

# Street Activities Policy

**Category** Commercial Operators, Fundraising Agencies

**Date of Adoption by Council** 3 March 2020

**Directorate Responsibility** Partnerships Planning & Engagement

## Policy

This Policy guides the management of the use of footpaths / council land within the Whittlesea municipality for commercial and fundraising purposes by any individual, business or organisation.

It acknowledges the primary role of the footpath as a pedestrian thoroughfare and the importance of clear and unimpeded access for pedestrians of all abilities to ensure a safe and enjoyable experience on our streets and in commercial precincts.

## Context/Rationale

Street activity involves the use of public footpaths and land for commercial, charitable and community use purposes. Public open space and facilities are excluded from this policy.

Commercial purposes can include the placement of advertising signs (A-frames), display of goods, tables and chairs, planter boxes, screens, umbrellas, awnings and blinds.

Charity purposes include activities such as fundraising through sale of goods or raffles and highway collections.

Community purposes include such activities as community groups running pop up art activities.

Street activity can be a valuable use of public space and can add a vibrancy to shopping strips. It supports the local economy and provides businesses an opportunity to expand their available space and advertising. It also allows community groups and charitable agencies to engage with the local community.

Along with benefits there are also competing demands that must be balanced. It is important that any activity does not obstruct the view or passage of traffic, pedestrians, customers and businesses.

This policy establishes the factors that Council will consider prior to issuing a permit to ensure the interests of the whole area are taken into account and Council's statutory obligations are met.

This policy does not include Council, Community or Trader Association events such as festivals, markets or fairs. Council's Festival and Events Policy will apply in these circumstances.

## Definitions

### *Authorised Officer*

A person appointed by Council to enforce the local law under section 224 of Local Government Act 1989

### *Charity*

The Charities Act clarifies that to be a recognised as a charity, an organisation must:

- be not for profit
- have only charitable purposes that are for the public benefit
- not have a disqualifying purpose
- not be an individual, a political party or a government entity

### *Not for Profit*

Generally, a not-for-profit is an organisation that does not operate for the profit, personal gain or other benefit of particular people (for example, its members, the people who run it or their friends or relatives).

### *Non political*

Not of, dealing with, or relating to politics

### *Notice to Comply*

Written advice to the permit holder to undertake actions by a defined date to ensure they are following all the terms and conditions of the issued permit.

## Objectives

Council has the following objectives when considering street activity applications:

- Public safety:** footpaths are safe and have an unobstructed passage for all pedestrians and safe and unobstructed vision for road users
- Accessibility:** footpaths provide clear and unobstructed access for pedestrians of all abilities
- Economic benefit:** assist in developing thriving and prosperous business and shopping areas
- Amenity:** any activity will fit with the overall street character maintaining an attractive and clean visual amenity
- Interaction:** activity supports interaction leading to social benefits, street trading and alfresco dining as enjoyable activities
- Public Health:** enhance the outdoor environment by providing shelter from the sun and limiting the impact of tobacco smoke

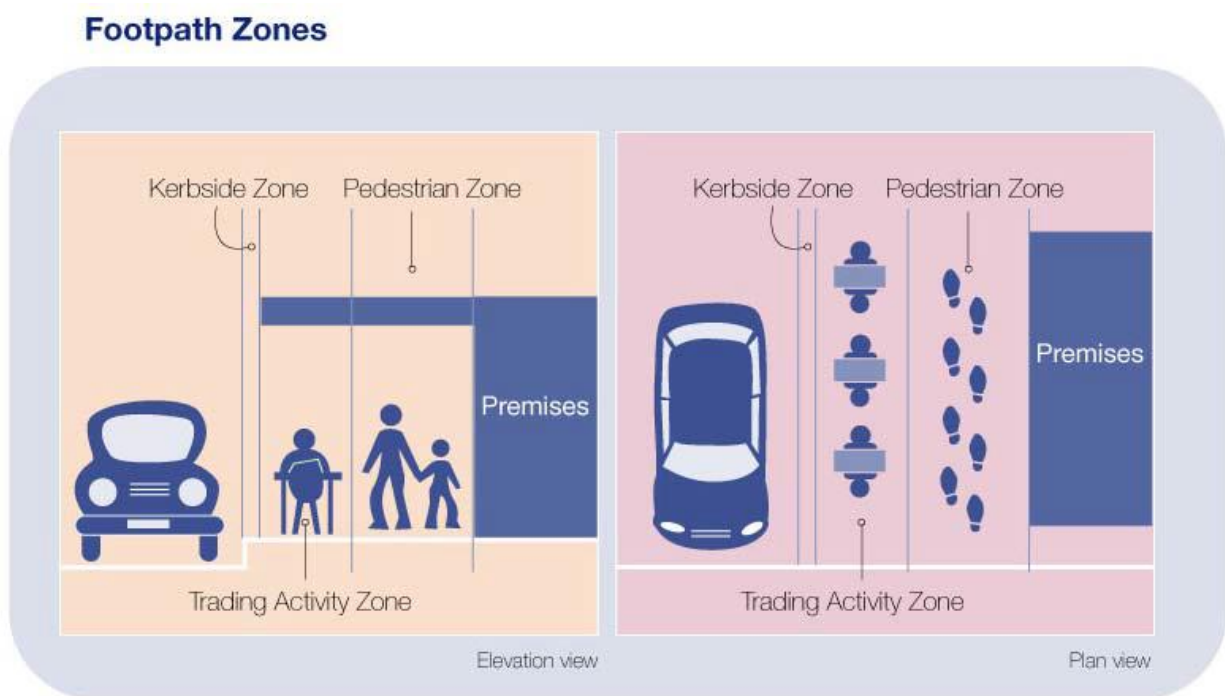
These objectives will be achieved by:

- a) A formal permit application process so Council can consider what the activity offers the area and whether it supports local business and community groups
- b) Permits must be issued prior to any activity occurring
- c) A clear set of permit conditions highlighting the responsibilities of the permit holder
- d) Council will monitor compliance with this policy and the conditions of relevant permits
- e) A breach or non-compliance with the permit or failing to obtain a permit will result in enforcement measures being taken

## Footpath Zones

Footpaths can be divided into three zones by their function. These are the **pedestrian zone**, the **trading activity zone** and the **kerbside zone**.

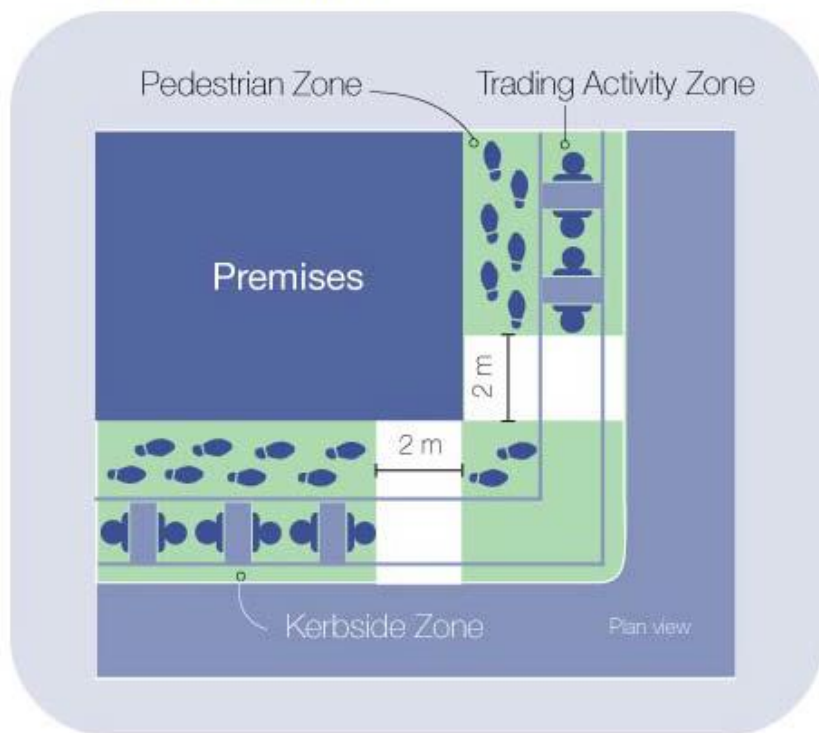
The size of these zones will vary depending on the width of the footpath. Footpaths less than 2.5m wide will not be considered for footpath trading activity as it will prevent a continuous accessible path for people of all abilities as required by the *Disability Discrimination Act 1992*.



Any footpath activity must be contained to the appropriate zone. The pedestrian zone must start at the building / property line and provide a safe, clear and consistent pathway to meet the needs of all users. In order to achieve this, activities or displays must be placed towards the kerbside and not the property line.

In order to protect the safety of pedestrians and motorists, no items must be placed within 2.0m of an intersection of building lines without the approval of Council's Traffic Engineering section.

### Corner Location



The below table establishes the minimum requirements for each zone based on the overall width of the footpath.

Total Footpath Width	Between 2.5 and 3.5m wide	3.5m and wider
Pedestrian Zone	Minimum 1.5m from the property line towards the kerb	Minimum 1.8m from the property line towards the kerb
Trading Activity Zone	Remaining area once walkway and kerbside zones are identified	Remaining area once walkway and kerbside zones are identified
Kerbside Zone	Minimum 0.6m from the kerb of the road	Minimum 0.6m from the kerb of the road
	Minimum 1.5m if a disabled parking space adjoins the footpath	Minimum 1.5m if a disabled parking space adjoins the footpath
	Minimum 0.7m if a loading zone adjoins the footpath	Minimum 0.7m if a loading zone adjoins the footpath

## Permits

Permits may be issued on an annual basis or depending on the activity will be issued for nominated time periods.

Unless otherwise specified all annual permits will expire on the 30<sup>th</sup> September.

A permit cannot be transferred due to change of business ownership.

Permit holders must advise Council of any proposed amendments to their existing permit.

