

COMMERCIAL USE OF FOOTWAYS GUIDELINES

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Image 1

The Guidelines

These Guidelines support the City of Canterbury Bankstown Commercial Use of Footways Policy and are to be read in conjunction with this Policy.

Purpose

The purpose of these Guidelines is to establish the requirements regarding the use, design, maintenance and compliance for the commercial use of footways. They provide direction to applicants regarding applying for licences and Council Officers regarding assessment of applications and regulating licences.

All Commercial Use of Footways licence applications must be prepared in accordance with these Guidelines.

- Any proposal for the installation of permanent or semi-permanent infrastructure attached to the existing buildings or locations other than the footway directly adjacent to the business frontage must submit an exempt or complying development application or a **Development Application** for assessment separate to the licensing process.
- Any proposal for the relocation or removal of existing infrastructure must submit a **Work Permit Application** for assessment separate to the licensing process and, if approved, would be carried out at the applicant's expense.
- A **change of owner** of the associated business of a current approved licence must be registered with council along with documentation of current valid insurances and the licence transferred to the new owner.
- An **application to renew** a current approved licence may be submitted to council prior to or at the end of the licence agreement period. The application must be the same as the original licence agreement.

Licence application process

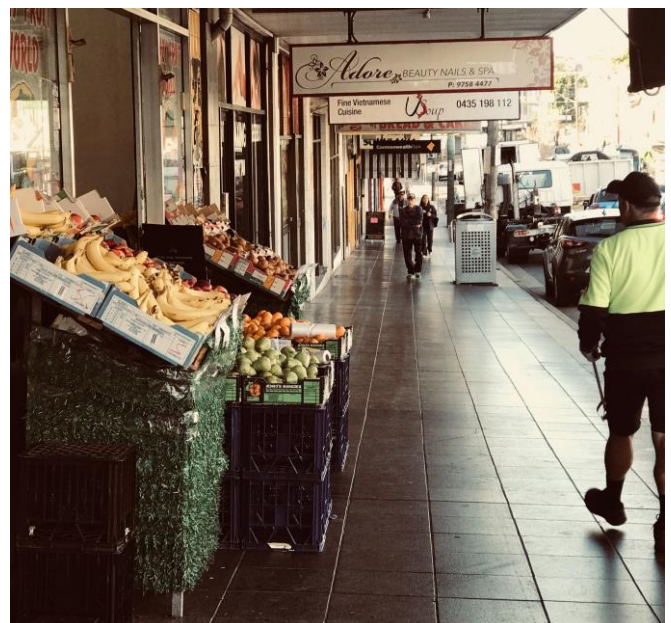
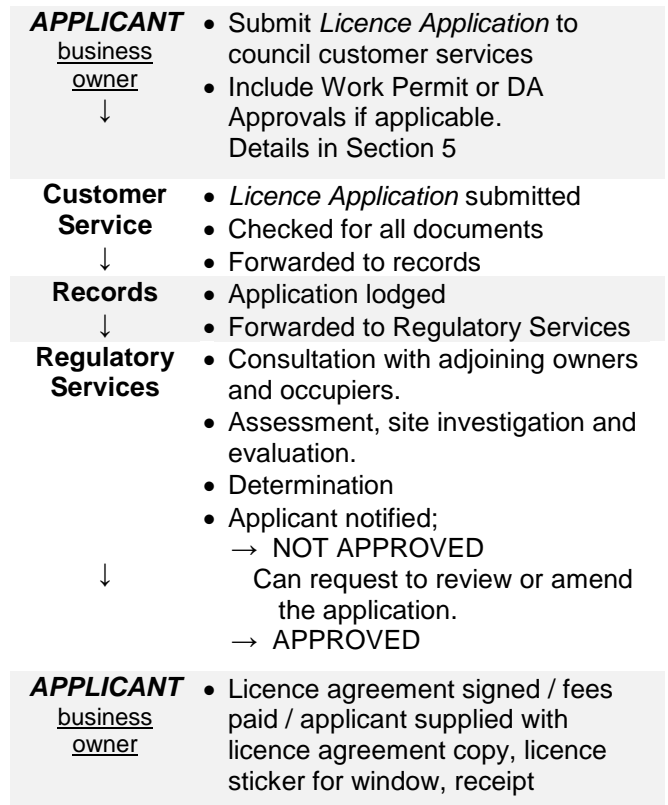


Image 2

1 General requirements

These requirements are to be applied to all licence applications.

