required every 10 metres
- where there is a neighbouring Trading zone, the trading zone is required to be setback 0.5 meters from the adjacent property line to provide a gap for pedestrian access
- must be secure in adverse weather conditions but must not be fixed to the footpath, any street sign, pole, tree, or other infrastructure
- displays must be removed from the Trading zone at the close of the trading day
- must be removed for footpath cleaning, between 9pm and 6.30am Monday to Sunday.

Temporary Screens may be placed around goods to protect the display, these screens must be located within the footprint of the Trading zone and removed at the end of the trading day.

No display of goods will be allowed in areas of high pedestrian movement, or where pedestrians gather at intersections, tram, or bus stops (see section 5 minimum setbacks).

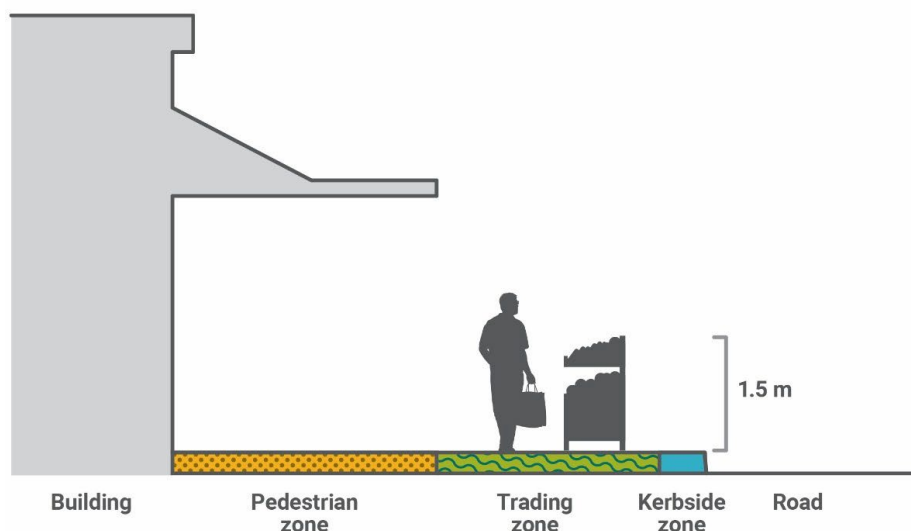


Figure 11: Display of goods

## 19. Signage

### 19.1. Portable A-frame signs

A permit may be issued to place a portable advertising sign in an approved Trading Zone. The following conditions apply to any placed signage:

- only one portable sign per shop front
- where a trader is located on an upper floor but has an access door to the footpath
- a permit sticker is displayed on the front window of the permit holder's business
- signage can only be located within the permit holder's Trading Zone during its normal operating hours
- signage can only advertise the permit holder's business or service
- size of the signage must not be more than one metre high by 0.7 metres wide and extends no less than 0.5 metres, with a 0.1-meter clearance from the ground to allow airflow.
- signage must be well constructed and weighted for windy conditions, shatterproof and free of sharp, pointed, or jagged edges.



**Signs are *not permitted* if they:**

- oscillate, rotate, have moving parts (including flags and balloons) or protrusions
- are reflective or are illuminated by any power source
- emit any sound
- have any notices or other attached objects
- are made from 'corflute' (lightweight corrugated plastic).

Signs must not be fixed to any footpath, pole, rubbish bin or other public infrastructure. Permits will not be provided for signs located in a residential zone.

Where a trader cannot meet the conditions of the Guidelines it may still be possible to place a portable sign in the Trading zone outside the ground floor premises, provided they meet the following conditions:

- the ground floor premises does not already have their own sign
- the owner/occupier/body corporate gives permission in writing
- the trader making the application has public liability which extends to cover the sign.

This may apply where a first- floor business has no street frontage. As there is a permit limit of one sign per shop front, the ground floor owner/occupier would forfeit their ability to apply for permit for a portable sign.

Where a business is sold or changes ownership, or agreement lapses, the permit will be cancelled and the sign removed.

## **19.2. Real estate agent signs**

A permit may be issued allowing signs to be placed at or near a property which an agent is acting on behalf of a property owner (open house inspection).

A permit allows for up to six signs and one flag at the property.

Signs must not be placed on any road, roundabout, traffic island, garden bed or anywhere a sign could create a hazard to pedestrian or vehicle safety.

Signs may only be placed out two hours prior to house opening and must be removed on closing.

All signs are subject to the same requirements as A-frames.

Temporary auction and open house flags or banners overhanging the footpath must have a minimum height of 2.4 metres at their lowest point to ensure pedestrians may safely walk underneath.



### 19.3. Display home signs

A permit allows for up to two signs and one flag (at the display home).  
All signs and flags must be removed at the end of the trading day.

### 19.4. Fingerboards or directory boards

Where a business is located near a main road, in an arcade, a side street, or where multiple businesses are located inside a single multistorey building, Council may place a fingerboard or directory board on a pole nearby in lieu of the business having a portable sign outside their premises.

Contact Council on 9278 4444 or [boroondara@boroondara.vic.gov.au](mailto:boroondara@boroondara.vic.gov.au) for more information.

## 20. Public Liability

Traders must hold a valid public liability insurance policy to the value of at least twenty million dollars (\$20,000,000) at the time of application. The insurance policy must cover injury, loss or damage to persons arising out of the activity carried out under or the granting of a permit.

This insurance policy must be maintained for the duration of the permit and specifically note the interest of the City of Boroondara as an insured party. The Certificate of Currency may be requested by Council and must be readily available.

## 21. Enforcement

Council aims to support traders to achieve compliance through education of their permit conditions and the Amenity Local Law.

Traders contravening these Guidelines may be subject to enforcement including notices, infringements and prosecution. Council reserves the right to revoke or cancel permits.

## 22. Implementation and monitoring accountabilities

The responsible department coordinates the implementation, maintenance, and review of this document, arranging for its availability on Council's website and hard copies at Council offices and libraries to ensure stakeholders are aware of their accountabilities.

For all queries or feedback regarding this document, please use the contact details for the responsible department below:

Contact department	Contact number	Contact email
Permits and Appeals Team   Civic Services	9278 4444	<a href="mailto:boroondara@boroondara.vic.gov.au">boroondara@boroondara.vic.gov.au</a>

\*Any changes to the Footpath Trading Guidelines must be made in conjunction with the Outdoor Trading Policy, Parklets and the Outdoor Dining guidelines.



## 23. References

Related documents:

- Austroad Guide to Road design Part 4A, 2021
- City of Boroondara Amenity Local Law 2019
- *Local Government Act 2020*
- *Planning and Environment Act 1987*
- *Road Management Act 2004*
- *Tobacco Act 1997*
- *Food Act 1984*
- VicRoads Supplement to the Austroads Guide to Road Design Part 4A - Signalised and Unsignalised intersections



## Appendix 1: Application process

### How to apply for a permit

To apply visit [www.boroondara.vic.gov.au](http://www.boroondara.vic.gov.au)

So we can assess an application in a timely manner please include the following information with the application:

- completed and signed application form
- a site plan showing the proposed location of the outdoor trading activity including dimensions and position of local infrastructure a copy of a current business registration certificate.
- Certificate of Public Liability Insurance for a minimum of twenty million (\$20,000,000), noting the interest of the City of Boroondara as an insured party.

Additional requirements as relevant include:

- the proposed hours of operation
- details of the advertising signage
- copy of current registration to serve food and/or beverages under the *Food Act 1984*.

Permits may also be subject to change at any time during the permit period to ensure safety and amenity is not compromised.

### Application assessment timelines

Council is committed to helping traders take advantage of outdoor trading opportunities by activating public footpaths. To achieve this, applications to Council must have all the necessary information requested and enable applications to be processed in a timely manner.

Consideration will be given to site-specific constraints such as access, traffic and parking conditions, line of sight and permits may be issued with specific conditions.

Assessments may take up to one month due to complexities of the application especially where approvals are required from several departments.

Please contact our Concierge Business Support Service on 9278 4444 if you need any assistance in completing your application.

This service provides a one stop shop for traders which includes general advice and assistance to determine which Council permits and approvals they may require and triage any other business's needs.



### **How to amend your permit**

Applications to amend the approved permit can be submitted via Council's website.

Please include the following information:

- letter of consent from the neighbouring trader – if required
- a site plan of the proposed changes
- details of the proposed changes including type of furniture.

### **How to extend your Trading zone**

If seeking to occupy the Trading zone of an adjacent premises, Council requires the applicant to obtain and submit written consent from the owner, body corporate and/or occupier of the adjacent premises. This consent should be provided on the third party's official letterhead or signed by the relevant party.

A new letter of consent is required to be submitted by the permit holder to Council if:

- the adjacent premises is sold
- the business is sold or otherwise changes ownership.

Consent from the adjacent owner, body corporate and/or occupier may be withdrawn at any time. The footpath is public space and as such is not owned by any one business. A trader cannot charge "rent" for the use of the footpath in front of their premises.

Council will decide on a case-by-case basis if the permit should be withdrawn prior to the expiry of the permit. In the event of withdrawal of consent, no refund will be made in respect of fees paid in advance for the use of the area in front of the neighbouring premises.

### **Fees and charges**

A fee is charged for all outdoor trading. Additional fees may apply for changes and amendments. Fees and charges are reviewed annually.

### **Costs associated with moving existing infrastructure**

The costs will be at the expense of the applicant for:

- Installation of new infrastructure
- repair or amendment of existing infrastructure; and
- removal of outdoor dining

### **Display of permit**

A Permit sticker must be displayed on the front window of the permit holder's business.

**Renewals**

Permit renewal fees are paid every year from the date of approval and accompanied by the renewal form. Renewal notices will be sent to permit holders in the month prior to their permit expiry date.

Renewals are not automatic. Council will consider whether compliance with the conditions of the permit during the permitted occupation of Council land for footpath trading have been met, whether all reasonable requests made by officers were complied with and any additional impacts that may affect the ability to support the continued occupation of Council land.

Where Council considers a renewal is not appropriate, permit holders will be notified in writing of the reasons why their permit is not being renewed.

**Removal of footpath trading**

A footpath trading zone may need to be removed temporarily or permanently for improvement, maintenance or other works as required by the City of Boroondara or its contractors, or a public authority to access their infrastructure.

The City of Boroondara will give the permit holder as much notice as possible. Costs to remove and store any footpath trading items are borne by the permit holder both at the conclusion of the permit or if requested by Council to remove the items either temporarily or permanently.



November 2022

Attachment 4



# Parklet Guidelines



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## 1. Introduction

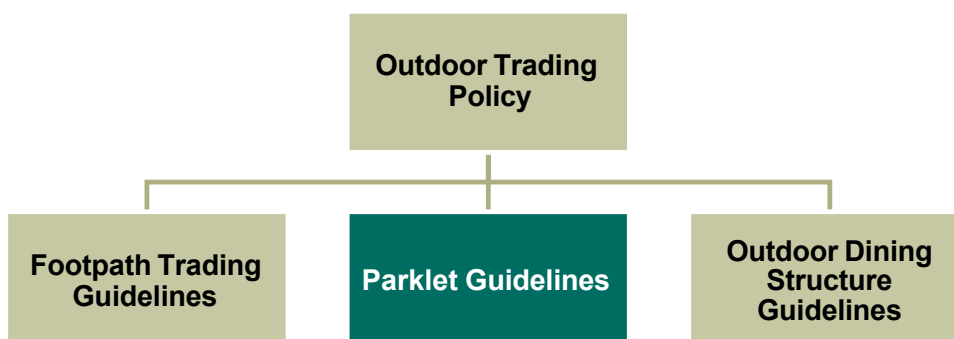
Outdoor trading has played a significant role in activating public footpaths and roadways for commercial activity. Outdoor trading works best when it is aligned with community expectations and facilitates additional patronage for businesses. Activating shopping strips brings social and economic benefits that are valued by the community and traders in Boroondara.

The Outdoor Trading Policy provides the foundation and guiding principles for outdoor trading within Boroondara and aims to support a strong and vibrant local economy for the benefit of the community and visitors to the municipality while maintaining safety and local amenity in shared spaces.

The City of Boroondara offers the following opportunities for outdoor trading:

1. Footpath Trading: activities occurring on the footpath, where dining furniture, display of goods, advertising signs and other associated infrastructure needs to be brought in at the end of trade.
2. Parklets: activities occurring within car parking spaces.
3. Outdoor dining structures: activities occurring on the footpath within a fixed structure that can remain in place overnight.

This document, the Parklet Guidelines, is underpinned by the Outdoor Trading Policy.

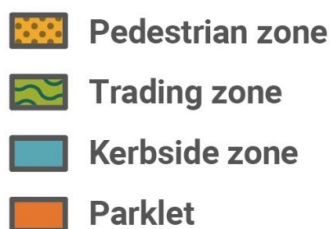


## 1.1. Definitions

Term	Definition or description
Applicant	Person making the application for Outdoor Trading.
Arterial Road	Roads which provide the principal routes for the movement of people and goods between major regions and population centres, and between major metropolitan activity centres.
Authorised Officer	A person appointed by Council under section 224 of the <i>Local Government Act 2020</i> .
Council	City of Boroondara.
Council-controlled land (definition as per Amenity Local Law)	Any land which Council owns, occupies, manages, has leased or licensed to another person or is otherwise under Council's control and management.
Commercial Area	A locality where business and commercial activities are primarily conducted.
Footpath trading	Use of public footpaths for commercial purposes.
Outdoor Trading Activity	Nature of activity as defined by the Footpath Trading, Parklets and Outdoor Dining Structures guidelines.
Outdoor dining structure	A structure installed on a footpath which can remain in place overnight but able to be removed at the end of the permit.
Parklet	Outdoor dining area within a car parking bay(s).
Patron	Customer of a business.
Permit holder	The person or company named as the applicant in a Footpath Trading, Parklet or Outdoor Dining Structure agreement and to whom the permit is issued. In the case of a company, the director, or directors will be considered the permit holder.
Planning Permit	A permit issued under the Boroondara Planning Scheme.
Registered trader	A person, organisation or group of persons who conduct a business either under a registered business name and/or registered company.
Public Authority	Australian Government body established through legislative instruments for a public purpose.
Trader	A person, organisation or group of persons who conduct a business either under a registered business name and/or registered company.
Footpath Trading Furniture	All footpath dining furniture including tables, chairs, umbrellas, heaters, planter boxes, screens, signage and display of goods.
VGCCC	Victorian Gambling and Casino Control Commission.



## 1.2. Diagram legend



*Figure 1: Legend for diagrams used in the document*

## 2. What is a parklet?

A parklet is a repurposed parking bay/s designed to create space for outdoor dining. Parklets include the installation and use of dining furniture including tables and seating, and other infrastructure such as planter boxes, umbrellas, and heaters.

A trader may apply for either a seasonal parklet or an annual parklet.

### 2.1. Seasonal parklet

A seasonal parklet permit is limited to a six-month period from 1 November - 30 April\*.

Applications open from 31 July of each year for a period of four weeks. This ensures Council can meet any approvals from internal departments or statutory authorities before the seasonal parklet program begins.

It is the responsibility of the permit holder to maintain the parklet in accordance with the permit conditions.

