



# 2019 Footpath Trading- Business Use of a Road Guidelines



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<b>Responsible Officer (s):</b>	Economic Development Officer
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<b>Legislation:</b>	Local Government Act 1999, reference Chapter 11 ( <b>S 221/222</b> ) Development Act 1993 Disability Discrimination Act 1992 Road Traffic Act 1961
<b>Related Documents:</b>	<b><i>Footpath Trading/Business Use of a Road</i></b> Policy & Application for Permit Corporate Risk Management Policy Risk Management Framework Relevant Australian Standards Care, Control & Management of Roads (Highways) by the Commissioner of Highways. <b><i>Operational - Instruction 20.1 (DPTI)</i></b>



# 1. Overview

The purpose of these Guidelines is to provide a framework for undertaking a business activity on a public road (which includes a footpath) throughout City of Prospect ("Council").

Council has a legal obligation to regulate business activity and ensure a safe and accessible environment for all users of its roads within the City. The Footpath Trading/Business Use of a Road Policy ("the Policy") enables Council to safely manage the needs of pedestrians, road users and business owners.

## Principles and Scope

The use of a public road to undertake a business activity (eg. outdoor dining), has become increasingly popular.

Council recognises the importance of a diverse dining and business experience to add vibrancy and economic prosperity across the City.

Council encourages and regulates commercial and non-commercial (business) activity occurring on Council roads (which includes the footpath area).

These guidelines set out principles with regards to the use of a road for the purposes of business and trading with special consideration for locations that impact neighbouring residential zones.

It is in the best interests of the entire community that a balance is found between the interests of various key stakeholders when activating a road for the purposes of business use.

**Note 1: A road extends from property boundary to property boundary and includes the carriageway, footpaths & verges.**

**Note 2: If a Footpath Trading/Business Use of a Road Application for a permit also requires *road altering* activities (pursuant to Section 221 of the Local Government Act 1999), the applicant must seek authorisation from the Council.**

**Note 3: Allowing business activity does not grant a person with exclusive rights to a road and in the majority of instances cannot exclude the general public from accessing the area.**

**Note 4: Each application is assessed on merit with regard to site characteristics as determined through risk profiling.**

These Guidelines should be read in conjunction with the Footpath Trading/Business Use of a Road Policy ("the Policy") and the Footpath Trading/Business Use of a Road Permit Application ("the Application") – for the purposes of applying for the (formal) use of a road.

## 2. Application of the Policy

### 2.1 Business Use (of a road) Activities

Business activities, such as outdoor dining, the placement of goods and products, will add vibrancy to City of Prospect. The use of A - Frame advertising boards is governed by the Local Government Act and By-Law 2 (Moveable Signs)

A request to *permit* an activity on a road will be assessed on individual merit and against Council's Policy. A localised assessment will be undertaken from a risk perspective and may require alterations to existing infrastructure and/or the installation of additional infrastructure (E.g. Energy Absorbing Bollards).

A business owner does not have a right to extend their business operation on the adjacent road without authorisation/permission from Council. Pursuant to the Local Government Act ("the Act"), Council has powers to allow and permit such a function where there is no compromise to safety, accessibility or amenity to the general community.

### 2.2 Granting of a Permit

Council reserves the right to not grant a permit to an applicant where safety, accessibility or amenity issues are negatively impacted. Council also reserves the right to cancel, suspend or amend a permit where activities are found to subsequently negatively impact on the wider community and/or detract from, or be detrimental to, the amenity of an area after the permit is granted.

### 2.3 Applying for Permit

To be granted a permit pursuant to the policy, applicants must complete and sign the permit application form, which provides a number of general conditions. Special conditions will be applied dependant on local and/or specific requirements.

Non-compliance with the conditions of the permit may result in the cancellation, suspension or amendment of the permit.

**An approved permit is valid for four years and invoiced for associated fees each year.**

**New applications are subject to pro rata payment of fees, depending on the time of year a Permit is issued by Council.**

### 2.4 Change of Ownership

A new application is required when a business changes ownership. This includes application form, site map, insurance certificate and liquor licence (if required).

### 2.5 Various Permits & (other) Licences

The granting of a permit is not consent to conduct any activities that are subject to control by other legislation, i.e. Liquor Licensing 1997, Tobacco Regulations, and the Development Act 1993.

