



**Merri-bek**  
City Council

# Footpath Trading Guidelines

## Table of Contents

### Trading zones and areas ..... 3

Trading zone .....	4
Kerb zone .....	4
Access area .....	5
Pedestrian zone .....	5
Corner exclusion areas .....	6
Non-hospitality trading area .....	6
Hospitality trading area .....	6
Existing public infrastructure .....	6

### Alfresco/Outdoor dining ..... 7

Screens/windbreaks/awnings/barriers .....	7
Planter boxes .....	8
Umbrellas .....	8
Portable advertising signs (A frames) .....	9
Portable heaters.....	9
Smoke-free outdoor dining .....	10
Smoking in permitted smoking areas .....	10
Liquor Licensing .....	10
Trading goods and display on footpaths .....	10

### Application process ..... 11

Applying for a footpath trading permit .....	11
<b>Applying for screens, retractable awnings, fixed heaters or planter boxes .....</b>	<b>11</b>
Council assessment and consideration .....	12
Display of permit registration .....	12
Transfer of ownership .....	12
Renewal of an existing permit .....	12

### Management and responsibilities ..... 13

Permit holder's responsibilities .....	13
Council responsibilities .....	13
Permit conditions .....	14
Compliance .....	14

## Purpose of the guidelines

Footpath trading is an important part of the retail and hospitality environment and can significantly add to the ambience and enjoyment of an area. Council must balance this with the need to provide a safe environment for all people who use the network of footpaths throughout the municipality. As such, footpath trading activities must be managed to ensure safe pedestrian access can always be maintained whilst ensuring compliance with the Disability Discrimination Act 1992.

The Guidelines explain how this balance is achieved and maintained.

A permit is required to trade and place items including the following on footpaths, parklets or on roads where permitted:

- advertising signs
- goods
- tables and chairs
- outdoor heaters
- umbrellas
- planter boxes and pot plants (can be fixed subject to meeting guidelines); and
- barriers/ screens / windbreaks (can be fixed subject to meeting guidelines)

These Guidelines comply with best practice guidelines issued by the Human Rights and Equal Opportunity Commission and the Moreland City Council General Local Law 2018. Moreland City Council General Local Law 2018 is still valid until a new Local Law is made.

### Merri-bek Language Link

Italiano	Italian	9280 1911	Türkçe	Turkish	9280 1914
Ελληνικά	Greek	9280 1912	Tiếng Việt	Vietnamese	9280 1915
عربي	Arabic	9280 1913	पंजाबी	Nepali	9280 0751

普通话 Chinese (Simplified) 9280 0750

**National Relay Service:**  
13 36 77 or relay.service.com.au

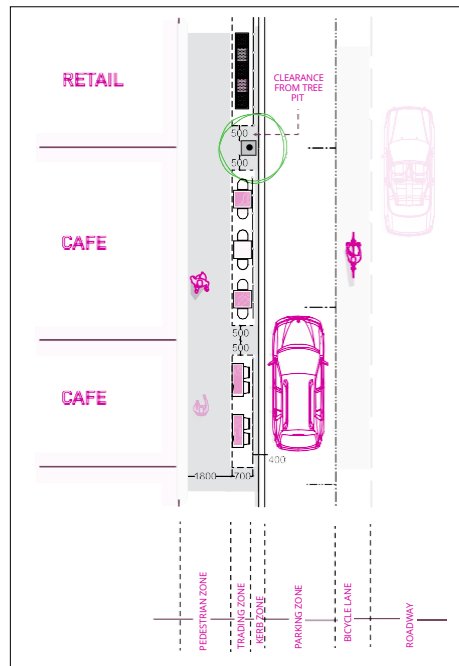


## Trading zones and areas

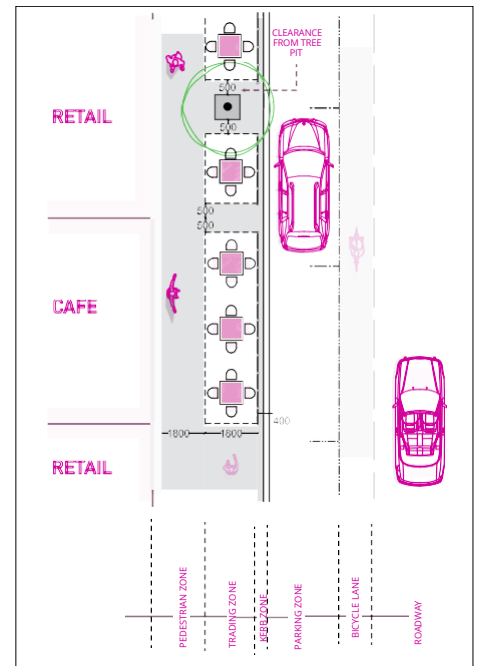
To provide a clear and unobstructed footpath for pedestrian access, the footpath is divided into specific zones and areas. The varying width of footpaths provides a different landscape to manage, creating both opportunities and restrictions.

Footpath trading is permitted on footpaths of a width of 2.9 meters or greater, subject to a permit and compliance with these Guidelines in relation to the following zones and areas:

- pedestrian zone
- trading zone
- kerb zone
- access zone
- corner exclusion areas



