



Banyule City Council
Footpath Trading Policy

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1 INTRODUCTION

1.1 Background

[Footpaths](#) need to cater for a wide range of needs – the needs of shoppers, tourists, public transport users, people making deliveries, older persons, those with particular mobility needs, children, pet owners and young families. [Footpaths](#) are also used by local businesses for outdoor eating areas and the display of goods and signs, which can enhance the vibrancy, interest and diversity of shopping centres.

While the trading activities on the [footpath](#) referred to are an important part of the retail environment, the primary purpose of [footpaths](#) is to provide for safe [pedestrian](#) access and [footpath trading](#) activities must be regulated to ensure that access and safety can be maintained. In considering the options that may be available for [footpath trading](#) it is important to recognise that any commercial use of public space is not a right but a privilege which may be granted where access, community safety and amenity of the streetscape can be ensured.

Council has a legal obligation to provide a safe and unobstructed [footpath](#) environment for all [pedestrians](#), regardless of their mobility levels. The *Banyule City Council Footpath Trading Policy* has been developed to regulate all commercial activity on our [footpaths](#) by providing for a continuous accessible path of travel extending a specified distance from the building or property line.

1.2 Objectives of the Banyule City Council Footpath Trading Policy

The objectives of the Banyule City Council Footpath Trading Policy are:

- (a) To encourage [footpath trading](#) activities which contribute positively to the amenity, vibrancy and viability of commercial areas.
- (b) To maintain clear, safe and unobstructed access for [pedestrians](#) of all abilities on Banyule's [footpaths](#).
- (c) To provide clear guidance for the consideration of applications for permits made pursuant to Banyule City Council's General Local Law for the placement of items associated with [footpath trading](#) on [footpaths](#) in the municipality.

1.3 Scope of the Policy

The Banyule City Council Footpath Trading Policy applies to the use of [footpaths](#) within Banyule City Council for commercial purposes, by any individual, organisation or business and should be read in conjunction with Council's General Local Law.

2 DEFINITIONS

The following meanings apply to words used in Banyule City Council's Footpath Trading Policy.

Word	Meaning
<i>Authorised Officer</i>	means an Authorised Officer appointed under Section 224 of the <i>Local Government Act 1989</i>
<i>Footpath</i>	means the area between a property boundary and the face of the nearest kerbside of a road, which is provided for use by pedestrians and includes a nature strip, splay corners and entry areas not in private ownership
<i>Footpath Trading</i>	means the use of footpaths for commercial activities, including outdoor eating areas and the display of goods and signs
<i>Movable Advertising Sign</i>	means any freestanding temporary advertising sign which must not contain any movable parts or be internally illuminated
<i>Pedestrian</i>	means any person travelling along a footpath , whether walking or by using a wheeled recreational vehicle; pram; stroller; shopping trolley; delivery trolley; a guide dog or other assistance animal; or a mobility aid such as a wheelchair, motorised scooter, walker, crutch or walking frame or any other aid to assist mobility or orientation

3 FOOTPATH USE & ACTIVITIES

3.1 Footpath Zones

In order to provide for clear and unobstructed access for [pedestrians](#), three [footpath](#) zones are defined within the width of the [footpath](#):

1. Pedestrian Zone

The [pedestrian](#) zone provides a continuous accessible path of travel for people of all abilities, extending from the property line.

