



FOOTPATH ACTIVITIES POLICY

Summary:

The purpose of this policy is to provide clear direction for commercial activities such as Advertising Sandwich Boards (A-Frames), Outdoor Dining & Street Vending while providing safe and accessible access for all community members and confirm Council's support for the vitality and economic growth of the town.

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Department	Environmental Management Planning & Regulations
Policy Custodian	Chief Executive Officer
Superseded Documents	Advertising Sandwich Boards Policy (No. 3.010) 23 August 2017 168/17 Street Vending Policy (No. 3.191) 23 August 2017 168/17 Local Approvals Policy (No 168/17) 23 August 2017
Delegations of Authority	Manager Open Spaces, Regulatory and Utilities Manager Planning & Development Services Chief Executive, Chief Corporate Officer Chapter 7 Section 68 Part D & E (2) of the Local Government Act 1993 Section 125 of the Roads Act 1993

1. Overview

The purpose of this Policy is to:

- Provide clear guideline for commercial activities, such as outdoor dining, display of goods and use of Advertising Sandwich Boards (A-Frame), on Council's footpaths;
- Confirm Council's support for active footpaths that support the vitality of town centres and promote economic activity, while protecting the rights of pedestrians using footpaths for their principle purpose as a path of travel, and
- Ensure that footpaths in Tenterfield Shire are safe and accessible for everyone in the community to use including people with prams, older persons and people with a disability.

2. Policy Principles

The principles of this Policy are to provide:

- A quality commercial shopping precinct that is safe and accessible to the whole community, and
- Clear, safe and unobstructed access at all times for pedestrians.

3. Policy Objectives

The objectives of this Policy are as follows:

Access and Equity

- To ensure safety and convenient pass of all pedestrians and customers when using public footpaths;
- To ensure the maintenance of clear view lines for both pedestrians and motorists, particularly near pedestrian crossings, street corners and key intersections, and
- To ensure adjoining premises are not adversely affected by any business use of footpath areas.

Council and Community Protection

- To protect Council, the community and the public interest from potential insurance and liability claims, while permitting use of public footpaths for business purposes;

- To effectively address risk management and insurance liability issues for Council;
- To ensure that business use of public footpaths will not cost the public purse, and
- To ensure that the amenity of the general public will not be compromised by the provision of business use to footpath areas.

Economic

- To enhance the economic viability of our local businesses by offering permits to use public footpaths for business;
- To ensure trading and enhance neighbourhood centres by providing a more vibrant and colourful atmosphere for shoppers;
- To provide for an active and integrated street front, and
- To maintain visibility and exposure of shopfronts.

4. Policy Statement

Street Vending, Advertising Sandwich Boards (A-Frame) and Footpath Dining

- Authorised Council Regulatory Officers will carry out inspections of commercial areas within the immediate central business district of Tenterfield township to identify any unapproved Sandwich Boards, Street Vending or Footpath Dining;
- When unapproved items have been identified, the owners of these unapproved items will be notified by letter of their obligations under the Local Government Act 1993. Written notification will be given advising the owner that they have fourteen (14) days to seek the correct approval;
- If approval is not sought prior to the expiration of this fourteen (14) day period, Council shall issue an on-the-spot fine under Section 626 (3) of the Local Government Act 1993 and may seize the offending items.
- A 1.8 metre wide unobstructed section of footpath is to be maintained at all times. In select instances this distance may be reduced, where the applicant can demonstrate that there is an accessible path of travel and that there will be no increased impact on pedestrian access when the goods are in place;
- A minimum of 600mm is to be maintained between all items and the kerb at all times;
- Preference is given to placement of items directly against the shop front;
- Pedestrian traffic along footpaths is to remain unhindered at all times;
- Footpath dining activities must account for relevant Food Safety and Alcohol Licensing requirements;

- Goods displayed for street vending must relate to the business being conducted at the premises, must be contained within the property side boundaries, must not extend more than 1 metre from the shopfront and be located so as not to obstruct any doorway;
- Street Vending, Advertising Sandwich Boards (A-Frame) and Footpath Dining approvals shall be based upon an approved plan, clearly identifying all proposed equipment locations, which is to be included on the application form;
- Any food, including tinned and packaged goods, displayed for Street Vending shall be at a height not less than 750mm above the footpath level. Displayed fruit and vegetables must be protected from contamination. Potentially Hazardous Foods (PHF) must be appropriately temperature controlled and comply with relevant food and traffic regulations;
- Goods and/or display stands for Street Vending must not be more than 2 metres above footpath level;
- No glass or breakables;
- All tables, chairs, signage, goods and / or display stands shall be secured or positioned to prevent them from being moved by wind or other forces and finished with no part protruding beyond the approved area, and with no sharp corners or trip hazards. All street vending, tables and seats shall be of a cast iron, wood or aluminium type in a traditional heritage style;
- All tables, chairs, signage, goods and / or display stands must be removed from the footpath when premises are closed;
- The area is to be maintained in a clean condition at all times. Waste generated is to be disposed of via the host premises and not into the gutter or street bins;
- No spruiking of goods is permitted;
- Cash registers or counter facilities are prohibited;
- Evidence of public liability insurance of a minimum of \$20,000,000 specifically indemnifying and listing Tenterfield Shire Council on the policy as an interested party. The policy must be held in the name of the applicant;
- Additional requirements may be imposed where there is no parking lane joining the footpath, or where location specific risks exist;
- Council take the necessary actions to establish an annual approval fee to be assessed, through public notification of the proposed fee in the Annual Fees and Charges;

