

Clarence City Council

Temporary Placement of Portable Furniture Signage and Structures in Public Places Policy and Guidelines

April 2006



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Temporary Placement of Portable Furniture Signage and Structures in Public Places Policy and Guidelines

1. Purpose

The purpose of this policy is to regulate the temporary placement by businesses and property owners of portable material such as tables, chairs, screens, planters, freestanding and hanging signs, umbrellas, display stands and merchandise, and any other articles (herein referred to as “temporary street furniture”) connected with business activities in public places throughout the City of Clarence.

2. Outcome

Council’s policy and guidelines are designed to enable commercial operators to enhance their business operation through fair and careful use of the public domain, while protecting and maintaining the core uses and benefits of public space. This policy contributes to Council’s Strategic Objective of community development and appropriate economic development. It aims for the satisfactory and beneficial use of public places particularly within commercial areas by taking into account the following **key objectives:**

- **equity and access outcomes are fully considered;**
- **addressing public safety and management of public risk;**
- **legal obligations;**
- **the facilitation of and enhancement to public amenity and visual amenity of the immediate area;**
- **the enjoyment and benefit of individual users;**

- **enhancement of centres and individual businesses for economic and social development;**
- **balance outcomes on the basis of respect for the rights and need of all stakeholders.**

This policy aims to achieve the objectives through the administration of the guidelines that form part of this policy. The achievement of this policy will be dependent upon education of stakeholders, monitoring of compliance, and, should the need arise, the enforcement of Council's policy and guidelines.

3. Background Information

In recent years there has been an increase in the use of public places for temporary street furniture (particularly footpath signs) and there is anecdotal evidence that the number of complaints received from the public regarding (particularly footpath signs) has increased.

Importantly there have been a number of cases in Australia where the local Council has been called in as a respondent to claims for damages for injuries incurred by members of the public from footpath signage and other types of temporary street furniture. Council's potential liability exposure in this area also needs to be considered and appropriately addressed.

Some commercial operators are utilising the area immediately adjoining their shop frontage to display merchandise, tables, chairs and signs or are placing directional signs in other places to attract customers to their premises. Although it is recognised that this may be of some benefit to some businesses, this practice has generated the greatest number of complaints. Most complaints relate to signs that narrow the footway and/or that amount to a trip and fall hazard to pedestrians. The problems are

particularly pronounced for those pedestrians with disabilities where their passage may be obstructed.

The policy aims to achieve a balance between the needs of the business community, the degree to which such facilities adds vibrancy to the area and meeting Council's legal obligations. The policy also ensures that there is a reasonable proportion of the footway width, particularly in recognised shopping areas, available for unrestricted pedestrian movement, including people with disabilities. The policy guidelines need to comply with the requirements of the Disability Discrimination Act 1992, and Australian Standards AS 1428.2.

The term "**Public Place**" is defined under Council's Public Places and Permits By-law No1 of 2005 as follows:

"Public Place" means any land (including highway) owned by or under the control of the Council, and any public land in the Municipal area, and any building or structure in or upon that land that is part of any property or facility owned, controlled, managed or maintained by the Council, or which is land or a building that is leased or licensed by the Council to another person or entity, or which is otherwise the responsibility of the Council.

Scope exists in the By-law for the effective implementation of this policy. The General Manager is able to provide consent by way of a licence (herein referred to as a "consent licence") that authorises the utilisation of footpaths and public spaces under the By-law. The provisions of the Public Places and Permits By-law No.1 of 2005 also enable compliance and enforcement if required. Street furniture and signs in public places are excluded from the provisions of Council's planning schemes.

Application for any temporary (once off) occupancy of public space or footways will be in accordance with existing permit arrangement under the Public Places and Permits By-law No. 1 of 2005 or the Local Highways Standard Requirements By-law No. 1 of 2004 and will therefore fall outside of the provisions of this policy framework.

Where more permanent (non portable) placement of street furniture is sought, this will be regarded as development that, in most cases, will require a planning application. In the event that the planning application is approved a formal licence is to be entered into.

4. Making Application

Any business operator or property owner wishing to utilise a public space or footway within public place areas in the city to install temporary street furniture, (refer to relevant provisions of the Guidelines Section 8) to promote or enhance their business activities, is required to apply to the General Manager for a consent licence.

Applications for temporary “café” street furniture should be lodged together with a detailed plan illustrating the location, layout, materials, etc. proposed. Applicants are advised to have regard to the placement requirements detailed in the guidelines for this policy in the preparation of their application. Applications for a consent licence for cafes and the like are to be supported by a current Certificate of Registration of Food Premises.

5. Assessment

Each application will be assessed on its own merits based on Council's guidelines.

The application needs to satisfy the guidelines, including the policy and guideline objectives and the minimum dimensions set out in the example **FOOTWAY DIAGRAMS** in this document and all safety issues are to be appropriately addressed.

The General Manager’s consent licence will not be granted for an application that is not able to meet the guidelines and safety requirements (refer Parts 8 & 9).

Particularly the application:

- Must meet the key objectives set down in the policy outcomes and guidelines.
- Must meet the guidelines and safety matters outlined in the policy.

- Must have regard to delineations within footway areas, type of furniture to be utilised and any specific implications for public safety.
- Must have due regard for and minimise adverse impact on a streetscape and appearance of an area.
- Must not adversely impact on vehicular traffic flows and safety.
- Must not adversely impact on pedestrian movement and safety (including meeting any DDA requirements).
- Must not prejudice any proposed road widening, installation of traffic lights, building setback or a planning scheme requirement.
- Take into account any relevant urban design guidelines or public health issues.
- Take into account the provision of services by Council and private suppliers (eg MGB skip bins etc).
- Take into account the developed streetscape of area surrounding the application site.
- For signage within the Richmond Historic Commercial Zone (as detailed in the Richmond Planning Scheme 1993), have regard for the heritage values identified in the Richmond Cultural Resource Management Plan.