Only not-for-profit, non-political organisations are permitted to conduct tin shakes following the issue of a permit. Permits will not be issued during the month of December. The maximum number of collections per organisation per year is four and applications will not be considered for any collections more than six months prior to the proposed date of collections. In some circumstances fees may be waived for community groups or charities but a permit is still required.

Permits under this policy will be required for:

- Tables and Chairs
- Goods display
- A-Frame signs / Teardrop banners
- Outdoor heaters
- Shade shelters, umbrellas, awnings
- Free / Fixed standing barrier screens
- Planter boxes
- Street performance (busking/ street art)
- Street promotion and fundraising
- Highway collections / tin shakes
- Community food stalls and sausage sizzles
- Real Estate agent pointer boards
- Handing out flyers / pamphlets

Each will have a defined set of guidelines or standards for implementation.

## Risk Assessment and Monitoring

All applications will be assessed against Council's standard risk assessment framework to ensure the proposed activity is within the acceptable range to proceed. This may include a site visit meeting with the applicant.

Council will conduct a minimum of one site inspection during the permit period where an annual permit has been provided.

## Fees

Fees will be applicable to the various street activities and these are determined by Council on an annual basis.

For annual permits a 6-month pro rata may apply.

Charities and not for profit community organisations will generally be exempt from payment.

A schedule of fees can be found on the council website at [www.whittlesea.vic.gov.au](http://www.whittlesea.vic.gov.au)

## Public Liability

Any business applicant for street activity must have a valid Public Liability Insurance Policy to the value of at least \$20 million for the duration of the permit.

The Policy shall extend to cover Council in respect to claims for personal injury or property damage arising out of negligence of the permit holder.

A copy of the Certificate of Currency will be required at the time of application and a new copy provided in the event it lapses during the permit period.

Small community groups or not for profit groups will be assessed on a case by case basis to determine the level of coverage required.

## Footpath / Street Cleaning

All furniture, signage and displays must be removed from the footpath at the completion of normal trading hours.

Shop owners (especially dining) must maintain their outdoor areas regularly during operating hours to remove litter and any slip hazards.

## Public Infrastructure

Whittlesea Council is responsible for providing various public infrastructure such as seating, signage, bicycle racks and rubbish bins. Street activity must not compromise the ability of the general public to access and use the public infrastructure.

As a general rule public infrastructure will not be relocated to accommodate activity on the footpath. The applicant may apply for public infrastructure to be relocated. If it can be successfully relocated, the applicant will be liable for the relocation costs.

Service authorities or Council may need to access the public land to undertake works or for a planned event. Where possible Council will give 7 days' notice in advance to any permit holders who may be affected. In an emergency sites may need to be cleared immediately.

## Enforcement

Council Authorised Officers will monitor the compliance of the Street Activities Policy and the conditions attached to relevant permits. Any breaches of Council's Local Law, policy or permit conditions will be investigated and if necessary enforcement action taken.

Council will adopt the approach of engaging and educating the permit holder and enabling the permit holder enough time to decide on whether to meet the permit conditions. Enforcement action will only be taken if the permit holder chooses not to comply with the requirements of the permit or this policy.

Enforcement action may include:

- Notice to Comply
- Official Warning
- Suspension of the permit for a period of time
- Cancellation of the permit for a set period or indefinitely
- Goods / items impounded
- Infringement issued
- Court prosecution (for failure to pay fines or repeated acts of non-compliance)

Prior to suspension or cancellation of a permit, the permit holder will have an opportunity to make a submission to the Manager City Safety and Amenity on the proposed enforcement action. Where a permit is suspended or cancelled, refunds will not be available.

Council reserves the right to cancel, suspend or amend a permit where the street activity detracts from or is detrimental to the safety, accessibility or amenity of an area or negatively impacts the wider community.

## References

<b>Acts</b>	<ul style="list-style-type: none"><li>• Disability Discrimination Act 1992</li><li>• Planning and Environment Act 1987</li><li>• Local Government Act 1989</li><li>• Road Management Act 2004</li><li>• Liquor Control Reform Act 1998</li><li>• Tobacco Act 1987</li><li>• Food Act (Vic)1984</li><li>• EPA Act 1970</li></ul>
<b>Regulations</b>	<ul style="list-style-type: none"><li>• City of Whittlesea Municipal Law 2014</li></ul>

<b>Standards / Guidance Materials</b>	<ul style="list-style-type: none"> <li>• Whittlesea 2040 – A Place for All</li> <li>• Economic Development Strategy – 2017</li> <li>• Street Activity Guidelines 2019</li> <li>• City of Whittlesea Natural and Built Shade Policy 2016</li> </ul>
<b>Policies</b>	<p>The following policies have been replaced by this policy</p> <ul style="list-style-type: none"> <li>• Footpath Trading (2007)</li> <li>• Appeals on Streets – Footpaths (1998)</li> <li>• Conduct of Street Stalls (1998)</li> <li>• Door knock Appeals (1998)</li> <li>• Highway Collections (1998)</li> <li>• Outdoor Raffles in Public Places (1998)</li> </ul>