- **One** Advertising Sandwich board (A-Frame) only will be authorised per premises and are not to be tied to poles, trees or other street furniture;
- Public street furniture is to remain available for use by the general public. Use of Council's street furniture for the exclusive use of café patrons or placement of tableware, tablecloths or umbrellas on or above a Council owned table is not permitted;
- For safety reasons, barrier screens or other suitable barriers will need to be provided where any tables and chairs are proposed kerb-side. The arrangement of barriers will depend on the site specific traffic and footpath conditions. Where traffic speeds are higher than 40km/h or where the footpath is adjacent to reverse parking spaces, café furniture must be suitably protected from vehicles and Council or the Roads & Maritime Services may require specific barrier types;
- Café chairs placed with their backs to the walkway zone must have sufficient clearance to ensure that when they are pulled out they will not obstruct the minimum 1.8m wide walkway zone, and
- It is important that predictable pathways be provided for people who are blind or have low vision. Café furniture must not be moved into the walkway zone at any time, including during wet weather. Any café furniture placed along the building line should have a solid base or be protected by a structure with a solid base and must be placed in the same position every day to ensure a predictable pathway is maintained.

Conduct of Patrons - Footpath Dining

The licensee is responsible for the conduct of patrons at tables and chairs in the outdoor seating area and must ensure that patrons do not move tables and chairs into the walkway or kerb buffer areas or allow pets, prams, bicycles or any other personal items to obstruct the walkway or kerb-side zones.

Cleanliness and Litter Control

- Each approval holder is responsible for maintaining the area within and around the Trading Zone in a clean and safe condition;
- Smoking will not be permitted at any outdoor table or seat approved under this policy;
- Items and structures on the footpath must only be placed on the footpath during the operating hours of the business, and
- The use of disposable tableware (plates/bowls, plastic straws, cutlery and containers) in outdoor cafes (other than for takeaways or special events) is strongly discouraged.

Alcohol, Noise and Entertainment

- Prior to the service or consumption of alcohol within the Trading Zone, an applicant must obtain and provide Council with a copy of a liquor licence that includes the relevant part of the footpath as part of the licensed area. Many of Council's footpaths are alcohol-free zones therefore; the licensed area must be delineated in some way so patrons are notified that they cannot take alcohol beyond the licensed area.
- No outdoor speakers, sound amplification equipment or jukeboxes are permitted on any footpath, except with the specific approval of Council. No live entertainment is permitted to be associated with a commercial footpath activity without the written permission of Council (excluding busking activities).

Ancillary Items (Umbrellas, Heaters, Planter Boxes and Pots, Screens and Windbreaks)

- In general, an approval will not be issued to allow ancillary items unless café furniture has also been approved. In order to place any such items on the footpath (even where permission has been granted for café furniture), they must be shown on the endorsed plan under the approval.
- All ancillary items must be removed from the footpath during periods of high winds and at the close of each business day.
- Portable outdoor gas heaters must be erected on stable, level ground and kept clear from overhead coverings including awnings, shade sails, umbrellas and other combustible materials that can be ignited by radiant heat. Portable outdoor gas heaters must comply with *Australian Standard AS 1596*, be certified by the Australian Gas Association and installed according to the specifications of the manufacturer.
- Umbrellas must be a minimum (at the lowest point) of 2.0 metres high above the level of the footpath, of robust design, secured at all times, and easily removable.
- Planter boxes and pots must provide a positive contribution to the visual amenity of the street and be maintained with healthy plants or else permission will be revoked and the boxes required to be removed. Planter boxes must be kept free from cigarette butts and other rubbish.
- Temporary canvas/barrier screens must be placed so that they are stable and secured or weighted so they will not be moved by patrons or weather conditions and shall not exceed a height of 1.2 metres above the footpath.
- Signage on barrier screens and umbrellas are permitted provided the name or logo of a business relates to the products/retail being sold in the business.
- Council may limit, at its discretion, the amount placed on the footpath.

Other Matters

Application processes are governed by the need for assessment in line with Legislative requirements, and although generally they will differ in details and time taken according to the type of work/activity proposed, there are a few fundamental processes followed.

