



Baw Baw Shire Council Policy

Subject Area:	Community Compliance
Title:	Footpath Trading Policy
Rationale:	This policy explains when and how businesses are permitted to trade on the footpath.

Adoption Date:	12 March 2014
Related Process:	Baw Baw Shire Council Community Local Law 2008
Version No:	002
Previous Version:	Not Applicable



Baw Baw Shire Council Policy

Table of Contents

1	Overview	3
2	Definition of Footpath Trading.....	3
3	Reasons for Footpath Trading.....	3
4	Permits.....	3
5	The footpath	4
5.1	Pedestrian Zone	5
5.2	Trading Zone	5
5.3	Kerbside Zone	5
6	Council Infrastructure.....	6
7	Clearance from existing street infrastructure	6
8	Occupying an adjacent premises	7
9	Decision making on applications	7
10	Baw Baw Shire Council Community Local Law 2008 (extracts).....	8
10.1	Clause 4.11 - Advertising signs, displays and sales of goods.....	8
10.2	A Frame Signs Policy.....	8
10.3	Displays and goods for sale	10
10.4	Street Furniture	10
11	General information.....	11
12	Renewal of permits.....	11
13	Amendments to this policy	11



Baw Baw Shire Council Policy

1 Overview

The Baw Baw Shire Council is committed to supporting and enhancing local business, street life and village shopping. Our aim is to provide a balance between ensuring the safety of the community and managing the use of public footpaths for commercial purposes.

2 Definition of Footpath Trading

Footpath trading involves the use of public footpaths for commercial purposes. The footpath is the area between the property boundary and the kerbside of a road that is provided for use by pedestrians. Commercial purposes typically include the placement of advertising signs, display of goods, tables, chairs and ancillary equipment such as umbrellas, heaters, planter boxes and screens.

3 Reasons for Footpath Trading

Footpath trading is a valuable use of public space. It can improve the look of our streets and adds life and vibrancy to shopping strips. It supports a prosperous local economy. It provides valuable commercial opportunities for businesses by extending their floor space and advertising their presence. It provides the opportunities to shop, dine and drink outside.

With the many benefits come potential problems. The needs of businesses can clash with those of the general public. As in other areas of public life the Council has a responsibility to regulate the use of public space for the good of all. Whilst seeking to maximise the benefits mentioned above, Council is concerned with ensuring that footpath trading is fair and consistent, that the public is welcome and safe, and that the footpath provides an accessible path of travel for all.

4 Permits

A permit is required to trade on Council's footpaths throughout the Baw Baw Shire, further information can be found on page (8) of this policy. The application form and requirements can be located on [Council's](#) website or in person at a Council Service Centre.