**A permit is required for all business activity on a council road. The permit holder is liable for any breach of the conditions set out in the policy, including those breaches committed by their employees or volunteers.**

Once a permit is granted, it must be displayed in a prominent location within the premises and must remain visible within the public area of the premises.

## 3. Legislative Protocols & Alignment to Corporate Goals

The Local Government Act 1999 (“the Act”), provides the (legislative) power to allow and manage a business activity on a road\*\*.

### 3.1 Local Government Act 1999

Where the business activity is operating on a public road (including the footpath area), a Permit is required from Council, pursuant to Section 222 of the Act. Any alteration to the road requires an authorisation pursuant to Section 221 of the Act.

Considerations for business use of a road will include (but are not limited to):

- The proposed business activity on the road (including footpath area);
- The requirement for permanent fixtures and fittings (including those that may require approval under the Development Act 1993) and the location and maintenance of furniture and fixtures;
- The term of the permit to allow the business activity;
- Any requirements of the Public Consultation Policy.

*The provisions of the Act do not apply to a person who has some other statutory authorisation to make an alteration to a road (eg a Public Utility).*

### 3.2 By-Law No.2 - Moveable Signs

By-Law 2 is developed to set standards for moveable signs on roads. It provides conditions for (and the) placement of signs (including A-Frame signage)

This by-law can be found on Council’s website - [www.prospect.sa.gov.au/by-laws](http://www.prospect.sa.gov.au/by-laws).

### 3.3 Development Act 1993

The erection of some fixtures may constitute building work for the purposes of the Development Act 1993 and therefore will require the approval of Council. Where the proposed fixtures are of a temporary nature they may be deemed not to constitute building work or change in land use. Applicants should contact the Development Services section of Council to determine if a development application would be required.

Changes of a more permanent nature or for a longer period are likely to be subject to a development application pursuant to the development legislation and Development Services staff can confirm this on a case by case basis.

### 3.4 Disability Discrimination Act 1992

Matters requiring consideration under the Disability Discrimination Act 1992 would include (but not be limited to):

- to eliminate, as far as practicable, discrimination against persons on the grounds of disability in the areas of:
  - a) access to premises
  - b) the provision of goods, facilities and services

### 3.5 Council's Strategic Plan – TOWARDS 2020

**Prosperity:** - *More Jobs, More Investment, More Activity, More Vibrancy*

**Place:** - *Loved Heritage, Leafy Streets, Fabulous Places*

**People:** - *Know, empower, celebrate, educate and activate our Community*

**Services:** - *Leaders of the Sector, providing efficient, responsive, accessible services*

**\*\* Road** means a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes—

(a) a bridge, viaduct or subway; or

(b) an alley, laneway or walkway;

## 4. Business Use Activities

**4.1** The following will be “guiding points” to assess an application in commercial and retail areas:

- Roads (including footpaths) will remain a Council asset.
- Council seeks to ensure that appropriate roads are activated for business use.
- Adjacent businesses have first option to activate the area immediately adjacent to their premises.
- The concept of ‘use it or lose it’ is the prevailing sentiment and Council will encourage the general use of all areas in commercial/retail zones to drive economic benefit and vibrancy.
- Business use does not give exclusive rights (of a road) in any capacity.
- Council retains the right to make any (and all) decisions on a permit application and will consult with adjacent businesses where appropriate.
- Trading on the footpath or road does not constitute a change of use for a business premises.

### 4.2 Location of (Footpath Trading Areas) on a road

In determining whether a location is appropriate for business undertaking, safety and the reasonable ease of flow by the general public will be a core consideration of Council.

*Australian Standard AS1428 (Design for Access & Mobility)* provides information regarding the clear and continuous path of access for pedestrians, though does not specify the location of the access way.

Information provided by Blind Citizens Australia (Adelaide branch) recommends that a *clear and logical path of travel is best achieved by providing a clear space next to walls or shop fronts*. Council will determine the most reasonable placement of furniture & fixtures, dependent on the road and the merits of an individual application.

Council's preference is for no seating along the building boundary to allow those who are sight impaired to use the wall as a reference point. However, historical permit approvals and varying building boundary alignments have resulted in seating being approved on building boundaries.

A clear, hard surfaced walkway, with a minimum width (from 1200mm) for general thoroughfare will be required and maintained at all times in all areas. Tables, chairs and ancillary items (umbrellas etc.) must be placed a minimum of 300mm back from the kerb in all areas as per below (Figure 1/ Figure 2 indicates birds eye view). Any costs associated with additional paving will be borne by the applicant.