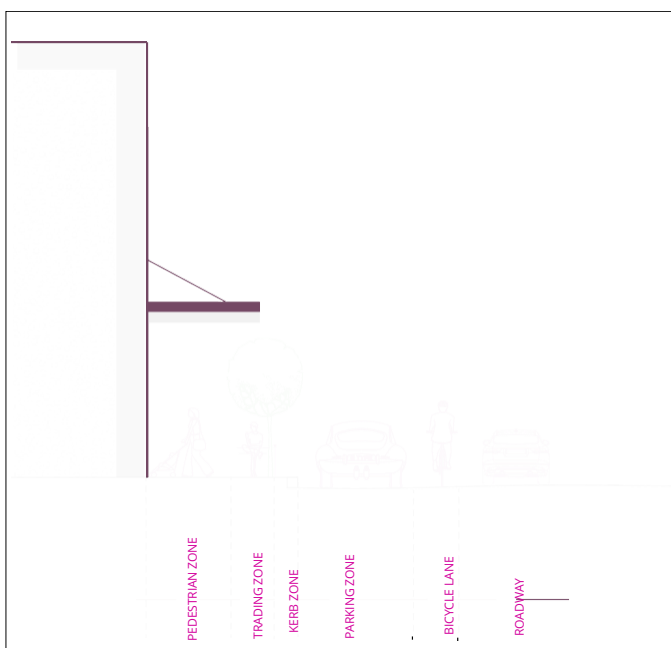
FOOTPATH TRADING ZONE 2.9m WIDTH



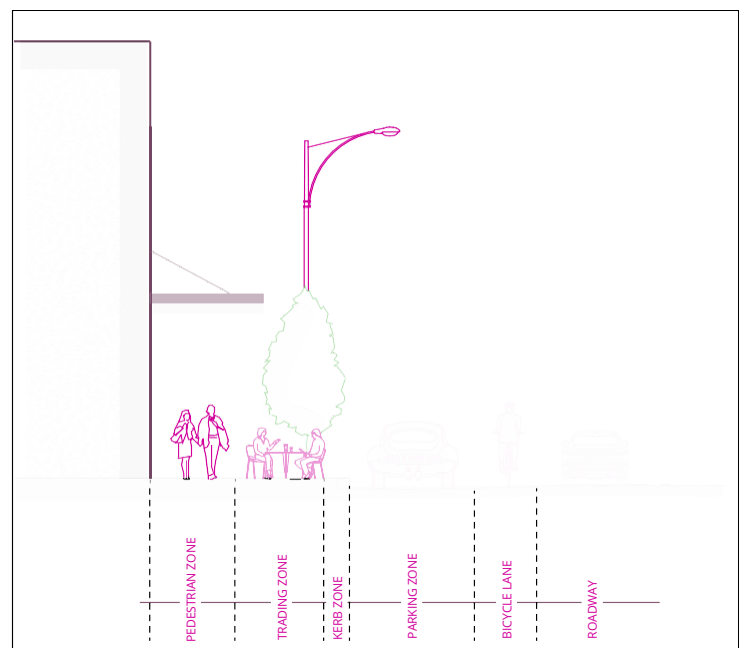
FOOTPATH TRADING ZONE 4m WIDTH

Footpath trading is not permitted on footpaths with a width of less than 2.9 metres.

No items may be placed in the pedestrian zone, kerb zone, corner inclusion area or access area. Council reserves the right to request traders to remove all or part of their display, goods, or items whenever necessary. The cleanliness of the trading zone is to be maintained by the permit holder.



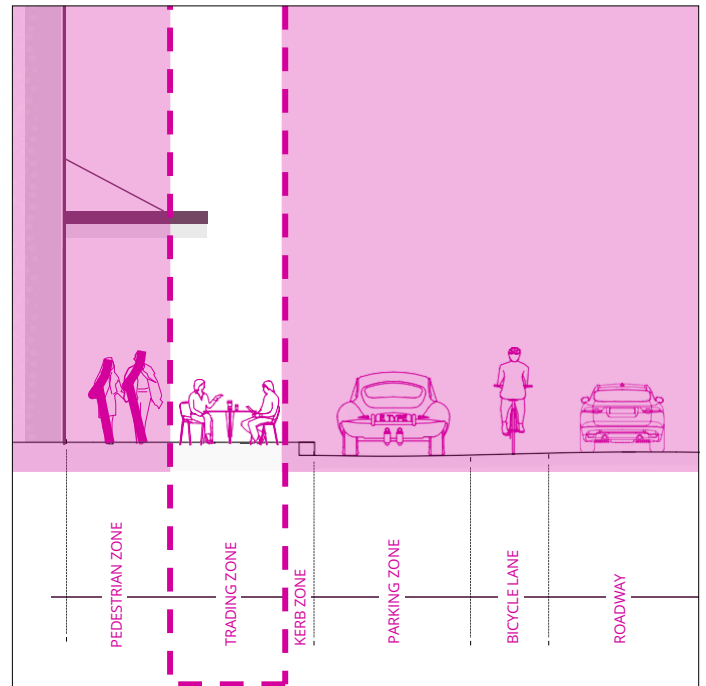
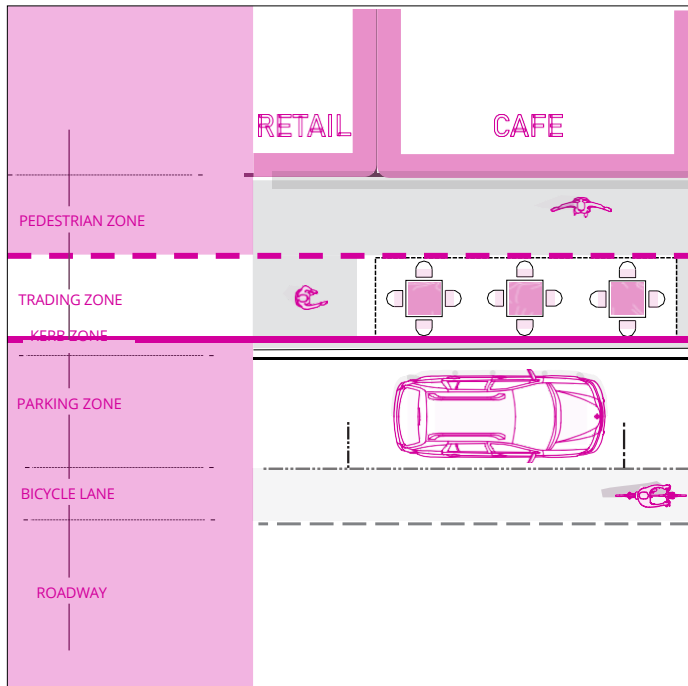
FOOTPATH TRADING ZONE ELEVATION 2.9m



FOOTPATH TRADING ZONE ELEVATION 4m



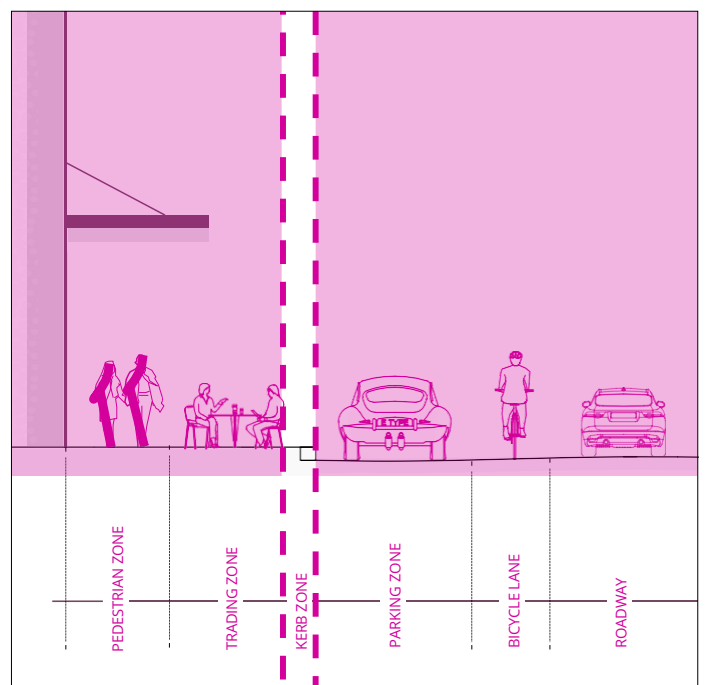
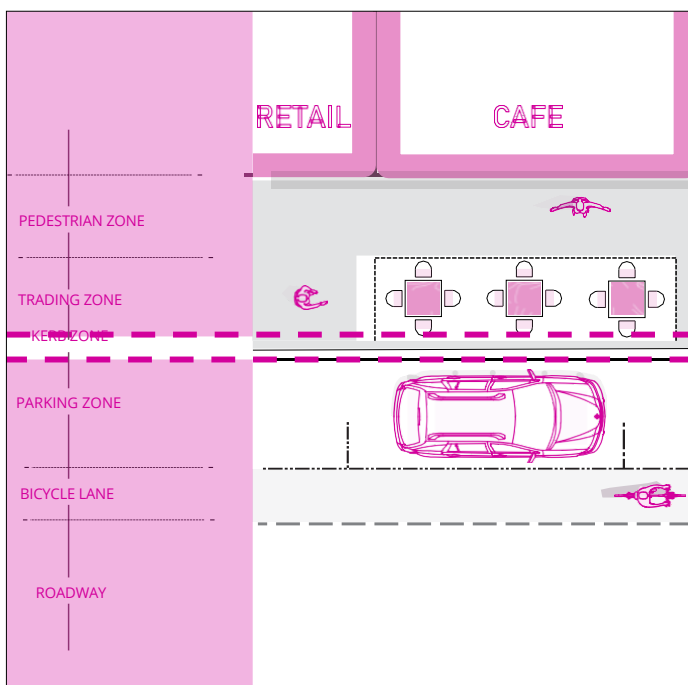
# Trading zones and areas