1.1 Neighbourhood Amenity

- Outdoor trading areas must be designed and operated to reflect the open and public nature of the street and ensure shared use of the public space is properly balanced and safe.
- The street use, styling and location of all outdoor furniture for commercial use must provide an attractive, safe and comfortable environment complimentary to the surrounding streetscape. Where heritage values are placed on an areas character, street use and styling must be complimentary to these heritage values.
- Businesses must ensure that the behaviour of their patrons maintains a pleasant and accessible environment for all including neighbouring residents, general public and adjacent businesses.
- Spruiking, broadcast, amplified speech or amplified music are not permitted in outdoor trading areas.

1.2 Location

- Council will not undertake any modifications to the public space to fulfil the policy and guideline requirements.
- Outdoor trading areas will only be approved in locations that Council deems appropriate and ensure that the shared use of the public space is properly balanced and safe. Council may revoke or vary the license at any time if the location is no longer deemed appropriate for outdoor trading or no longer fulfils the policy and guideline requirements.
- The location of all furniture must provide a safe and logical path of travel along footways by locating

path of travel on the same part of the footway for the length of the block.

- The location of the outdoor trading area must have a ground surface suitably constructed and sufficiently level to support the safe use of the required furniture and associated circulation.
- The location of outdoor trading areas must be on the footway wholly within the frontage of the business premises.

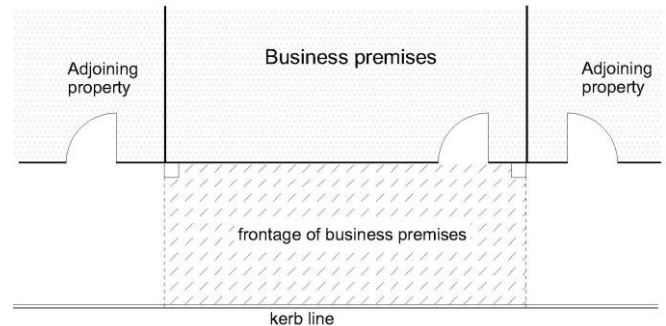


Figure 1; Location of business frontage

- All furniture, signage and operations of the commercial activity must be restricted to operate within the approved areas at all times.
- All furniture must be located;
 - To provide a clear 2m minimum width clear path of pedestrian travel along street length maintained at all times.
 - Minimum 0.6m from the face of the kerb adjacent to normal parking and 1.5m from the face of the kerb adjacent to disabled parking and loading zones.
 - Minimum 0.5m from existing tree pits, power poles, light poles, seats and any adjacent footway trading area.
 - Minimum 1m from payphones, litterbins, bicycle stands, fire hydrants and other public infrastructure.
 - Minimum 2m from building corners at street crossings, lanes, vehicle crossings, arcade and mall entries.
 - Clear of all required fire exits of the associated and adjacent premises.

- So as to not interfere with the entrances and exits from buildings or with the smooth flow of pedestrians in high congestion areas such as bus stops and station entries.

1.3 Furniture

- All furniture must be constructed of high quality materials, be commercial grade, structurally sound, have smooth edges and be safe for staff, customers and pedestrians.
- All furniture must be freestanding, that is, not supported by a building, pole, tree or other structure.
- All furniture must be movable, that is, be able to be removed from the footpath by a maximum of two people.
- All furniture must be stable, suitably counter-weighted or adequately anchored.

1.4 Maintenance

- Businesses are responsible for the maintenance of all furniture and signage in a physically sound and visually appealing condition at all times to the satisfaction of Council.
- Businesses are to ensure that the approved area and associated furniture and signage are maintained to a clean and safe standard and kept free of spills, rubbish and food scraps at all times to the satisfaction of Council.
- The design and use of all furniture must not cause damage to the existing paving or other public infrastructure including damage to asphalt paving. Council reserves the right to claim repair costs from the License Holder.