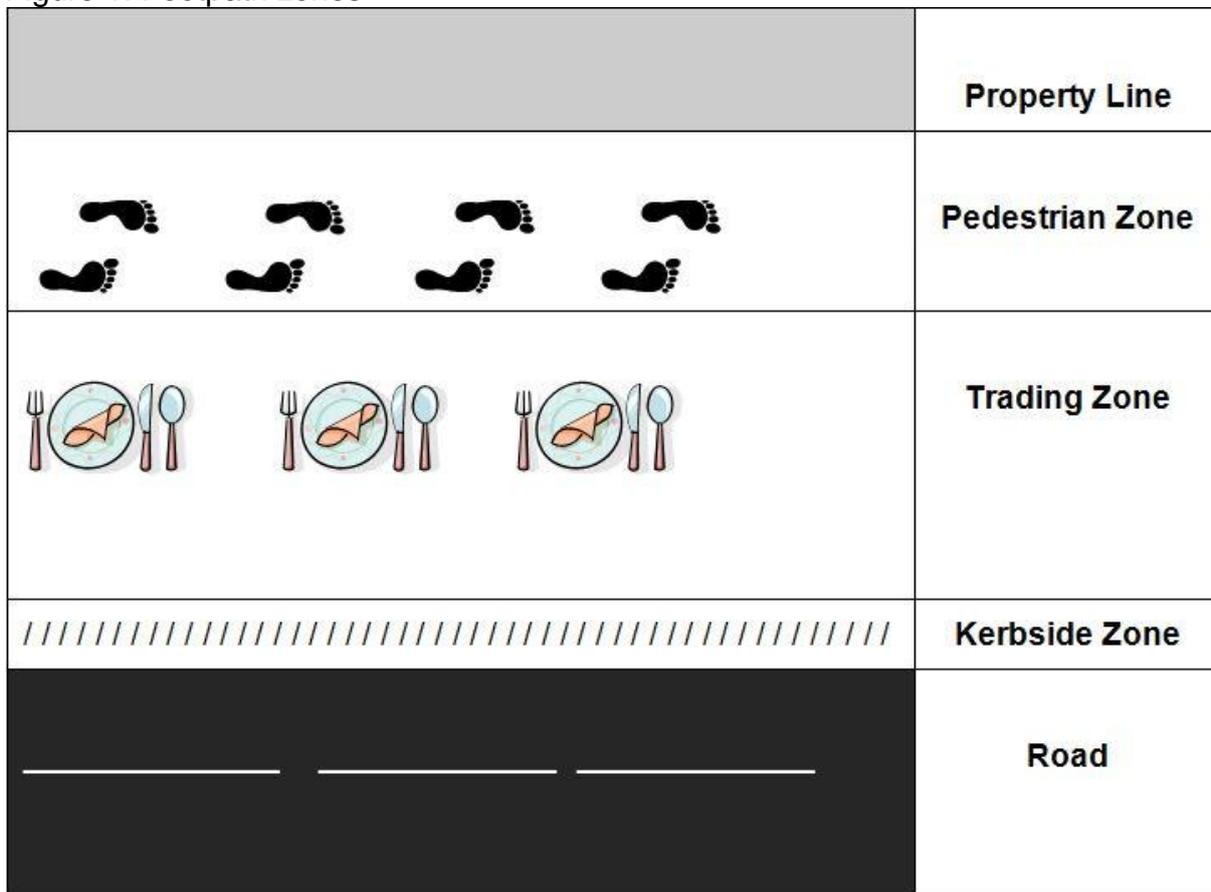
5 The footpath

The footpath has been divided into three (3) 'zones':

- Pedestrian zone;
- Trading activity zone; and
- Kerbside zone.

Existing trees, artwork, street furniture, public infrastructure and the width may prohibit or limit footpath trading activity. Council will consider the requirements of this policy when undertaking any future streetscape or landscaping works.

Figure 1: Footpath zones



5.1 Pedestrian Zone

The pedestrian zone is the area of the footpath that is measured from the property boundary and is for the exclusive use of pedestrians.

The walkway zone must be a continuous and accessible path of travel along the property boundary and must provide for the safety of all of the community, including meeting the access needs of people with mobility aids, prams and shopping trolleys.

5.2 Trading Zone

The trading zone is the area that the Council allows for commercial activity. It is the area left between the pedestrian zone and the kerb zone after these clearances are taken out. The trading zone will vary in area from street to street depending on the overall width of the footpath, the pedestrian zone, the kerb zone and any clearances from infrastructure that is located within the trading zone.

Approved items must remain within the trading zone at all times and must not intrude on the pedestrian zone.

A gap of 1 metre must be left between adjoining trading zones to ensure that adequate access is provided for pedestrian safety when crossing the road or alighting from vehicles.

5.3 Kerbside Zone

The kerbside zone is the area between the face of the kerb and the trading zone. This zone is important for the safety of pedestrians crossing the road and allowing passengers to gain access to parked vehicles. This zone must remain clear of any footpath items approved within a trading zone.

Parking spaces adjacent to a kerb help to protect footpath trading activity from moving traffic. Where there are no parking spaces next to a kerb, the footpath trading application will be referred to the Council's Traffic Department for consideration. In some instances, due to the footpath width and parking restrictions, footpath trading may not be permitted.

The Baw Baw Shire Council reserves the right to vary the setback of the kerbside zone, dependent on pedestrian activity and parking restrictions adjacent to the area.