Before granting a consent licence, a Council Officer will visit a business when an application is received to ensure the policy conditions can be met and will discuss details of the application with the applicant where necessary to best achieve the policy and guideline requirements.

This policy is designed to provide opportunity and to facilitate where possible the use of public land for a private commercial outcome. The policy aims to achieve a balance

between the needs of the business community, the degree to which such facilities adds vibrancy to the area and meeting Council's community interest obligations.

Council is subject to "occupiers liability" for all public land owned or controlled by it. Therefore, the issue of any consent licence is at the General Manager's discretion and will be subject to the indemnification of Council and may be reviewed after issue should the circumstances warrant, to achieve the objectives of Council policy and guidelines adopted from time to time.

6. Fees

Council is able to set fees in accordance with section 205 of the Local Government Act 1993 for any consent licences provided for under Council's Public Places and Permit By-law No. 1 of 2003.

Elements of the fees structure for consent licences covered by this guideline are as follows:

- **Application Fee for Temporary Street Furniture**

Note: Fees are as adopted in Council's Fees Schedule. To be charged for new applications following the initial transition period of 3 months. Will not be applied to applications for existing use of public space for sandwich boards that are submitted and which are granted consent licence during the transition period. Transfer of Consent Licences

No charge based on transfers that recognise change of ownership of property and continuation of business activity to which the temporary street furniture is associated. Any other form of transfer is to be the subject of a new application.

- **Real Estate Agents (unlimited number of portable signs)**

Note: At the time of making this policy the fees set for this category is for nominal consideration of \$1.00 per annum (if demanded) to be provided, however, may be subject to variation if provided for by Council in its Fees Schedule adopted on an annual basis.

- **Portable Signs (sandwich boards)**

Note: At the time of making this policy the fees set for this category is for nominal consideration of \$1.00 per annum (if demanded) to be provided, however, may be subject to variation if provided for by Council in its Fees Schedule adopted on an annual basis.

- **Fingerboard Sign (permanently affixed directional signage)**

Note: Fees based on the Application Fee and the direct cost incurred. No on-going consent agreement required given the nature of installation (refer to relevant provisions of the Guidelines Section 8).

- **Cafes/Outdoor Dining (i.e. tables chairs umbrellas etc.)**

Note: Fees are as adopted in Council's Fees Schedule and based on the area occupied and will be subject to a minimum fee and applied on a pro-rata basis for part year permits.

The application fees Council collects helps to defray the costs of assessment, inspecting the application site and administering the initial consent licence by Council officers.

With the exception of the application fee component, all other fees paid will be refunded in the case of refusal to grant a permit. **See also transitional arrangements for further clarification in respect to payment of fees.**

7. The Consent Licence

When a consent licence is granted, the licence holder gains an occupation licence for the use of public land for a commercial activity and in most cases gains the benefit of higher exposure for their businesses.

Inspections will be made on a periodic basis to ensure that the consent licence holder has adhered to the permit conditions.

Consent licence holders will be responsible for ensuring that structures and furniture installed by them do not impact on public safety. Liability for injury or damage arising

from the installation of structures and furniture rests with the consent licence holder and will be required in the consent licence to indemnify Council against any claim.

8. Guidelines

8.1 Key Objectives

The following are the key outcomes and objectives of Council policy and Guidelines for use of public places by commercial operators:

- equity and access outcomes are fully considered (including meeting any DDA requirements);
- addressing public safety and management of public risk;
- legal obligations;
- the facilitation of and enhancement to public amenity and visual amenity of the immediate area;
- the enjoyment and benefit of individual users;
- enhancement of centres and individual businesses for economic and social development;
- balance outcomes on the basis of respect for the rights and need of all stakeholders.

8.2 Areas

8.2.1 Footway Area

This term describes the whole area of public footpath and nature strips in the road reservation area owned or managed by Council. **Note:** Any application for temporary street furniture within a **Footway Area** that

is less than 2.6 metres in width will generally not be able to comply with this policy and guidelines and will therefore not be considered.

8.2.2 Trading Area

The **Trading Area** is the part of the **Footway Area** that may be utilised for the location of furniture and portable signage. A typical **Trading Area** will be at least 800mm wide.

In areas where the **Footway Area** width is 2.9m or greater, the preferred layout for the **Trading Area** is to follow **Option 2 - Footway Diagrams A and B**. This alternative will require a 600mm setback from the kerbside in front of the business premises. (See **Option 2 - Footway Diagrams A and B**).

As an alternative and where the overall space available in the **Footway Area** is less than 2.9m the **Trading Area** may be located immediately adjacent to the shopfront of the business premises. (See **Option 1 - Footway Diagrams A and B**).

Subject to an assessment of risks and satisfaction of the assessment, Council may allow for the width for the **Trading Area** to be varied depending on the total width of the footway, provided always that the **Pedestrian Area** and public safety can be maintained.

The **Trading Area** will allow business operators to place items of temporary street furniture in the **Footway Area**, and at the same time enable Council to conform with the requirement of the Australian Standards AS1428.2 and the Disability Discrimination Act 1992.

8.2.3 Pedestrian Area

In the past, businesses have displayed merchandise, tables, chairs and signs in **Footway Areas**. This use causes narrowing of the **Pedestrian Area** and creating hazards/obstacles for pedestrians. Council will only permit the placement of merchandise, portable signs or tables and chairs in the **Trading Area**.

To achieve an uninterrupted accessible path of travel, a minimum width of 1.5m as a **Pedestrian Area** will be required between the shop front and the kerb.

(Note: Temporary street furniture will not be permitted in front of any premises if the minimum 1.5m pedestrian area cannot be achieved.)

8.2.4 Kerbside Area

This area applies only to the alternative layout shown in **Option 2 - Footway Diagrams A and B** and will create a buffer between the face of the kerb and any temporary “commercial” street furniture.