1.5 Compliance

- All approvals must be prominently displayed and Council officers must be able to inspect the approval easily.
- All furniture and signage may only be placed on the footway during the approved licence hours. All furniture and signage must therefore be removed from the footway and stored elsewhere outside these licence hours.

- All commercial street trading shall be consistent with that available from the associated business premises.
- The operation of the commercial use of footways must be consistent with the licence approval and conditions.

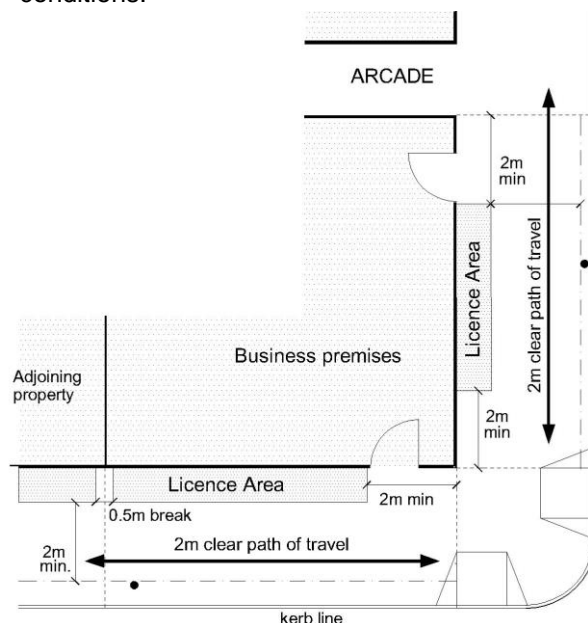


Figure 2; indicative layout for Licence areas located adjacent to the shop front.

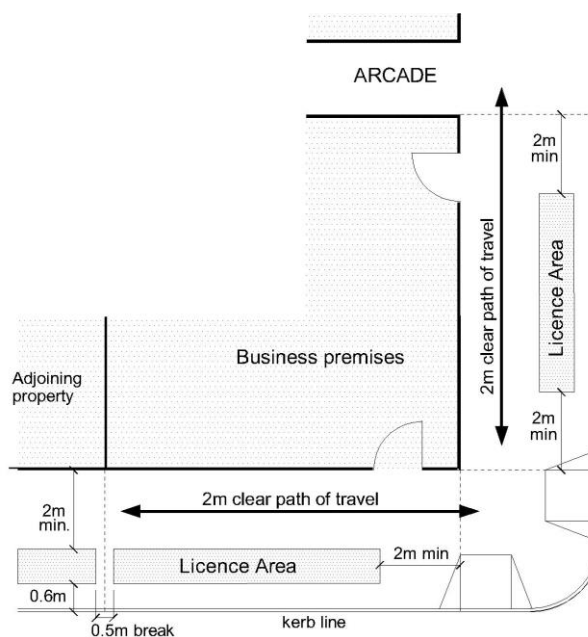


Figure 3; indicative layout for Licence areas located adjacent to the kerb.

2 Outdoor Dining

Also refer to the General Requirements of this document.

2.1 Location

- Outdoor dining areas will be considered where the existing footway is a minimum 3m width.
- Outdoor dining areas may be located against building or adjacent to the kerb depending on the site conditions and logical path of travel for the location.
- Ample room must be provided for both restaurant staff and customers to circulate and so that there is no conflict between restaurant staff and pedestrians.
- Outdoor dining areas are to have a 1m break when extending for more than 6m.

2.2 Layout

- All outdoor dining furniture must be located within the defined area including tables, chairs, umbrellas and heaters.
- The style, layout and orientation of the furniture must consider the extent and shape of the available space.
- The minimum areas required for outdoor dining are;
 - 2 person table – 2m² with 1m minimum dimension
 - 3 person table – 3m² with 1.5m minimum dimension
 - 4 person table – 4m² with 2m minimum dimension