On conclusion of the seasonal parklet program, Council will contact the permit holder to remove any Council related parklet infrastructure and parklet infrastructure prior to the agreed end date. Parklets must be removed by no later than the agreed end date.

\* Traders may also apply to Council for short term parklets outside of the seasonal program at any time.

### 2.2. Annual parklet

An annual parklet permit allows a trader to operate a parklet for a period of 12 months.

Designed to provide extended outdoor dining for a trader for a year, the annual parklet permit allows a trader to consider longer-term options and investments for parklet infrastructure and street furniture.

Following the 12-month period, where a permit holder seeks another annual permit, Council will undertake a review to consider if the parklet may remain in place for a further 12 months.

Council will consider the following matters when assessing the renewal of a parklet permit:

- whether compliance with the conditions of the permit during the permitted occupation of Council land for trading within the parklet have been met; and



- whether all reasonable requests made by officers were complied with, and any additional impacts that may affect the ability to support the continued occupation of Council land.

### **3. Trading and pedestrian zones**

When a parklet is installed, it will need to maintain a separation between the pedestrian zone and trading zone to ensure a clear, safe, and unobstructed walkway for pedestrians:

#### **3.1. Trading zone**

The trading zone refers to the area where commercial activity can be conducted in accordance with a permit.

The trading zone for a parklet is the area located within the boundaries of the parklet infrastructure. This deviates from the typical trading zone under the Footpath Trading Guidelines and Outdoor Dining Structure Guidelines.

Council will assess applications on a case-by-case basis and reserves the right to approve or refuse any application.

#### **3.2. Pedestrian zone**

The pedestrian zone is located on the footpath and extends immediately from the property line to the trading zone. This allows for an uninterrupted and accessible path of travel for pedestrians. This area is for the exclusive use of pedestrians.

The pedestrian zone must be a minimum width of 1.5 metres for a footpath that is up to four metres wide, and 1.8 metres for a footpath that is four metres wide or more, measured from the property line. This area must always be kept clear.

Council reserves the right to vary the pedestrian zone depending on pedestrian needs, vehicle traffic and access, and existing footpath widths.

### **4. Minimum clearances and setbacks**

The following clearances and setbacks from an object ensure access can be maintained safely, for the duration of the occupation of Council land for the purpose of outdoor trading. These safety standards are aligned to the *Road Management Act 2004* and the Austroad Guide to Road Design.

#### 4.1. Minimum clearances from an object

Object	Minimum clearance
Council or public infrastructure; examples include: <ul style="list-style-type: none"> <li>• Litters and recycling bins</li> <li>• Public seating</li> <li>• Bicycle stands</li> <li>• Drinking Fountains</li> <li>• Garden beds and climber frames</li> <li>• Way finding signs</li> </ul>	1 metre
<ul style="list-style-type: none"> <li>• Trees</li> </ul>	Determined on application
Essential services; examples include: <ul style="list-style-type: none"> <li>• Substations</li> <li>• Exit doors incl. Fire Exit doors</li> <li>• Switchboards</li> <li>• Hose reel cupboards and fire equipment</li> <li>• Boosters</li> <li>• Fire Hydrants/fire plugs</li> <li>• Payphones</li> <li>• Traffic lights</li> <li>• Pedestrian-operated lights</li> </ul>	1 metre
<ul style="list-style-type: none"> <li>• Electricity boxes</li> </ul>	0.5 metres
<ul style="list-style-type: none"> <li>• Street light poles and electricity poles</li> </ul>	No minimum set back



#### **4.2. Setback from an intersection and required line of sight**

Parklets located next to intersections must be set back from the intersection to allow a clear line of sight for turning vehicles, cyclists, and pedestrians.

Applications within the 10-metre setback from the intersection, will be considered on a case-by-case basis taking into consideration speed of vehicles and existing obstructions.

#### **4.3. Setback from trams and bus stops**

Clearances from tram and bus stops must be maintained to ensure direct access from the Pedestrian zone is provided to passengers boarding and alighting from a tram/bus. A minimum of 1.5 metres clearance must be kept from the departure side of a tram/bus stop sign and 10 metres from the approach side.

Parklets on an arterial road where a tram operates may be subject to additional requirements from Yarra Trams.

#### **4.4. Setback from taxi zones and bus stops**

Clearances from a taxi zone must be maintained to ensure direct access from the pedestrian zone for all users of this service.

A minimum of 1.5 metres clearance must be kept to either side of taxi zone signage to ensure adequate access for users and to maintain visibility for taxi drivers.

If a parklet application is located near a taxi zone, the application will be reviewed on a case-by-case basis.

An application will not be considered within 10 metres approaching a bus stop and 1.5 metres after a bus stop.

#### **4.5. Minimum gap with extended Trading zones**

Where the length of a parklet exceeds 10 metres, a gap of 1.5 metres within the parklet must be left to allow pedestrians to safely cross the road if required.

### **5. Traffic conditions**

Parklets may be eligible in streets with:

- Indented, parallel or angled parking
- Green sign parking spaces. Other spaces will be considered on a case-by-case basis once an assessment of surrounding parking spaces and provisions have been completed
- Shared zones with a 10km/h speed limit
- Streets with 20km/h speed limits



- Streets with 40km/h speed limits
- Streets with a 50km/h or 60km/h speed limit will be considered on a case-by-case basis for inclusion of mitigating safety measures to reduce any identified risks.

Parklets may not be permitted, or may be subject to additional conditions, third-party approvals and/or fees on:

- Roads with a speed limit of 50 km/h or 60 km/h (including part-time speed limits)
- Arterial or major roads under the control of the Department of Transport (DoT)
- Tram corridors
- Special use or restricted car parking areas including:
  - Accessible parking spaces
  - Loading Zones / Permit Zones / Taxi Zones / Mail Zones or part-time "No Stopping" areas
  - General parking spaces restricted to less than 1 hour parking (1P)
  - Areas with service pits, utility access panels or drainage infrastructure.

Parklets are strictly not permitted:

- On roads with a speed limit of 70 km/h or above
- In areas designated "No Stopping" (full time) whether through formal signage, line marking or in accordance with the Road Safety Road Rules 2017
- In areas marked "Clearway" (full time or part time)
- In areas that may unreasonably obstruct or hinder access for other road users including but not limited to delivery vehicles, waste collection or emergency services
- In areas where a minimum three metre width for passing traffic cannot be maintained
- In any areas Council officers consider to be unsafe or not suitable for a parklet.

Any parklets on a State-managed road will be subject to approvals by the Victorian Government Department of Transport. Department of Transport and Yarra Trams approval of parklet locations will be reviewed on an ongoing basis and may be withdrawn for traffic and/or safety reasons at any time.

## 6. Access to public infrastructure

In the event of an emergency, maintenance or renewal works, access to any Public Authority or Council infrastructure will be required.

To determine if this may impact a proposed trading area, an application to 'Dial before you Dig' should be made via the website [Dial before you Dig](#). This service is free and will provide information regarding any infrastructure beneath a proposed trading area.

If assistance is required to understand how the infrastructure may impact an application, please contact Council on 9278 4444. Council may deem the location proposed by an applicant not suitable for outdoor trading.



Council does not provide compensation for any loss of availability to use the trading area, or any costs incurred to temporarily remove the structure or other related components where entry is required to maintain, access or create new public infrastructure.

## **7. Waste service vehicle access**

The installation of outdoor trading activities must not compromise access by essential waste vehicles, obstruct loading and construction zones or entrances to private buildings and carparks.

It is essential access to services of the permit holder's property and neighbouring properties is maintained, therefore:

- Parklets should not impede pedestrian flow including waste transport trollies and bins, and access to waste bin storage areas including Council's communal waste service locations
- Waste collection and service vehicle access must be maintained to all properties or public land where bins are stored.

## **8. Advertising**

Council accepts traders may have advertising on commercial street furniture within the Parklet.

Road safety infrastructure provided by Council may be provided with Council logo/s and advertising. Permit holders must not place any advertising on road safety infrastructure without prior approval from Council or obstruct any Council logo/s or advertising.

Signage/advertising over 8 m<sup>2</sup> or in a heritage zone may require a planning permit. Contact Council's planning department on 9278 4444 or email [boroondara@boroondara.vic.gov.au](mailto:boroondara@boroondara.vic.gov.au) for further information.

## **9. Heritage zones**

Our community values our local heritage and Parklet locations need to consider heritage impact. Parklets in these locations have the potential to impede views to significant heritage frontages and detract from the significance of our heritage buildings.

Applications will be referred to Council's planning department and/or heritage advisor where an application is received for a parklet within a heritage zone.

## **10. Patron numbers and hours of operation**

Planning permits determine how many patrons can receive seated service and the hours of operation. Applications may be referred to Council's planning department to confirm these details.

## **11. Supporting structures and facilities**

### **11.1. Parklet infrastructure**

Parklet infrastructure must be designed as a temporary structure that can be easily packed up and moved, if required, to allow for any utility, maintenance, or capital works.

A parklet must occupy at least one existing car space with a maximum of two existing car spaces per business. The parklet must be located at the front or rear of the applicant's business.

Each parklet location will be assessed on a case-by-case basis due to site specific constraints and may not be permitted in accordance with these guidelines.

### **11.2. Parklet overhead structures**

Overhead structures with full height walls will not be permitted to be installed in a parklet due to impacts on visibility and safety for the public. Open structures built for the purpose of providing protection from shade and rain will be considered on a case-by-case basis.

### **11.3. Materials**

Materials used for the construction of a parklet should be fit for purpose and suitable for public use. It is suggested the parklet installation be of a high-quality design that minimises visual clutter whilst being suitable for the local context and streetscape. The construction materials should also be long-lasting, weather resistant and visible during the day and evening.

For the ground/floor surfaces, the material installed should be non-slip in accordance with Australian Standard AS4586-2013.

### **11.4. Preferred materials for parklet infrastructure**

- Concrete (for planter boxes). Consider lightness of the colour of the concrete to provide contrast with road surface.
- Metal (for planter boxes and fencing). Consider thickness of metal to avoid denting.
- Recycled plastic.
- Some timber materials:
  - Timber must be treated and finished to ensure its longevity.

- Hardwood timber is preferred, however treated pine may be used as an alternative provided it is painted/sealed.
- Plywood is not appropriate for outdoor use, marine plywood is more suited for different weather conditions.
- Consider appropriate construction methods to avoid timber items buckling/warping over time. For example, timber planters may benefit from using a steel frame with timber slats to provide a more robust structure.

## 11.5. Platforms

To provide safe and accessible parklets, it must be constructed with a platform level to the adjacent footpath.

The platform must:

- provide a clear 1.5-metre-wide path of travel from the shopfront to the parklet (including adequate wheelchair turning and resting space)
- allow for drainage and designed to prevent litter build-up underneath
- provide a threshold platform in the circumstances where there is a gap between the kerb and the parklet platform to bridge any gap.
- be non-slip (walking surfaces) as per Australian Standard AS 4586-2013 and be weather resistant.

Fixtures such as tables, chairs or umbrellas must be removable. No fixtures are to be permanently fixed to safety barriers, Council assets, the road surface and the kerb or channel.

Platforms may require approval from Council's drainage engineer to ensure it does not impact a point of discharge from a drain.

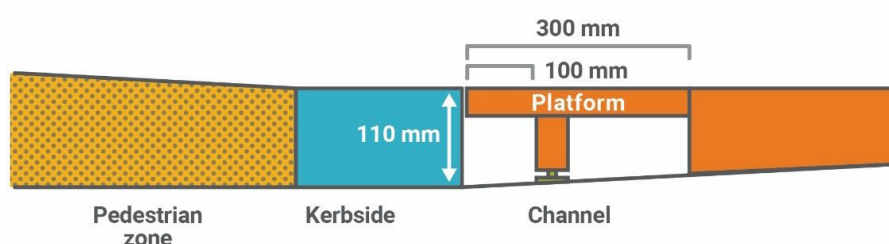


Figure 2: Example of a parklet platform



### **11.6. Road safety infrastructure**

A road safety audit may be carried out by Council during the permit application process to determine the required road safety infrastructure for each parklet location.

To support traders in accessing the parklet program, for the period in which a parklet remains in place, Council will fund the:

- Hire and installation of road safety infrastructure (including vehicle barriers)
- Traffic management plans, and
- Road safety audits.

When applying for a permit, a trader may also be required to engage independent road safety consultants who are suitably qualified to undertake independent road safety audits for non-standard and complex applications, or for applications not adhering to the Parklet Guidelines.

### **11.7. Planter boxes**

Planter boxes are permitted and must be located inside the parklet.

The construction of the planter box can be a maximum height of 0.75 metre with planted foliage to a maximum height of 0.5 metres or a total combined height of one metre.

If a planter box is removable, it must be removed at the end of the trading day. Planter boxes are required to be maintained, which includes regular watering, pruning and the removal of any rubbish or debris.

### **11.8. Umbrellas**

The lowest edge of an umbrella canopy must be 2.4 metres above the footpath and must not protrude over the road. An umbrella must be securely anchored to the ground using a sandbag or a sleeve attachment.

### **11.9. Temporary screens**

Where a parklet is co-shared, screens can be placed within the Trading zone to provide separation from other traders.

Screens:

- must be secured by a locking mechanism or sandbags for stability
- must be no higher than one metre
- must be placed in the Trading zone
- must be brought inside at the end of the trading day
- Screens must not be placed independently to serve the purpose of quasi-advertising.



Figure 3: Example of advertising on screens

### 11.10. Gas heaters

Council will only consider a gas heater or any outdoor free-standing heaters if they conform to Australian Standards. These may be placed in line with the table and chairs in the parklet. Heating attached to an umbrella is not permitted.

## 12. Lighting

To ensure lighting is provided safely to a parklet, the following options are available:

- Solar power
- Light supply from an overhead structure.

Light supplied from an overhead structure is required to be installed by a licensed electrician. A certificate of compliance issued by a licensed electrician is required to be produced to Council on the completion of the works.

Portable power leads cannot be run from the property to the outdoor trading area.

## 13. Toilet and sanitary conveniences

Outdoor dining increases seating capacity and additional toilet facilities may be required for staff and customers. Where Outdoor dining increases seating capacity greater than 20 seats, additional facilities may be required for staff and customers. Council's Building Services Department will confirm if this applies.

Contact Council's Building Department on 9278 4444 or [boroondara@boroondara.vic.gov.au](mailto:boroondara@boroondara.vic.gov.au) for further information.

## 14. Car parking

If a parklet is over 28m<sup>2</sup>, planning approval may be required for a reduction in car parking requirements. Generally, restaurants in activity centres operate a car parking requirement of 3.5 car parking spaces to each 100m<sup>2</sup> of floor area.

## **15. Service and amenity**

### **15.1. Cleanliness of trading area**

Permit holders are responsible for maintaining the safety and cleanliness of their parklet including the equipment and structures contained within. Regular cleaning and maintenance is required to ensure rubbish does not accumulate or is not windblown into neighbouring areas.

Permit holders are also responsible for ensuring compliance with relevant food safety, public and occupational health requirements.

### **15.2. Managing noise and amenity**

Where permitted, loudspeakers directing sound to the outdoor dining area must not be used outside the permitted trading hours provided in the conditions of a permit and must always be limited to background levels, unless otherwise specified on a permit.