The clearance required to delineate this area will vary depending on circumstances, with the following minimum clearances assessment requirements and exclusions to apply:

- **Parallel Parking** **0.6Metre**

This distance will allow a car door to be opened properly without coming into contact with temporary “commercial” street furniture. It will also provide sufficient space for the passenger to alight safely without being obstructed.

- **45 & 90 Degree Parking** **0.6 Metre**

The additional clearance is required to allow the front of a vehicle to overhang the footway when parking at a 45° or 90° angle-parking bay. This distance **may be modified to 0.2m** where there are wheel stops in place in the parking bays.

- **Disabled Parking Bays** **Not Permitted**

Council is required to ensure that there is sufficient clearance provided to create a safe area for people with disabilities to load/unload a wheelchair onto the footway from a vehicle. Layout of temporary street furniture as provided in the **Option 2 - Footway Diagrams A and B** will not be permitted in footway areas immediately adjacent to disabled parking bays.

- **Loading Zones** **To be determined on assessment**

Clearance must be provided for safety when truck doors are opened, and provide space for loading/unloading goods onto the footway. If sufficient clearance cannot be achieved, due to the narrowness of the footway, consideration may be given to furniture being 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. Assessment and suitability to be determined on a case-by-case basis.

- **No Standing/No Parking Zones To be determined on assessment**

At no standing/parking zones (usually located where there is safety or sight difficulties), ie pedestrian traffic lights, intersections, crossings, specific no standing signs etc, this distance will ensure standards of safety are maintained. Assessment and suitability to be determined on a case-by-case basis.

8.2.5 General Clearance Requirements

The following clearance requirements in respect to temporary street furniture and portable signage apply in all footway areas:

- **Council Street Furniture and Utility Infrastructure 1.5 metres**

This requirement is to ensure that the public, Council and other Utility Providers and their contractors are able to locate and have free access to rubbish bins, seating, fire hydrants, Aurora, Telstra, Gas Distributor and other utility access chambers and facilities.

- **Driveway Access Points To be determined on assessment**

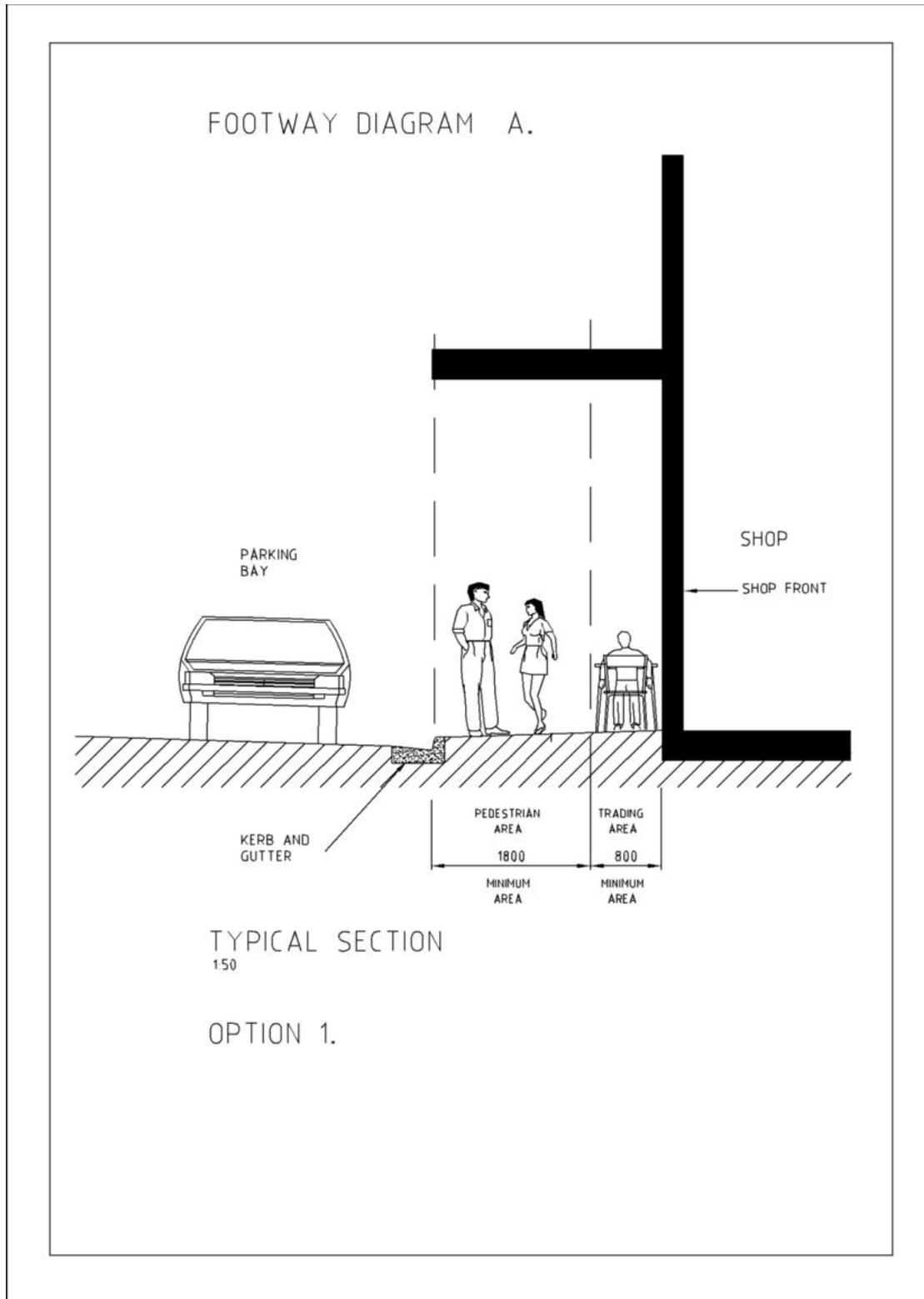
Items of temporary street furniture may cause safety or sight difficulties if it is located where there are concealed driveways. This may require assessment and suitability to be determined on a case-by-case basis in some instances.

