

ITEM 6.1 Commercial Use of Footways Policy

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PURPOSE AND BACKGROUND

This report introduces the draft Commercial Use of Footways Policy (Attachment A) and draft Commercial Use of Footways Guidelines (Attachment B). It recommends public exhibition of the policy, guidelines and development control plan amendments. The policy and guidelines will replace the current Bankstown Commercial Use of Footways Policy (2006) and Part B10 of the Canterbury DCP (2012). The process includes deletion of Part B10 from the Canterbury DCP (2012). Upon adoption, the draft policy and guidelines will apply to the entire Local Government Area.

ISSUE

This Policy applies to the management and licensing of the commercial use of footways through the use of freestanding and moveable furniture only, on land under the care and control of Council in the Canterbury- Bankstown Local Government Area (LGA).

Commercial use of footways includes but is not limited to activities such as;

- outdoor dining,
- outdoor merchandise displays and,
- freestanding advertising signage

The commercial use of footways would be managed by licence permit or lease agreement under the *Roads Act 1993*.

The Policy and the associated guidelines aim to achieve a balance between public and commercial uses through the provision of specifications that promote an integrated approach to design, positioning and layout of the street environment and the commercial uses allowed within.

RECOMMENDATION That -

1. Council exhibit the Draft Commercial Use of Footways Policy and the Draft Commercial Use of Footways Guidelines for 28 days.
2. Council amend Development Control Plan 2012 (DCP) to delete Part B10, as well as any other references to Part B10 in the DCP and place the proposed amendments on public exhibition for 28 days.
3. A further report to Council be made following public exhibition.

ATTACHMENTS

[Click here for attachment \(s\)](#)

- A. Attachment A - Draft Commercial Use of Footways Policy
- B. Attachment B - Draft Commercial Use of Footways Guidelines

POLICY IMPACT

The Commercial Use of Footways Policy is a new Policy that replaces the current Bankstown Commercial Use of Footways Policy (2006) and Part B10 of the Canterbury DCP (2012). This policy provides a revised Council position that aligns the whole LGA.

FINANCIAL IMPACT

The policy has limited financial impact at this time as a review of the fees and charges has not been undertaken as part of this process. The success or otherwise of the policy will be reviewed six months after its adoption. At that point fees and charges will also be reviewed. Any revisions to the fees and charges would be exhibited as part of the annual fees and charges review and come into force from 1 July 2019.

COMMUNITY IMPACT

This policy directly impacts the function of some businesses and the change of policy could create business disruption. To manage this risk it is proposed that the new policy applies when new and existing licences come up for review. Since licences are reviewed annually all licences would revert to the new policy within one year of adoption date.

The policy aims to provide consistent business and public space licensing requirements across the whole of the LGA.

The policy has been created to simplify both processes and regulations for applicants and council officers making it clear or easy to comply with. This will benefit relationships between business and council.

The policy needs to support economic vitality and business enterprise whilst ensuring that competing commercial and public uses in the public domain are properly balanced. The policy strives to create a balance through clear guidelines and parameters whilst limiting restrictions.

The policy would be reviewed six months after adoption to measure success or otherwise and make any revisions as required.

DETAILED INFORMATION

The Commercial Use of Footways Vision:

“Canterbury Bankstown Council is committed to providing residents, businesses and visitors with an inclusive, engaging and vibrant city in a manner that responsibly manages the shared use of its public spaces.”

Commercial Use of Footways Principles:

The principles of the policy are to:

- *Maintain public safety*
- *Ensure equitable access*
- *Encourage vibrant, open and multifaceted street life*
- *Provide an attractive city in keeping with the local character*
- *Support economic vitality and local commercial development*
- *Balance the use of public space*
- *Maintain effective footways management*
- *Ensure the protection of infrastructure*

The NSW Outdoor Dining Trial 2017-18 currently underway in Belfield, Belmore and Panania has been taken into consideration when creating this policy. With this process applications are lodged through the Service NSW government website using the Interim NSW Outdoor Dining Policy and User guide, these are then forwarded to council for processing and regulation. Due to this integrated relationship the Council policy and guidelines have been developed to coordinate and remove conflict with the NSW government requirements with regard to outdoor dining use and application requirements.

IMPLICATIONS

Changes to the current policy position are;

- This policy would replace Part B10 ‘Use of Footpaths’ of the Canterbury DCP 2012.
- This policy would replace the Bankstown ‘Commercial Use of council Footways’ Policy 2006.
- The new policy proposes that licences apply to the use of freestanding and movable furniture only. For both current policy positions this means the applications to install associated permanent and semi-permanent infrastructure would be separated from the Commercial use of footways licence application and processed as exempt or complying development or as a development application with approvals attached to the property.
- For the Bankstown area, development applications to install permanent and semi-permanent infrastructure would then flow to the Development Assessment team rather than the Regulatory Services team. For the Canterbury area, applications to use the footways for commercial use would then flow directly to the Regulatory Services team rather than the Development Assessment team.
- Licence holders would be the associated business owner not the property owner.

- Any proposal for the installation of permanent or semi-permanent infrastructure associated with the existing building is to be processed separately as exempt or complying development or as a Development Application and would be attached to the property and property owner. Hence allowing maintenance of these structures over time despite potential changes to tenants in a property. Other permanent infrastructure in the public space would be assessed and delivered as part of Council's public domain programs.
- Outdoor dining would be permissible adjacent to both the building line and the kerb edge. Proposed dining adjacent to the kerb edge would be subject to safety criteria. Currently the former Canterbury Council area only allows seating adjacent to the building line.
- Drop-down blinds, screens and enclosures would no longer be permitted. Screens and enclosures usually require permanent infrastructure to hold them in place and they tend to create a sense of privatised public space. This infrastructure is however appropriate in particular locations and will be planned for and installed in a holistic manner as part of council public space projects (e.g. liveable centres program).
- The use of tactile indicators to mark the location of the approved areas would be discontinued due to problems arising from their use.
- Restrictions to merchandise display areas, products and furniture would be reduced.
- Incentives could be introduced to include those who put in planters and those who look after them. It is suggested that the take up of the new policy and guidelines be monitored for six months after adoption. After six months it is intended to review the fees and charges which will include investigation into licence fee discounts for provision of and well looked after planters.
- The display of a current licence will be revised to include a photo of the approved layout and approved furniture type. The change will make it easier for rangers to assess compliance with licence requirements when on site.
- Due to the fact that street stalls are independent of an adjacent business and are a short term licence street stalls will not be included in this policy. A new policy will be developed that relates to all free standing street stall and busking activities.