Image 3

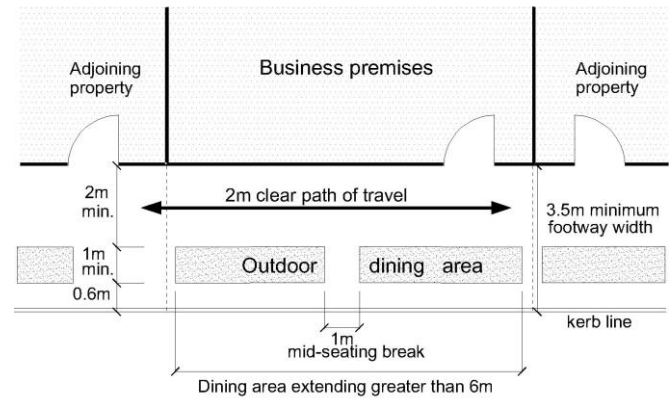


Figure 4; general layout for Outdoor dining areas located adjacent to the kerb

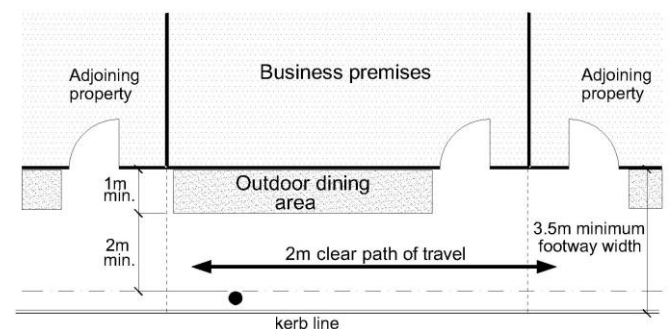


Figure 5; general layout for Outdoor dining areas located adjacent to the shop front



Image 4

2.3 Furniture

Dining furniture

Outdoor dining furniture must be;

- Capable of easy storage.
- High quality, commercial grade and satisfy the relevant Australian Standards.
- Waterproof, weatherproof, strong and durable and able to withstand the general wear and tear of commercial use.
- Of the same 'family group' and ensure visual unity and enhance the streetscape.
- Constructed of sturdy welded metal frame with metal, timber, canvas, wicker, synthetic wicker or similar seat and back. Timber frame and full plastic construction is not permitted.
- Furniture colour schemes should be chosen for their contribution to the streetscape, serviceability and maintenance. Tabletops must be non-reflective.
- The use of disposable tableware and utensils is not permitted in the outdoor dining areas.
- Where the footway surface is asphalt the chair legs must have end caps and must not damage, mark or indent the surface.



Image 5



Image 6

Umbrellas

Commercial grade, collapsible, market style umbrellas are permitted.

Umbrellas must;

- Be a maximum 3mx3m canopy area and not wider than the approved outdoor trading area.
- Have a minimum vertical clearance of 2m from the lowest point of the underside of the structure to ground level.
- Be manufactured of fire retardant material.
- Be capable of easy removal and closure in extreme conditions.
- Be stable, suitably counter-weighted and adequately anchored with a suitable, removable stand to ensure no movement.
- Be closed in windy weather conditions.



Image 7

Other shade structures

Drop-down blinds, screens and enclosures are not permitted.

Other shade structures such as sails or awnings requiring permanent infrastructure or attached to the existing building or street awning structure require an exempt or complying development application or a development application separate to the Commercial Use of Footways license.

Lighting

Where the approved footway trade extends to after-dark lighting must be provided to the outdoor area.

Lighting must;

- Be suitable for the commercial use and location and ensure safety and amenity.
- Not cause a nuisance to the neighbours.
- May be mounted on the exterior walls and under awnings.

Outdoor Heaters

Outdoor heating devices are permitted.

Outdoor heating devices must;

- Be suitable for the commercial use and location. Specialist advice must be sought to ensure safe and appropriate equipment is provided.
- Not use gas mains or electrical extension cords.
- Turn off automatically if overturned.
- Be turned off when not in use.

Planter boxes

Planter boxes are permitted and may remain on the footway outside the license hours. Applications will be referred to the City Design team for assessment.

Planter boxes must be;

- A minimum internal dimension of 0.5m wide and 0.4m high.
- A maximum external dimension of 0.6m high.
- Elevated a minimum of 20mm above the pavement for drainage.
- Planted to provide full, healthy planting at all times with suitable species for the use and location and a maximum overall height of 1.2m from the footway unless otherwise specified.
- Maintained at all times to Council's satisfaction including watering, replacement of plants, mulch and soil as required, and the removal of any rubbish or cigarette butts.
- Any planters damaged or not maintained to Council's satisfaction must be removed from the footway within 14 days of notice at the licence holders expense or risk their licence being revoked.