- **Kerb Line at any Intersection To be determined on assessment**

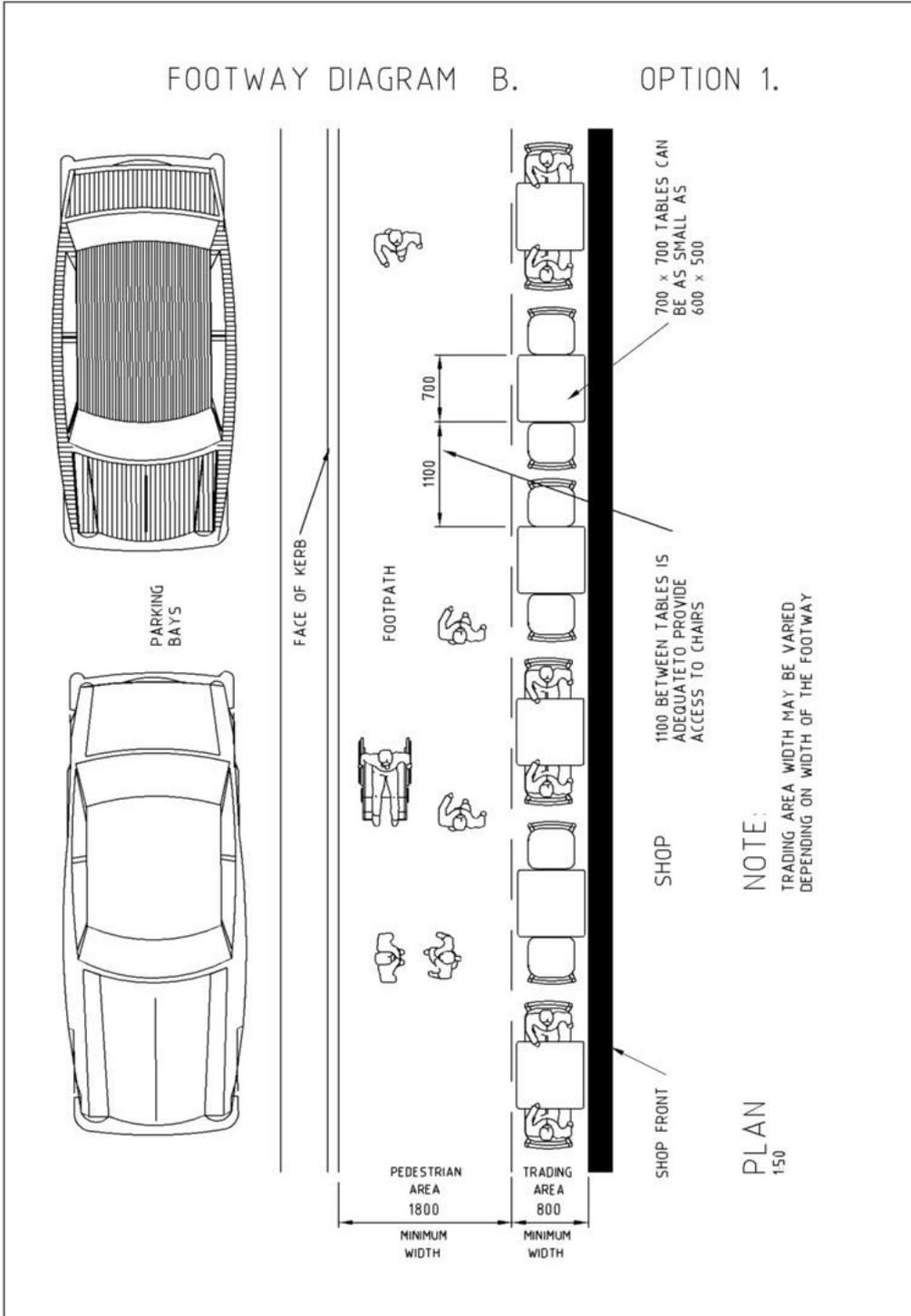
For safety reasons significant sight distances are required in these areas. Street furniture near intersections can be a safety hazard, causing sight difficulties for motorists and pedestrians. Eg Small children can run onto the road from behind street furniture without