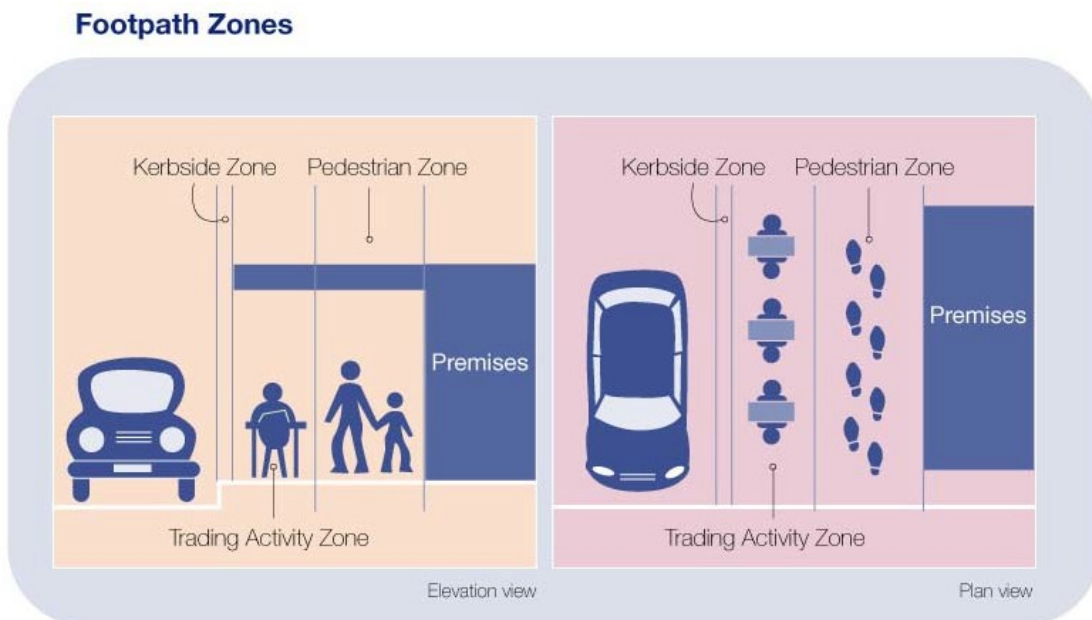
2. Trading Activity Zone

The trading activity zone is that area of the [footpath](#) where goods, outdoor eating furniture and ancillary items and [movable advertising signs](#) may be placed and where other permitted street activities may take place.

Council may place markers in the [footpath](#) or otherwise delineate the Trading Activity Zone.

3. Kerbside Zone

The kerbside zone is a buffer from the kerb to allow for access to and from parked vehicles.



3.2 Footpaths wider than 3500 mm

For [footpaths](#) wider than 3500 mm:

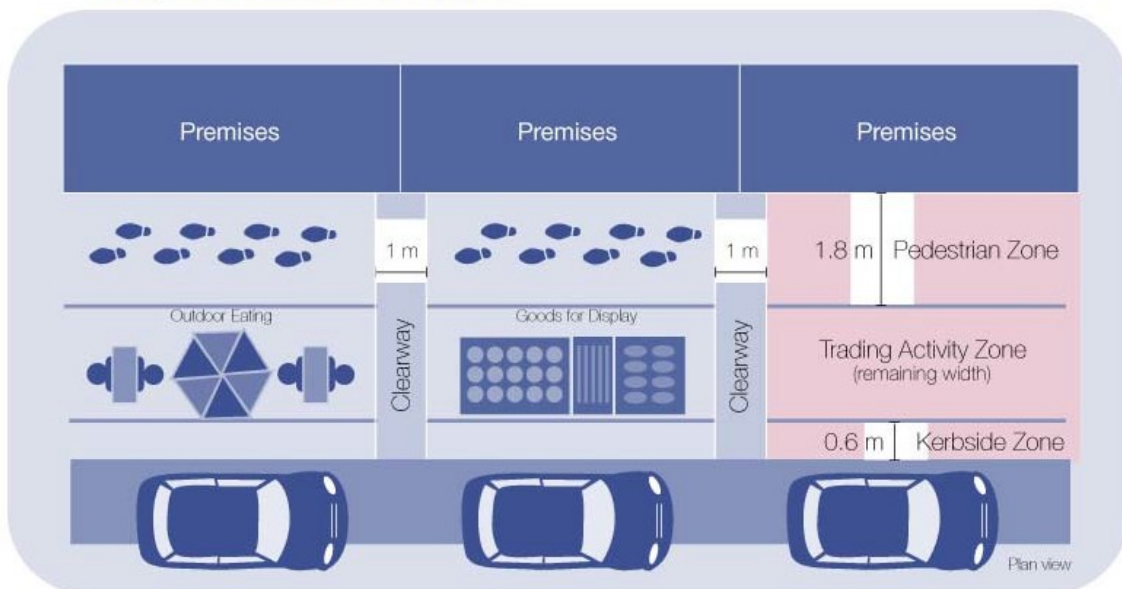
The **Pedestrian Zone** extends from the building line or shopfront of premises for a minimum of 1800 mm. No items may extend into this zone at any time, including items overhead below a height of 2700 mm.