Table 2: Indicative zone widths

Pedestrian Zone	Minimum 1.5m from the property line towards the kerb
Trading Zone	Remaining area once pedestrian and kerbside zones are identified
Kerbside Zone	<p>Minimum 500mm from the face of the kerb</p> <p>Minimum 1.5m if a disabled parking space adjoins the footpath</p> <p>Minimum 700mm if a loading zone adjoins the footpath</p>

6 Council Infrastructure

Clearance from public infrastructure is required at all times for access purposes. Businesses may apply to have Council infrastructure removed, relocated or modified to assist applications in meeting the requirements of this policy. Any removal, relocation or modification of Council infrastructure will be solely at the business' cost. Where the infrastructure does not belong to Council, Council will act as the conduit between the business and the owner of the infrastructure.

7 Clearance from existing street infrastructure

Where street infrastructure exists on the footpath, the following clearances are required:

Street infrastructure	Minimum clearances from object
Litter bins	1000mm
Public seating	
Bicycle stands (from outer edges of stand)	
Fire hydrants	
Payphones	
Traffic lights	
Pedestrian-operated lights	
Way-finding signs	
Trees and tree pit edge	500mm
Electricity boxes	

Street infrastructure	Minimum clearances from object
Electricity poles	0mm
Street light poles	

Permanent Council infrastructure will not be removed, relocated or modified to assist applications to be compliant with permit conditions.

8 Occupying an adjacent premises

If seeking to occupy the trading zone of an adjacent premise, the Council requires the applicant to obtain and submit to the Council the written consent the owner, body corporate and/or occupier of the adjacent premise. The letters of consent should be provided on the third party's official letterhead. If the neighbouring business is sold, a new letter must be submitted to the Council by the new occupier.

The footpath is a public space and as such is not owned by any one business. This means a business owner cannot charge 'rent' for the use of the footpath in front of their premises.

The Council will assess such applications on a case-by-case basis and reserves the right to approve or refuse any application.

Consent from the adjacent owner, body corporate and/or occupier may be withdrawn at any time. Depending on the circumstances, if consent is withdrawn during the permit period, the permit holder may be permitted to trade in front of the adjacent premises until the permit expiry date.

The Council will decide on a case-by-case basis if the permit should be withdrawn prior to the expiry of the permit.

In the event of withdrawal of consent, no refund will be made in respect of the fees paid in advance for the use of the area in front of the neighbouring premises.

9 Decision making on applications

Where applications meet all elements of this policy, the Council will normally grant a permit. In cases where an application does not clearly meet the policy or where there are special circumstances, the application will be referred to Council's Footpath Trading Panel for further consideration. The panel will provide its recommendations to the authorised officer who will approve or refuse the permit application. The panel is comprised of senior officers from across the Council.

The Footpath Trading Panel will provide advice on all applications taking into consideration this policy, Council's Community Local Law 2008 and:

- The effect on pedestrian traffic flows and safety;
- The impact on the appearance of the street and its surroundings;
- The impact on residential amenity;
- The duration of use;
- The effect on vehicular traffic flows and safety;
- Compatibility with other uses in the street;
- Whether it is complementary to the primary adjoining use;
- Whether it is less intensive than the primary adjoining use;
- The applicant's previous record of compliance;
- Any relevant policies of the Council; and
- Any other matter relevant to the application.

Once the panel has made a recommendation the authorised officer will either approve or refuse the permit application.

10 Baw Baw Shire Council Community Local Law 2008 (extracts)

10.1 Clause 4.11 - Advertising signs, displays and sales of goods

Without a permit, a person must not place or erect in a public place-

- a) A pole, bus shelter, traffic sign, tree or other object or infrastructure;
- b) Any advertising sign; or
- c) Any goods for display or sale.