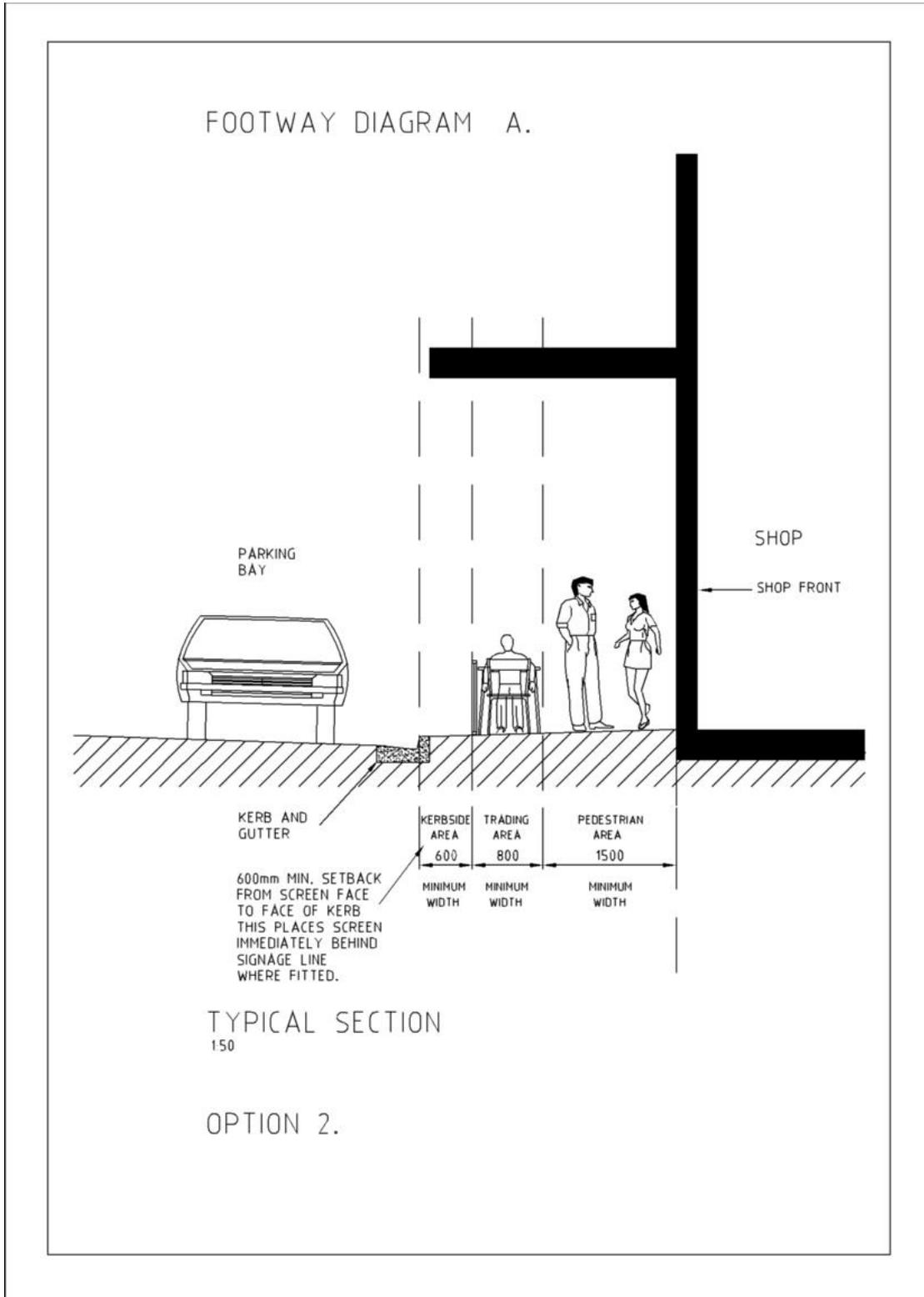
being seen by motorists. As such, areas near intersections generally need to be left clear, however, will be assessed on a case-by-case basis.

8.2.6 Footway Diagrams

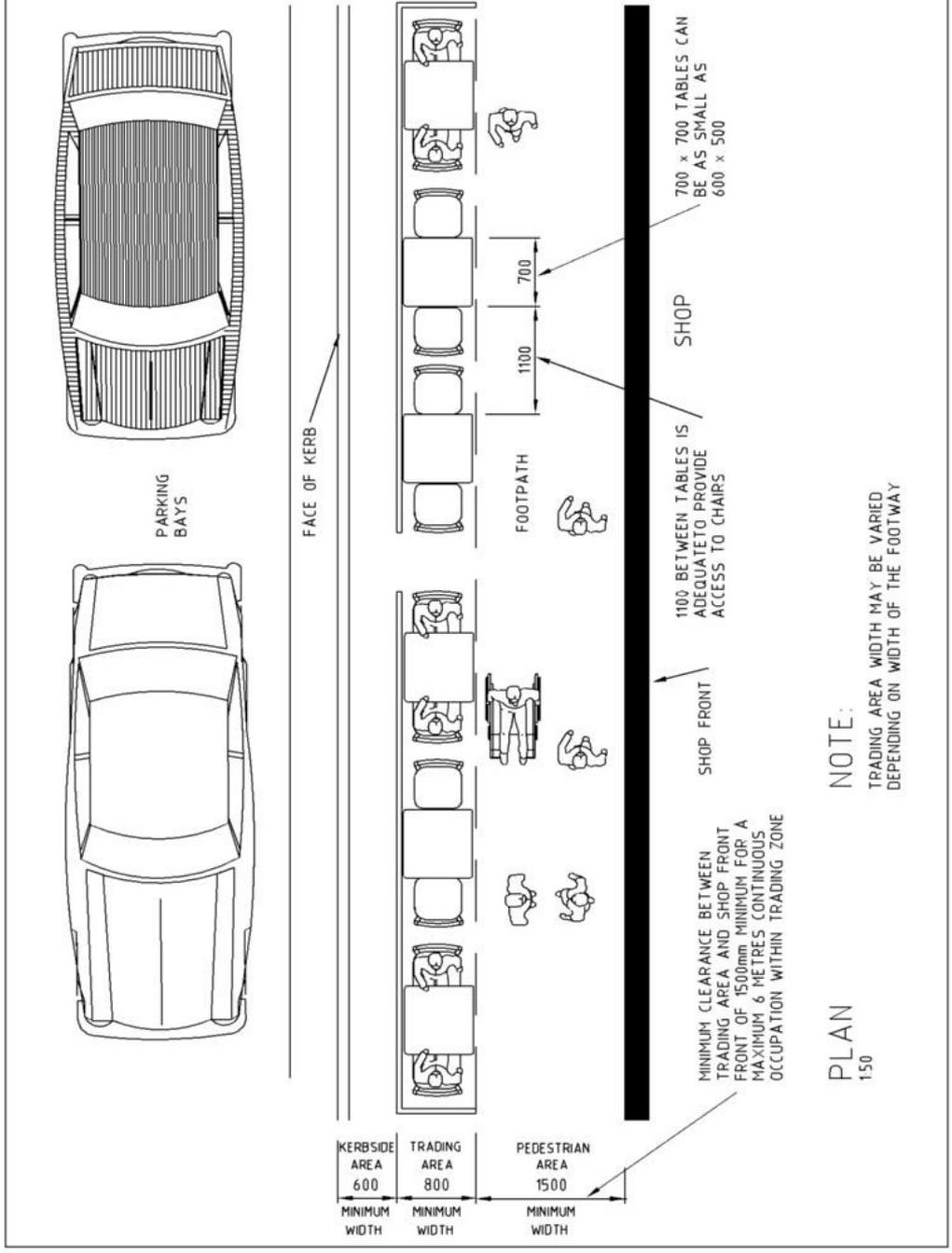


FOOTWAY DIAGRAM B. OPTION 1.