The **Trading Activity Zone** is the only area of the [footpath](#) where goods, outdoor eating furniture and ancillary items, and [movable advertising signs](#), may be placed, subject to the provisions of this Policy. A setback of 500 mm is required from each side boundary of premises in order to ensure a 1000 mm wide accessway between premises from the kerb to the Pedestrian Zone.

The **Kerbside Zone** is a minimum of 600 mm buffer as measured from the face of kerb to allow for access to and from parked vehicles. Where there is a disabled parking bay or loading zone, the setback from the kerb will be at least 1500 mm.

No items may be placed in either the Pedestrian Zone or the Kerbside Zone.

Footpaths wider than 3500mm



3.3 Footpaths from 2500 mm to 3500 mm wide

For [footpaths](#) from 2500 mm to 3500 mm:

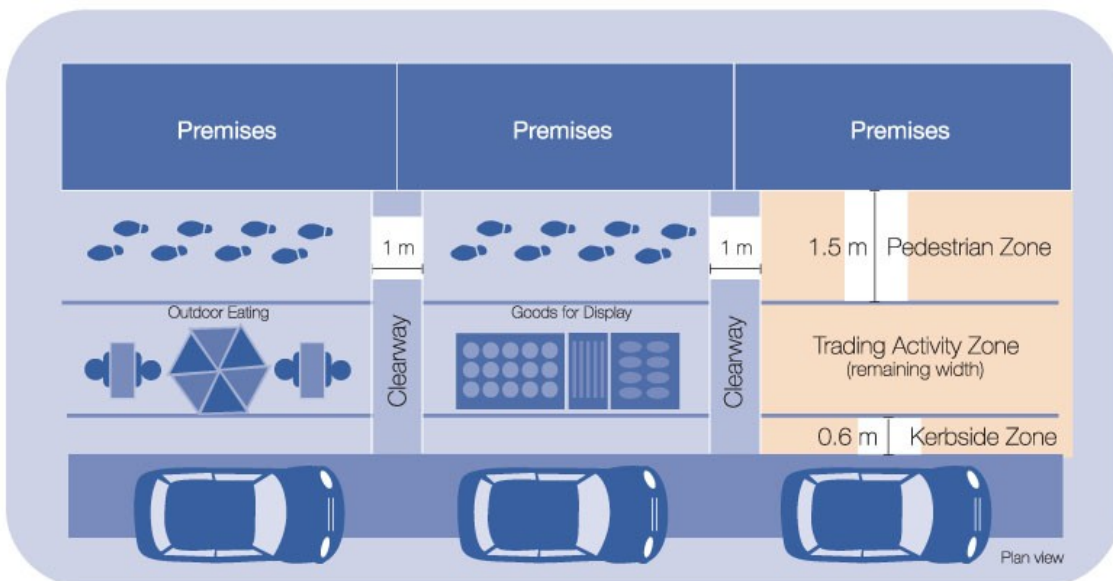
The **Pedestrian Zone** extends from the building line or shopfront of premises for a minimum of 1500 mm. No items may extend into this zone at any time, including items overhead below a height of 2700 mm.

The **Trading Activity Zone** is the only area of the [footpath](#) where goods, outdoor eating furniture and ancillary items, and advertising signs, may be placed, subject to the provisions of this Policy. A setback of 500 mm is required from each side boundary of premises in order to ensure a 1000 mm wide accessway between premises from the kerb to the Pedestrian Zone.