TRADING ZONE

## Trading zone

The trading zone is the only area of the footpath where goods, furniture and ancillary items or activities — subject to these guidelines — may be placed. Where premises are adjacent to an intersection, the trading zone must not extend into the corner exclusion zone. Location of items within the trading zone is also subject to conditions. Refer to 'Trading goods and displays on footpaths' section of this document for further information.

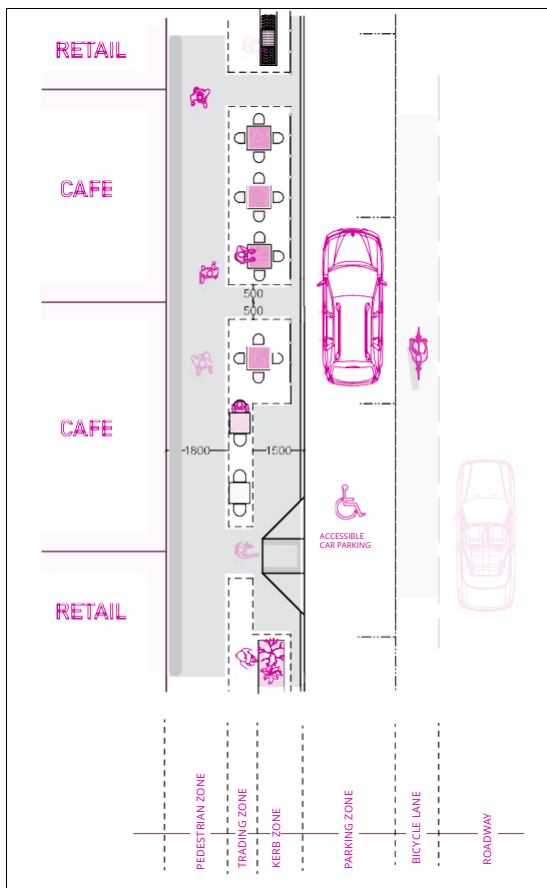


KERB ZONE

## Kerb zone

Measured from face to kerb, a 0.4 metre buffer from the kerb is required to allow for access to and from parked vehicles. A 1.5 metre allowance is required where there is a disabled parking bay. A setback of 0.7m from the kerb is to be maintained beside a loading zone.

## Trading zones and areas

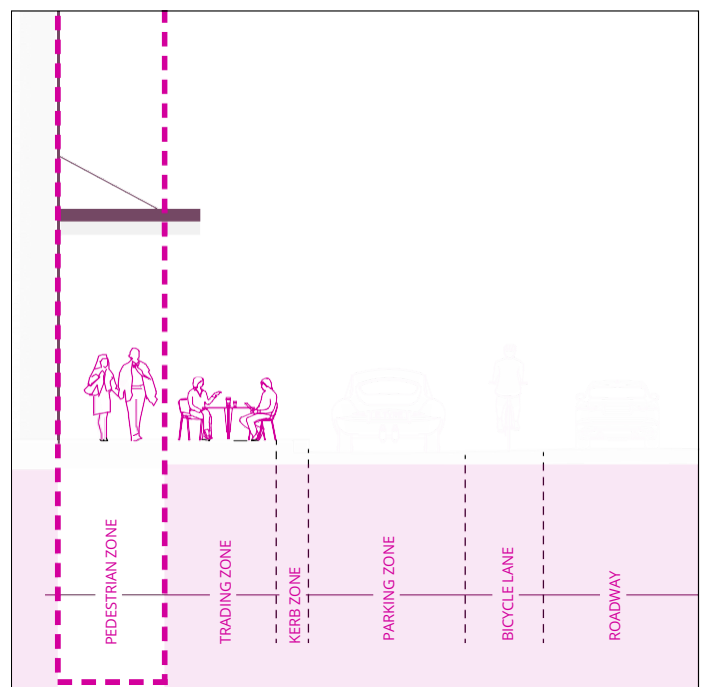
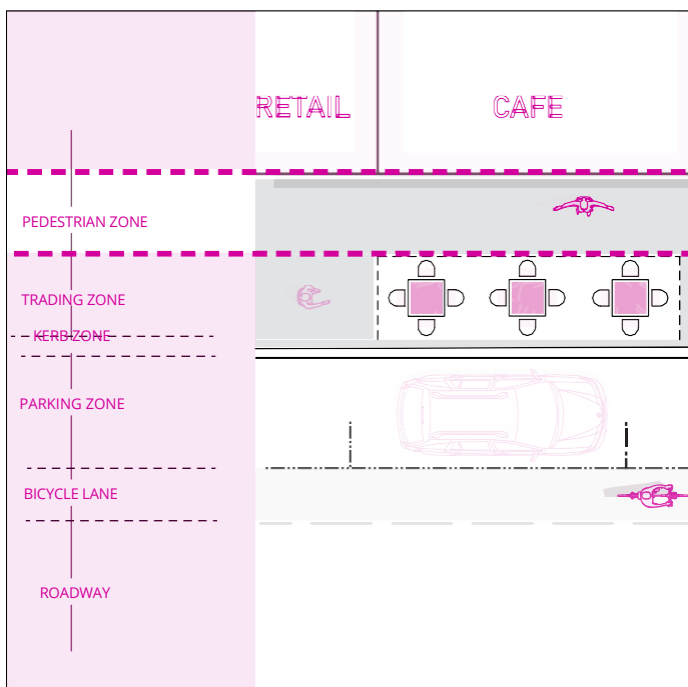


### Access area

Measured from the adjoining property boundary line, allow a 0.5 metre buffer zone from either side of the adjoining property boundaries to enable pedestrian access from the kerb/parking zone onto the footpath.

This will allow a one metre access for pedestrians where neighbouring properties are both trading. Trading must commence from 0.4 metres from kerbside edge to allow maximum clearance for pedestrian access. Allow a 1.5 metre clearance for disabled parking bay. An audit may be required to identify disabled bays and their associated clearance zones.