FOOTWAY DIAGRAM B. OPTION 2.



8.3 Classes of Temporary Street Furniture

8.3.1 Display of Merchandise

Merchandise will only be permitted to be displayed for sale within the **Trading Area**.

Structures for displaying merchandise must not be fixed to any part of the **Footway Area**, to street poles or to other items.

8.3.2 Portable Signs (Sandwich Boards)

Portable signs (sandwich boards) placed on the footway are a concern to Council (particularly in commercial areas) as they can clutter the footway, create a safety hazard and detract from the overall street appearance.

A permit may be granted to display a portable sign in the **Trading Area**, if all the following conditions are met:

- Only 2 signs/boards per business and/or property frontage will be permitted. In recognition of the unique heritage values of the Richmond Township, only one sign will be permitted per business and/or property frontage for businesses which are located within the Richmond Town Boundary. In the event that there are multiple tenancies within a single property frontage, then each application will be assessed on merit with special consideration to impact on public safety (shared signage can be considered in these circumstances).
- Signs/sandwich boards must not exceed the following dimension - 900mm high and 600mm wide.

- Signs/sandwich boards must be well constructed with rounded corners from quality materials and heavily weighted or anchored to the pavement to avoid causing damage in windy conditions. (See also safety requirements)
- Signs must not be chained, attached, or placed against any street pole, rubbish bin or other fixture in a **Footway Area**.
- No notices, signs or other objects are to be attached to the sign.

The following portable signs are not considered appropriate and permits **will not** be approved:

- flags or rotating signs;
- signs that are reflective and/or illuminated by any power source (including flashing lights, LED or TV technology);
- signs that emit any sound;
- signs placed in locations not directly adjacent to the business to which it relates (for directional or other purposes);
- signs that are primarily or have greater emphasis on the promotion of products rather than the business activity adjacent to which it is proposed to be installed;
- signs that display offensive material or material which contravenes the law.

8.3.3 Real Estate Agents' Signs

Portable signage used by Real Estate agents in association with the display and sale of properties will be permitted on the following basis:

- Real estate agents' (portable signs) must comply with the conditions for portable signs as set out in these guidelines.

- Consent licences will allow signs to be placed on the road reservation at or near a property for which the agent is acting and are to relate to the property being sold and not solely for the promotion of the real estate company.
- Signs may be used only in association with an auction, sale, display or open house of a property and is to be located immediately adjacent to the site at which these activities are being conducted.
- Signs are not to be installed remotely from the property to which they relate unless necessary to identify the property being marketed.
- Signs are not to create any hazard to pedestrians or vehicular traffic.
- Signs are not to impact on sight distances for pedestrians and vehicular traffic.
- One permit will allow an unlimited number of signs to be used by that agent at any one time at different locations.
- Signs are to be used only during the display, open house, auction or sale period and are to be removed from the **Footway Area** immediately when the display, open house, auction or sale of the property is concluded.
- Banners used in association with the auction of a property are not to overhang **Footway Areas**, unless there is a minimum height clearance of 2.4m.

8.3.4 Fingerboard Sign (permanently affixed directional signage)

Portable signs may only be displayed adjacent to the consent licence holder's premises. Portable directional signage will generally not be permitted.

Directional signage may however be permitted on the following basis:

- The inclusion of the consent licence holder's business or property details on "Directory" signage established by Council at the entrance points to commercial areas (eg Mornington Industrial Estate); or

- Where the business or facility is located near a main road a sign may be permitted that gives direction for the “purpose” of that business or facility. The use of such directional signage is on the basis of community benefit and assistance and is therefore not used to promote a business name or product. Generally it will refer to the function (ie butcher) rather than to a business name. With specific regard to the Richmond Township, the Council will continue to promote the use by businesses in Richmond of the less obtrusive and specifically design directional signage in the township.

Requests for directional signage will be assessed on a case-by-case basis and will take into account relevant practicality and safety considerations. Generally a maximum of 5 directional signs will be permitted in any 1 location, however, where practical, some exceptions may be accommodated.

Demand for directional signage in particular locations may be higher than that which can be accommodated. In view of this circumstance arising, the following priorities for sign placement will apply:

Priority 1: Recognised regional places and facilities of community significance eg Eastlands Shopping Centre, Clarence Pool, Bellerive Oval, Rosny College, Regional Library, Hobart Airport, locality identification, Emergency Services (fire, police, ambulance SES).

Priority 2: Local facilities, and, community and essential services eg doctor’s surgery, medical centres, chemists, parks, halls, churches neighbourhood shopping centres.

Priority 3: Local clubs societies and businesses: eg Bowls, tennis, hardware, butcher.

Council may, if practical, install a fingerboard/directional sign for an applicant at the applicant's expense. The priority of placement for such signage will be determined based on the above priority table.

These approvals may be varied from time to time and on rare occasions, Council may need to remove lower priority signs to accommodate those of higher priority. In such instances, alternative sites may be considered in consultation with the relevant party. Where no alternative is able to be identified the relevant party will be reimbursed for the costs incurred for the sign.

8.3.5 Advertising Signs

Permanent advertising signs within Footway Areas are not covered by these policy guidelines, and are dealt with by way of licence and where necessary, as part of a development approval process.