Items are to be placed within the boundary of the area as permitted taking care not to cover paving that has been laid to offer guide points for those who are sight impaired. (See examples of tactile and directional paving in Figure 3).

Where a business entry/exit opens to an outdoor dining area, the distance from the building should be 1800mm to allow adequate cross over distance ie. a person with a pram exiting a café can easily pass a wheelchair as it travels along the footpath.

*Figure 1. Footpath Trading Site Example (Council Preference)*

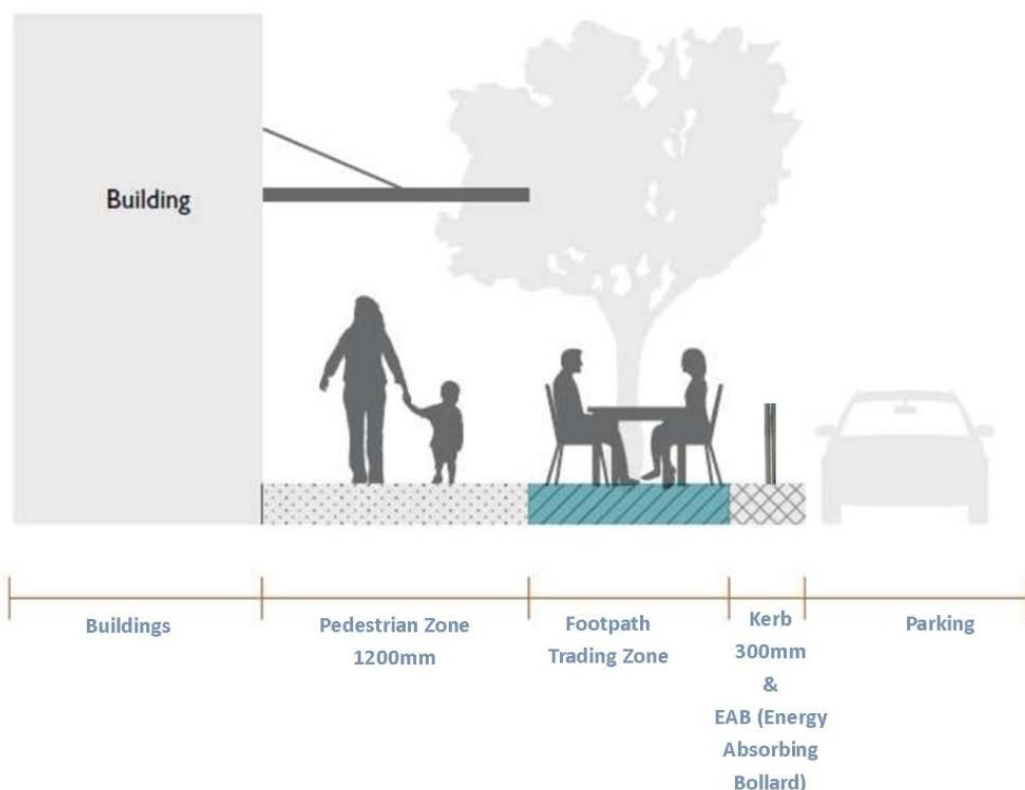


Figure 2. Basic Footpath Trading Site Example (Birds Eye View)