FOOTPATH TRADING ZONE NEAR ACCESSIBLE PARKING

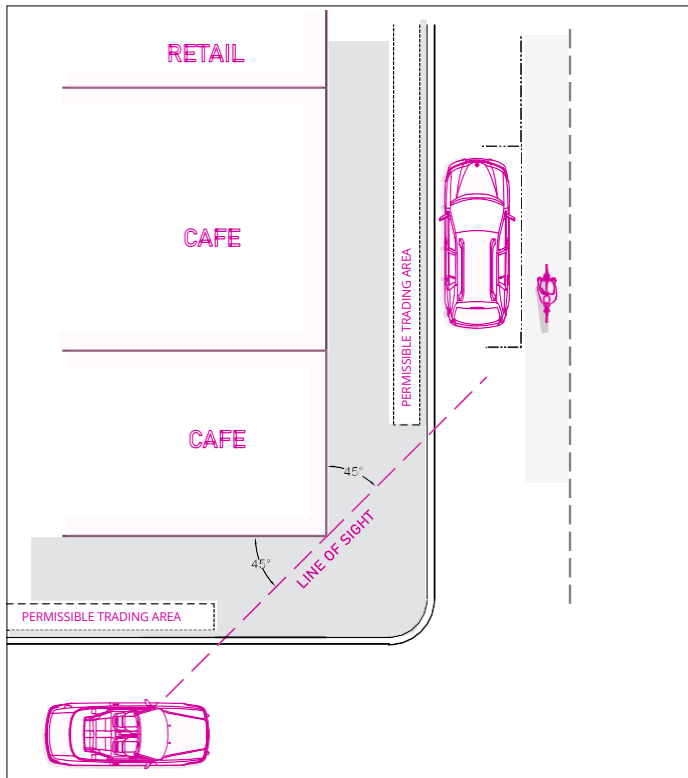


PEDESTRIAN ZONE

### Pedestrian zone

Extends from the building line or shop front of premises for a minimum of 1.5 metres. No items are to be placed or extend into this zone at any time.

## Trading zones and areas



CORNER EXCLUSION ZONE

### Corner exclusion areas

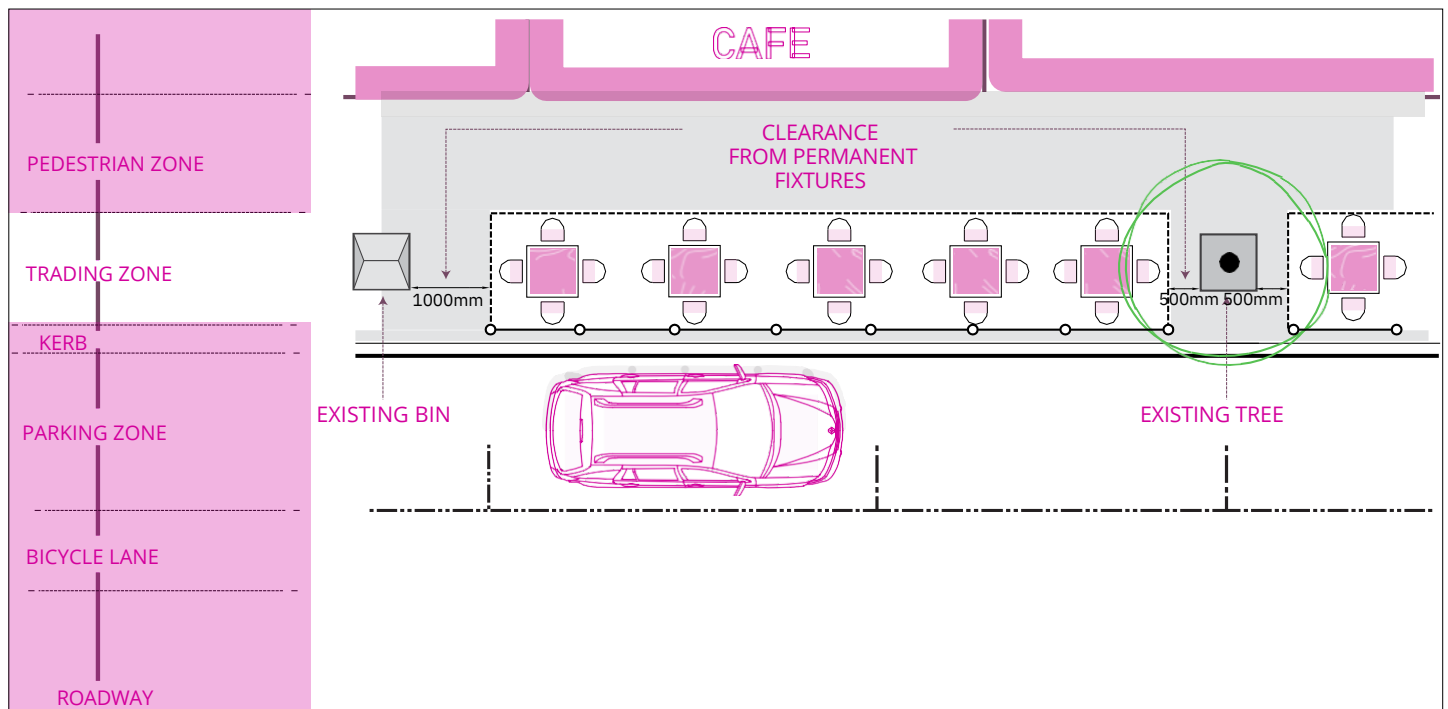
A 5-metre clearance from the edge of the curve running parallel with the footpath is considered the minimum requirement, to ensure safe vehicle and pedestrian movement around corners. Council may increase this exclusion area for safety reasons. The diagram to the left shows the relationship between the exclusion zone and the allowable trading area.

### Non-hospitality trading area

Goods/services displays are permitted outside your premises only. They must not encroach on neighbouring properties or within the 0.5 metre access area.

### Hospitality trading area

Hospitality businesses may extend their trading area to the footpath directly outside their business, a neighboring business or across multiple property frontages. A plan showing the proposed footpath trading area, number and location of tables, chairs and other items and evidence of public liability insurance to cover the new area must be provided. Written consent from the tenant or operator of the adjoining business must be obtained. Where the adjoining building is vacant, consent is required from the managing agent. Where the adjoining building is residential, consent is required from the body corporate.



### Existing public infrastructure

The following clearances apply to existing public infrastructure and public street furniture:

- **0.5 metre clearance for permanent fixtures** e.g. planters, poles, and trees.
- 1 metre clearance for fire hydrants, bins, pay phones, public seats, bike parking stands.
- 2 metre clearance for pole-mounted bike hoops, pedestrian crossings, tram crossings, tram stops and front and rear of bus zones. This distance may be reviewed if goods do not interfere with safe pedestrian movement.