Barriers

Portable barrier screens are permitted.

Portable barrier screens must;

- Be a maximum dimension of 0.9m high and 2m long.
- Only be used to frame a maximum three external sides of the trading area.
- Be constructed of sturdy welded metal frame with washable canvas or plastic insert. Timber and full plastic construction is not permitted.



Image 8

2.4 Advertising and Signage

Advertising and signage panels may be incorporated into umbrellas and portable barrier screens. Please refer to Part 5 Advertising and Signage for more information.

3 Outdoor Trading Merchandise Displays

Also refer to the General Requirements of this document.

3.1 Location

- Display of merchandise for sale will be considered where the existing footway is a minimum 3m width.
- Display furniture must be located immediately against the street front wall of the business premises.

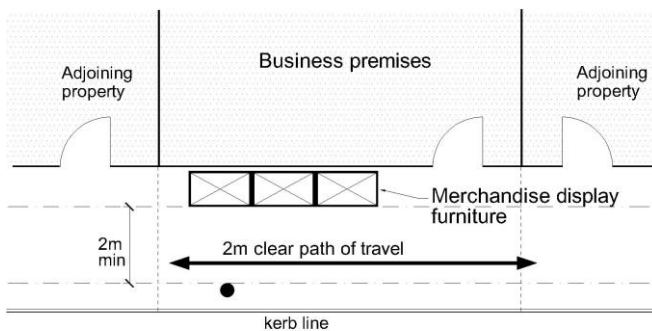


Figure 6; general layout for Merchandise display furniture

- Merchandise must be purchased/transacted within the shop and not on the footway.



Image 9



Image 10

- Customer trolleys must be stored within the business premises at all times.

3.2 Merchandise Display

- All merchandise must be displayed on stands or in suitable receptacles raised above the footway a minimum of 150mm.
- Where food items are displayed or produced all requirements under the relevant legislation for safe food production, storage, display, packaging and handling must be met. Please refer to the relevant controls including the Food Act 2003, Food Regulation 2015 and the Australia New Zealand Food Standards Code.
- Overhead hanging articles must have a minimum clearance of 2.0m above the footway and are not to unreasonably obscure signs or adjacent shops.
- Merchandise displayed must only include products associated with the adjoining business.

3.3 Furniture

- Display furniture must have a base designed to be detectable to a visually impaired person navigating the footpath with the aid of a cane such as incorporating a panel spanning the otherwise open base of the furniture.
- Display furniture must be solid, suitable colours to coordinate with the appearance of the store and compliment the overall streetscape.
- Display furniture must be waterproof, weatherproof, strong and durable.
- Display furniture must have no items that protrude into the pedestrian thoroughfare such as plastic bag dispensers.

3.4 Advertising and Signage

Advertising and signage panels may be incorporated into the merchandise display. Please refer to Part 5 Advertising and Signage for more information.

4 Advertising and Signage

Also refer to the **General Requirements of this document**.

This includes freestanding, movable signs and advertising and signage panels incorporated into merchandise display and outdoor dining furniture.

- All proposed advertising and signage including the proposed graphic design must be included in the original application or stated in a licence renewal application.
- Signs must not be internally illuminated, have movable parts, have reflective surfaces or resemble a traffic sign.

4.1 Freestanding signs

Freestanding movable signs are advertising panels designed to be placed on the footpath independent of other furniture and include pedestal, A-frame and sandwich boards.



Image 11



Image 12

- Freestanding signs may be located at the shop entry or adjacent to the kerb depending on the site conditions. Shop entry preferred.
- A maximum of one free standing sign is permitted on the footway for each business premises.

- Free standing signs must have a base designed to be detectable to a visually impaired person navigating the footpath with the aid of a cane i.e. incorporate a bar or panel spanning the otherwise open base of the object.
- Free standing signs must be;
 - maximum width 750mm,
 - minimum height 600mm,
 - maximum height 1100mm.