8.3.6 Cafes and Outdoor Dining

The following layout arrangements are to apply:

- Tables and chairs may be placed only within the **Trading Area**. The width of the footway that can be used is illustrated in Section **8.2.6 Footway Diagrams**.
- Tables and chairs should be accessible by all users. Tables should be of sufficient height to accommodate wheelchairs, with seats robust enough and of suitable design. Businesses will also need to comply with DDA requirements.
- Shade umbrellas should be secured with a flush mounted cast-in spigot base or other suitable alternative fastening arrangement.
- Screens around cafes are not mandatory but may be required in certain circumstances to ensure distances are maintained from the kerb for safety (see - **Kerbside Area** for details).

- In some situations, energy-absorbing bollards may need to be installed to protect diners from accidents by passing motorists. This will be assessed at the time of application.
- All furniture associated with cafes and outdoor dining must be appropriately anchored to safeguard against the risk of personal injury.
- Outdoor heaters and lighting that conform to Australian Standards may be placed in line with the table and chairs within the footprint of the **Trading Area** (**Note these items must be portable and free from any trip hazards**).
- A gap of 1.5m must be left at the adjoining shop boundary and/or a 0.6m gap in every 6m of café furniture to allow a person to safely step into the **Pedestrian Area** from the road (see also clearance requirements under **Sections 8.2.4 and 8.2.5**).
- Consideration will be given to proposals that include the use of other "non street" public place environments for the purposes of outdoor dining and will be assessed against the relevant clearance requirements, including those set for the **Pedestrian Area**.

Furniture associated with cafes must be set up in front of the premises to which the permit relates.

The following matters will be taken into consideration when assessing applications:

- Any proposed road or footway works/construction/maintenance.
- 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 outdoor dining screens.
- The curtilage area.
- The moveability of the furniture and its proper anchoring to the footway by an appropriate locking mechanism.
- The suitability of advertising on any outdoor dining screens.
- Access for footway cleaning by Council contractors.
- Access for rubbish removal (ie MGB's etc).
- The location of any existing street furniture owned by Council, (eg fire hydrants, signage, seating etc) or other statutory authority; ie Aurora, Telstra, Metro etc. The proposals must guarantee continued access.
- The permit holder will be required to keep the area occupied clean at all times and to ensure that there is no contamination of stormwater arising from the use of the area.
- The amount of signage already on the premises and whether the proposed associated furniture will cause "sign clutter".

8.3.7 Screens (Temporary)

Screens up to a maximum height of 1m may be placed on the kerb side of the **Trading Area**. (See **Option 2 - FOOTWAY DIAGRAMS A and B**).

Screens must only be placed out in conjunction with tables and chairs for outdoor dining and must not be permanently fixed to the footway or other street fixtures in any way, unless approval is sought.

Where screens are erected in front of adjoining premises, a space of 1500mm must be left between the screens of adjoining premises. This is to avoid an unbroken line of obstacles on the footway so as to allow a person to safely step onto the footpath from the road. Alternatively, where screens are erected adjacent to 2 or more neighbouring business premises, a gap of 0.6m must be left every 6m of continuous screens.

9. Safety

Public safety is paramount. Temporary “commercial” street furniture should not create hazards for pedestrians and other street users. The following factors will be taken into account when assessing and reviewing permit applications and will remain the obligation of permit holders:

- Temporary street furniture should be able to withstand windy conditions and movement by customers and other pathway users, particularly signage umbrellas, tables and screens. Adequate anchorage or weighting of these items is therefore required.
- Any glass or other material that is used in the construction of temporary “commercial” street furniture must comply with relevant Australian Standards.
- Any structure and furniture used in association with consent licence must comply with relevant Australian Standards.
- Temporary street furniture must not exceed height restrictions and must not have oscillating or moving parts, nor sharp, pointed or jagged edges, corners or protrusions.
- All temporary street furniture must be movable to facilitate footway cleaning, and must be removed from the public space or footway when the premises for which the permit is granted is closed.
- Umbrellas must be 2.4m high at the lowest point and no part of these items are to protrude into the road area beyond the **Footway Area**. This minimum height will ensure pedestrians are not at risk of receiving head or facial injuries when walking past umbrellas.

10. Renewals

Consent licences will be automatically renewed on a year-to-year basis without the need for a renewal application. Renewals, however, should not be regarded as of right and may be withdrawn based on the following considerations:

- Whether, from year to year, the policy conditions have been observed;
- Whether the quality of the temporary “commercial” street furniture, including signs and screens, are maintained;
- Any changes that have occurred regarding Council policies, legislation, intended use of the areas or other external factor that may impact on the permit arrangement; and
- Whether all reasonable requests made by Council officers have been complied with.

If any breaches of consent licence conditions exist then consideration of the consent licence renewal will be suspended pending the satisfactory resolution of such breaches. Having firstly taken into consideration any immediate public safety concerns, consent licence holders will be granted an appropriate timeframe to remedy any breaches.

Where it is considered a renewal is inappropriate as the consent licence can no longer meet the guideline and safety requirements of the policy or where the licence holder is not prepared to address any breaches of the licence conditions, the consent licence holder will be notified in writing of the reasons why the licence is being withdrawn and/or not being renewed. The Public Places and Permits By-law No. 1 of 2005 provisions will apply regarding the obligations of the consent licence holder.

11. Enforcement

Council's enforcement philosophy is to seek a co-operative approach in achieving compliance with Council's policies and guidelines. Random inspections will be made to ensure that all necessary consent licences have been obtained, and that licence conditions are being adhered to.

The following process will apply where a business operator is found to be breaching consent licence conditions:

1. A discussion with the operator will occur in the first instance.
2. If non-compliance with consent licence conditions continues, a formal letter (notice) confirming discussions and seeking compliance will be issued to the consent licence holder, supported by a written report (where necessary) detailing outstanding requirements.
3. For continued or repeated non-compliance following the issue of a formal letter (notice) to comply, then an infringement notice will be issued, the permit suspended and the enforcement provisions of the Public Places and Permits By-law No. 1 of 2003 will apply.
4. Possible prosecution of offender/s if persistent non-compliance occurs.