The **Kerbside Zone** is a minimum of 600 mm buffer as measured from the face of kerb to allow for access to and from parked vehicles. Where there is a disabled parking bay or loading zone, the setback from the kerb must be at least 1500 mm.

No items may be placed in either the Pedestrian Zone or the Kerbside Zone.

Footpaths from 2500mm - 3500mm wide



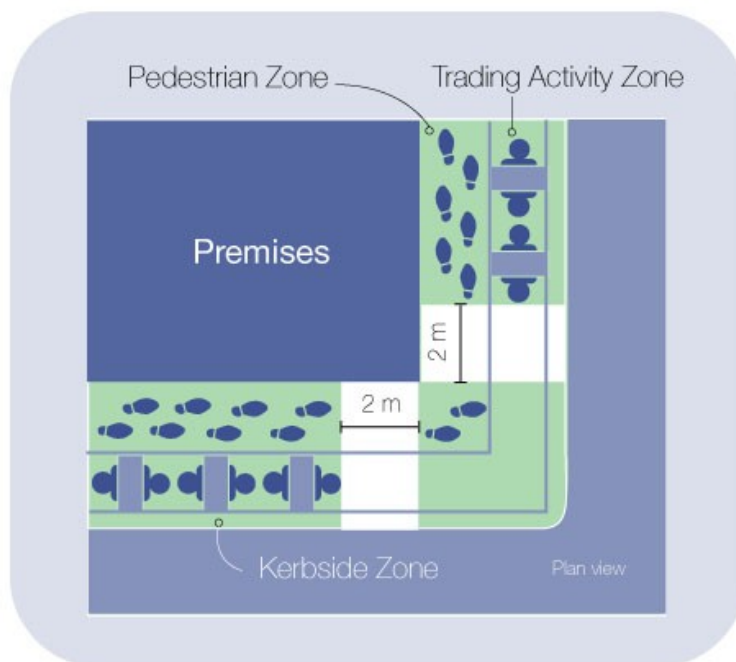
3.4 Footpaths less than 2500mm wide

In order to provide a continuous accessible path of travel for people of all abilities, [footpaths](#) of less than 2500 mm may not be used for [footpath trading](#).

3.5 Corner Locations

In order to protect the safety of [pedestrians](#) and motorists, no items may be placed within 2000 mm of an intersection of building lines without the approval of Council's Transport Unit.

Corner Location



4 PERMIT REQUIREMENTS

A permit is required for outdoor eating facilities, chairs and tables, the placement of goods or other items, or the display of signs, on [footpaths](#) within Banyule City Council, as detailed in Section 7.

5 SPECIFIC REQUIREMENTS FOR FOOTPATH TRADING ACTIVITIES

5.1 Outdoor Eating

Any chairs, tables and ancillary items associated with outdoor eating must:

- (a) only be placed outside premises which are registered under the *Food Act 1984* to serve food and/or beverages;
- (b) be placed in the Trading Activity Zone of the [footpath](#);
- (c) be placed on the [footpath](#) during the normal trading hours of the business to which they relate, unless otherwise approved by Council;
- (d) be of a design approved by Council and which must:
 - be of a style, appearance, material, finish and colour which are of a high standard, attractive, durable, shatterproof, unobtrusive and complement the character of the streetscape. Furniture constructed wholly of plastic will not be permitted;
 - be uniform in style and design for each premises;
 - contrast with their background to assist people with vision impairment;
 - be portable, yet sturdy and windproof; and
 - have a minimum 30 mm diameter rubber tip on chair and table legs to protect the [footpath](#) surface.

The permit holder must:

- (a) be responsible for any litter generated by patrons of a [footpath](#) eating area;
- (b) maintain the [footpath](#) eating area in a clean and tidy condition;
- (c) ensure that patrons do not move tables and chairs or ancillary items from their positions and obstruct the Pedestrian Zone;
- (d) ensure that patrons do not allow pets, prams or any other personal items to obstruct the Pedestrian Zone;
- (e) ensure that food and beverages are not served to patrons standing on the [footpath](#) within the Pedestrian Zone;
- (f) ensure that no noise or other disturbance creates a nuisance or causes detriment to the amenity of the neighbourhood, in the opinion of Council; and
- (g) be responsible for reimbursing Council for any reinstatement works as a result of damage to [footpaths](#) or street fixtures and furniture.