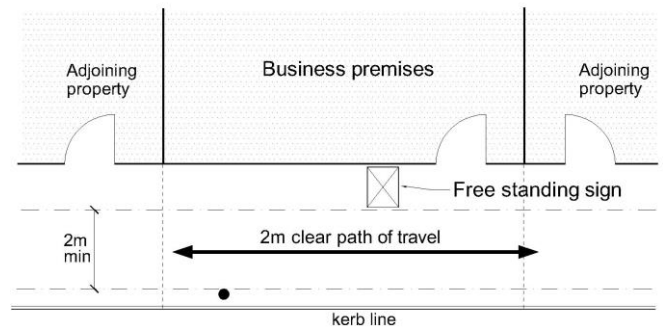


Figure 7; general layout for freestanding signs adjacent to the shop entry

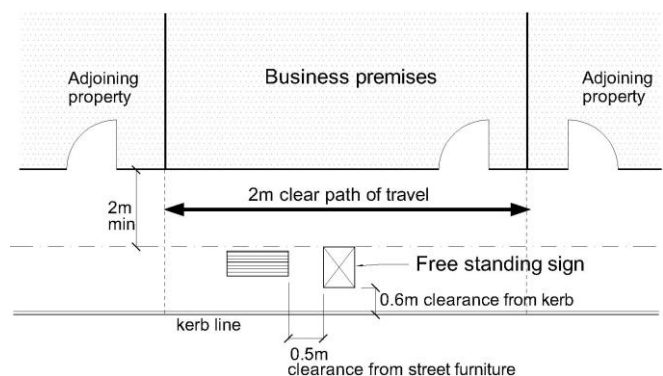


Figure 8; general layout for freestanding signs adjacent to the kerb side

4.2 Merchandise display signage

Advertising and signage panels may be incorporated into the design of display tables thus performing a similar function to free standing signs.

- Tables may have a maximum number of two display panels only.
- Signage panels must be;
 - maximum height 1100mm
 - maximum width 750mm
 - within the form of the display furniture.

4.3 Dining furniture signage

Advertising and signage panels that include the name of the business or advertising logo only may be incorporated into the umbrellas and portable barrier screens only of outdoor dining areas.

- Advertising must involve only one coffee product or the business name being promoted in each premises.
- The graphic image must be in the nature of a corporate logo or identification.
- Advertising must be of a minor and integral element of the furniture design and not have an excessive impact on the area of the cafe or the streetscape.
- Product names or logos must not exceed 30% of the total available space on each furniture object.



Image 13

4.4 Graphic display

- The advertising and signage panels must depict material in a professional manner and to a high visual standard in terms of lettering and graphics. Amateur signs or similar are not acceptable.
- The advertising panel must identify the business or advertise products which are a core part of the business and are supplied by that business to the public.
- Where languages other than English are used, an English translation of the text must also be provided immediately before or after the original text and of a sufficient size to be easily read.

5 Application

5.1 Application process

All “Commercial Use of Council’s Footpaths” license applications must comply with the provisions of this Guideline and the associated council policies and documents.

- Any proposal for the installation of permanent infrastructure attached to the existing building or locations other than the footway directly adjacent to the business must submit an exempt or complying development application or a **Development Application** for assessment prior to the licensing process.
- Any proposal for the relocation or removal of existing infrastructure must submit a **Work Permit Application** for assessment prior to the licensing process and, if approved, would be carried out at the applicant’s expense.

The license application process includes the following steps;

Step 1: Application

The applicant submits the completed application with all requirements as listed in Part 5.2 *Application requirements* including payment of the required application fees. The applicant must be the person who is the business owner of the associated business premises.

Step 2: Assessment

Council officers will assess the application through site investigation and evaluation of the submitted documentation against Council policies and relevant strategic and planning documents. Consultation will be undertaken with adjoining owners and occupiers who may be affected by the proposal.

Step 3: Determination

Where the commercial use complies with the guidelines set out in this policy and the application meets the requirements, Council staff will make a determination and notify the applicant in writing.

If the application is refused commercial use of the footpath is *not* permitted.

Applicants may request a review of a decision to refuse or amend their application and such requests will be referred to the City Design Manager for determination.

Where the application is approved the applicant is then required to sign a license agreement and pay appropriate license fees as determined by Council.