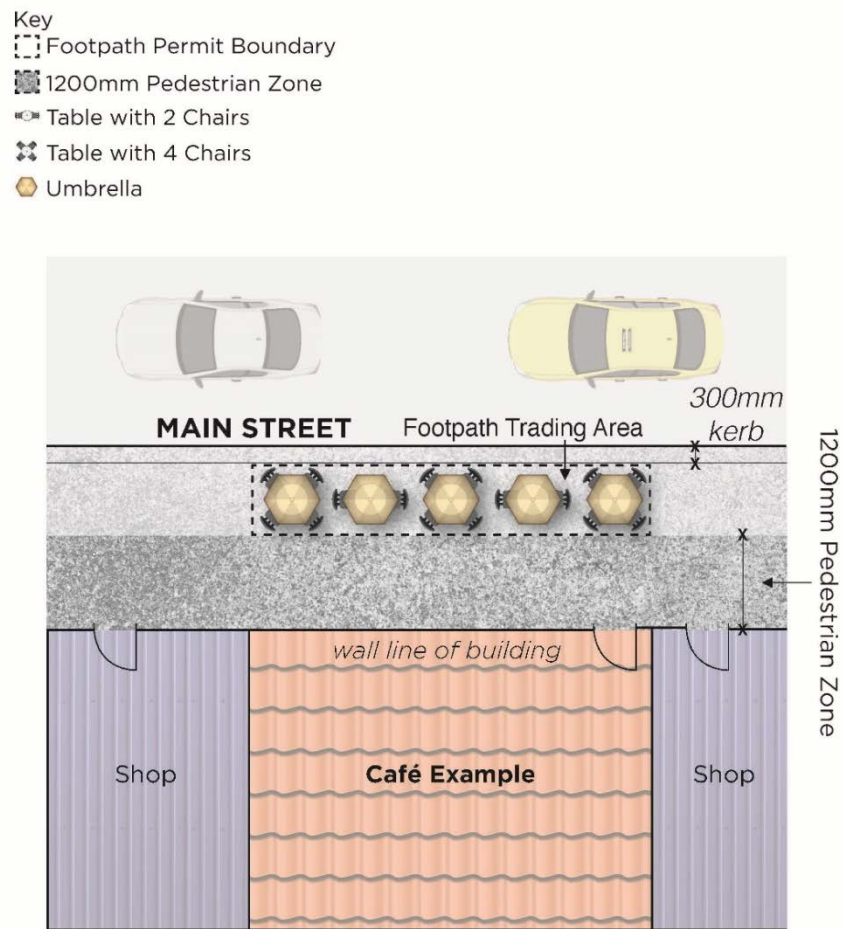


Figure 3. Examples of tactile and directional paving.





## **Wheelchair access**

The following issues should be addressed to make the areas wheelchair accessible:

- Can a wheelchair fit easily under at least some of your tables?
- As a guide, a table surface height of 750mm - 850mm is recommended
- Can a wheelchair access at least one of your dining tables without impeding pedestrian movement space?

Whilst the above arrangements are considered best practice, all applications will be assessed on the merits of the application and from a risk perspective.

### **4.3 Loading Zones:**

If a business faces a Loading Zone, providing all other requirements are met, Council may permit the placement of objects (i.e. tables and chairs/goods) in a reduced trading capacity to ensure that a person unloading a vehicle can safely access from the road. Council will determine the space to be allocated in these circumstances.

### **4.4 Footpath Trading on a road (footpath) areas**

The capacity to facilitate and allow footpath trading at certain locations is an important part of creating an attractive, vibrant, active street scape and attract further visitation to City of Prospect. Council has the responsibility to ensure that any activities taking place on the footpath do not compromise access and general safety.

Footpath trading is appropriate as long as the footpath in a particular location is of sufficient width to enable the placement of tables and chairs and other fixtures without unreasonably limiting pedestrian access or the safe and continuous movement of vehicles on the adjacent carriageway.

Furniture not contained within the permitted area prevents pedestrian traffic flow, which may cause congestion or force pedestrians onto the road, creating serious personal safety issues. Furniture obstruction may also cause injury to both people and property.

The permit holder is responsible for ensuring patrons keep furniture within the permitted boundaries and to keep all pedestrian clearances and tactile indicator paving clear and safety requirements maintained at all times during outdoor dining and/or street trading operation.

Outdoor dining should be associated with an adjacent restaurant, café or other approved premises providing sit down meals or take away options.

### **4.5 Footpath Trading extension beyond Permit Holder's boundary**

The extension of outdoor dining along the footpath into areas that are not directly adjacent the associated business will only be permitted where the relevant adjacent business elects not to utilise the area and Council agrees to a permit for that location.

Extension of footpath trading beyond the principle (adjacent) premises will be at the sole discretion of Council. Should the adjacent business change ownership permission to continue to operate must be sought from Council. The General Terms and Conditions of Permit will apply in these circumstances.

#### **4.6 Disposable cutlery, crockery and containers**

In order to help maintain quality outdoor dining spaces, utensils for outdoor dining will generally be non-disposable, unless approved to provide for special events (e.g. Tourrific Prospect) and conform with Council's environmental policies. For special events, compostable items may be required in an effort to reach 'zero waste' status. Council can provide further information about where to find appropriate compostable/recycling cutlery upon request.