## **16. Service of liquor**

Permit holders and staff must practice responsible service of alcohol and are responsible for monitoring and managing patron behaviour.

Applicants will need to apply for a Planning Permit and Liquor Licence to serve alcohol within the Trading zone. A Liquor Licence is required to be applied for separately through the Victorian Gambling and Casino Control (VGCCC). Please visit [Liquor licensing | Victorian Government \(www.vic.gov.au\)](https://www.vic.gov.au/liquor-licensing) for further information.

## **17. Smoking and vaping**

Smoking or vaping must comply with the requirements of the *Tobacco Act 1987*.

## **18. Patron queuing**

A trader is responsible for ensuring the pedestrian zone in front of their business remains clear of patrons queuing outside their premises to gain entry.

A minimum of 1.5 metres of unobstructed footpath must be maintained to ensure pedestrians can walk past a venue unimpeded.

A trader can apply to Council for a permit to rope off a section of the footpath at no cost to meet the requirements set out above.





## 19. Public Liability

Traders must hold a valid public liability insurance policy to the value of at least twenty million dollars (\$20,000,000) at the time of application. The insurance policy must cover injury, loss or damage to persons arising out of the activity carried out under or the granting of a permit.

This insurance policy must be maintained for the duration of the permit and specifically note the interest of the City of Boroondara as an insured party. The Certificate of Currency may be requested by Council and must be readily available.

## 20. Enforcement

Council aims to support traders to achieve compliance through education of their permit conditions and the Amenity Local Law.

Traders contravening these Guidelines may be subject to enforcement including notices, infringements and prosecution. Council reserves the right to revoke or cancel permits.

## 21. Implementation and monitoring accountabilities

The responsible department coordinates the implementation, maintenance, and review of this document, arranging for its availability on Council's website and hard copies at Council offices and libraries to ensure stakeholders are aware of their accountabilities.

For all queries or feedback regarding this document, please use the contact details for the responsible department below:

Contact department	Contact number	Contact email
Liveable Communities team	9278 4444	<a href="mailto:boroondara@boroondara.vic.gov.au">boroondara@boroondara.vic.gov.au</a>

\*Any changes to the Parklet Guidelines must be made in conjunction with the Footpath Trading Guidelines, Outdoor Trading Policy, and the Outdoor Dining Structures Guidelines.



## 22. References

Related documents:

- Austroad Guide to Road design Part 4A, 2021
- City of Boroondara Amenity Local Law 2019
- *Local Government Act 2020*
- *Planning and Environment Act 1987*
- *Road Management Act 2004*
- *Tobacco Act 1997*
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- VicRoads Supplement to the Austroads Guide to Road Design Part 4A - Signalised and Unsignalised intersections

## Appendix 1: Application process

### How to apply for a permit

A permit or a licence is required for all parklets.

To apply visit [www.boroondara.vic.gov.au](http://www.boroondara.vic.gov.au)

So we can assess an application in a timely manner please include the following information with the application:

- completed and signed application form
- a site plan showing the proposed location of the parklet including dimensions and position of local infrastructure (see Figure 4: Parklet site plan example)
- a copy of a current business registration certificate
- Certificate of Public Liability Insurance for a minimum of \$20 million, noting the interest of the City of Boroondara as an insured party.

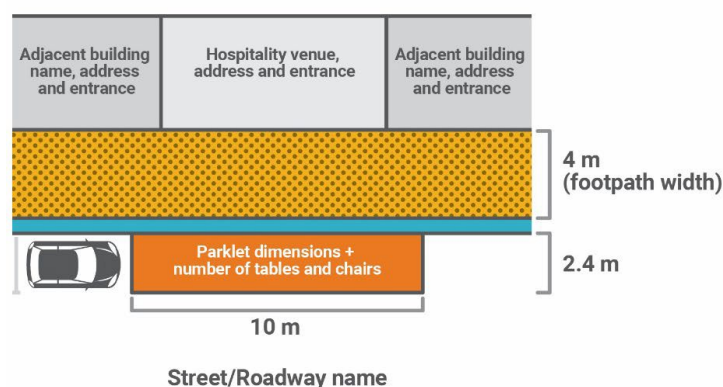


Figure 4: Parklet site plan example

Additional requirements as relevant include:

- the proposed hours of operation
- details of any advertising signage
- copy of current registration to serve food and/or beverages under the *Food Act 1984*.

Applicants are encouraged to consider making a joint application with neighbouring traders. Sharing a parklet space can reduce costs, maximise efficiency and benefits and create an attractive destination.



Please contact our Concierge Business Support Service on 9278 4444 if assistance is needed to complete an application. This service provides a one stop shop for businesses which includes broad advice and assistance to determine which Council permits and approvals they may require and triage any other business's needs.

### **Decision to issue a permit**

The decision of whether to grant a permit will be made by a panel of representatives from Council's Civic Services, Traffic and Transport, Local Economies, Building, Health and Town Planning departments.

The panel will assess submissions in accordance with impacts to safety, access and amenity in the immediate area and compliance with statutory requirements.

Council will notify all parties of the application outcome within 28 days of a decision being made.

### **How to amend a permit**

Applications to amend the approved permit can be submitted via Council's website.

Please include the following information:

- letter of consent from the neighbouring trader – if required
- a site plan of the proposed changes
- details of the proposed changes including type of furniture.

### **How to extend a trading zone**

If seeking to occupy a car park in the trading zone of an adjacent premises, Council requires the applicant to obtain and submit written consent from the owner, body corporate and/or occupier of the adjacent premises. This consent should be provided on the third party's official letterhead or signed by the relevant party.

A new letter of consent or notification is required to be submitted by the permit holder to Council if:

- the adjacent premises is sold
- the business is sold or otherwise changes ownership.
- consent from the adjacent owner, body corporate and/or occupier is withdrawn.

A trader cannot charge "rent" for the use of a parklet in front of their premises by another business.

Council will decide on a case-by-case basis if the permit should be withdrawn prior to the expiry of the permit.



## **Fees and charges**

A fee is charged for all outdoor trading. Additional fees may apply for changes and amendments to a permit. Fees and charges are reviewed annually.

## **Parklet Infrastructure costs**

The permit holder will be responsible for hiring (or purchasing), installing, and removing parklet infrastructure at their own cost. It is suggested traders seek their own parklet infrastructure supplier and weigh up the costs and benefits of installing a parklet in front of their business.

## **Removal of parklet**

A parklet may need to be removed temporarily or permanently for improvements, maintenance or other works as required by the City of Boroondara, its contractors or a public authority requiring access to infrastructure.

Council will give the permit holder as much notice as possible. If requested by Council to remove the structure either temporarily, permanently or upon expiry of the parklet permit, costs to remove and store parklet infrastructure that has been rented or purchased by the permit holder will be the responsibility of the permit holder.

Costs to remove and store any road safety infrastructure provided by Council will be the responsibility of Council.

Fees paid for a permit will be refunded on a pro-rata basis if the parklet is required to be removed permanently.

## **Renewals**

Renewals are not automatic. Council will consider the following matters when assessing the renewal of a parklet permit:

- whether compliance with the conditions of the permit during the permitted occupation of Council land for trading within the parklet have been met; and
- whether all reasonable requests made by officers were complied with, and any additional impacts that may affect the ability to support the continued occupation of Council land.

Applicants for Council's seasonal parklet program will need to reapply the following year.

Where Council considers a renewal as not appropriate, permit holders will be notified in writing as to why their permit is not being renewed.



November 2022



# Outdoor Dining Structure Guidelines



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## 1. Introduction

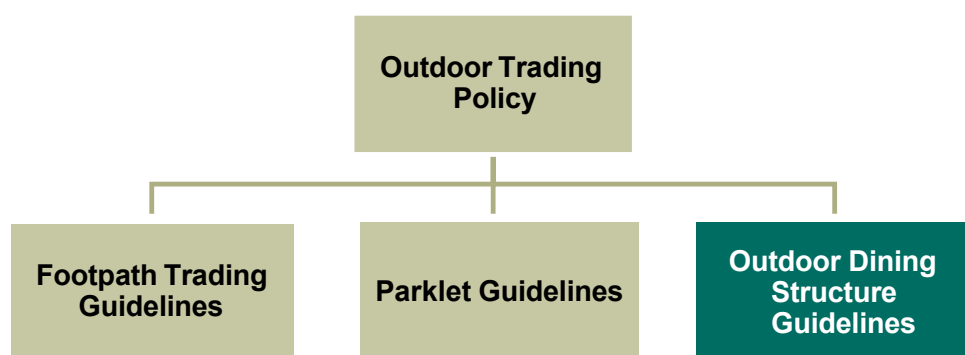
Outdoor trading has played a significant role in activating public footpaths and roadways for commercial activity. Outdoor trading works best when it is aligned with community expectations and facilitates additional patronage for businesses. Activating shopping strips brings social and economic benefits that are valued by the community and traders in Boroondara.

The Outdoor Trading Policy provides the foundation and guiding principles for outdoor trading within Boroondara and aims to support a strong and vibrant local economy for the benefit of the community and visitors to the municipality while maintaining safety and local amenity in shared spaces.

The City of Boroondara offers the following opportunities for outdoor trading:

1. Footpath Trading: activities occurring on the footpath, where dining furniture, display of goods, advertising signs and other associated infrastructure needs to be brought in at the end of trade.
2. Parklets: activities occurring within car parking spaces.
3. Outdoor dining structures: activities occurring on the footpath within a fixed structure that can remain in place overnight.

This document, the Outdoor Dining Structures Guidelines, is underpinned by the Outdoor Trading Policy.



## 1.1. Definitions

Term	Definition or description
Applicant	Person making the application for Outdoor Trading.
Arterial Road	Roads which provide the principal routes for the movement of people and goods between major regions and population centres, and between major metropolitan activity centres.
Authorised Officer	A person appointed by Council under section 224 of the <i>Local Government Act 2020</i> .
Council	City of Boroondara.
Council-controlled land (definition as per Amenity Local Law)	Any land which Council owns, occupies, manages, has leased or licensed to another person or is otherwise under Council's control and management.
Commercial Area	A locality where business and commercial activities are primarily conducted.
Footpath trading	Use of public footpaths for commercial purposes.
Outdoor Trading Activity	Nature of activity as defined by the Footpath Trading, Parklets and Outdoor Dining Structures guidelines.
Outdoor dining structure	A structure installed on a footpath which can remain in place overnight but able to be removed at the end of the permit.
Parklet	Outdoor dining area within a car parking bay(s).
Patron	Customer of a business.
Permit holder	The person or company named as the applicant in a Footpath Trading, Parklet or Outdoor Dining Structure agreement and to whom the permit is issued. In the case of a company, the director, or directors will be considered the permit holder.
Planning Permit	A permit issued under the Boroondara Planning Scheme.
Registered trader	A person, organisation or group of persons who conduct a business either under a registered business name and/or registered company.
Public Authority	Australian Government body established through legislative instruments for a public purpose.
Trader	A person, organisation or group of persons who conduct a business either under a registered business name and/or registered company.
Footpath Trading Furniture	All footpath dining furniture including tables, chairs, umbrellas, heaters, planter boxes, screens, signage and display of goods.
VGCCC	Victorian Gambling and Casino Control Commission.

## 1.2. Diagram legend

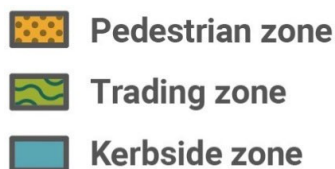


Figure 1: Legend for diagrams used in the document

## 2. What is an outdoor dining structure?

An outdoor dining structure is a structure installed on a footpath which is subject to a permit, unlike traditional footpath trading where furniture needs to be brought in at the end of the trading day, the structure can remain in place overnight.

The structure must be capable of being easily removed at the expiry of the permit, built in accordance with the relevant building standards and planning requirements and meet the requirements of the *Disability Discrimination Act 1992*.

An outdoor dining structure can only be located only within the available Trading zone adjacent to an applicant's property.

## 3. Footpath zones

An outdoor dining structure can only be considered in a location where the footpath width is greater than three metres.

To ensure a clear, safe and unobstructed walkway for pedestrians, footpath trading is made up of 3 zones (see Figure 1 Footpath trading zones):

1. Pedestrian zone
2. Trading zone
3. Kerbside zone

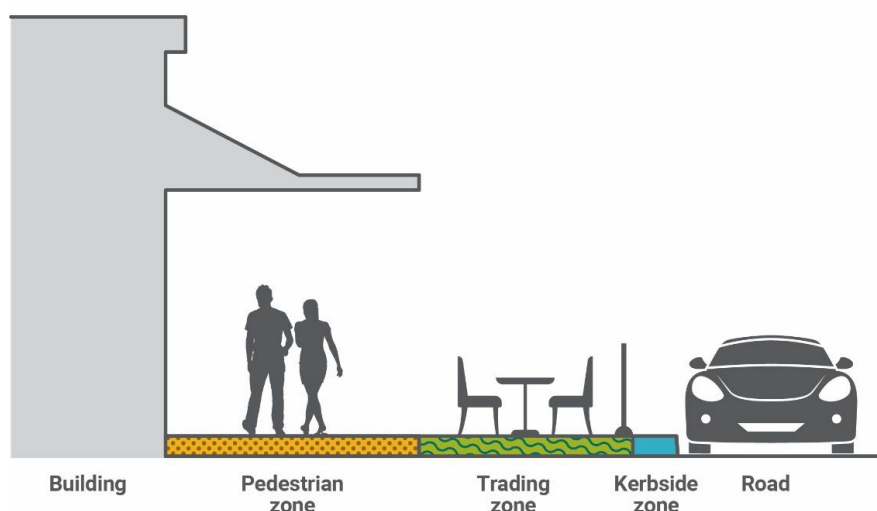


Figure 2 Footpath trading zones

### 3.1. Pedestrian zone

The pedestrian zone is located on the footpath and extends immediately from the property line to the trading zone. This allows for an uninterrupted and accessible path of travel for pedestrians. This area is for the exclusive use of pedestrians.

The pedestrian zone must be a minimum width of 1.5 metres for a footpath that is up to four metres wide, and 1.8 metres for a footpath that is four metres wide or more, measured from the property line. This area must always be kept clear.

Council reserves the right to vary the pedestrian zone depending on pedestrian needs, vehicle traffic and access, and existing footpath widths.

### 3.2. Trading zone

The Trading zone is the area located between the pedestrian and kerbside zones after the appropriate clearances are applied. The Trading zone will vary depending on the overall width of the footpath, the Pedestrian zone, the Kerbside zone and any clearances from infrastructure that is located within the Trading zone. It is the only area of the footpath where commercial activity can be conducted in accordance with a permit.

Where the use of the footpath is not directly in front of a business for example a plaza or courtyard, Council may use its discretion to approve a permit if the outcome is to the benefit of the streetscape and the community.

Council will assess such applications on a case-by-case basis and reserves the right to approve or refuse any application.

### 3.3. Kerbside zone

The Kerbside zone is located between the Trading zone and the face of the kerb/road. This zone is important for the safety of pedestrians crossing the road, allowing access to

and from parked vehicles including loading and delivery bays. It must always be kept free from any items or structures.

The minimum distance between the face of the kerb and the Trading Zone is 0.5m.