Where a business operator or property owner is found in breach of the policy in not obtaining a consent licence for temporary street furniture:

1. Council officers will advise the Business operator/property owner of the policy conditions and a letter/notice seeking compliance will be issued.
2. For continued or repeated non-compliance an infringement notice will be issued and the temporary street furniture confiscated as provided for in the Public

Places and Permits By-law No. 1 of 2003 (note: as provided in the By-law the return of the temporary street furniture will be conditional on the payment of the costs incurred by Council.)

3. Possible prosecution of offender/s if persistent non-compliance occurs.

Notwithstanding other arrangements (including during the transition period), it may be necessary where there is an immediate public safety concern arising from temporary street furniture being placed in a public space or footway, for Council officers to take immediate steps to seek the removal of these items. In such cases the provisions and procedures of the Public Places and Permit By-law No. 1 of 2003 will apply.

12. Arrangements for Pre-Existing Use of Public Space

12.1 Existing Use of Public Places

Council's policy and guidelines recognises that there are numerous cases throughout the City where there exists an established practice of utilising public places for the temporary placement by businesses and property owners of portable material connected with business activities. Of the different classes of temporary street furniture that have been identified in the policy, with the exception of portable signs, (sandwich boards and real estate agents) these classes have been regulated and approvals should be in place.

In order to achieve a consistent approach, existing practices need to be brought into alignment with the policy and guidelines. To this end a transition period for the implementation of the policy and guidelines will run for 3 months from the date of policy adoption by Council. This will allow sufficient time for users to achieve compliance with Council's policy and guidelines and to be issued a consent licence. The transitional arrangements set out below will be

applied to the existing use of public spaces for portable signs (sandwich boards and real estate agents) only.

12.2 Transitional Arrangements

As a transitional measure an amnesty from fees will apply for any existing use of public spaces for the installation of temporary street furniture by business and property owners. This amnesty will only apply during the 3 month transition period on the basis that an application is made by business and property owners to formalise their use by obtaining a consent licence.

The following arrangements and procedures will be implemented to achieve the outcomes of this policy and guidelines:

12.2.1 Audit of Public Spaces

An audit will be undertaken to identify (photograph and map plotting) all the existing temporary street furniture uses of public places in the City by business and property owners. This will be a point in time identification and as such, any temporary street furniture found at a latter stage will be treated as a new application and will not be covered by the amnesty.

12.2.2 Identification and Ownership of Temporary Street Furniture

The identification of ownership of temporary street furniture will be undertaken at the same time as the audit of public places in the City. Where the ownership of material cannot be ascertained then those items of temporary street furniture will be removed and stored in accordance with the Councils Public places and Permits By-law No 1 of 2004 as part of the audit.

12.2.3 Check for Existing Approvals/Location Verification

A check will need to be undertaken to ascertain if any existing approvals have been given in respect to the temporary street furniture identified in the audit. Additionally, the location (either private/public) of the temporary street furniture will need to be verified.

12.2.4 Advice to Owners of New Policy and Transitional Arrangements

A letter will be sent to the identified owners of temporary street furniture that is located within public places. This letter will contain the following advice and explanations:

- advice of new policy and transitional arrangements;
- advice that no fees will apply during the transitional arrangements (and for ongoing licencing of sandwich boards);
- explanation that owners of temporary street furniture will be required to indemnify Council;
- explanation of the process that will follow;
- enclose details of Council's policy and guidelines;
- enclose an application form to be completed;
- provide details of timeframes; and
- Request completion of application and/or contact with Council to inform of the owners intentions regarding their temporary street furniture.

Note: To assist this step it is proposed that a general brochure will be prepared to provide information and advice to the public concerning the detail of Council's policy and guidelines.

12.2.5 Consent Licensing

Where property owners apply and compliance with guidelines can be achieved consent licence will be issued.

12.2.6 No Response

In the event that no response is received from the owners of temporary street furniture identified in the audit, a follow up letter requesting co-operation will be sent.

12.2.7 Compliance Audit

A follow up compliance audit of temporary street furniture will be undertaken at the conclusion of the transition “amnesty” period, to ascertain any existence of any “unlicensed” temporary street furniture.

12.2.8 Warning Letter

A warning letter will be sent to any owners of temporary street furniture that is found to not to be in compliance with Council’s policy and guidelines and where there has been no attempt to seek a licence for the use from the General Manager. This warning will require a strict timeframe to comply and give warning that enforcement action will follow.

12.2.9 Enforcement Follow-up

After the transition period and final warning letter if business operators and property owners demonstrate an unwillingness to comply with the new policy and guidelines, or have not sought to formalise their use of public places of temporary street furniture, then enforcement measures will be taken under Council’s Public Places and Permits By-law No. 1 of

2003. This is likely to involve the removal of unauthorised temporary street furniture by Council officers.

13. Application Form

APPLICATION TO PLACE TEMPORARY STREET FURNITURE ON FOOTWAY

I/We (first name).....(surname).....

Of (business

name).....ABN.....

Business

address.....

.....

Contact Telephone Numbers –

Bus/Hrs.....A/Hrs.....Mobile.....

Herby apply for a permit to place outside my/our business premises a:

Portable Sign -

Cafes -

Number of tables....., Number of chairs.....

Screen Yes/No - Height..... Width.....

Umbrellas- Number..... Minimum Height.....Width of canopy.....

Are these tables and chairs additional to the number inside Yes/No?

The temporary street furniture is proposed to be located

at.....

Please draw a plan of the location of your business premises indicating the shop front, width of footway, kerb, the location of the proposed temporary street furniture and any other street furniture, installations etc. in the FOOTWAY AREA (refer to the FOOTWAY DIAGRAMS)

Please note:

- **You will be required under the Council licence conditions to maintain an indemnity in respect of the use/occupancy of public space for temporary street furniture.**



The signature on this application form indicates that I/We have read and agree to abide by the permit terms and conditions indicated in this policy

Applicant's Signature(s)