A condition may be placed on a permit requiring a permit holder to place written reminders to patrons in the outdoor eating facilities on the [footpath](#), regarding the above responsibilities, if deemed appropriate by an [Authorised Officer](#).

Liquor is not to be sold, consumed or served within the Trading Activity Zone unless approved by Council and the Liquor Licensing Commission pursuant to the *Liquor Reform Act 1998*.

Any premises where alcohol is served or consumed on the [footpath](#) must have its liquor licence endorsed with the [footpath](#) as part of the "licensed area" on the liquor licence for those premises.

Waiting staff at premises with outdoor eating facilities on the [footpath](#) must facilitate free access by all [footpath](#) users within the Pedestrian Zone and give all [footpath](#) users priority right of way.

Separate cash registers, counter facilities or storage facilities are not permitted on the [footpath](#).

No food or drink is to be prepared, cooked or heated in the [footpath](#) eating area except in accordance with any permit granted for temporary food premises.

The handling and serving of food and drinks to patrons within the [footpath](#) eating area must be conducted in accordance with the requirements of Food Safety Regulations and Council's Health Services Section.

5.2 Goods

Any goods for display must:

- (a) be placed in the Trading Activity Zone of the [footpath](#);
- (b) be placed on the [footpath](#) during the normal trading hours of the business to which they relate;
- (c) not exceed a height of 1500 mm or a length/width of 750 mm;
- (d) be kept in a clean and tidy state, including the area around the display;
- (e) comply with Council's Health Services requirements, if a display of foodstuffs; and
- (f) be displayed on stands approved by Council, and must:
 - be of a style, appearance, material, finish and colour which are of a high standard, attractive, durable, shatterproof, unobtrusive and complement the character of the streetscape;
 - be stable and able to withstand adverse weather conditions;
 - be secured in a manner that ensures that adverse weather conditions will not create a risk for any [footpath](#) users, property or passing traffic but may not be affixed to any [footpath](#), building, street furniture, pole or other structure;
 - contrast with their background to assist people with vision impairment;
 - not have sharp, pointed, or jagged edges, corners or protrusions;
 - not comprise any movable parts (eg. spinning, flapping);
 - not be illuminated externally or internally; and
 - not cause any damage to the [footpath](#) surface.

Goods for display will not be permitted:

- (a) where access to a loading zone or disabled parking bay will be impeded;
- (b) where they will cause difficulty to any [footpath](#) users, including [pedestrians](#) and people exiting or accessing parked vehicles or the [footpath](#);
- (c) to overhang either the kerb or Pedestrian Zone.

5.3 Movable Advertising Signs

One [movable advertising sign](#) only may be displayed for each street frontage of a business.

Any [movable advertising sign](#) must:

- (a) be placed in the Trading Activity Zone;
- (b) be displayed outside of the frontage of the business to which it relates;
- (c) not exceed 600 mm in width or 1000 mm in height;
- (d) be secured in place by a means that is not reliant on, or physically tied to any infrastructure or trees. The means by which these signs are to be secured must not extend beyond the perimeter of the permitted sign and must be of a type approved by Council. Any securing device is to be removed with the sign in accordance with permitted display times;
- (e) be displayed during the normal trading hours of the business to which it relates;
- (f) contrast with its background to assist people with vision impairment; and
- (g) feature the business name or service provided by the business to which it relates.

Inflatable signs; portable electric signs; illuminated, revolving, spinning or flashing signs; flags and banners are prohibited.

The display of a [movable advertising sign](#) is not permitted where a business is conducting any other commercial activity on the [footpath](#).

5.4 Outdoor Speakers/Amplification equipment

Permission will be required to affix speakers to a building or veranda.