Council may vary the width of the kerbside zone to achieve minimum clearances for pedestrian activity, existing public infrastructure, essential services, adjacent parking restrictions and public transport access requirements.

## 4. Minimum clearances and setbacks

The following clearances and setbacks from an object ensure that access can be maintained safely, for the duration of the occupation of Council land for the purpose of outdoor trading. These safety standards are aligned to the *Road Management Act 2004* and the Austroad Guide to Road Design.

### 4.1. Minimum clearances from an object

Object	Minimum clearance
Council or public infrastructure; examples include: <ul style="list-style-type: none"> <li>• Litters and recycling bins</li> <li>• Public seating</li> <li>• Bicycle stands</li> <li>• Drinking Fountains</li> <li>• Garden beds and climber frames</li> <li>• Way finding signs</li> </ul>	1 metre
<ul style="list-style-type: none"> <li>• Trees</li> </ul>	Determined on application
Essential services; examples include: <ul style="list-style-type: none"> <li>• Substations</li> <li>• Exit doors incl. Fire Exit doors</li> <li>• Switchboards</li> <li>• Hose reel cupboards and fire equipment</li> <li>• Boosters</li> <li>• Fire Hydrants/fire plugs</li> <li>• Payphones</li> <li>• Traffic lights</li> <li>• Pedestrian-operated lights</li> </ul>	1 metre
<ul style="list-style-type: none"> <li>• Electricity boxes</li> </ul>	0.5 metres
Street light poles and electricity poles	No minimum set back

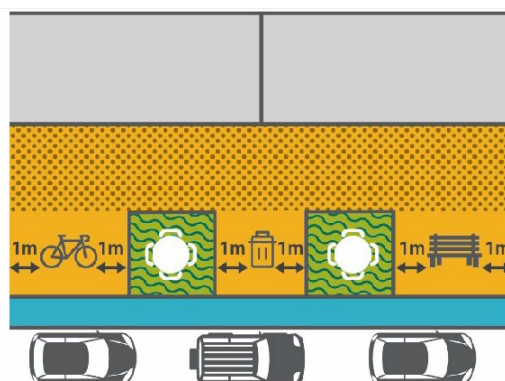


Figure 3: Minimum clearances from an object

## 4.2. Minimum clearances from the kerbside zone

Parking	Minimum clearance
Parking meters and multi-bay parking meters	1 metre
Parallel parking bays	0.5 metres
No stopping and no standing zones	1 metre
Angled Parking	1.2 metres
Disabled Parking Bays	1.5 metres
Loading zones	1 metre
Kerb line at any intersection	10 metres
Numbers painted on the footpath indicating bay number and direction of the multi-bay machine	0.5 metres

## 4.3. Setback from an intersection and required line of sight

Outdoor dining located next to intersections must be set back from the intersection to allow a clear line of sight for turning vehicles, cyclists and pedestrians

Applications within the 10-metre setback from the intersection, will be considered on a case-by-case basis taking into consideration speed of vehicles and existing obstructions.

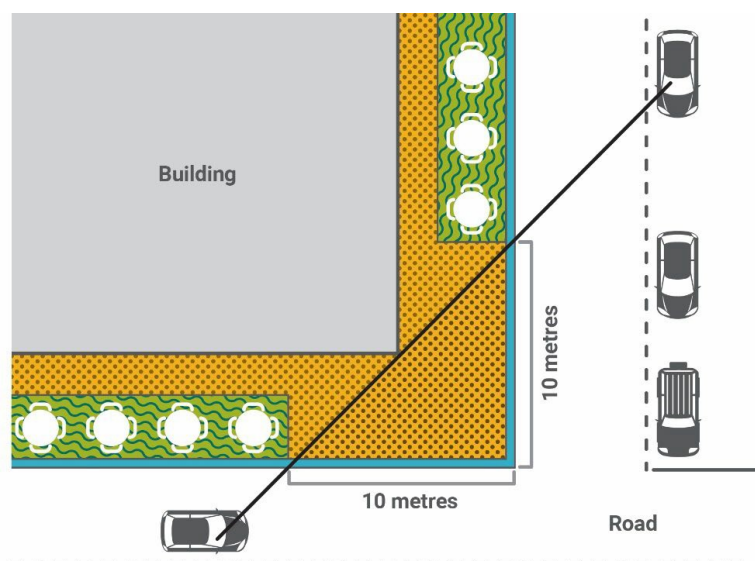


Figure 4: Setback from an intersection and required line of sight

#### 4.4. Setback from tram and bus stops

Clearances from tram and bus stops must be maintained to ensure direct access from the Pedestrian zone is provided to passengers boarding and alighting from a tram/bus. A minimum of 1.5 metres clearance must be kept from the departure side of a tram/bus stop sign and 10m from the approach side.

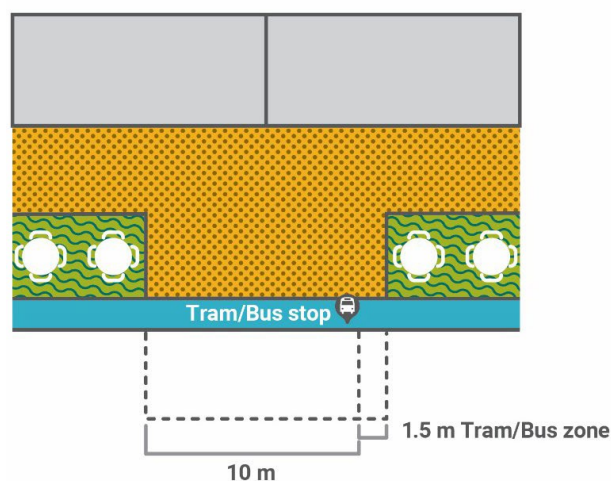


Figure 5: Setback from tram and bus stops

#### 4.5. Setback from taxi zones

Clearances from a taxi zone must be maintained to ensure direct access from the Pedestrian zone is provided to all users of this service. A minimum of 1.5 metres

clearance must be kept to either side of taxi zone signage to ensure adequate access for users and maintain visibility for taxi drivers.

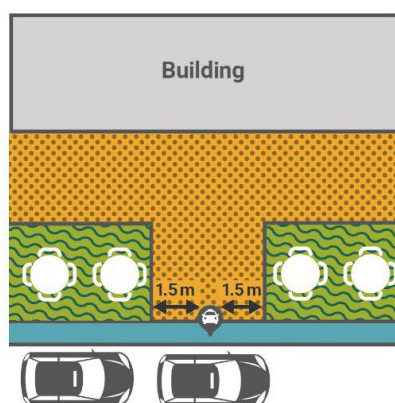


Figure 6: Setback from taxi zones

## 4.6. Pedestrian access

### 4.6.1. Minimum gap between neighbouring Trading Zone

A gap of one metre is required between adjoining Trading zones to ensure pedestrian safety when crossing the road or to allow access for vehicle passengers entering or exiting their vehicle.

Each trader is required to set back their Trading Zone 0.5 metres from the adjoining property line to achieve the one metre gap. This also applies for the placement of screens.

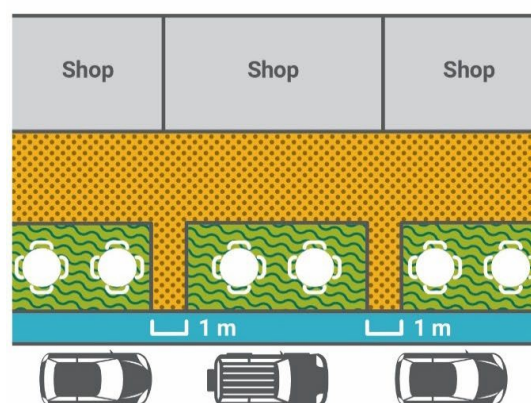


Figure 7: Minimum gap between neighbouring Trading zones

### 4.6.2. Minimum gap with extended Trading zone

Where a Trading zone exceeds 10 metres, a gap of 1.5 metres must be left.





## 5. Access to public infrastructure

In the event of an emergency, maintenance or renewal works, access to any Public Authority or Council infrastructure will be required.

To determine if this may impact a proposed trading area, an application to 'Dial before you Dig' should be made via the website [Dial before you Dig](#). This service is free and will provide information regarding any infrastructure beneath a proposed trading area.

If assistance is required to understand how the infrastructure may impact an application, please contact Council on 9278 4444. Council may deem the location proposed by an applicant not suitable for outdoor trading.

Council does not provide compensation for any loss of availability to use the trading area, or any costs incurred to temporarily remove the structure or other related components where entry is required to maintain, access or create new public infrastructure.

## 6. Waste service vehicle access

The installation of outdoor trading activities must not compromise access by essential waste vehicles, obstruct loading and construction zones or entrances to private buildings and carparks.

It is essential access to services of the permit holder's property and neighbouring properties is maintained, therefore:

- Outdoor Dining Structures should not impede pedestrian flow including waste transport trollies and bins, and access to waste bin storage areas including Council's communal waste service locations
- Waste collection and service vehicle access must be maintained to all properties or public land where bins are stored.

## 7. Advertising

Council accepts traders may have advertising on commercial street furniture within the Outdoor Dining Structure. There is a limit of 30% of the total area of furniture to avoid excess advertising.

Signage/advertising over 8 m<sup>2</sup> or in a heritage zone may require a planning permit. Contact Council's planning department on 9278 4444 or email [boroondara@boroondara.vic.gov.au](mailto:boroondara@boroondara.vic.gov.au) for further information.

## 8. Heritage zones

Our community values our local heritage and Outdoor Dining Structure locations need to consider heritage impact. Outdoor Dining Structures in these locations have the potential to impede views to significant heritage frontages and detract from the significance of our heritage buildings.

Applications will be referred to Council's planning department and/or heritage advisor where an application is received for a parklet within a heritage zone.

## 9. Awnings and verandas

Awnings can be horizontal and fixed to a building and project over a footpath to form a veranda. They can also be vertical and drop down either partially or full length and are fixed to a veranda and/or project over a footpath.

The installation of an awning or veranda attached to the building will require Building approval and may be subject to Planning approval.

Horizontal awnings must have a vertical clearance of at least 2.4 metres from the ground to its underside and must not extend over the roadway or adjacent carpark.

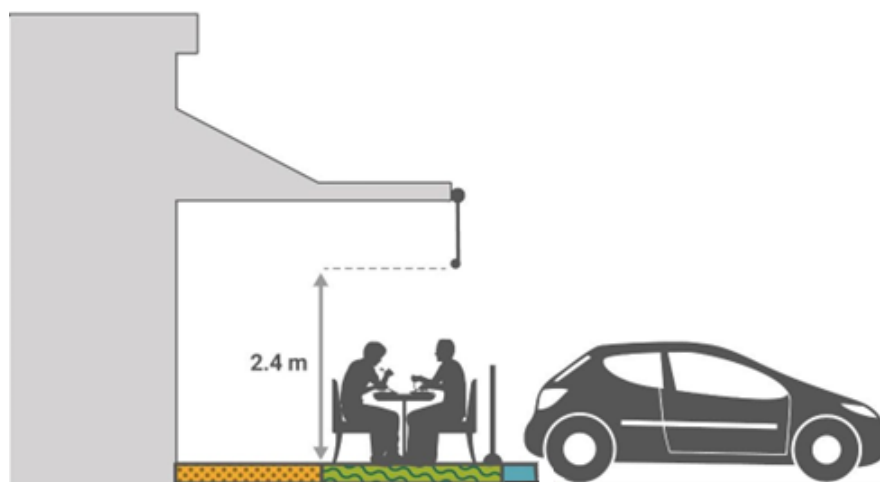


Figure 8: Awning

Drop down blinds must be clear and can only be placed adjacent to the road. Drop down blinds attached to a veranda or awning require building approval.

## 10. Patron numbers and hours of operation

Planning permits determine how many patrons can receive seated service and the hours of operation. Applications may be referred to Council's planning department to confirm these details.

## 11. Supporting structures and facilities

### 11.1. Planter boxes

Planter boxes are permitted and must be located within the Trading zone.

The construction of the planter box can be a maximum height of one metre with planted foliage a maximum height of 0.5 metres or a total combined height of 1.5 metres.

Planter boxes must be removed at the end of the trading day and are required to be regularly maintained by the trader. Maintenance includes regularly watering and pruning and the removal of any rubbish or debris.

Planter boxes cannot be located within 10 metres of an intersection as they may impede line of sight for oncoming vehicles, pedestrians, and cyclists.

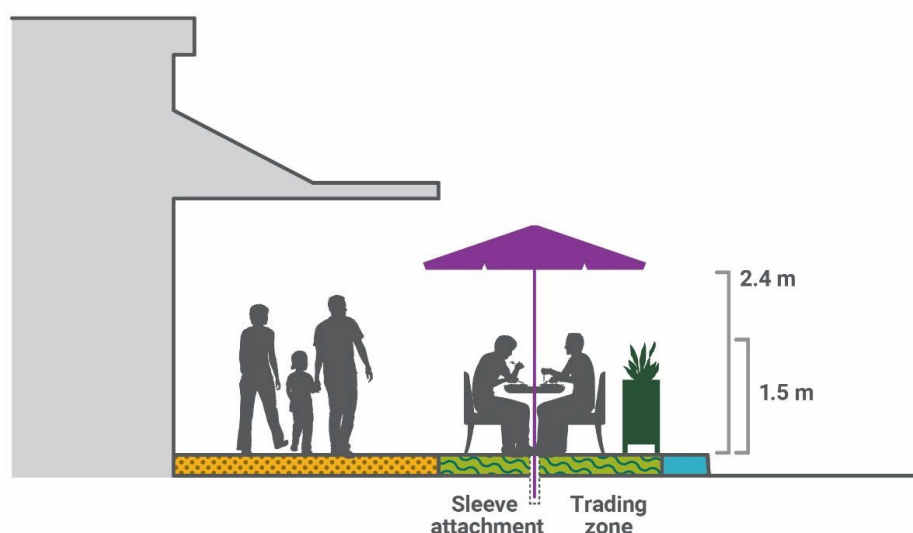


Figure 9: Planter boxes and umbrellas with heights and installation options

### 11.2. Umbrellas

The lowest edge of an umbrella canopy must be 2.4 metres above the footpath and must not protrude over the kerbside zone or over the road.

An umbrella is required to be securely anchored to the ground for example, by using a sandbag or a 'sleeve attachment'.

Prior to installation of a sleeve attachment, a Road Opening permit and payment of a bond is required. In the event an umbrella is no longer required, or the permit holder ceases to trade the sleeve is required to be removed and footpath reinstated at the Permit holder's cost. If this work is not undertaken by the Permit holder, the bond will be used to undertake these works. See [road opening permit](#).

Sleeve attachments must be:

- installed flush to the level of the footpath, and no parts should protrude above the



level of the footpath when not in use.

- Made of stainless steel and have an auto shut lid to prevent the lid staying open and creating a hazard on the footpath when not in use.
- The installer must check for underground services by contacting Dial Before you Dig on [Dial before you Dig](#).

### **11.3. Gas heaters**

Outdoor free-standing heaters conforming to Australian Standards may be placed in line with the table and chairs within the Trading zone.

Council will consider a gas heater or fixed heater attached to an awning.

Fixed heaters attached to a veranda require a building permit and will be referred to Council's planning department if in a heritage zone.