10.2 A Frame Signs Policy

An A-frame sign may be placed on Council property without the need for a permit providing the placing of the sign complies with the following conditions:

- a) Design and construction shall be simple and neat in appearance without sharp edges or projecting pieces that could injure pedestrians;
- b) The A-frame sign must not be placed along the building line. Signs must be placed 500mm from the edge of the roadside gutter and allow a minimum of 1.5 metres of unobstructed footpath for public access at all times;
- c) The A-frame sign must not be displayed any more than 20 metres from the relevant business;

- d) The A-frame sign must be designed to ensure stability in windy conditions and must be removed immediately if any damage occurs;
- e) The A-frame sign must only be displayed whilst the trader is operating and open for business. Only one sign will be permitted per trader;
- f) Each trader using A-frame advertising must maintain a current liability cover for a minimum of \$10,000,000.00 and must be able to produce to the Council a copy of the certificate of currency on an annual basis upon renewal of the policy
- g) The A-frame sign must not be placed on garden beds, roundabouts, median strips, walkways or within an intersection;
- h) The message on any A-frame sign must relate to the business, the goods sold or services provided. Skilled personnel using proper materials must carry out all lettering, design and other art works;
- i) The maximum dimensions of the sign and supporting structure shall be: width 800mm, height 1200mm;
- j) The A-frame sign shall not offend aesthetically or contain any words or illustrations that could be considered offensive or in bad taste;
- k) The message on any A-frame advertising sign shall be complete and shall not be a portion of a message displayed on a series of signs spaced at intervals along the footpath and there shall not be a repetition of small signs bearing the same or similar message;
- l) The A-frame sign, or message on the sign must not resemble any official traffic or parking sign or international traffic sign;
- m) The A-frame sign must not be illuminated, or the surface covered with reflective materials or reflectors;
- n) The A-frame sign must not invite drivers to turn right where there is fast moving traffic
- o) The A-frame sign must not be located so close to similar advertisements or official traffic or parking signs that road users might be confused in the vicinity of a road junction or other traffic hazards;
- p) "SIGN" shall include an A-frame, self-standing single board or any similar sign, which does not exceed the required maximum dimensions.

10.3 Displays and goods for sale

A permit may be granted to place goods on a public footpath provided the following conditions are met:

- a) The maximum height of any display is 1.5 metres
- b) The maximum width of any display is 0.7 metres
- c) Display stands must not be fixed to the footpath or to any street sign or pole
- d) No display of goods will be allowed in areas of high pedestrian movements
- e) Goods must only be displayed when the business is open and removed when closed

10.4 Street Furniture

A person must not place or allow to be placed in a public place any street furniture including tables, chairs and associated equipment without a permit.

Retail traders may apply for a permit to place tables and chairs on public footpaths to allow serving of food and or drinks provided the application is generally in accordance with the following guidelines:

- a) Chairs should not be placed so as to back into the pedestrian thoroughfare or the kerbside where vehicles adjoin the outdoor eating area;
- b) Tables, chairs and screens must only be in place when the business is open and removed when closed;
- c) Permit holder must ensure that the walkway area is kept clear at all times;
- d) The business' staff shall give pedestrian movement priority over their own movements across the walkway area;
- e) The use of screens is preferred;
- f) All tables, chairs and screens must be kept in good order and condition so as not to cause injury to a user or pedestrian;
- g) All items on footpaths to be removed on days when weather conditions are such that said items could cause harm to persons or property;
- h) A permit holder must have a minimum of \$10 million liability insurance cover for tables, chairs, goods, A frame signage etc. whether any indemnity / guarantee has been provided to the Council; and



Baw Baw Shire Council Policy

- i) A screened off area between screen and footpath walkway. This is the only area where outdoor eating furniture may be placed.
- j) Any other matter relevant to the circumstances of the application.

11 General information

Even if the area is deemed suitable, the Council is not bound to issue a permit. Council may choose to conduct, allow or allocate the footpath area for other activities as it deems appropriate.

Any Council officer authorised under section 224 of the Local Government Act is empowered to take any appropriate action to rectify any breaches of the conditions.

Baw Baw Shire Community Local Law 2008 Section 5.4.1. authorises Council to impound any item that encroaches or obstructs the free use of a public place.

12 Renewal of permits

Permit holders will be required to renew permits annually.

13 Amendments to this policy

The policy will be reviewed as required and Council reserves the right to make any alterations it deems necessary.