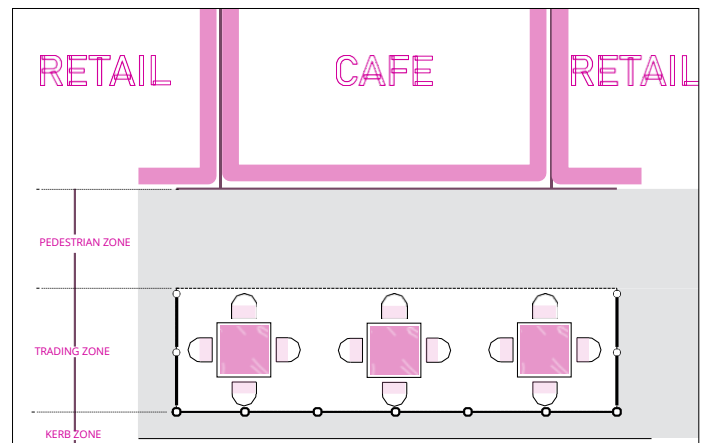
Public infrastructure on footpaths always has priority over footpath trading and commercial interests.

As a rule, public infrastructure already in place must not be moved or removed (relocated or repositioned) because of unavailable space to trade. Traders should take this into account when selecting a site for their business. Existing street furniture and infrastructure must not be used for any trading purposes, including for business signage or displays.

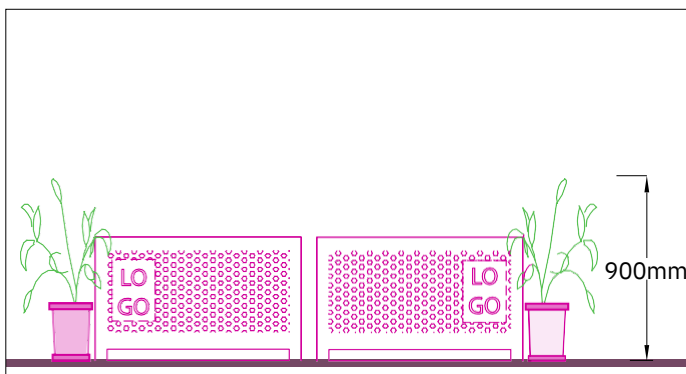


## Alfresco/Outdoor dining

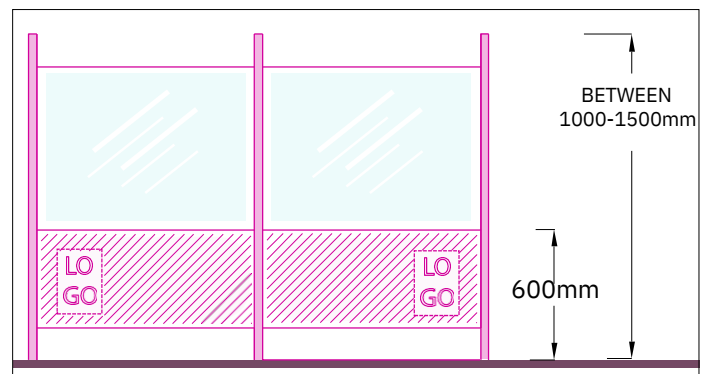
- Items must remain within the trading zone and be removed at the close of business.
- Furniture and equipment must be windproof, robust, and made from high quality materials that are safe and durable.
  - Legs of chairs must not extend on an angle that would cause tripping points to pedestrians.
- To prevent damage to the footpath, items must have a minimum 30mm diameter solid leg in areas where the pavement is of asphalt construction.
  - should be of a contrasting colour to their background (to aid the vision impaired).
- Tables and chairs are permitted only within the area stipulated in the permit.



TABLES AND CHAIRS



CUSTOMISED BARRIER WITH LOGO SIZE 210 x 297mm



CUSTOMISED BARRIER WITH LOGO SIZE 210 x 297mm AND TEMPERED GLASS SCREEN

## Screens/windbreaks/awnings/barriers

If you provide windbreak or screening barriers, they must follow these guidelines:

- Installed clear of the access area, allowing a 0.5 metre clearance from either side of the adjoining property boundary (giving one metre access clearance between display barriers).
- Allow 0.6 metre clearance of kerb edge and 1.5 metres perpendicular access clearance where there are disabled parking bays on either end.
- Allow 1.5 metre clearance from the property boundary
- Details of any proposed signage must be submitted with the permit application
- The name or logo of the business or commercial advertising may be displayed on the screens. Designs are subject to approval.
- Lock in or fixing devices will require the approval of Council before a permit can be granted. Refer to our to Technical Notes Part B - B200.02 [www.merri-bek.vic.gov.au/technotes-partb](http://www.merri-bek.vic.gov.au/technotes-partb)
- Windbreaks and screen barriers can be between 1000-1500mm in height provided the materiality above 900mm height provides 100% visual clarity. Perspex can be used. Where glass is used it must be toughened glass.
- No shade cloth permitted

## Alfresco/Outdoor dining



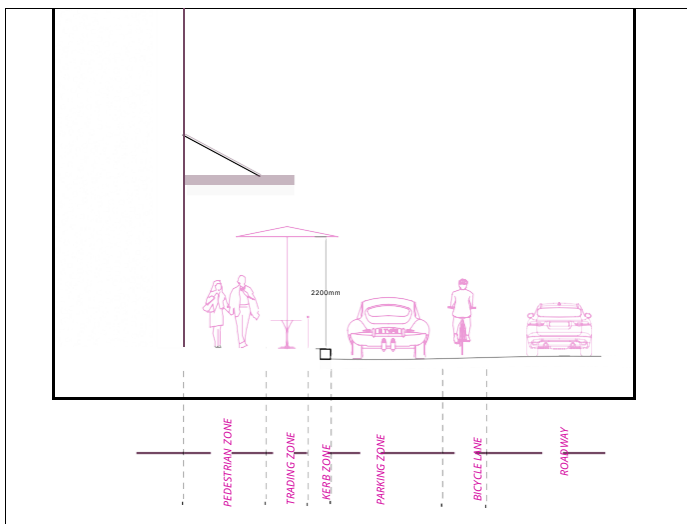
PLANTER BOX AS BARRIER



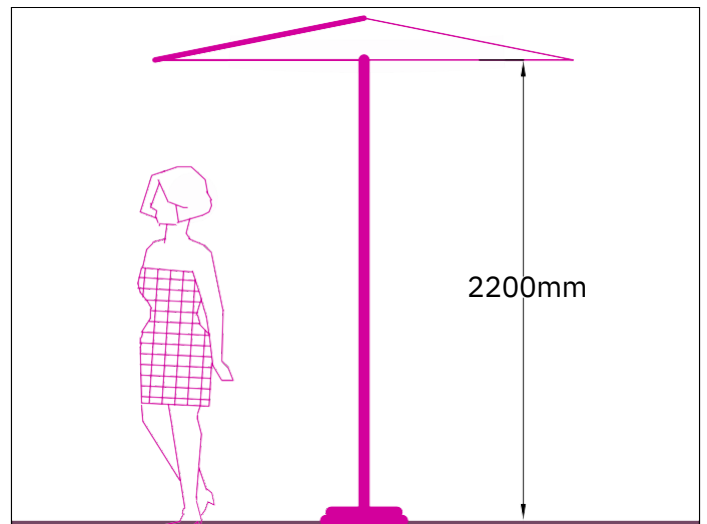
MOVEABLE PLANTER BOX

### Planter boxes

- Planter boxes may be fixed or moveable and made of sturdy materials with no sharp edges.
- Planter boxes must be maintained and kept in good order. Litter must be removed from within and outside the planter boxes.
- Plants must be maintained for health. Dead plants must be replaced.
- Plastic plants are not allowed.
- Designs of the planter box must be included with the Footpath Trading application form.
- Planter boxes must be no taller than 0.9 meters.