Where permanent heating is installed, a certificate of compliance issued by a registered gas fitting plumber who is licenced and registered to undertake gas fitting work is required to be produced to Council on the completion of works.

Heating attached to an umbrella is not permitted.

## **12. Lighting**

To ensure lighting is provided safely to an outdoor dining structure, the following options are available:

- Solar power
- Light supply from an overhead structure.

Light supplied from an overhead structure is required to be installed by a licensed electrician. A certificate of compliance issued by a licensed electrician is required to be produced to Council on the completion of the works.

Portable power leads cannot be run from the property to the outdoor trading area.

## **13. Lighting overnight**

Outdoor Dining Structures can create dark and potentially unsafe areas in and around the structure. An assessment will be made to determine whether additional lighting is required in accordance with the AS/NZS 1158 Part 3.1: Pedestrian area (Category P) lighting—Performance and design requirements.

Costs incurred to retrospectively fit lighting will be at the permit holder's expense.

## **14. Toilet and sanitary conveniences**

Outdoor dining increases seating capacity and additional toilet facilities may be required for staff and customers. Where Outdoor dining increases seating capacity greater than 20 seats, additional facilities may be required for staff and customers. Council's Building Services Department will confirm if this applies.

Contact Council's Building Department on 9278 4444 or [boroondara@boroondara.vic.gov.au](mailto:boroondara@boroondara.vic.gov.au) for further information.

## 15. Car parking

If a parklet is over 28m<sup>2</sup>, planning approval may be required for a reduction in car parking requirements. Generally, restaurants in activity centres operate a car parking requirement of 3.5 car parking spaces to each 100m<sup>2</sup> of floor area.

## 16. Structure heights

Maximum heights will be assessed on a case-by-case basis and is dependent on characteristics of the location. The following heights apply as a guide:

- The external wall should not exceed one metre in height to allow for flow of air
- The minimum ceiling height is 2.4m and overall structure height should not exceed 2.7m.

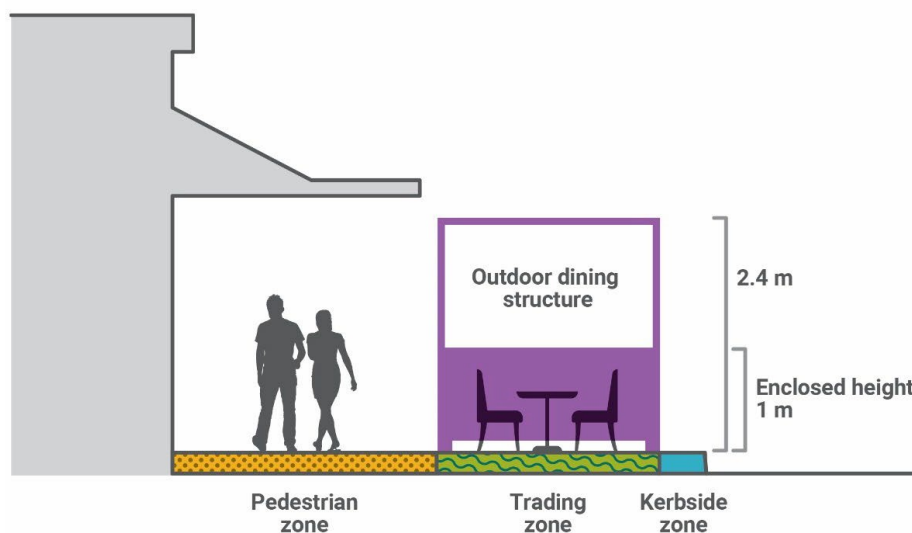


Figure 10: Structure heights for external wall



## 17. Café blinds

Café blinds must be clear, retractable and secured at the base. They can only be placed adjacent to the road. Café blinds attached to a veranda or awning require building approval. Retractable Café style blinds must be retracted at the end of each trading night.

Placing the Café blind on the side of the trading area encloses the space and reduces airflow, and therefore is not permitted.

## 18. Solar compactor bins

If a solar compactor bin is located within or nearby to a proposed Outdoor Dining Structure, Council may consider relocating the bin if there is a suitable alternative location nearby. The relocation of the bin will be dependent on other street furniture, trees, utility covers, pedestrian crossings and shading (as solar bins require direct sunlight). Cost to relocate the solar bin is at the applicant's expense.

## 19. Service and amenity

### 19.1. Cleanliness of trading area

Permit holders are responsible for maintaining the safety and cleanliness of their Trading zone including the equipment and structures contained within. Regular cleaning is required to ensure rubbish does not accumulate or is not windblown into neighbouring areas.

Permit holders are also responsible for providing hand sanitising stations and other patron management systems as part of any legislated health directives.

Outdoor dining structures should not create hazards for pedestrians and be able to withstand hot and windy conditions. Appropriate selection of furniture and fittings, as well as regular maintenance is required.

### 19.2. Managing noise and amenity

Where permitted, loudspeakers directing sound to the outdoor dining area must not be used outside the permitted trading hours provided in the conditions of the permit and must always be limited to background levels, unless otherwise specified on a permit.

## 20. Service of alcohol

Permit holders and staff must practice responsible service of alcohol and are responsible for monitoring and managing patron behaviour.

Applicants will need to apply for a Planning Permit and Liquor Licence to serve alcohol within the Trading zone. A Liquor Licence is required to be applied for separately through the Victorian Gambling and Casino Control (VGCCC). Please visit [Liquor licensing | Victorian Government \(www.vic.gov.au\)](https://www.vic.gov.au/liquor-licensing) for further information.

## 21. Smoking and vaping

Smoking or vaping must comply with the requirements of the *Tobacco Act 1987*.



## 22. Patron queuing

A trader is responsible for ensuring the pedestrian zone in front of their business remains clear of patrons queuing outside their premises to gain entry.

A minimum of 1.5 metres of unobstructed footpath must always be maintained to ensure pedestrians can walk past a venue unimpeded.

A trader can apply to Council for a permit to rope off a section of the footpath at no cost to meet the above requirements.

## 23. Public Liability

Traders must hold a valid public liability insurance policy to the value of at least twenty million dollars (\$20,000,000) at the time of application. The insurance policy must cover injury, loss or damage to persons arising out of the activity carried out under or the granting of a permit.

This insurance policy must be maintained for the duration of the permit and specifically note the interest of the City of Boroondara as an insured party. The Certificate of Currency may be requested by Council and must be readily available.

## 24. Enforcement

Council aims to support traders to achieve compliance through education of their permit conditions and the Amenity Local Law.

Traders contravening these Guidelines may be subject to enforcement including notices, infringements and prosecution. Council reserves the right to revoke or cancel permits.

## 25. Implementation and monitoring accountabilities

The responsible department coordinates the implementation, maintenance, and review of this document, arranging for its availability on Council's website and hard copies at Council offices and libraries to ensure stakeholders are aware of their accountabilities.

For all queries or feedback regarding this document, please use the contact details for the responsible department below:

Contact department	Contact number	Contact email
Permits and Appeals team   Civic Services	9278 4444	<a href="mailto:boroondara@boroondara.vic.gov.au">boroondara@boroondara.vic.gov.au</a>

\*Any changes to the Footpath Trading Guidelines must be made in conjunction with the Outdoor Trading Policy, Parklets and the Outdoor Dining guidelines.



## 26. References

Related documents:

- Austroad Guide to Road design Part 4A, 2021
- City of Boroondara Amenity Local Law 2019
- *Local Government Act 2020*
- *Planning and Environment Act 1987*
- *Road Management Act 2004*
- *Tobacco Act 1997*
- *Food Act 1984*
- VicRoads Supplement to the Austroads Guide to Road Design Part 4A - Signalised and Unsignalised intersections





## Appendix 1: Application process

### How to apply for a permit

To apply visit [www.boroondara.vic.gov.au](http://www.boroondara.vic.gov.au)

So that we can assess an application in a timely manner please include the following information with the application:

- completed and signed application form (available to download on our Outdoor Trading Permits webpage)
- a site plan showing the proposed location of the outdoor trading activity including dimensions and position of local infrastructure
- a copy of a current business registration certificate.
- Certificate of Public Liability Insurance for a minimum of \$20 million, noting the interest of the City of Boroondara as an insured party.

Additional requirements as relevant include:

- the proposed hours of operation
- details of the advertising signage
- copy of current registration to serve food and/or beverages under the Food Act 1984

Consideration will be given to site-specific constraints such as access, traffic and parking conditions and permits may be issued with specific conditions. Permits may also be subject to change at any time during the permit period to ensure safety and amenity is not compromised.

If you are a new applicant, please contact our Concierge Business Support Service on 9278 4444 if assistance is needed to complete an application.

This service provides a one stop shop for businesses which includes broad advice and assistance to determine which Council permits and approvals they may require and triage any other business's needs.

### Application assessment timelines

Council is committed to activating the city and helping businesses to establish appropriate Outdoor Dining Structures as quickly as possible.

Businesses must ensure applications contain all necessary information so Council are able to thoroughly assess and process applications in a timely manner. Assessments may take up to two months to review as they require approvals from several departments and externally by others to ensure they have met the assessment criteria.



### **Applications in a residential area or close to a residential area**

Applications located in a residential area where residential dwellings are directly affected will be carefully considered on a case-by-case basis to ensure safety is upheld. This is to ensure residential amenity of the area is maintained during the licence period.

The threshold distance considered “close” is any residential property within 50 metres of the proposed location of the Outdoor Dining Structure. Access, safety, amenity conditions and noise restrictions will apply.

### **Proposals for trading after 9.30 pm close to a residential dwelling or building**

Applications to operate after 9.30 pm from Sunday to Thursday and 10.30 pm from Friday to Saturday will be considered strictly on a case-by-case basis. Residents within 50 metres of the property will be sent a notification letter and provided 14 days to provide feedback.

Applicants proposing to establish an Outdoor Dining Structure in a residential area past 9.30 pm are strongly encouraged to engage with affected residents, the residential precinct association and/or the body corporate of a residential building to seek support for the proposal.

### **Decision to issue a permit**

The decisions whether to grant a permit will be made by a panel of representatives from Civic Services, Traffic and Transport, Local Economies, Building, Health and Town Planning.

The panel will assess submissions in accordance with impacts to safety, access and amenity in the immediate area and compliance with statutory requirements.

### **Fees and charges**

A fee is charged for all outdoor trading. Additional fees may apply for changes and amendments. Fees and charges are reviewed annually.

### **Costs associated with moving existing infrastructure**

The costs will be at the expense of the applicant for:

- Installation of new infrastructure
- repair or amendment of existing infrastructure; and
- removal of outdoor dining

All Outdoor Dining Structure infrastructure is required to be removed by the applicant at either upon expiry of the Permit or at the request of Council.

### **Display of permit**

A Permit sticker must be displayed on the front window of the trader's business.

**Public liability insurance**

Traders require a valid public liability insurance policy to the value of at least twenty million dollars (\$20,000,000) at the time of application. The insurance policy must cover injury, loss or damage to persons arising out of activity carried out under the granting of a permit.

This insurance policy must be maintained for the duration of the permit or licence and specifically note the interest of the City of Boroondara as an insured party. The Certificate of Currency may be requested by Council and must be readily available.

**Renewals**

Permit renewal fees are paid every two years from the date of approval and accompanied by the renewal form. Renewal notices will be sent to permit holders in the month prior to their permit expiry date.

Renewals are not automatic. Council will consider whether compliance with the conditions of the permit during the permitted occupation of Council land for footpath trading have been met, whether all reasonable requests made by officers were complied with and any additional impacts that may affect the ability to support the continued occupation of Council land.

Where Council considers a renewal is not appropriate, permit holders will be notified in writing of the reasons why their permit is not being renewed.

**Removal of outdoor dining structure**

An outdoor dining structure may need to be removed temporarily or permanently for improvements, maintenance or other works as required by the City of Boroondara or its contractors, or a public authority that is required to access their infrastructure.

The City of Boroondara will give the permit holder as much notice as possible. Costs to remove and store any footpath trading items are borne by the permit holder both at the conclusion of the permit or if requested by Council to remove the items either temporarily or permanently.

## Attachment 6

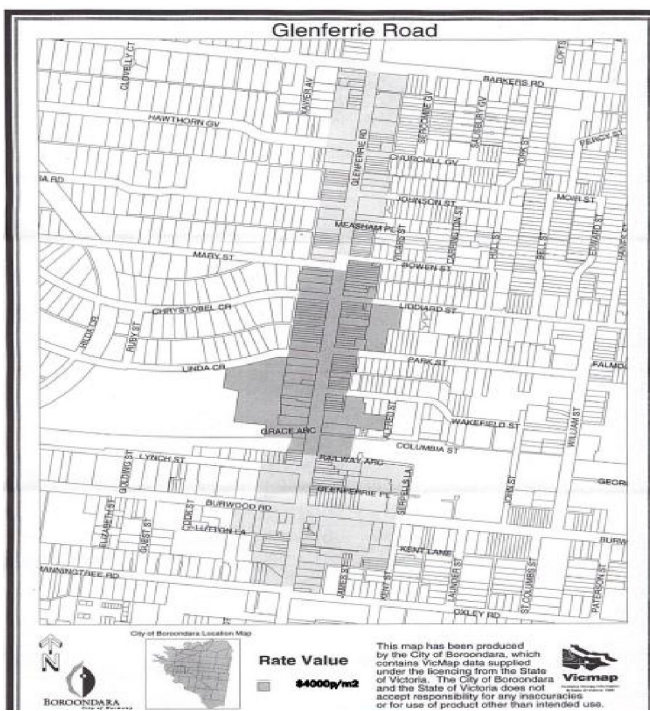
Fee structures for existing footpath trading

	FY 22 Fee	FY23 Fee
First-time application	\$86.50	\$88.50
Transfer (shop relocation with no changes to permit)	\$86.50	\$88.50
Real estate agents (portable signs)	\$665.00	\$680.00
Fingerboards - one- per entry	\$419.00	\$428.00
Directory boards - per entry	\$419	\$428.00
Portable signs - one square metre*		
• <i>Burke Rd (part of) Camberwell</i>	\$322.00	\$328.00
• <i>Glenferrie Rd (part of) Hawthorn</i>	\$246.00	\$252.00
• <i>All other areas</i>	\$146.50	\$149.50
Display of goods - per square metre*	Depends on size of area	Depends on size of area
• <i>Burke Rd (part of) Camberwell - example</i>	$10m^2 \times \$322 = \$3220$	$10m^2 \times \$328 = \$3280$
• <i>Glenferrie Rd (part of) Hawthorn - example</i>	$10m^2 \times \$246 = \$2460$	$10m^2 \times \$252 = \$2520$
• <i>All other areas - example</i>	$10m^2 \times \$146.50 = \$1465$	$10m^2 \times \$149.50 = \$1495$
Cafes - per square metre*	Same as display of goods	Same as display of goods

\* Per square metre fee is based on the unimproved capital value of the median price of the land within the shopping centre multiplied by 5%, but with a fee cap of \$328.00 per square metre. The minimum fee per square metre is \$149.50.