Use of the [footpath](#) for live entertainment requires the written permission of the Council.

Any noise produced must not be annoying or cause a disturbance, which in the opinion of an [Authorised Officer](#), creates a nuisance or causes detriment to the amenity of the neighbourhood.

No sound amplification equipment or jukeboxes may be utilised in the [footpath](#) area.

5.5 Outdoor Heaters

Any outdoor heater must:

- (a) be associated with the use of the [footpath](#) for an outdoor eating facility;
- (b) be placed or fixed in the Trading Activity Zone; and
- (c) comply with the safety standards specified by the Office of Gas Safety and Australian Standard AS4565. (Refer to the *Safety Guide for Use of Portable Heaters in Public Places* and related guidelines for staff and employers – www.esv.vic.gov.au)

5.6 Umbrellas

Any umbrellas must be:

- (a) placed in the Trading Activity Zone;
- (b) not less than 2200 mm high at the lowest point other than the pole and must not protrude over the kerb;
- (c) weighted and/or secured so as not to pose a safety hazard.

At times when it is raining, water from large umbrellas must be discharged outside the Pedestrian Zone.

Umbrellas may be secured to the [footpath](#) by a lock-in device. Lock-in devices will only be approved where the device lies flush with the [footpath](#) when the umbrellas are not displayed. Applications for approval for lock-in devices must be made to Council's Building and Civil Works Unit. Plans and specifications of the items will be required to be lodged with Council prior to any umbrella being placed with a lock-in device.

No more than 25% of the umbrella's area may be used for advertising.

5.7 Barrier Screens

Barrier screens include:

- *low barrier screens*, which are predominantly made of canvas or vinyl;
- *high barrier screens*, which are usually made of clear material such as safety glass or heavy duty plastic and are fitted to the [footpath](#) by lock-in devices; and
- *full-length awnings/blinds*, which are commonly attached from a verandah to the [footpath](#).

The form and construction of any barrier screen must be suitable for its functional requirements and location, taking into account prevailing weather conditions.

5.7.1 Low Barrier Screens

Low barrier screens must:

- (a) be placed in the Trading Activity Zone;
- (b) be in place during the normal trading hours of the business with which they are associated;
- (c) be no more than 1200 mm high;
- (d) not extend more than 8000 mm outside a business without a space of 1000 mm to provide access between the [footpath](#) and road;
- (e) be placed so that the screens are stable and secure or weighted so that they will not be moved by patrons or prevailing weather;
- (f) of a type approved by Council.

No more than 25% of the low barrier screen's area may be used for advertising.

5.7.2 High Barrier Screens

High barrier screens must:

- (a) be placed in the Trading Activity Zone;
- (b) be in place during the normal trading hours of the business to which they relate;
- (c) be at least 1500 mm high (except where the premises are located on corner), be transparent and constructed of safety glass or heavy-duty plastic;
- (d) have a 75 mm wide band 1000 mm above the ground that contrasts with its background to provide a visual guide for all [pedestrians](#);
- (e) be fitted to the [footpath](#) with a lock-in device, but be removable;
- (f) be removed after the normal trading hours of the business with which they are associated in order to facilitate street cleaning by vehicles;
- (g) of a type approved by Council.

High barrier screens must not be used for advertising other than the name of the business.

Lock-in devices will only be approved where the device lies flush with the [footpath](#) when the barriers (or part thereof) are not in place. Applications for approval for lock-in devices must be made to Council's Building and Civil Works Unit. Plans and specifications of the items will be required to be lodged with Council prior to any screen being placed with a lock-in device.

Where the premises are located on a corner an application for screen will be assessed by Council's Transport Unit with regard to line of sight and a lower screen may be required.

5.7.3 Full Length Awnings/Blinds

Full length awnings or blinds must be:

- (a) placed in the Trading Activity Zone.
- (b) fitted subject to the approval and requirements of Council's Building and Civil Works Unit.