UMBRELLAS IN SHOP FRONT



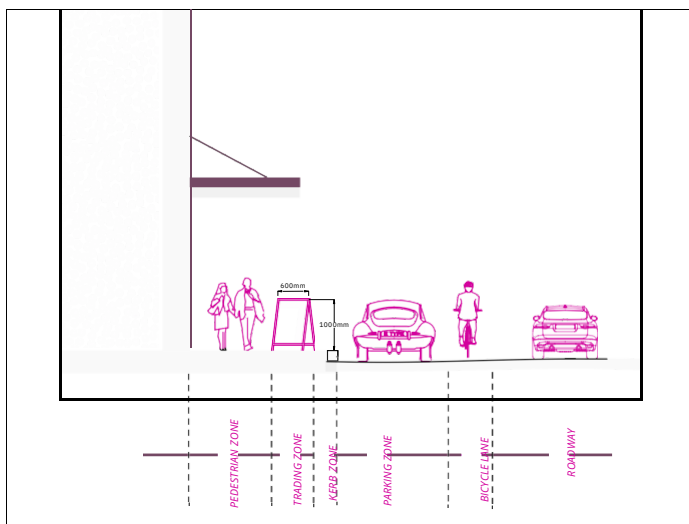
UMBRELLAS

### Umbrellas

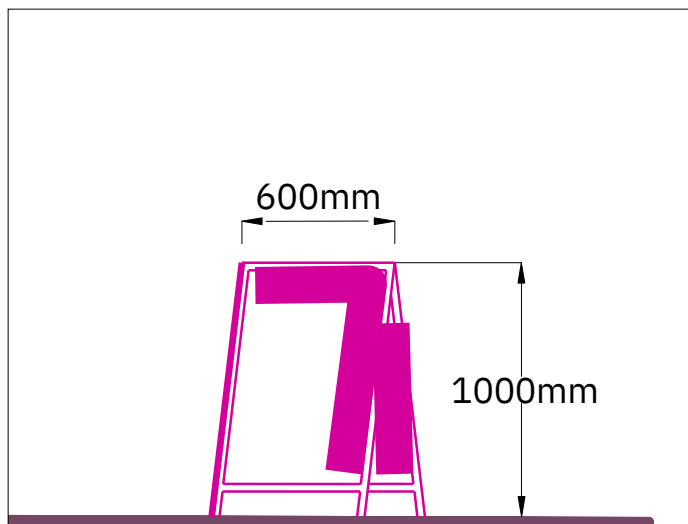
- Can be used in areas where there are no canopies overhead or where the use of the umbrella will not interfere with or damage existing items.
- Must be of a minimum of (at the lowest point) 2.2 metres above the level of the footpath (minimum clearance 2.2 metres).
- All umbrellas must be removed at the end of the trading day.
- Must not extend into the kerbside zone/parking bays. They must always be of robust design and secured.
- Must be adequately weighed down to prevent dislodgement.
- Must be removed or closed in times of strong winds or storms.
- The name or logo of the business may be displayed on an A4 sized area (A4 size branding). Designs are subject to approval.
- May have commercial advertising on each panel on no more than 20 per cent of the surface area.



## Alfresco/Outdoor dining



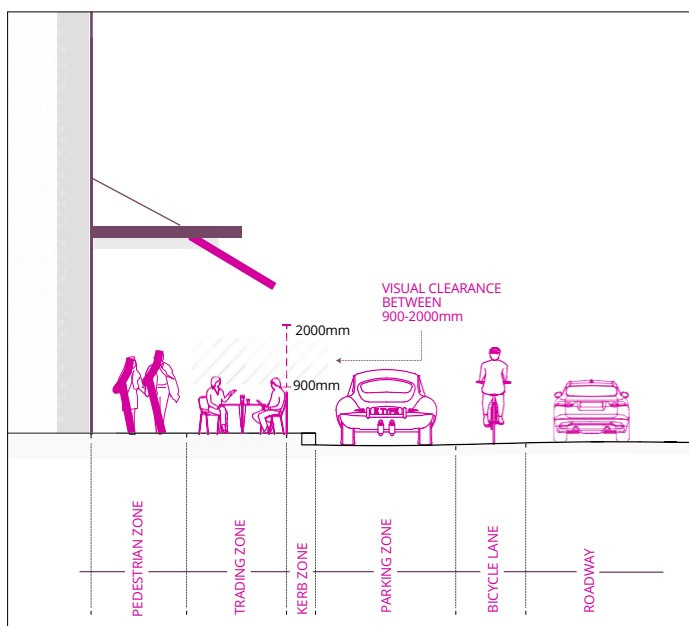
PORTABLE ADVERTISING SIGNS IN SHOP FRONT



PORTABLE ADVERTISING SIGNS (A FRAME)

### Portable advertising signs (A frames)

- Only one advertising sign per premises will be considered unless the business is located on a corner.
- Must not exceed a height of one metre or width of 0.6 metres.
- Refer to the zone clearance section of this document for information on the placement of signs
- Must be weighed down to prevent movement.
- Must not obstruct the path of pedestrians or impede on the clear line of sight of drivers.
- Illuminated, flashing, inflatable or revolving/spinning signs are prohibited
  - Signage can only be displayed during the business's normal hours of operation and must be removed from the trading area at the close of business.
- Must not be permanently fixed to any footpath, pole, or other structure.
- Must not be placed within a corner exclusion area, or where they impede pedestrian or public transport access.



FOOTPATH TRADING RETRACTABLE AWNING VISUAL CLEARANCE

### Portable heaters

- Any heating device must be certified by the Australian Gas Association and be installed in accordance with the relevant Australian Standards.
- Heaters are to be covered by trader's public liability insurance.
- Must be located within the trading zone only.
- Must be removed at the end of each trading day.
- Heaters will only be permitted in conjunction with a table and chair permit issued to the same premises.
- A Building permit is required for heaters attached to awnings or shop fronts (2.4 metres minimum clearance from ground is required).
- Installation, training, and safe use of portable heaters must comply with guidelines prepared by Energy Safe Victoria in collaboration with other relevant organisations.
- For further details, contact Energy Safe Victoria on 9203 9700 or visit [www.esv.vic.gov.au](http://www.esv.vic.gov.au)

## Alfresco/Outdoor dining

### Smoke-free outdoor dining

- Smoking has been banned in all permitted outdoor dining areas since 1 August 2017.
- 'No Smoking' signs must be displayed so customers are reasonably likely to see one or more signs when entering, or from within the outdoor dining area.
- You can order 'No Smoking' signs by:
  - Visiting the resources and factsheets page on the Tobacco Reforms website.
  - Calling the Tobacco Information Line on 1300 136 775.