Fee Structures for high return centres (Burke Road and Glenferrie Road (part))

Shopping centre	Median unimproved capital value per m2	UCV x 5% (Per m2 per annum)	Fees Effective 1 July 2020
Burke Rd (part of) Camberwell	\$6000	300	\$328.00
Glenferrie Rd (part of) Hawthorn	\$4000	200	\$252.00
All other areas			\$149.50



## Attachment 7

## Outdoor Trading - Benchmarking with other councils

\*Same guidelines apply to both Parklets and Footpath Trading (may be variances in specifics of implementation)

Minimum Clearances from an object						
Council/Public Infrastructure	City of Boroondara (Current Guidelines)	City of Boroondara (Proposed guidelines)	City of Port Phillip	City of Stonington Not specified	City of Yarra	Melbourne City Council
Litter and Recycling Bins	0.5 m	*1 m	1 m	1m	0.5 m	1 m
Public seating	1.5 m	1 m	1 m		0.5 m (not in front or behind the seat)	1 m
Bicycle Stands		1 m	1 m		0.5 m	1 m
Drinking fountains		1 m			0.5 m	0.5 m
Garden beds and climber frames		1 m	0.5 m		0.5 m	0.5 m
Way finding Signs			1 m		0.5 m	1 m
Substations/Electricity boxes		1 m	0.5 m		0.5 m	1 m
Exit doors inc fire exit doors		1 m				1 m
Switchboards		1 m				1 m
Hose Reel Cupboards and fire equipment		1 m	1 m			1 m
Boosters		1 m				1 m
Fire Hydrant		*1 m	1 m		0.5 m	1 m
Pay phones		1 m	1 m			1 m
Traffic Lights		1 m	1 m			1 m
Street light poles		No minimum setback	No minimum setback			1 m
Trees		Footpath Trading 0.5 m On application for Outdoor dining structure	0.5 m			0.5 m
Public Authorities		*Outdoor dining structure - can not be constructed over underground or above ground public infrastructure			7 days' notice required to be provided to Traders Emergency - no notice	Should not be obstructed
Clearance from kerbside Zone						
Council	City of Boroondara (Current Guidelines)	City of Boroondara (Proposed guidelines) *Not relevant to parklets	City of Port Phillip	City of Stonington - Blanket statement min 0.3 m	City of Yarra Min 0.4 m	
Parking meters/Multibay Parking Meters	1.5 m	1 m	1 m		0.5 m	0.8 m
Parallel parking bays	0.6 m	0.5 m	0.5 m			
No stopping/No standing zones	0.6 m	1 m	1 m			1 m
90 Degree Parking	0.8 m	1.2 mm				1.2 m
Parallel Parking		1.5 m	0.5 m			0.8 m
Angled Parking		1 m	1.2 m			1.2 m
Loading Zones	1 m	1 m	1 m		0.7 m	0.9 m
Disabled Parking bays	1 m	1 m			1.5 m	1.5 m
Disabled parking parallel			1.3 m			1.5 m

## Outdoor Trading - Benchmarking with other councils

Disabled parking angle			1.7 m			1.5 m
Kerb line at intersection	5 m	10 m minimum *unless approved by Traffic Engineer	10 m minimum *unless approved by Traffic Engineer	10 m non signalised - *unless approved by Traffic Engineer 20m signalised intersection	Must not extend past the property line And not beyond the "vehicle stop line" on the approach of any pedestrian crossing	This is set at a 45° angle from the corner of the building, often resulting in a 1 m to 3 m clearance from the corner to the edge of the outdoor café
Number painted on the footpath indicating bay number and direction of the mutlibay machine	0.5 m	0.5 m				
Court yards, public spaces and Plazas	Assessed on an individual basis	Assessed on an individual basis				
<b>Clearances from Public Transport</b>						
Council	City of Boroondara (Current Guidelines)	City of Boroondara (Proposed guidelines)	City of Port Phillip	City of Stonington Not specified	City of Yarra	
Buses		10 m before sign and 1.5m after	A minimum of 1.5 m clearance must be kept from the departure. Side of a bus stop sign prohibited where a bus zone is 20 m or less.		1m either side or greater if relevant statutory authority requests it	1.5 m from stop
Trams		10 m before sign and 1.5m after  Parklets -No parklets with 30 metres of a tram stop flag -Must not be installed within 300mm's of a tram pole -Offset of 1.85 metres from tram track -Risk assessment and application to Yarra Trams -1.5m offset between Water filled barriers and adjacent parking space -Parklet not to span more than 2 parking bays if over 2 parking bays 1.5m opening required between the full parklet	10 m before sign and 1.5m after		1 m either side or greater if relevant statutory authority requests it  Super tram stops - not permitted within 2 m of the tactile tiles. May be assessed to be greater dependant on location	1.5 m from platform
Taxi Zones		1.5 m from either side of the sign	1.5 m from either side of the sign			1.5 m
<b>Clearances between trading zones</b>						
Council	City of Boroondara (Current Guidelines)	City of Boroondara (Proposed guidelines)	City of Port Phillip	City of Stonington	City of Yarra	

## Outdoor Trading - Benchmarking with other councils

Distance between projected boundary line and start of trading area	0.5 m	0.5 m	0.5m	0.5 m	0.5 m	
Maximum length of trading area before a gap is required for pedestrian access	5 m	6 m	1m	10 m	3 m	
Minimum gap within trading after 5 m /6?	1.5 m	1.5 m	1 m	1 m	1 m	
<b>Pedestrian Zone width</b>						
Council	City of Boroondara (Current Guidelines)	City of Boroondara (Proposed guidelines)	City of Port Phillip	City of Stonington	City of Yarra	
Pedestrian Zone	<ul style="list-style-type: none"> <li>2.49 m or less - No trading accepted</li> <li>2.5 m up to 6m wide footpath 1.5 m pedestrian zone</li> <li>Over 6m wide footpath 1.8 m pedestrian zone</li> </ul> <p>(Avg footpath widths 2.8m to 3.3 m)</p>	<ul style="list-style-type: none"> <li>2.49 m or less - No trading accepted</li> <li>2.5 m up to 4 m wide footpath 1.5 m (Average size of footpath 2.9 m)</li> </ul> <p>(DDA - min requirement for wheelchair to turn 1.8 m)</p> <ul style="list-style-type: none"> <li>Over 4 m wide footpath 2.4 m (DDA compliant - 1200mm wide for a person using a wheelchair, 2.4 allows for two wheelchairs passing each other)</li> </ul>		<p>Footpath must be a min of 2.7 m wide</p> <p>1.5 min pedestrian zone</p>	<p>Footpath must be min 2.5 m</p> <p>Less than 3.5 m - 1.5 m clearance</p> <p>Greater the 3.5 m 1.8 m clearance</p>	2 m
<b>Maximum Heights and other specified parameters</b>						
Council	City of Boroondara (Current Guidelines)	City of Boroondara (Proposed guidelines)	City of Port Phillip	City of Stonington	City of Yarra	
Display of Goods	1 m Gap of 1.5 m Every 5 m	Max height 1.5 m Gap every 10 m	Max Height 1.2 m	Max height 1.5m  75% length of zone x %50 width of zone	Max Height 1.5 m and Max long 3 m Depth 0.75 m for any single item	
Furniture Height		*Maximum height 1 m	Bar-style furniture will not be approved. A table must be between 0.7 m to 0.8 m in height and a chair or seat must be between 0.4 m to 0.5 m in height			
A-boards	1 per site 1 m high <0.7 m wide and >0.5 m wide	1 per site 1 m high <0.7 m wide and >0.5 m wide	1 per site not exceed 1m in height and 0.7m in width	1 per site does not exceed 1m in height and and no <0.75 wide	Can only be placed in front of Traders shop	
Realestate Pointer boards	6 signs and 1 flag 2 hrs prior to opening and removed immediately afterwards	6 signs and 1 flag (clearance 2.4 m 2 hrs prior to opening and removed immediately afterwards		Up to 10 signs 2 hrs prior to opening and removed 2 hours after activity ceased	Can only be placed out between 8.00am and 5pm on the day of sale for 30 mins before and after the opening	



## Outdoor Trading - Benchmarking with other councils

				Corflute signs not to be attached to Council assets		
Display home signs	2 signs and 1 flag	2 signs and 1 flag				
Portable signs /Advertising Signs	1 per site 1 m high <0.7 m wide and >0.5 m wide	1 per site 1 m high <0.7 m wide and >0.5 m wide			<p>Inflatable signs, portable electric signs illuminated, revolving, spinning or flashing signs, flags and banners, must not be displayed on or above the footpath area except with specific written approval</p> <p>Where attached to doorway or shop façade min height from floor level 2.2 m</p> <p>Should have contrasting colours for vision impaired</p> <p>Max 2 signs and generally only if store has 2 entrances.</p> <p>Advertising sign over all height 1 m - width 0.6 m leg height 0.1 m</p> <p>Cannot be fixed to a Council asset</p>	
Fingerboard/ Directory Board		On request				
Public Liability Insurance	20 million	*20 million	10 million	20 million		
Advertising on Screening	30%	30%	Name of business or relevant product on screen and umbrella only			
Processing time	Min 10 business days	No time specified				
Planter boxes	Prohibited	*1m Foliage up to 0.5m  Can not be placed with 10 m of an intersection removable	No higher than 0.9 m and no longer than 1.8 m removable, 0.1 m gap between the underside of the planter box		Max height 1.5 m including planter box and foliage	
Nightclub queues (roping off)	1.5 m clearance required on the footpath	1.5 m clearance required on the footpath	Management plan required	Ensure safe management 10 mil PLI		
Temporary Footpath Trading	Remove furniture at end of trading day		Remove at end of trading day			
Outdoor dining structure	Loose items to be brought in at end of trading day.  Fixed structure in place at all times		Permanent structures that may be considered include folding-arm awnings, glass screens, fixed heaters and planter boxes. Any other items located on the			

			footpath for the purpose of footpath trading should be removed each day in accordance with the footpath trading permit			
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## Outdoor Trading - Benchmarking with other councils

Parklets on arterial roads	Department of Transport (DOT) Application to DOT including a completed road safety audit.					
Screens	Max 1 m high Mandatory to ensure distance between kerb zone Min 2 m screen Can not be permanently fixed, may be secured by a locking mechanism	Recommended rather than mandatory  1 m high  Not permanently fixed to footpath  Removed at end of trading day  1.5 m gap every 6 m	Screens must be no higher than 0.9 m  May be fixed with approval  Removed at end of day Approved removable screens must be securely fixed with an in-ground socket	1 m high  Cannot be permanently fixed  0.15 m gap between bottom of barrier and floor level to allow street cleaning  Must be removeable Can not attach drop down blinds, menu boards etc to it	May be requested for safety reasons	0.9 m with a 0.11 m gap from bottom of screen to floor level
Umbrella	No socket required 2.4 m high at the lowest point	*Socket required 2.4 m clearance from footpath Road opening permit and bond required for reinstatement	Minimum clearance of 2.2 m Securely fastened into the footpath with an in-ground socket	Minimum clearance of 2.2 m	Suitably anchored	Minimum clearance of 2.2 m.
Power to site		*Solar Power  Light supply via overhead awning - cannot be exposed  *Certificate of compliance required after installation completed and before FT renewed  Outdoor dining structure - Lighting is required over night  Parklet – Lighting must be incorporated into design of parklet. Luminance should not exceed 5 lux and have a rating of IP65. No electrical cables over the footpath				NIL ON SOLAR If café is deemed suitable for electrical lighting, the following criteria must be met: <ul style="list-style-type: none"> <li>the existing power supply is to be checked to ensure it has sufficient capacity;</li> <li>the electrical installation is to be undertaken by a qualified electrician and a certificate of electrical safety is to be provided;</li> <li>lighting must be metered; and</li> <li>lighting installation must be approved by Citipower.</li> </ul>
Heaters	Allowed within trading zone Req to meet Australian Standards	*Allowed within trading zone Req to meet Australian Standards  Can be plumbed into overhead Awning at min 2.2 m clearance from footpath - Certificate of compliance	Gas heater must be installed and operated in accordance with the manufacturer's instructions must be removed from the footpath trading zone  Fixed heaters must comply	Gas heater Min 0.6 m from kerb zone  Preference for fixed gas heater connected to mains pressure gas installed a min 0.6 m from kerb and 2.2 m height clearance from heater	Can be plumbed into overhead Awning with relevant building or planning permit  Patio heaters permitted	An approved Australian Gas Association (AGA) number or SAI Global approval must be provided to the City of Melbourne for all gas heaters. Gas heaters must be installed

## Outdoor Trading - Benchmarking with other councils

Tables and chairs	Required to be parallel to the kerb and pedestrian zone		Specific requirements such as style hardy solid to resist wind gusts easy to clean size specified	Max height 1 m		
Extension of permit to neighbouring property	Only one adjoining property Permission required from Owner/Occupier	*Only one adjoining property Permission required from Owner/Occupier or body corporate of the adjacent property	Applicant to obtain and submit to the Council the written consent by the owner, body corporate and/or occupier of the adjacent premise	2 adjoining properties  Permission required from Owner/Occupier or body corporate of the adjacent property  Permit cancelled on withdrawal of neighbouring property	Permission required from Owner/Occupier or body corporate of the adjacent property PLI to cover neighbours' property	
BBQ	Street Trading permit required from Health Placed 90° from kerb	*No longer permitted, reduce risks associated from gas blowout, fire and people gathering (blocking street and COVID social distancing)			Not permitted	

		Consider under an events permit.				
Special Events	May require furniture to be removed	May require furniture to be removed	Offered for temporary events- grand Prix - no sale of items case by case		May require furniture to be removed unless exemption requested	
Awnings and Veranda's		May be subject to Building approval/Plannings approval  Vertical Clearance of 2.4 m	No attachment of awnings to screens Prohibit transparent drop-down blinds Retractable awnings subject to Building regs both on an awning and building	Drop down awnings which are at least 2.2 m above footpath level  Not permitted within 10 m unsignalized intersection and 20 m signalised intersection  Subject to planning permit	Allowed with appropriate approvals from Council	

### Renewals

Council	City of Boroondara (Current Guidelines)	City of Boroondara (Proposed guidelines)	City of Port Phillip	City of Stonington	City of Yarra	
Footpath Trading	Annual	Annual	Annual  Renewal notice is issued for all existing permit holders. Reserves right to reassess	Annual		
Outdoor dining structures		Every two years				
Parklets	Annual	Annual or six months (seasonal)				

### Other considerations

Council	City of Boroondara (Current Guidelines)	City of Boroondara (Proposed guidelines)	City of Port Phillip	City of Stonington	City of Yarra	

## Outdoor Trading - Benchmarking with other councils

Public Infrastructure access	No reference	*Can be moved/removed with Council permission at applicants' expense *Outdoor dining structures - cannot be placed over underground infrastructure	No compensation for the removal of footpath trading furniture or any loss of trade when service authorities and others are required to carry out works within the road reserve	May request street furniture, bicycle racks and litter bins to be relocated	May request removal and approved at Director level. All costs at applicant's expense  Damage to Council assets to be repaired by Trader and possible enforcement action	
Solar bins		Footpath Trading 1.5 m Outdoor dining structures				
Toilets		Additional toilets may be required subject to planning requirements	Additional toilets may be required subject to planning requirements			
Heritage Zones		*May be subject to planning requirements	Referral to heritage advisor for assessment	May be subject to planning requirements		
Hours of operation		Parklets – As per planning permit or between 7am-10pm.			Can extend beyond 30 mins for approved trading times to clear furniture.	