#### **4.7 Special Events**

When special events are held in the vicinity of permitted areas, the requirements for each special event will be communicated to permit holders and any revised arrangements negotiated.

## **5. OPERATING GUIDELINES**

### **5.1 Conduct of Business**

The following conditions apply to all permits, pursuant to the Policy:

- The permit holder must not allow a nuisance to exist on or emanate from the business area nor allow offensive activity.
- The permit holder must not allow the activity to detract from the amenity or safety of an area, nor negatively impact on the wider community.
- No storage of goods will be permitted on the footpaths
- No entertainment shall be allowed without the written consent of Council.
- Only the business activity approved by Council shall take place within the designated approved area.
- A defined pedestrian area (determined with Council) must be maintained for pedestrians at all times.
- The area must be kept clear of all rubbish/waste/refuse/food at all times.

It is the responsibility of the permit holder to ensure that patrons do not:

- Move any tables, chairs or ancillary items outside the permitted area, and to ensure that there is no obstruction created from the movement of these items.
- Obstruct the footpath with pets, prams, bicycles or other personal items.
- Congregate in the clear walkway area.

It is also the responsibility of the permit holder to make sure that their employees:

- Do not serve food or beverages outside the permitted area.
- Do not inhibit pedestrian movement in the clear walkway areas.

## **5.2 Pedestrian Access (from the road)**

To avoid obstructions so as to allow a person to safely step onto the footpath from the road, a space of 500mm must be left every five (5) metres or where the shop frontage ends. This is particularly important where there are two premises side by side that have tables and chairs, enclosures or goods on display.

## **5.3 Road Safety**

Footpath trading areas must not impact on traffic safety, including vehicular and cyclists' sightlines. Permit holders must follow Council's guidance in relation to the relevant road rules.

Where business areas are located near an intersection or are in a position perpendicular to the line of the kerb, they should be set back from the corner to a minimum of the existing building alignments, to maintain road users' sightlines. Road users' sightlines should be maintained in accord with the Austroads Guide and any other relevant standard.

## **5.4 Energy Absorbing Bollards**

A risk management assessment will determine general safety for proposed outdoor dining locations and in some cases may require the installation of Energy Absorbing Bollards (EABs) especially where outdoor dining is located close to a high use traffic lane or intersection. (Figure 1 above).

Installation of EABs will be at the cost of the Permit Holder.

## **5.5 Protuberances**

The construction of new protuberances to facilitate business areas will be considered on the merits of a particular site and may be subject to the adjacent business meeting any or all costs involved in such a construction.

## **5.6 Urban Design**

Business areas can effectively complement and enhance the existing streetscape character of a precinct. It is important that the design and layout, furniture and accessories are in keeping with the key character elements of the precinct. An application must be made to Council (form available on [www.prospect.sa.gov.au](http://www.prospect.sa.gov.au)) and approval must be gained before commencing works.

## **5.7 Partial Enclosures**

In order to extend comfortable outdoor dining during the cooler months and physically define the permitted outdoor dining area, operators may consider partial enclosure. Partial enclosure may take a number of forms, including drop or roll down blinds made of clear plastic, screens (both fixed safety glass screens and temporary) protection barriers, and planter boxes.

Partial enclosure may be considered appropriate, as it provides an additional level of comfort for the patrons, and promotes the business and the City as an attractive destination. Partial enclosure must respect the role of the area as a public space and should not alienate pedestrians. It must not promote a sense of exclusiveness or obstruct access for vulnerable persons. The enclosure should not interfere with road users' sightlines and general road and traffic safety issues.

To assist with the assessment of applications to partially enclose, the following factors will be considered:

- The area must be enclosed on no more than two sides to maintain accessibility and openness.
- Any enclosure structure positioned perpendicular to the kerb must enable an area of free and unrestricted access to the public.
- Enclosure structures must not obscure general visibility.
- Enclosure structures, fixtures and diners must be positioned an absolute minimum of 600mm from an EAB.
- Enclosure structures may be used for advertising relevant to business use as long as the sides are see through and do not cause obstruction or distraction for drivers.
- Enclosure structures must be structurally sound and fixed close to ground level, to avoid personal injury and property damage.
- Enclosure structures should be cleaned regularly and maintained in good condition at all times.
- The maximum horizontal length of a screen or blind structure should not exceed fifteen (15) metres. A maximum of three such structures are permitted per operator, per street frontage, so as not to unduly impede pedestrian access crossing the road. At intersections, enclosure structures must be positioned so as to avoid creating 'line of sight' traffic hazards. For structures greater than 500mm in height, a setback from any corner of intersecting streets is required to maintain road users' sightlines. Motorists' sightlines should be maintained in accord with the Austroads Guide and other relevant Standards.
- Enclosure structures should not result in the need to relocate any (Council) street furniture, trees, utility or other assets.
- Enclosure structures will be at the operator's cost.
- Notwithstanding these requirements, which may apply in heritage areas, transparent screens and blinds should have a solid edging in a primary colour and a horizontal 100mm solid line at the midway point to maximise visibility for sight impaired persons.
- Materials used should not generate an unreasonable level of glare for road users.

## **5.8 Screens**

- Screens are to be a maximum of 1500 mm in height.
- Screens greater than 900mm in height should be constructed of a durable and transparent safety material.
- Screens must not obscure visibility.



## **5.9 Blinds**

- The placement of blinds within a permitted area will be approved by Council on a case by case basis.

## **5.10 Furniture**

Street furniture must consider any relevant standards and should be selected for durability, style and to ensure that it complements the streetscape area. The permit holder is responsible for the provision and maintenance of the furniture.

Furniture should be of standard dimensions and should not overcrowd the area. As a guideline, the following minimum space is desired:

- Two (2) person table and chairs – 2 sqm;
- Three (3) person table and chairs – 3.5 sqm;
- Four (4) person table and chairs – 4 sqm.

Furniture and other fixtures should not cause trip or other hazards. Dining and display structures may not be fixed to the footpath (unless authorised) and are to be removed outside of business trading hours (unless fixed or semi-permanent). Furniture, awnings, barriers and other ancillary items are not to obscure or obstruct the view of any advisory or regulatory signs and traffic controls.

Furniture and other ancillary items may only be affixed to the footpath where:

- Written permission is received from Council, specifying the type and style of fixing.
- No other suitable method of fixing is considered available by Council.
- The fixing of the furniture and other ancillary items is designed for the express intention of providing shelter and safety to the public.
- All anchor points are recessed or removable so as not to present a tripping hazard for pedestrians when the furniture and other ancillary items are removed.

As the fixing of tables and chairs to the footpath is not a preferred option, Council will only support if the circumstances are unique for a specific location.

Tables, chairs and other furniture must be kept clear of all required fire exits of the premises of adjoining premises. This includes fire hydrants.

## **5.11 Ancillary Items**

In addition to routine furniture such as tables and chairs, business activity can be enhanced via the provision of additional features such as planter boxes, heaters and umbrellas.

Any additional features should be complementary to the streetscape of the area and should be constructed and maintained to a high commercial standard (refer Standards Australia).

The establishment of accessories is at the expense of the operator/trader and must not result in the need to relocate any existing (Council) street furniture, fixtures/services or trees.

Section 234 of The Local Government Act gives Council the authority to remove any items that do not comply with these guidelines. The Act states:

- (1) A council may remove and dispose of any structure, object or substance from a road if -

(a) it has been erected, placed or deposited on the road without the authorisation or permit required under this Part; or

(b) an authorisation or permit has been granted but has later expired or been cancelled.

(2) The council may recover the cost of acting under this section as a debt from the person who erected, placed or deposited the structure, object or substance on the road.

(3) If, as a result of any accident involving a vehicle or vehicles, any wreckage, objects or materials are left on a road, the council may clear the area and may recover the cost from the driver of the vehicle or, if more than one vehicle was involved, the driver of any one of the vehicles.

## **5.12 Planter Boxes**

Screens and planter boxes must not be placed where they present a physical/visual barrier or danger to pedestrians or people alighting from vehicles. This would be assessed by City of Prospect's transportation engineer and any works would be at the expense of the applicant.

- Individual planter boxes should have a minimum width of 500mm and (if rectangular) a maximum length of 1.2 metres.
- At an intersection or roundabout, the entire box (including the height of the plant) must not exceed a maximum 1.0m as per Australian Standards to provide clear sightlines of oncoming traffic.
- At other locations (not intersections or roundabouts) the maximum height is 1.5m
- Boxes should not have sharp edges.
- When placed in a position horizontal to the kerb, there should be reasonable gap between each box, or other structure, to allow for access for pedestrians.
- Planter boxes must be constructed of durable materials.
- Discharge from the planter box is not to enter into the stormwater system and discharge is not to stain the pavement or create a hazard.
- Planter boxes and plants must be maintained to high standard. Untidy and poorly maintained planter boxes will result in the suspension of the Permit.
- Must be placed 30cm from the curb.