Step 4: Licence and Fees

The applicant must sign the license agreement and pay appropriate fees to Council prior to operation of the commercial use. Pro-rata fees will apply when an application is submitted part-way into the financial year. The license agreement contains conditions that must be complied with once the use is established. The licence agreement will designate the exact area available for use.

A photo of the approved licence set out and area will be taken by Council insitu and attached to the licence sticker. The Licence sticker must be displayed prominently in the front window of the business premises for inspection by members of the general public and Council Compliance Officers at any time.

If any of the conditions of the license agreement are breached Council may issue orders for non-compliance and terminate the license agreement.

A change of owner of the associated business must be registered with council along with documentation of current valid insurances and the license transferred to the new owner.

A license will cease upon change of use or change of business of the associated premises and a new license application will be required.

Step 5: Annual fees and insurance

The license period may be up to a maximum 7 years depending on the License Agreement conditions. License holders must pay the license fees on an annual basis at the beginning of each financial year and provide documentation of current valid insurances. Failure to

pay the license fees or provide evidence of current valid insurances may result in termination of a License Agreement.

If the license is revoked, terminated or is significantly revised, a new license application will be required.

Step 6: Renewal

An application to renew a current approved license may be submitted to council prior to or at the end of the license agreement period. The application must be the same as the original license agreement.

If the license is revoked, terminated or significantly changed or altered, a new full license application will be required.

5.2 Licence application requirements

In order to apply for a licence to use a footpath for commercial use in accordance with this guideline and the associated policy the correct documents and information as detailed below must be lodged with Council and the requisite application fees paid.

Documents required

Applications must include;

1. A completed application form (available from our Customer Service Centre during business hours, or from our website).
2. A Site Layout Plan of the proposal as detailed below.
3. A statement of the proposal including size and location, hours of operation, heritage impact, specify merchandise to be displayed.
4. Colour photographs of the site and surrounding context, and features in the footpath.
5. Details of the proposed furniture including photographs, brochures or samples of colours and finishes.
6. Location, layout and text of any signage or advertising.
7. Evidence of Public Liability Insurance requirements as listed below.
8. The relevant application fees.

Please note;

Any outdoor dining area where it is intended to serve alcohol requires a separate license under the Liquor Act 2007 (NSW). Separate permission must be obtained from the Police Local Area Command. Further information can be obtained from the NSW Office of Liquor and Gaming.

Fees and charges

- Please consult the published Annual Adopted Fees & Charges for the current charges for use of footways. A copy of the fees for the current year is available from our Customer Services Counter. Each activity is listed separately.

Public Liability Insurance

- The applicant must provide evidence of Public Liability Insurance with an Australian-based insurance company for a sum not less than 20 million dollars (\$20,000,000). The Certificate of Currency must jointly acknowledge the applicant and Canterbury Bankstown Council in the details of the cover.

Site Layout plan

The Site Layout Plan of the proposal is to be legible, easily understood and drawn to scale (1:100 preferred) accurately showing both existing and proposed features as detailed below.

- Dimensions and boundaries of the proposed trading area.
- Area (in m²) of the outdoor trading area.
- Layout and location of all furniture, equipment, signs and displays within the outdoor trading area.
- Kerb-line of the street.
- Location of the shop front and entrances.
- Width of the existing footpath adjacent to the subject premises and its residual width after the encroachment by the proposed commercial use area.
- Location of side and front boundaries of the applicant's premises; the location of all public utility structures, power poles, bus stops, trees, street furniture, street litter bins, post office boxes, parking/street signs and other similar structures, adjacent to the site.
- Details of existing and proposed lighting.

- Details of any parking restrictions applying at the kerb.

5.3 Licence renewal requirements

In order to renew a current commercial use of footways licence the correct documents and information as detailed below must be lodged with Council.

Documents required

Applications must include;

1. A completed renewal application form (available from our Customer Service Centre during business hours, or from our website).
2. A letter stating that the new licence proposal is the same as the current approved licence.
3. Evidence of Public Liability Insurance requirements as listed below.

If any changes or alterations to the current approved commercial use of the footway license are proposed a new license application must be lodged with Council and the requisite application fees paid. Refer to Section 5.2 for application requirements.