					Hours defined by planning permit or 11 pm whichever is lesser	
Trading on the footpath					No cash register or food or drinks can be prepared on the footpath without specific approval	
Smoking and vaping		Permitted in accordance with the Tobacco Act	Permitted but windproof ashtrays required	Permitted in accordance with the Tobacco Act  No roof or ceiling  Area of the wall does not exceed 75%  Ashtrays must be provided		
Service of alcohol		*Subject VGCCC approval and planning permit (note some areas of COB are dry zones)	Subject VGCCC approval and planning permit	Subject VGCCC approval and planning permit		
Managing noise amenity and safety		*No speakers without prior consent (if permitted not used between hours of 11.00pm to 11.00am and limited to background levels How is this measured) Responsibility of Permit Holder	No external address system or sound amplifications equipment permitted			
<b>Parklet Permit fee benchmarking with other Councils</b>						
<b>Unit Type</b>	<b>City of Boroondara</b>	<b>City of Yarra</b>	<b>City of Melbourne</b>	<b>Moreland City Council</b>	<b>Bayside City Council (TBC)</b>	<b>Comparatively</b>

## Outdoor Trading - Benchmarking with other councils

Application fee	\$152 or \$203	\$275.00	\$600.00	\$200.00	\$250	
Parklet Permit fee per sqm - arterial road	\$322 or \$246 per sqm					
Parklet Permit fee per sqm - non- arterial road	\$146.50 per sqm					
Permit fee - Primary <i>Primary streets are streets within City of Yarra's major shopping precincts</i>		\$5,000 per parking bay				\$322 or \$246 per sqm Comparatively \$4,428 per parking bay
Permit Fee - Secondary <i>A secondary street is a street containing on-street paid parking</i>		\$3,000 per parking bay				\$146.50 per sqm Comparatively \$2,114 per parking bay
Permit fee - Neighbourhood <i>Neighbourhood streets are any streets not containing on-street paid parking</i>		\$2,250 per parking bay				\$146.50 per sqm Comparatively \$1,484 per parking bay
Central city (CBD)			\$555.55 per sqm per annum			\$322 or \$246 per sqm per annum
Outside central city (Outside CBD)			\$146.50 per sqm per annum			\$146.50 per sqm per annum
Docklands			\$146.50 per sqm per annum			\$146.50 per sqm per annum
Short-term (six months) parklet fee (one bay)				\$2,000 flat fee Comparatively \$4,000 per parking bay		\$322, \$246 or \$146.50 per sqm Comparatively \$2,114 per parking bay
Short-term (six months) parklet fee (two bay)				\$3,000 flat fee Comparatively \$6,000		\$322, \$246 or \$146.50 per sqm Comparatively \$4,228
Short-term (six months) parklet fee (three bay)				\$4,000 flat fee Comparatively \$8,000		\$322, \$246 or \$146.50 per sqm Comparatively \$12,110, however parklet is shared at \$4,036 per business
Flat Fee (seasonal permit)					\$1,482 flat fee	\$322, \$246 or \$146.50 per sqm Comparatively \$1,050 for one parking bay for six months
Flat fee (annual permit)					\$2,964 flat fee	\$322, \$246 or \$146.50 per sqm Comparatively \$2,010 for one parking bay for twelve months

## Attachment 8

## Outdoor Trading Feedback - Engage Boroondara 23 August to 20 September 2022

Respondent	Location	Feedback	Response
1. Resident	Hawthorn Liddiard Street	<p><b>Overall experience</b> - Terrible, such a bad idea. It's a waste of valuable parking and it only helps 1 business at the expense of all of the other businesses</p> <p><b>Draft Footpath Trading Guidelines</b> - Stop it! 8 parklets on Glenferrie help only the 8 businesses who have access to them. It is an unfair advantage to every other business on the street and you are taking away parking at the same time.</p> <p><b>Draft Parklets Guidelines</b> - COVID is over, and so should the parklets.</p>	The feedback from the community has been that the parklets provide attractive and inviting spaces for outdoor dining that can be used by diners to reconnect and dine outdoors during pleasant weather. As parking is a premium within the City of Boroondara every application will undertake an assessment from an internal panel made up of Council departments which will determine the impact of the parklet on amenity, road and traffic safety and impact on parking within the surrounding area. To limit parking loss, parklets have also been limited to a maximum of two parking bays per business.
2. Resident	Kew East Woodmans Avenue	<p><b>Overall experience</b> - There's not much of it. I traipse through the internet searching for establishments with outdoor dining and there's really not many options. So we (me and my family) either end up dining outside of Boroondara or Uber Eats. (We don't enjoy dining indoors as much anymore).</p>	It's great to hear you have been searching for outdoor dining opportunities within Boroondara. We are aiming to better highlight these on Council's website in the near future.

3. Resident	Balwyn Grant Avenue	<b>Overall experience</b> - It's a good idea during this time with COVID but can block a footpath if people are standing around tables chatting. There needs to be enough room for wheelchairs, walking aids and prams.	It is up to staff to manage patrons to ensure passage can be provided and making sure furniture is placed correctly as per the guidelines. Enforcement can also assist.
4. Resident	Kew Hyton Crescent	<b>Overall experience</b> - It's a disgrace! It's either way too cold or exceedingly hot, not to mention the car and truck exhaust fumes! It's uncivilised. Melbourne is not a holiday resort! <b>Draft Footpath Trading Guidelines</b> - The outdoor eating areas in cbd and strip shopping precincts, constructed during the pandemic were proved to be useless. <b>Draft Parklets Guidelines</b> - All they achieved was to take away already limited parking bays. And they cost the taxpayer millions of dollars !!!	All Parklet applications will undertake an assessment from an internal panel made up of Council departments which will determine the impact of the parklet on amenity, road and traffic safety and impact on parking within the surrounding area. Council's original parklet program was Victorian Government funded and with the end of the funding, Council is proposing a hybrid co-contribution model where parklet operators will pay for their parklet infrastructure with Council funding road safety infrastructure to provide safe and practical dining spaces. The program is expected to be cost-neutral with minimal impact to Council's budget.
5. Resident	Glen Iris Queens Parade	<b>Overall experience</b> - Good in places but these have protected sight lines to cars & shelter from tree canopy. Can be funny on our main roads. Little to no protection from serious traffic	All parklet applications are subject to a road safety audit as a part of the assessment process, this will ensure that appropriate road and safety infrastructure is in place to

		accidents due to closeness to moving cars.	ensure the parklets are safe and practical as well as protect any diners from traffic.
6. Business owner	Hawthorn Glenferrie Road	<p><b>Overall experience</b> - Dreadful, this is one of the worst ideas I have seen implemented and cannot understand why it drags on.</p> <p><b>Draft Footpath Trading Guidelines</b> - Limited use, favouring a minute percentage of traders, unfair to people who have access issues, something I am utterly against.</p> <p><b>Draft Outdoor Dining Structures</b> - Absolutely unfair, rarely used, filthy, a waste of parking space, favouring only one or two traders, a dreadful idea.</p> <p><b>Draft Parklets Guidelines</b> - An underused and under maintained waste of space</p>	Amongst other conditions within Council issued parklet permit, parklet operators will be responsible for the maintenance and upkeep of their parklets. Council Officers will also undertake frequent audits to ensure parklets are kept in a clean and tidy manner.
7. Resident	Balwyn Oakdale Avenue	<p><b>Overall experience</b> - Sometimes good but more often too much footpath is used and makes it difficult for wheelchairs/prams, also exiting a vehicle.</p> <p><b>Draft Footpath Trading Guidelines</b> - Concern for wheelchairs and mobility restricted to pass safely, especially when wait staff carrying food and drinks to outdoor tables.</p>	The policy has been developed to meet the requirements of the DDA. Council Officers will also undertake frequent audits to ensure outdoor trading areas maintain access and remain within the permitted area.



		<b>Draft Outdoor Dining Structures Guidelines</b> - Also, issues exiting a car when next to outdoor dining areas.	
8. Resident	Hawthorn Liddiard Street	<b>Overall experience</b> - Crossfall issues, traffic noise in main roads, pedestrian areas need a good high-pressure hosing	It is up to staff to manage cleanliness of the site as part of their permit which is enforceable.
9. Business owner	Hawthorn Glenferrie Road	<b>Draft Footpath Trading Guidelines</b> - Per point 4.4, we understand the need for a clearance area around bus and tram stops, however in some cases this will adversely affect footpath trading space We would hope council might be able to support a relocation of a particular tram stop to facilitate a more viable footpath trading space (corner Glenferrie and Crystobel - ie move to the other side of Crystobel).	Council cannot influence the location of Tram and Bus stops, and these decisions are made by the relevant road authority.  Council can work with existing permit holders to provide alternative solutions where possible. These guidelines ensure liveability and access to public transport to be able to support anyone who may want to visit the area.
10. Business owner	Balwyn Belmore Road	<b>Draft Footpath Trading Guidelines</b> - We are a fruit shop and have angle parking in front of our business. We have a very narrow footpath and the curb is very small. With council's proposal we will not be able to put our tables outside at all. That's our main business. It brings people not only to the store but brings people to the shopping strip. We are a family business and will not be able to	Council can work with existing permit holders to provide alternative solutions where possible. Possible solution may be to change parking to parallel parking.

		<p>survive. If we don't survive a lot of other businesses will be affected as well and potentially not survive either. The traders that don't have furniture outdoors the cars that park in front of their shops have actually cars with their tyres on the footpath. How is that safe for pedestrians? A couple of years ago a car went into the shop next door. Our furniture actually protects pedestrians as well as bring business to a dying shopping centre.</p>	
11. Business owner	Hawthorn Auburn Road	<p><b>Overall experience</b> - Ok during Pandemic but taking away daytime car parking is a nightmare for local business</p>	<p>Officers from across Council will assess the suitability of each parklet application with respect to the available supply and demand for car parking in the area. This will ensure we consider the needs of all members of our community and take a balanced approach to repurposing existing car parking bays. The assessment will consider a range of factors and may include a review of aerial imagery, parking survey data, site inspections and any relevant previous correspondence.</p>
12. Business owner	Hawthorn Glenferrie Road	<p><b>Draft Footpath Trading Guidelines</b> - A suggestion to have a tailor-made permit system</p>	<p>Permits are assessed on a case-by-case basis dependant of location and its attributes.</p>

		to suit vendors and their positioning on the street	
13. Resident	Hawthorn Manningtree Road	<p><b>Overall experience -</b> I rarely participate in outdoor dining on footpaths. However, as a pedestrian I am frequently inconvenienced or put at risk by it. Patrons rearrange the furniture so it moves into the footpath area. Business operators don't police it, or put the furniture back when a patron leaves it on the footpath. Dog owners allow their dogs to lie down on the footpath area or to move about on the footpath. On occasion, dog leads become an additional trip hazard.</p>	Council Officers will undertake frequent audits to ensure outdoor trading areas maintain access and remain within the permitted area.
14. Resident	Camberwell Prospect Hill Road	<p><b>Overall experience -</b> Generally good as a diner. Smoking nearby is sometimes a problem. As a local though, the blocking of the footpath is a major problem as the clearance distance is not maintained and patrons push their chair into the pedestrian walking zone. The Owners of the establishments do not adhere to the rules or monitor this. Council officers need to much better police this aspect.</p> <p><b>Footpath trading guidelines -</b> 1.5 metres clearance is not enough. It needs to be at least 1.8 metres. A person on disabled</p>	<p>Council Officers will undertake frequent audits to ensure outdoor trading areas maintain access and remain within the permitted area.</p> <p>Council have considered the DDA requirements to maintain adequate space for wheelchair access. Increasing to 1.8m would result in a significant loss of footpath trading, therefore reducing activation and vibrancy of our shopping strips.</p>

		scooter takes up all the space so you can't get past them.	
15. Resident	Camberwell Gavan Street	<b>Overall experience</b> - As a side note, busking permits should be made available for free, and the restrictions on performing times should be relaxed. This will assist in creating a vibrant shopping/dining area. As parents supporting kids wanting to busk, the current process is too restrictive and onerous.	(Not relevant to Outdoor dining) Busking fees have been waived in the last budget to encourage street performers to the area.  A review of the requirements will be completed in the future.
16. Resident	Canterbury Chaucer Crescent	<b>Overall experience</b> - I find it difficult to access some shopping centers, eg Maling Rd, with the barriers defining each outdoor space making access from a parked car to the footpath often difficult. I find people sitting there with their dogs sitting in the narrow footpath difficult to access other shops. Also, dog water bowls etc. people in motorized wheelchairs also have trouble traversing the narrow footpath past some of these premises and of course we all like to stop and chat if we meet someone we know.	Council Officers will undertake frequent audits to ensure outdoor trading areas maintain access and remain within the permitted area.
17. Resident	Canterbury Daphne Street	<b>Overall experience</b> - This has been a disaster. There is no safe footpath left in Mailing Road and to avoid the dogs you have to use the road. I shop there 5 times a week.	The parklet at Maling Road was a temporary pop up parklet which provided general public access rather than service one business. This parklet along with all parklets was assessed from the

		<p><b>Draft Parklet Guidelines</b> - Parklets are a way of profiting traders at public cost. For example, in Camberwell market car park the only 5 minute car park is now private space. it used to be so handy to pull up there and duck into bread shop or market for a quick purchase. Is the secret agenda just to stop us coming as shoppers? Don't shoppers pay as much to you as cafes ?</p>	<p>perspective of traffic and pedestrian movement to ensure accessibility and safety. The parklet has now been relocated.</p> <p>Officers from across Council assess the suitability of each parklet with respect to the available supply and demand for car parking in the area. Council's agenda is to support the activation of our local shopping centres to make them attractive places to shop and dine.</p>
18. Resident	Canterbury Wattle Valley Road	<p><b>Overall experience</b> - During the first two years of the pandemic, efforts by the Council and by businesses to convert outdoor space to dining space were good. However, since then, as normal life has resumed, limited parking space should not be taken for use as parklets. They adversely affect traffic flow and shoppers would be deterred from going to a shopping strip if already limited parking is taken up as dining areas.</p>	<p>The feedback in the Boroondara Community Plan was that residents longed for outdoor spaces to reconnect with each other and engage with the community. The parklets will provide attractive outdoor dining spaces that will help to encourage increased patronage across Council's shopping centre precincts. Furthermore, under the assessment process, any parklet application and trading activities occurring within parklets must make a positive contribution to the character and amenity of the area and surrounding residential streets.</p>
19. Business owner	Kew Cotham Road	<p><b>Draft Footpath Trading Guidelines</b> - There seems to be</p>	<p>Council can consider seasonal permits in future.</p>

		a lot of red tape for what i would need- a simple table outside my premises, for a few hours maybe once or twice a week in Summer. The post covid free permit for the summer was perfect for me. I understand there needs to be rules for permanent trading, and dining but for smaller stalls outside a premises, as long as within the space and location limits may need a simplified, cheaper version of the permit	
20. Resident	Camberwell Prospect Hill Road	<b>Draft Footpath Trading Guidelines</b> - Similar to main issues in all areas, inadequate clearance at 1.5 metres; needs to be 1.8 metres; and needs to be regularly policed by council.	<p>Council Officers will undertake frequent audits to ensure outdoor trading areas maintain access and remain within the permitted area.</p> <p>Council have considered the DDA requirements to maintain adequate space for wheelchair access. Increasing to 1.8m would result in a significant loss of footpath trading, therefore reducing activation and vibrancy of our shopping strips.</p>
21. Resident	Email submission	I wish to request that where on-street parking is removed; additional dedicated accessible car parking be allocated adjacent to where parking is removed. My other observation is that consideration be given to people	<p>Parklets cannot be placed within a current disabled parking spot.</p> <p>The guidelines take into the consideration the requirements of the DDA Act. Happy to liaise with</p>