## **5.13 Umbrellas**

- Umbrellas, when opened, must have a clearance of a minimum of 2.2 metres above the footpath level and not overhang onto bike lanes
- Umbrellas must be secured, and must be closed or removed during extreme wind conditions.
- Side curtains to umbrellas are not permitted.
- Umbrellas must be maintained in good condition at all times.
- Umbrellas must be removed when the area is not in use.

#### **5.14 Heaters and Cooling Units**

- Heating and cooling units may be installed with the permission of the Council. Such units should be specifically designed for outdoor operation and comply with relevant standards.
- All heating and cooling units must be operated by the operator or employees and must not be able to be accessed by patrons.
- Heaters and cooling units must be serviced and maintained regularly and should be equipped with emergency shut off valves or switches.

#### **5.15 Lighting**

- Where business activity occurs outside daylight hours, adequate lighting must be provided by the operator in order to ensure safety of pedestrians and the amenity of the area is maintained.
- Chasing and/or flashing lights are not permitted in outdoor dining areas (excluding fairy lights for Christmas decorations).
- Lighting should be maintained in good working order and should not create unreasonable spill into neighbouring properties.
- Lighting must not be a distraction to road users.
- Decorative Christmas lights are encouraged between 1 November and 6 January.

#### **5.16 Advertising**

Advertising signage will only be permitted in accordance with the requirements of the Development Act 1993 and By-Law No.2-*Moveable Signs*. One A-frame sign is permitted per property and may only be displayed in front of the business to which it relates, and must not obstruct the 1200mm allowed for the walkway.

#### **5.17 Identification of Business Areas**

The permit holder is required to display, in a prominent location, the actual permit provided by Council indicating the permit area, showing approved furniture/structures. This identifier must be visible to the general public.

#### **5.18 Maintenance**

The permit holder is to maintain the area, (including the footpath) in a clean, hygienic and tidy state at all times.

Dining locations are required to be swept and mopped frequently during trading hours to ensure that spillage of food and beverages does not cause staining and litter does not escape within or outside the designated business area.

Waste and sweepings are not to enter into the gutter.

The disposal of waste and wastewater into the gutter and storm water constitutes an offence.

#### **5.19 Table Service**

Outdoor dining areas will be approved, in most instances, only where table service is provided.

Waste is to be disposed of appropriately by the permit holder (Council prefer the use of food recycling arrangements to be in place) and such waste under no circumstances is to be deposited in public litter bins or allowed to enter the stormwater system.

Food for table service is to be prepared in the business premises and not within the permitted area.

### **5.20 Consumption of Alcohol**

A general permit does not allow the supply and consumption of liquor in the designated area. A separate (liquor) licence must be obtained for the consumption of alcohol through Business and Consumer Services ([www.cbs.sa.gov.au](http://www.cbs.sa.gov.au)).

Alcohol can only be served and consumed in the designated area with the appropriate licence.

A copy of the liquor licence for the specified outdoor dining area must accompany the application or renewal form.

### **5.21 Animals**

Enabling animals to sit quietly underneath or beside tables in outdoor dining locations provides pet owners with additional freedom and can provide additional benefit to businesses, attracting pet owner customers.

At the discretion of the permit holder, allowing animals in a designated area can only occur when they are under the effective control of the owner (must be on a leash) and are not being fed within the outdoor dining area.

The permit holder may deny the entry of animals to a defined outdoor dining area under their responsibility, but may not prevent animals from passing by the pedestrian corridor.

Water bowls may be provided for dogs, in particular during hot weather. These bowls must not be placed within the pedestrian corridor and must not become a tripping hazard.

### **5.22 Smoking**

Smoking is forbidden within a designated permitted business area.

The permit holder must agree to a 'no smoking' environment and must refuse service to any person not complying with this requirement. A person smoking in this area is guilty of an offence and liable to a fine under the Tobacco Products Regulation Act 1997.

"No Smoking" signs must be displayed in such a way to explain that smoking is an offence in the permitted area and a fine may be incurred by the offending person(s).