Lodgement of an Application

Most applications and bookings have a specific form the lodgement of an application, dependent upon the nature of the proposal, fees may apply and where a fee is required, it must be paid at time of lodgement.

Council's fees are detailed in our annual fees and charges.

An application may be rejected within seven (7) days of receipt if it is not clear as to the nature of the approval sought, or if the application is not legible. Therefore it is necessary that applications contain all of the information relevant to the proposal.

Assessment Process

- Where an application has been accepted by Council, but the proposal is of a complex nature, more information may be sought from the applicant to ensure that Council's assessment can account for relevant areas;
- Where more information is required, Council will usually contact the applicant directly (by means of details provided with the application) within twenty-one (21) days of lodgement;
- Applications can be amended by the applicant prior to determination, provided the variations are only minor in nature. Should a major variation be required, the applicant may be instructed to submit a new application; and
- Applications under the Roads Act 1993 and Local Government Act 1993 are not required to be publicly notified, and generally will not be.

Determination

- Once assessed by Council, a notice will be issued to the applicant noting whether the application has been approved or refused;
- The period of approval is dependent upon the nature of the proposal, and,
- Where works/activities have not commenced, or where the activity is not held in the nominated/approved time, the approval may lapse. In such cases, and depending upon circumstances, the applicant can seek to lodge a new application with Council.

Review

Determinations made by Council can be reviewed under Section 100 of the Local Government Act 1993. A request to review must be made in writing within twenty-eight (28) days from the date of Council's determination. Review of determinations is final.

Enforcement of Approvals

- Where a person, persons or a commercial business is acting in contravention with an issued approval, or in non-accordance with specific Acts or Regulations, Council may take enforcement action in the interest of preserving public health and the environment.

Approvals issued under this policy may be modified, revoked or suspended by Council where:

- The approval is deemed to have been obtained by fraud, misinformation or concealment of facts, and
- For any matter arising after the granting of the approval, that may have caused Council to have rejected the approval had it arisen prior to the approval being issued.

Building Works

This policy does not include applications, consents and approvals for the undertaking of building works, which are subject to approvals processes under the Environmental Planning and Assessment Act 1979.

Approvals Related to Food Premises

Any applications/proposals under the provisions of this policy, and related to operations of a food premises (mobile or otherwise) must comply with the NSW Food Authority "Food Safety Standards Code", the Food Act 2003, and be related to a business registered with the NSW Food Authority.

5. Scope

This policy applies to the use of all Council-owned and managed footpaths within the Tenterfield Shire Council for the following commercial purposes;

- Outdoor Dining and / or;
- The display of Advertising Sandwich Board (A-Frame) signage, and/or
- Street Vending.

This policy applies to commercial footpath activities undertaken by an organisation (including community organisations and not-for-profits), individual or business. It does not apply to busking activities.

This Policy only applies to placement of temporary structures and does not include fixed outdoor furniture such as bike racks, fixed seating or awnings. Separate approval is necessary for permanent structures.

6. Accountability, Roles & Responsibility

Elected Council

Council is legally responsible for ensuring safe pedestrian walkways for people of all abilities and for regulating and managing commercial footpath activities.

Chief Executive, Executive and Management Teams

The Chief Executive, Open Spaces Regulatory & Utilities Manager, Executive Management Team and Managers are responsible for the development, approval and maintenance of procedures/protocols that support the Council's Policies.

Individual Managers

Business operators have a legal responsibility to obtain relevant approvals to use the footpath for commercial activities and to ensure they do not obstruct the footpath.

7. Definitions

Advertising Sandwich Board (A-Frame): blackboard or footway signage means any portable, self-supporting sign.

Classified Road: Roads and Maritime Services (RMS) exercise broad authority over some, or all, aspects of legally classified roads. RMS has delegated authority to Council to give consent to proposed outdoor restaurants on the New England Highway (Rouse Street) and the Bruxner Highway east bound (High Street).

Trading Zone: The area available for commercial footpath activities (Trading Zone) can be calculated as the remaining area of footpath once the minimum 1.8 metre wide pedestrian path and kerb buffer area have been excluded. The size of the Trading Zone in each area will vary depending on the width of the footpath.

Walking Zone: the area of footpath kept clear and free from any obstructions, allowing people to walk along the footpath unimpeded. This policy requires at least 1.8m be kept clear for walking.

8. Related Documents, Standards & Guidelines

- Local Government Act 1993
- Disability Discrimination Act 1992
- Roads Act 1993

- Local Government (General) Regulations 2005
- Local Approvals Policy 3.121

9. Version Control & Change History

Version	Date	Modified by	Details
V1.0	25 September 2019	Council	Adoption of Exhibition Draft Policy
V2.0	27 November 2019	Council	Adoption of Amended Policy
V3.0	21 December 2022	Council	Re adoption of Policy(Res No 248/22)