### Smoking in permitted smoking areas

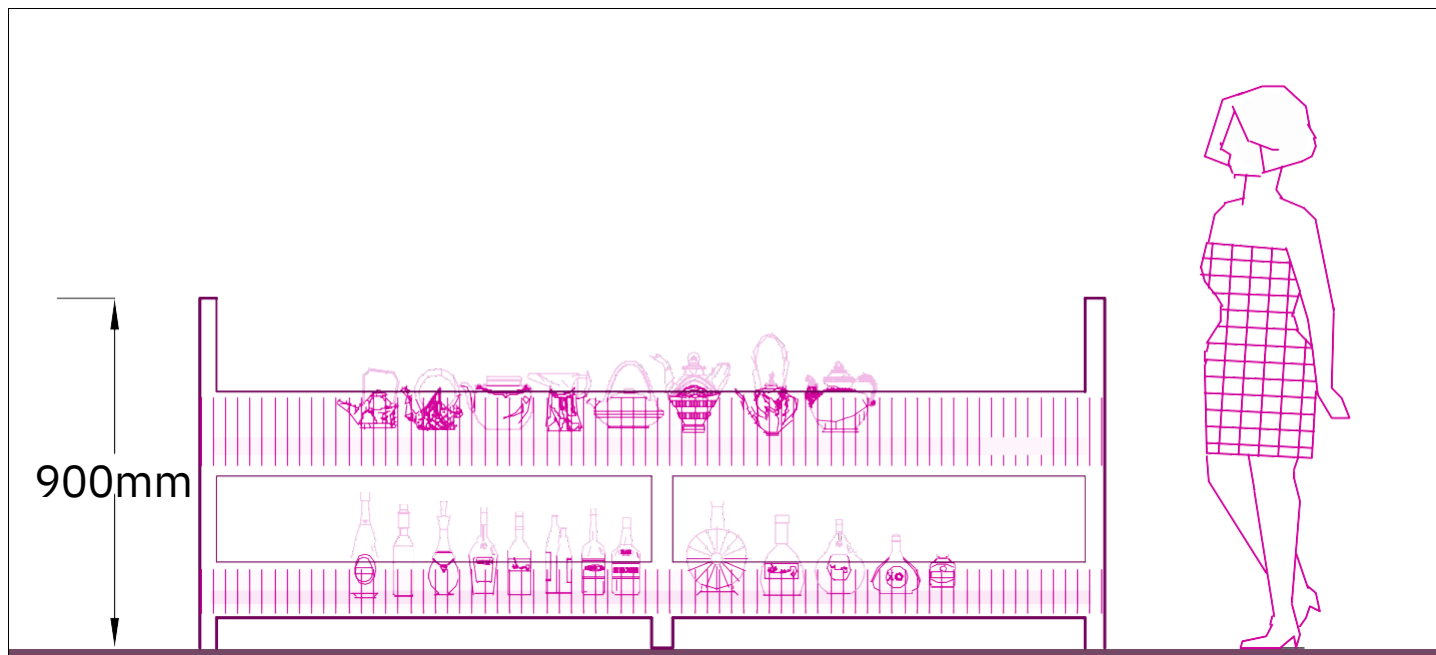
- Windproof ashtrays must be provided in designated smoking areas.
- Business owners must not sweep any litter, including cigarette butts, into the gutter.
- Business owners must clean and remove all rubbish regularly throughout the day and at close of trading. Public bins must not be used for the disposal of cigarette butts.

### Liquor Licensing

Businesses are required to apply for a liquor license where alcohol will be consumed in outdoor dining/footway trading areas. Information is available through the Victorian Commission for Gambling and Liquor Regulation at <https://liquor.vcglr.vic.gov.au/liquorportal/>

### Trading goods and display on footpaths

- Must not exceed a height of 1.2 metres including display of goods.
- Goods must be located within the approved trading area. Must start from 0.4 metre from the kerbside edge — giving maximum clearance for pedestrians.
- A 1.5 metre set back applies for disabled parking bays and 0.7m for loading zone.
- Must only be placed on the footpath during trading hours.
- Goods are permitted only outside the premises to which they relate.
- Displays must be windproof, robust, and made from high quality materials that are safe and durable.
- Legs of display must not extend on an angle that would cause tripping points to pedestrians.
- Must not be fixed to any footpath, building, asset, pole, or other structure.
- Have a contrasting colour to their background to assist the vision impaired.



GOODS UNIT DISPLAY



## Application process

### Applying for a footpath trading permit

Applicants are advised to read and familiarise themselves with these Guidelines prior to making an application to Council. Understanding the responsibilities involved in managing the footpath area, design requirements, legal obligations, costs involved, and other relevant matters detailed is important.

Prior to any formal consideration, the following information is required from the applicant when submitting a completed application form:

- Proof of the company and business registration certificates; showing the company name, ACN, ABN and business name.
  - Where relevant, a copy of the approved Liquor License for the premises to which the footpath area relates.
  - A site plan of existing conditions accurately showing the following:
    - width of the building frontage.
    - existing infrastructure, including existing trees, light poles, rubbish bins, street furniture, fire hydrants and pits. Car parking and parking restrictions and other relevant features.
    - all dimensions associated with the footpath area must be shown.
  - A site plan of the proposed footpath activity showing the area and layout of the proposed footpath activity clearly showing compliance with the requirements of these Guidelines. This includes the proposed location of chairs, tables, screens, heaters, umbrellas, advertising signs and the required zone dimensions.
  - Details of the proposed furniture, including any screens, planter boxes, heaters, and umbrellas.
  - Details of any advertising including a colour photograph or detailed design drawings to scale of any proposed advertising logo, and clear indication of its size and location on screens and umbrellas. If total advertising area exceeds approved measurement as per this Guideline, a planning permit is required.
  - Public liability insurance. Merri-bek City Council requires the insurance policy to note Council's interest and be for no less than \$10,000,000 in respect of any single occurrence. Public liability insurance must remain current and valid for the life of the permit.
  - Application fee payable to the Merri-bek City Council (non-refundable), being the fee for on-site meeting, review, and assessment of the application. Note: this fee is waived until 30 June 2021 for hospitality businesses providing outdoor dining.
  - If you are a new business, you may require a planning permit. Please call our Planning team on 9240 1111 to discuss further.
- Failure to submit all the above details may result in delays in processing the application or rejection of the application.

### Applying for screens, retractable awnings, fixed heaters or planter boxes

Prior to any formal consideration, the following additional information is required from the applicant.

Information required to assess your application will include:

- Completed application form
- Site plan of existing conditions showing the following:
  - Width of the building frontage.
  - Footpath area from the building line to the kerb.
  - Existing verandah and/or awnings.
  - Existing location of chairs and tables, umbrellas, and other furniture.
  - Existing location of public infrastructure (including street trees, telephone poles and parking restrictions).
- Site plan of proposed layout of the proposed screens, retractable awnings, heaters, and planter boxes.
- Elevation plans showing the following:
  - Height of screens, retractable awnings, heaters, transparent drop-down blinds, and planter boxes, including any clearances from the ground to the bottom of any screen or planter box.
  - Total height from the ground to the lowest point of the fixed heater or awning.
- The distance between the top of the screens and anything directly above including canopy, awning, and fixed heaters.