Further detail can be found via [www.sahealth.sa.gov.au](http://www.sahealth.sa.gov.au).

### **5.23 Damage to Property**

The permit holder is responsible for ensuring that patron behaviour does not lead to damage of public (Council) property.

In the event that public property damage does occur, the permit holder is responsible for notifying the owner of the property and ensuring the damage is fixed at the permit holder's cost and to the satisfaction of Council.

### **5.24 Amplified Music**

Amplification and/or live entertainment is not permitted in permitted areas without Council approval and noise levels are to be within specified requirements of applicable legislation.



## **5.25 General Noise**

Permit holders are to display signage in an appropriate place reminding customers of nearby residents and requesting customers leave in a quiet and orderly manner.

# **6. Administration**

## **6.1 Public Consultation**

The Local Government Act and its Regulations require that Council undertake public consultation in relation to an application for a Footpath Trading/Business Use of a Road Permit where it may impede vehicular traffic to any material degree.

Council seeks to provide additional consultation in the case of a business that:

1. Extends a footpath and impedes vehicular traffic to any material degree and,
2. Is located on the corner of a non-residential main street and a residential side road.

In the case of a business location that is surrounded by residential zones on all sides, both planning approval and public consultation will be a part of that approval process.

## **6.2 Fees and Charges**

Fees apply to the amount of chairs and are outlined in Council's Fees and Charges Register, See [www.prospect.sa.gov.au](http://www.prospect.sa.gov.au) for more information.

The scheduled fees are invoiced annually.

## **6.3 Permit, Monitoring and Enforcement**

Applicants need to complete the (permit) Business Use of a Road/Footpath Trading application form and include a site plan drawn to an appropriate scale showing the actual area proposed for use.

Operators are required to comply with all conditions of the permit.

## **6.4 Breach of Permit**

The following process will apply for breaches to the permit:

- First breach of the conditions of the permit or policy will result in a verbal warning (with notation on the permit file) and compliance to be achieved within 28 days.
- Second breach of the conditions of the permit or policy will result in a written notice and compliance to be achieved within 28 days (with notation on permit file).
- Third breach of the conditions of the permit or policy will result in the cancellation of the permit with no refund and removal of items by Council. (Fees will apply for the return of any confiscated items).

A third breach will preclude the business operator from making a subsequent application for 12 months.

Authorised Officers (of Council) will monitor permitted areas and operators are required to comply with any lawful direction provided by an Authorised Officer.

It will be at Council's discretion to cancel, suspend, amend or reinstate a Business Use of a Road Permit.

It is purely the applicant's responsibility to ensure the insurance details and liquor licence is up to date and to notify Council.

Questions can be directed to an authorised officer by contacting City of Prospect Civic Centre on 8269 5355.

## **6.5 Public Liability Insurance**

It is a condition that permit holders hold a current public and products liability insurance policy to the minimum value of TWENTY MILLION DOLLARS (\$20,000,000 AUD), or as determined from time to time, to cover actions arising out of the activity carried out pursuant to the permit.

A copy of "Certificate of Currency" must accompany the application or renewal of a permit.

# **7. Applying for a Permit**

**Step 1** Obtain an application for a Footpath Trading permit application form from the Council's reception or download the form from Council's website [www.prospect.sa.gov.au/business-permits](http://www.prospect.sa.gov.au/business-permits)

***It may be necessary to submit a Development Application. Please consult with the Planning Department before lodging an application, should the proposed business activity include the construction of a structure on the road***

**Step 2** Submit the completed Application Form, including a scaled site plan, copy of the relevant Public Liability Insurance and a copy of the Liquor License - if applicable.

**Step 3** A Council Authorised Officer will undertake a site inspection to validate the site plan.

**Step 6** Once Council has assessed the application, an invoice will be sent out

**Step 7** Upon payment the Permit will be posted or made available for collection.

**Step 7** Once the Permit is issued, the business activity may then commence on the road (footpath) in accordance with the conditions of the permit/policy.

**Note:** A permit pursuant to the policy is specifically for the person/company/association listed on the permit but can be transferred to another entity as long as Council is notified.

Unused annual Permit Fees are non-refundable.

Permits are for 4 years and must be renewed within 14 days of the expiry date.

Compliance with the Policy and conditions will be a prerequisite to obtain renewal of an existing Permit.