		<p>who are blind or vision impaired to make it easier for them to navigate through areas which are occupied by on-street installations. Many people with vision impairment use canes to determine where things are and shoreline along the edge of the footpath/ building interface. When footpaths are occupied with furniture close to buildings it makes it more difficult for people with a vision impairment to navigate. It would be helpful as part of the permit process to keep the actual footpaths free. It might be worth consulting Guide dogs for some further input.</p>	<p>other organisations that can contribute to improving access.</p>
22. Business owner	Email submission	<p>I also believe it is a council consideration to potentially construct a more permanent structure which we would wholeheartedly welcome as we have signed up to be here long-term and see the beautification of a permanent new and safe structure would have a very positive impact on the amenity of the area and the business. It would also see rate-payers (including myself) being able to directly use a structure and area which the council has created. I have seen such projects such as outside Willsmere shops in Kew</p>	<p>We would not support building these structures at Council's expense at this time. We need to see how the temporary Outdoor Dining Structures are received first before considering long term installations by Council.</p>

		East as well as Domain RD shops in South Yarra, Fordham Milk Bar. This seems to be welcomed by locals and businesses.	
23. Resident	Email submission	<p>I would like to suggest that a formula is established for bicycle corrals to be incorporated within the parklets to offset the loss of vehicle parking.</p> <p>I visited a parklet café in San Francisco a few years ago, and given that I was riding a hired bike, I was delighted to be able to enjoy my coffee and keep an eye on the bike, it is a concept that works very well.</p> <p>This would fit with a number of councils environment strategies and encourage more patronage to visit activity centres via sustainable transport. (images provided)</p>	Parklet submissions will be considered on a case-by-case basis by a Council interdepartmental panel, assessments will be made to identify where there may be opportunities for bike parking within the design of the parklet and communicated to the applicant.
Resident	Email submission (extensive)	In general, the guidelines in their current form are <b>inadequate as a policy framework</b> for this significant proposed change in the management of <b>public land for private interests</b> . The framework is a <b>one-sided analysis</b> which involves handing over an <b>unspecified amount of public land</b> under the broad	The guidelines have been extensively reviewed and benchmarked against other Councils and provide greater guidance on what is achievable in the immediate space available to a trader whilst ensuring fair and equitable access to the community. Council does not expect a significant increase in



		<p>umbrella of “supporting business growth”. It fails to identify the number of permits likely to be managed under this new arrangement, and nor does it address in a comprehensive way the detriment caused to other businesses and residents of the privatisation of roads and public land.</p> <p>Outdoor trading was a <b>temporary</b> initiative introduced by the State Government to reactivate areas affected by extended lockdowns in 2020 and 2021. At the end of 2022, the rationale for outdoor trading in the guidelines has changed from a temporary response post-covid to one of Boroondara Council deciding that outdoor trading (including semi-permanent structures) should be <b>extended long-term</b> as a way of “helping local shopping precincts to thrive”.</p> <p>Increasing outdoor trading opportunities for some hospitality retailers creates <b>winners and losers</b>. Many cafes already had outdoor trading on nature strips</p>	<p>permits, rather the guidelines seek to provide clearer guidance to applicants on relevant considerations for allowing a trader to occupy Council land.</p> <p>The feedback in the Boroondara Community Plan was that residents longed for outdoor spaces to reconnect with each other and engage with the community. The parklets will provide attractive outdoor dining spaces that will help to encourage increased patronage across Council's shopping centre precincts. Furthermore, under the assessment process, any parklet application and trading activities occurring within parklets must make a positive contribution to the character and amenity of the area and surrounding residential streets.</p> <p>Council's most recent iteration of the parklet program supported 23 businesses across the municipality. The original program contained 31 parklets.</p>
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		<p>and street activation prior to covid. The extension of this to installing parklets onto the road was presented and foreshadowed as a short-term initiative only.</p> <p>There is no analysis of how many outdoor trading applications might be expected and how they will be prioritised if demand exceeds what is deemed to be a sustainable/desirable level. Does council have a view about what is a sustainable level or is it a carte blanche approval for all those who meet the basic guidelines? Could we have a large part of our road space taken up by parklets in an unregulated way?</p> <p>Residential areas are not contemplated as a more sensitive area than commercial precincts. All applications for outdoor cafes in residential areas should be the subject of a residential area impact assessment, with additional requirements for safety, cleanliness, noise control and toilet upgrades. Residential consultation should be a formalised requirement, with written notification to affected residents before any outdoor</p>	<p>Whilst there is no limit on the number of parklet permit applications, each parklet location will be scrutinised under the guidelines to determine the impact on parking, surrounding traders and wider community. It is anticipated there will be approximately 20-30 parklets spread across the seasonal and annual program.</p> <p>The guidelines consider the issues associated with applications close to a residential property. Council will assess the likely impact of the type of activity to be undertaken and its suitability in the location. This may include corresponding with those directly impacted. Requirements for safety, cleanliness, noise control and toilet upgrades impact all types of Outdoor trading activities and are dealt with by the relevant</p>
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		<p>trading permits are issued in residential areas.</p> <p>The cost of administering this very complex set of guidelines is not included in this analysis, yet <b>ratepayers have the right to understand broadly the costs of this new outdoor trading scheme and the likely reach of the scheme.</b> This includes the cost of administration and the costs of traffic management and safety that are to be borne by Council.</p> <p>Parklets monopolise car parking spaces relied upon by other traders (and many of these businesses were impacted more negatively by covid than cafe/hospitality retailers). In relation to large dedicated parklets and large outdoor dining structures of a “semi-permanent” nature located on public land, there is a much larger risk of public spaces being privatised in ways that are detrimental to streetscape and other retailers. Businesses with large existing outdoor trading on footpaths should not be given roadspace</p>	<p>regulations, Local Laws and Acts.</p> <p>The costs to administer the program are covered by the fees associated to undertake an assessment. Council does not expect any increase in costs and footpath trading numbers are not likely to fluctuate significantly, the resource requirements for assessing an application have not changed, what has changed is the guidelines provide more concise requirements to enable an applicant to better understand what is achievable before applying for an Outdoor Trading Permit.</p> <p>As parking is a premium within the City of Boroondara every application will undertake an assessment from an internal panel made up of Council departments which will determine the impact of the parklet on amenity, road and traffic safety and impact on parking within the surrounding area. To limit parking loss, parklets have also been limited to a maximum of two parking bays per business.</p>
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		<p>for parklets, as this creates an unnecessary pressure on parking and is an unfair pull on public property.</p> <p>It is unclear why Council should cover the entire costs for traffic management and safety to support parklet creation following the end of Victorian Government funding. No justification has been given in the guidelines for why Council should fund these costs. Further, no estimate has been given of these costs and how they might be controlled in future.</p> <p>Many parklets are used mainly at night, but occupy parking spaces that would otherwise turn over many times during the day by other retailers. This is unfair to other traders and to shoppers wanting to access parking spaces close to other retail shops. There is a further detriment to other businesses because parklets bring additional patrons and demand for parking while at the same time reducing the stock of available on-street parking spaces.</p>	<p>Council funding the road safety infrastructure will ensure the spaces created for parklet dining are delivered in a safe and practical manner, it is anticipated these costs will be offset by the income from introducing parklet permit fees.</p> <p>As parking is a premium within the City of Boroondara every application will undertake an assessment from an internal panel made up of Council departments which will determine the impact of the parklet on amenity, road and traffic safety and impact on parking within the surrounding area. To limit parking loss, parklets have also been limited to a maximum of two parking bays per business.</p>
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		<p>Council should commit to the minimum widths specified and not have the right to reduce these minimum width requirements. Footpaths are often inaccurately described in council documents as “low pedestrian movement” footpaths when they are in fact heavily used spaces and direct access pathways to major public transport routes.</p> <p>The guidelines, which specify a maximum coverage of 30% of the total area of street furniture in a trading area, are inappropriate especially in heritage zones. Large structures could have advertising which significantly detracts from heritage streetscapes. There needs to be tighter and clearer guidelines, particularly in relation to advertising in heritage zones.</p> <p>Planning approval will be required for a reduction in car parking requirements for parklets over 28SqM, but will this requirement be enforced? Planning permit approvals are freely given for ‘a reduction in car parking requirements’. Through this practice of issuing permits</p>	<p>Council has provided minimum widths in the guidelines which meet the requirements of the DDA. There is no option to apply for an exemption to reduce the minimum requirements.</p> <p>Advertising over a certain size and within a Heritage zone is considered under the planning scheme to ensure the advertising is appropriate for the location. Council recognises the importance of advertising to help promote businesses and aide with locating the business.</p> <p>The requirement for parking where the area occupied exceeds 28sqm requires referral to Planning to determine if additional parking is required. Consideration is made as to whether providing additional parking is feasible and may</p>
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		<p>with a reduction in car parking, Councils create the problem of inadequate parking and then demand that ratepayers fund new car parking infrastructure which may also encroach on existing public open space areas.</p> <p>These are the most problematic of all outdoor dining options, as they are by nature semi-permanent and involve significant investment of resources to construct, thereby making them more difficult to remove.</p> <p>The <b>Melbourne City Council</b> has a policy that the public are entitled to have access to all common ground within the municipality for community and commercial interaction. Open space areas are for people to enjoy without being impeded by commercial activity and hence semi-permanent or permanent structures are not allowed. Accordingly, outdoor cafes can only be visible during cafe operating hours. Their policy is that outdoor cafes should not be designed for equipment other</p>	<p>impact whether a permit can be issued.</p> <p>By nature of the investment required and limited location they are permissible to avoid removal we do not anticipate high levels of applications for this permit type. Structures need to be able to be removed and the non-permanent nature of construction allows for this.</p> <p>Outdoor dining structures of a semi-permanent nature are not exclusive to City of Boroondara, internationally and here in Australia, as Councils have seen the value of providing a more formal structure that promotes outdoor dining, as a place to bring people together and create vibrant cities. Such structures provide businesses, that could not otherwise cater for as many patrons within their business a place to expand and be enjoyed by all the community. City of Melbourne has built structures such as the Riverland Bar which</p>
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		<p>than temporary tables, chairs, umbrellas and screens. The Melbourne City Council also has a policy that commercial activity should not be dominant in the grounds of culturally or historically significant buildings, with minimal signage allowed.</p> <p>It is not acceptable that requests for outdoor dining structures in heritage areas “may be referred for comment to a heritage adviser”. Heritage approval should be a formal and mandatory requirement for outdoor dining structures in heritage overlay areas.</p> <p>The process for approval of these structures that are likely to be long-term and effectively privatise important public spaces needs a much clearer and more detailed legal framework than that provided in the guidelines. The approval process would need to be quite different to other temporary outdoor structures, with an inbuilt mechanism for</p>	<p>can be utilised by the local businesses, this structure is of a semi-permanent nature, like that provided under the Outdoor Dining Structure guidelines.</p> <p>A process is provided in the guidelines to manage Heritage locations. It is the role of planning to determine whether the requirement to refer a matter to the Heritage advisor is appropriate. Over administration of a process, not only extends application processing times, it increase costs of evaluation. Planners are appropriately trained to address this requirement.</p> <p>Outdoor structures are addressed through several mechanisms including planning, building and internal and external referrals to determine their suitability and compliance to the relevant regulations, legislation, and Acts. The framework provides an opportunity to seek feedback from those directly impacted i.e. neighbouring residents. Noting similarly some</p>
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		<p>public advertisement and right of objection.</p> <p>There is a much larger possibility for conflict, considering the cost of investment in these structures, should issues arise regarding inappropriate use or complaints arising. Council has a very poor record regarding enforcement in relation to complaints in many other areas, so there is no confidence in build in the community that the council would have the resources or the ability to ensure compliance in relation to this greatly expanded range of outdoor structures occupying important public spaces.</p> <p>Setback on trees is “<b>determined on application</b>”. This is completely inadequate. Other Councils have specific guidelines specifying that screens must not enclose trees and tree pits and has specific minimum clearances for street trees.</p>	<p>aspects of footpath trading also may require planning and building approval as well as external bodies such as public authorities and the VGCCC. The guidelines indicate where for example and planning or building referral is required.</p> <p>The requirement to audit these locations for compliance is acknowledged with plans in place to ensure adequate staffing is available to provide this function.</p> <p>Minimum setbacks to trees are provided in the Footpath Trading Guidelines. Outdoor dining structures are permitted up to 2.7m high, which can impact canopy growth which can vary dependant on the tree type. Assessment is required on an</p>
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		<p>Melbourne City Council specifies that street trees must not be removed as a result of an outdoor cafe installation and operation. Existing street trees must be integrated into the siting and layout of the outdoor café. Where street trees have been removed in relation to existing structures erected without the appropriate permits, these trees should be required to be reinstated and the outdoor trading application assessed on the basis of the trees being in place and with the required minimum clearances from where they were located.</p> <p>Outdoor dining structures should not compromise the ability of service contractors to easily access public infrastructure at all times. Services such as telecommunication and electrical conduits should not be obstructed by fixed elements that cannot be simply unscrewed. Utility providers should also be required to give approval before any permit is granted for outdoor structures to be built over community infrastructure.</p>	<p>individual basis to determine how close a structure can be to a tree before it has an impact on the root structure or canopy of the tree. Council values its trees and the significant investment placed in trees to ensure their viability, the Outdoor structure guidelines do not allow for the removal or pruning of a tree to accommodate the placement of an outdoor structure.</p> <p>Outdoor dining structures are not permitted in locations where access to services above and below ground are required.</p>
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		<p>used in association with an outdoor café.</p> <p>The proposed guidelines fail to address important legal questions about termination of lease, legal attachment to the sale and transfer of ownership of a business.</p> <p>In other councils, outdoor structures have been approved not just for outdoor dining, but also for clothing and accessories installations eg. Elk Clothing. This could create a new demand for the privatisation of public space not envisaged by the current guidelines. The shift to allow trading onto footpath areas has the potential to create a huge precedent in ways that are not even currently envisaged, but</p>	<p>e.g. EPA and Health or Planning requirements in relation to noise.</p> <p>A permit to occupy Council land for the purpose of an Outdoor Dining Structure, Footpath Trading or parklet only extends to the current owner/leasee of the property. This is no different to the current process for Footpath Trading. When a property changes ownership or the lease ends, the permit is cancelled, and the new occupants need to apply for a new permit. Council takes a bond for Outdoor Dining Structures to ensure costs required to remove a structure, if required are reimbursed to Council.</p> <p>Footpath trading within City of Boroondara is consistent with other Councils in that retailers can display goods from the footpath with a relevant permit. Outdoor dining structures are only permitted for dining.</p>
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		which could detrimentally impact on our public infrastructure forever more.	
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