5.8 Planter Boxes

Planter boxes must:

- (a) be placed in the Trading Activity Zone and plants must not extend beyond that zone;
- (b) be in place during the normal trading hours of the business to which they relate;
- (c) provide a positive contribution to the visual amenity of the street;
- (d) not exceed 1200 mm in height above the [footpath](#) level (including plants);
- (e) not extend more than 8000 mm outside a business without a space of 1000 mm to provide access between the [footpath](#) and the road;
- (f) be well maintained with healthy plants of suitable form, hardiness and species;
- (g) not be watered in a manner which results in the growth of mosses, algae or slime moulds; and
- (h) be free of litter, including cigarette butts. Planter boxes may not be used for advertising purposes.

6 GENERAL REQUIREMENTS

6.1 Street Cleaning

All tables, chairs, goods, displays, [movable advertising signs](#) and ancillary items must be removed and the [footpath](#) kept clear to facilitate cleansing between 11.00pm and 8.00am the following day.

6.2 Safety

All items placed on the [footpath](#) must be stable; not pose a hazard to [pedestrians](#) or road users and must not:

- include sharp or protruding items;
- be capable of shattering;
- include moving or oscillating parts;
- include reflective items that pose a risk to traffic; or
- be located where [pedestrian](#) or driver sightlines will not be obstructed.

6.3 Public Infrastructure

A minimum clearance of 1000 mm, or less if permitted by Council, must be provided from any existing street furniture or other infrastructure on or adjacent to the [footpath](#), including seats; benches; bollards; litter bins; bike racks; post boxes; telephone boxes; service pits; public transport stops/taxi ranks; public transport shelters; disabled car spaces; loading zones; parking meters; traffic signal boxes; fire hydrants and other emergency assets; [pedestrian](#) crossings; and street trees or shrubs.

Application may be made to Council for the relocation, at the applicant's cost, of Council maintained seats, benches or bicycle racks, in association with an application for a permit for [footpath trading](#).

Any request for relocation of seats, benches or bicycle racks, must be accompanied by a plan showing the site for the proposed relocation of the street furniture item and a letter of no objection from the owner and occupier of the premises outside which the item is proposed to be relocated.

6.4 Service Authority Works and Special Events

Service authorities or Council may require the use of a site to undertake works. When this, or any parade, festival or special event is scheduled, it will be normal practice to give at least seven days' notice of the requirement to remove any item from the [footpath](#). In an emergency, sites may need to be cleared immediately. Permit holders will be responsible for the movement of all items and any associated costs.

6.5 Evidence of a Permit

Any business that is permitted to undertake a commercial activity on the [footpath](#) adjacent to that business must display a permit sticker provided by Council in the window of the business premises at all times.

The permit sticker may include the permit number, date of issue and a summary of the items permitted to be placed on the [footpath](#).

7 ADMINISTRATION OF THE POLICY

7.1 Applying for a permit under General Local Law

A permit is required under Banyule City Council's General Local Law to place goods for display, [movable advertising signs](#), chairs or tables or outdoor eating facilities on the [footpath](#) or the temporary occupation or fencing of the [footpath](#).

7.1.1 Application Requirements

To apply for a permit an applicant must:

- (a) complete and sign the Footpath Trading Activity application (and licence agreement);
- (b) provide a site plan of existing conditions at a scale of 1:100 that shows:
 - the width of the frontage and of the footpath from outside edge of kerb to the building lines;
 - location of building lines and type of abutting uses;
 - location of existing trees, light poles, signs, existing street furniture, pits, fire hydrants, car parking and other public infrastructure;
- (c) provide a site plan of proposed [footpath](#) activity at a scale of 1:100 that shows the area and layout of the proposed [footpath](#) activity, including the proposed location of chairs, tables, screens, heaters, umbrellas, planter boxes, or movable signs;
- (d) provide details of proposed furniture, including colour photographs or detailed design drawings of proposed furniture and any means by which they may be proposed to be secured;
- (e) provide details of any proposed advertising, including a colour photograph of detailed design drawings of any proposed advertisement and a clear indication of its size;
- (f) provide details of the hours of operation of the business to which the activity relates and the hours of operation proposed for the [footpath](#) activity;
- (g) if the premises is currently licensed to serve alcohol, whether it is proposed to be served in a proposed outdoor eating area;
- (h) provide a Certificate of Currency in relation to a public liability policy of insurance, insuring against liability for the death of or injury to any person or damage to any property arising out of the placement of the item authorised by the permit, which lists:
 - a minimum of \$10 million in public liability
 - the insured (including situation of risk)
 - the name of the insurer
 - policy expiry date
 - policy number
- (i) forward the prescribed application and usage fees (payable to Banyule City Council) and the application form, together with the above information and fee to:

Local Laws
 Banyule City Council
 PO Box 51
 IVANHOE VIC 3079

7.1.2 Decision Making

In considering an application for a permit to place items on the [footpath](#) under the General Local Law, in addition to the matters specified in Part xxx Clause xxxx of the General Local Law and the specific and general requirements specified in this Policy, Council shall have regard to the specific local conditions relevant to the application, including:

- (a) the width of the [footpath](#);
- (b) the location of existing trees, street furniture or other public infrastructure;
- (c) proximity to major roads, disabled parking bays, loading bays, loading zones, clearways, trees and angle parking;
- (d) the likely number of [pedestrians](#), at particular times of day; and
- (e) the location of nearby residences.

Council may issue a permit in accordance with an application as submitted, or with modifications and with or without conditions.

Council may refuse to issue a permit, refuse to modify the conditions of an existing permit or cancel a permit if:

- (a) any requirements of this Policy are not met;
- (b) the sight and access of drivers, cyclists or [pedestrians](#) is interfered with so as to create a hazardous situation;
- (c) there is likely to be detriment to the amenity of the area;
- (d) any existing permit conditions have not been complied with and there has been a failure to comply with a Notice to Comply served in accordance with Part xxx of the General Local Law; or
- (e) the permit holder fails to maintain public liability insurance.

Before a permit is granted for the first time, or after a change of business use, Council may require the applicant to give notice of the application to persons who may be affected by the granting of a permit which will entitle those persons to make a submission which must be considered by Council before a determination is made on the application.

7.1.3 Fees and term

Fees and charges for the placement of items on the [footpath](#) are determined under Council's General Local Law.

The currently applicable fees or charges for usage of the [footpath](#) area are shown in Schedule xx of the Local Law but will be reviewed annually.

Unless otherwise specified on the permit or a permit for Itinerant Trading, a permit shall expire one year from the date of issue, except in those instances where it is withdrawn by Council prior to the expiry date.

If Council refuses to issue a permit, the fee, less administration costs, may be refunded. Permits are not transferable. A new permit must be obtained if the proprietorship of a business changes.

A permit expires if the permit holder ceases to maintain public liability insurance or to meet any of the conditions of the permit and this Policy.

7.2 Public Liability Insurance and Indemnity

The applicant for a permit issued in accordance with the General Local Law, must, at all times during the term of any permit issued, be the holder of a current Public Liability Policy of Insurance in relation to the activities undertaken. The applicant must provide Council with a copy of the Certificate of Currency on request.

The Public Liability Policy must be in the name of the applicant providing coverage for an amount of not less than \$10 million.

8 ENFORCEMENT

Council's [Authorised Officers](#) will enforce the conditions of relevant permits on a regular basis.

Upon detection of a breach of Banyule City Council's General Local Law, the Footpath Trading Policy or a specific condition of any permit issued, Council will take action in accordance with the Banyule City Council General Local Law.

Enforcement action may include a verbal direction to comply, a written notice to comply, an Infringement Notice and associated fine or Council may impound the items on the [footpath](#) that do not comply with the General Local Law and the conditions placed on any permit.

9 TRANSITIONAL ARRANGEMENTS

Within 90 days of the date of adoption of this Policy, the use of [footpaths](#) in Banyule for commercial purposes must comply with the provisions of this Policy.