## Application process

### Council assessment and consideration

On receiving an application, Council staff will:

- Check that all relevant information has been received.
- Check that the footpath trading would be associated with a use legally established under the Planning and Environment Act 1987.
- Check the application to ensure it meets the intent and requirements of the Moreland City Council General Local Law 2018
- Refer the application to other departments within Council for advice and comment as necessary.
- Inspect the site and check the accuracy of submitted application plans.
- Assess the application against other outstanding matters that may relate to the premises.
- If required, advise the applicant of any changes that need to be made to the plans and await re-submission.
- Approve or refuse the permit application.

Upon approval of the permit application an invoice will be issued. Once payment has been received and the permit issued, operation within the approved footpath area can commence. Note: this fee is waived until 30 June 2021 for hospitality businesses providing outdoor dining.

Refer to the website for a list of fees and charges applicable to Footpath Trading.

### Display of permit registration

- Permit holders must display the permit registration sticker clearly on the shop-front window. Where a hard copy permit has been provided, the permit must be kept on the premises and shown if requested by a Council Authorised Officer.

### Amendments to an existing permit

- Permit holders must submit an application form to make amendments to an existing permit.
- Council assessment and consideration process will be followed.
- Merri-bek City Council reserves the right to amend permit conditions to ensure compliance.

### Transfer of ownership

- A footpath trading permit applies only to the premises for which it is issued and is not transferable from one premises/proprietor to another on the sale or transfer of ownership.
- A new application is required if the ownership of the business is transferred to a new proprietor.
- Merri-bek City Council reserves the right to reassess and amend permit conditions to ensure compliance with the Footpath Trading Guidelines.

### Renewal of an existing permit

- Permits for footpath trading are valid until 30 June each year and must be renewed annually.
- A renewal notice is issued to all existing permit holders. It is the responsibility of the permit holder to ensure all permit renewal details including public liability, amendments and fees are forwarded to Council. Failure to provide all renewal documentation and fees will result in the cancellation of the permit.
- Merri-bek City Council reserves the right to reassess and amend permit conditions to ensure compliance with the Guidelines.





## Management and responsibilities

### Permit holder's responsibilities

The management of a footpath trading permit is the responsibility of the permit holder. Permit holders are required to:

- Monitor the trading zone, for example, observing patrons at all times and respond to behaviour that may interfere with the use, enjoyment and personal comfort of others using the footpath area.
- Observe all legislated provisions relating to footpath trading, including nuisance, noise, litter, responsible serving of liquor, prohibition of smoking in outdoor dining areas, health, and amenity.
  - Always maintain access for all users in and around the footpath e.g. repositioning furniture when moved outside the trading zone by patrons.
  - Uphold the cleanliness of the footpath area, ensuring tables and chairs are kept clean and litter is removed and deposited in bins kept inside the premises.
  - Remove all approved moveable furniture from the footpath area in accordance with the conditions stated on the footpath trading permit.
  - Where permanent furniture has been approved, the footpath area and surrounds must be thoroughly cleaned by the permit holder.

### Council responsibilities

#### Maintenance of the footpath

Council manages the maintenance of the footpath and reserves the right to reclaim access to the footpath and remove all footpath trading furniture at any time.

#### Compensation and loss of trade

There is no compensation for the removal or reinstatement of footpath trading furniture or any loss of trade when Council or service authorities are required to carry out works within the road reserve or the footpath.

#### Access to underground services

Services such as sewers, gas, water, telecommunications, and electricity conduits should not be obstructed by any permanent structures, including fixed screens, umbrellas, planters and socket and sleeve systems.

Removable tables and chairs may be placed on top of underground service pits providing these are structurally sound. In the event of an emergency, immediate access will be required.

Council and other service authorities reserve the right to access all underground services within the footpath trading area at all times, without notice to the permit holder.

# Management and responsibilities

## Permit conditions

- The permit holder must comply with (and is responsible for the compliance by their employees, agents and volunteers) with the conditions of the permit, endorsed plans and the requirements and objectives as outlined within these Guidelines and as amended from time to time and with all other laws.
  - The permit holder must inform Council of any breaches of these conditions, guidelines, or the law immediately, and if not possible such as in the event of an emergency, within 48 hours.
- To the extent of any inconsistency between these conditions, guidelines and the law, the law prevails, then these conditions.
- The permit holder must only use approved furniture in the approved layout in the trading zone approved under the permit and endorsed site plan and only during the approved hours of operation. No unapproved items are permitted.
- The permit holder occupies and uses the areas at the permit holder's own risk.
- All approved items must be suitably weighted to the reasonable satisfaction of Council. Items and weights must not cause an obstruction or public safety risk.
- Outdoor freestanding gas heaters must be maintained in a proper state of repair and be safe and lawful and be operated in a safe and lawful way.
- The permit holder must reasonably ensure that the area and immediate access ways are kept clean presentable, and the area is free from rubbish and hazards.
- Extension cords running from the premises to items within the trading area are prohibited.
- The permit holder must ensure the furniture and items are safe, clean and in good condition.
- The permit holder is reasonably responsible for the good order, conduct and behaviour of patrons using the area.
- The permit holder must maintain a comprehensive public risk insurance policy for a minimum of ten million dollars (\$10,000,000) cover with an insurer approved by the Australian Prudential Regulation Authority ("APRA") current for the term of the Permit.
- The permit must be visible or available upon request by an Authorised Officer.
- The permit holder must notify Council in writing of any amendments to the permit.
- The permit holder indemnifies and releases the Council from all liability arising from the use or occupation of the area or the conduct of the permit holder's business by the permit holder or the permit holder's agents including:
  - claim for personal injury, loss, or damage.
  - loss or damage to property belonging to the permit holder or other person located in the vicinity of the area caused by the permit holder or the permit holder's agents.
  - loss, damage, injury, or illness sustained or incurred by the permit holder or any of the permit holder's agents.
- Specific conditions may be applied. Refer to the conditions printed on your permit.

## Compliance

Council's Authorised Officers monitor the operation of footpath trading permits and ensure the conditions of the permit are met.

Following a complaint or observation of a breach of a footpath trading permit, an Authorised Officer will contact the permit holder and take appropriate enforcement action. This may be in the form of verbal instructions, a written notice (Notice to Comply), an infringement, revocation of the permit or for repeat or serious breaches the matter may be referred to court. Items within a trading zone but not approved on a Footpath Trading Permit may be impounded by an Officer and release fees payable to reclaim the items.

In the case of a serious breach, an Authorised Officer may act immediately to resolve the situation. A serious breach is one where the Authorised Officer considers there is an immediate public safety risk. This may include instances where access is impeded to an extent that it would be difficult or impossible to walk freely through the pedestrian zone.

The Authorised Officer may, under the General Local Law 2018, impound unapproved items or items they pose an immediate risk to public safety. Release fees are payable to reclaim impounded items.