



# Managing Activities on Footpaths and Street Verges

**Development Control Plan No. 48  
and Approvals Policy**

**Adopted 23 July 2002  
In force 7 August 2002**

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# Managing Activities on Footpaths and Street Verges

**Keywords:** (accessibility, advertising, building materials (temporary storage), footpath surfaces, footpath eating area, public infrastructure (above ground), recycling bins, street banners, street fairs, street furniture, street stalls, street vending, streetscape and landscape, urban design).

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## The Setting

In Leichhardt we have many busy and vibrant streets and footpaths, this is especially so in our commercial strips. Our footpath/road verge areas have never been subject to more intense levels of activity. We all share these areas of the *public realm*, and it is important that the spaces be managed and used thoughtfully.

Our community sees our footpath areas as having a paramount role in providing for pedestrian convenience and safety. We are also seeing a rapidly increasing interest in outdoor cafes and kerbside dining in our shopping streets, and around neighbourhood stores. This can be a positive community feature, as with good design and management such activities can enrich our experience in the public realm, as a whole. A number of other commercial and public activities also compete for the use of our footpath areas.

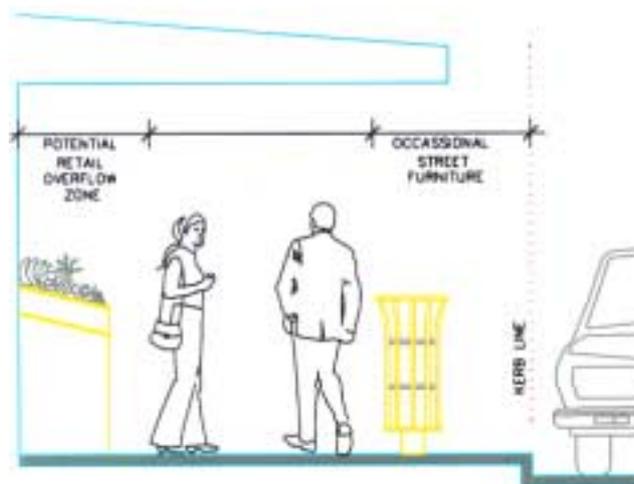
There is a need to manage the use of the footpath areas to ensure that its central role in providing for safe access is not compromised, while at the same time we seek to promote civic benefit through other activities in footpath areas.

## Aim

This document outlines Council's policy on development within footpath areas of the municipality. It provides advice to potential proponents on the planning and design standards as well as procedural requirements.

*The primary aim* of the policy is to ensure that footpaths provide for safe and convenient pedestrian passage (while at the same time continuing to provide vehicle access corridors to private property as may be existing).

*The complementary aim* of the policy is to provide controls and guidance for other activity on footpaths to ensure such activity enhances the existing character of a locality and is not inconsistent with any streetscape masterplans.



**Figure 1:** Council's primary aim is to ensure footpaths work for pedestrians. But footpath eating areas and other retailing activities, along with street furniture, all have a place in the street.

## Approach

The policy addresses the following individual topics:

- A. Footpath eating areas
- B. Balconies, verandahs and awnings above public footpaths
- C. Display of merchandise and A-Frame signs within the footpath area
- D. Rubbish skips and building hoardings on public footpaths
- E. Streets fairs and other community activities
- F. Public infrastructure and other "street furniture".

Each of the policy statements for the above topics stand alone and can be accessed separately from Council or over the internet.

However there is a consistent approach to the explanation of the policy, as follows:

- Part 1– Initial Assessment Criteria
- Part 2– Ongoing Management
- Part 3– Liaison and Compliance Protocol.

## The Approval Process

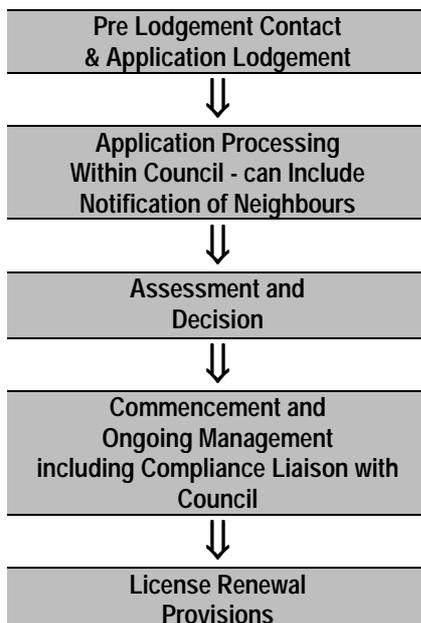
Under NSW legislation a number of statutory approvals may be required for proposed activities in footpaths and street verges. Relevant legislation may include:

Environmental Planning and Assessment Act, 1979 (s76A)	Sec.76A - development consent
Local Government Act, 1993 (s68)	Sec.68 - activity approval.
Roads Act, 1993	Sec.138 - erect a structure in, on or over a public road Sec.125 - use of part of the footway for the purposes of the restaurant (for classified road concurrence of the RTA may be required) Sec.126 erect and maintain structures in, on or over any part of the footway.

Council assessment processes will give appropriate regard to relevant legislation. At the same time we seek to integrate our assessment systems so as to reduce duplication and red tape to proponents and operators. In most approvals a “license” will be issued by Council for the proposed activity. For consistency and simplicity, this term is used in this document to denote the approval for any relevant activity.

A proponent must make an application for approval from Council before commencing any of these activities, unless the activity is very minor and is exempt from the need for approval under the relevant legislation. Council’s *Development Control Plan No.35 - Exempt or Complying Development* and the Local Government (Approvals) Regulation 1999 nominate activities which are exempt from the need for approval under the Environmental Planning and Assessment Act 1979 and Local Government Act, respectively.

The approval process is shown graphically below.



This policy has been prepared in accordance with Section 72 of the Environmental Planning and Assessment Act 1979 and Part 3 of the Environmental Planning and Assessment Regulation 2000 and operates as Development Control Plan No. 48. It contains matters which must be considered by Council in the assessment of development applications for the use of footpaths and street verges. The policy also acts as a Council policy, providing additional matters for consideration by Council when determining applications for approval under the Local Government Act 1993 and the Roads Act 1993.

## Making an Application

As a first step, you are invited to call and arrange a meeting where a professional officer can outline policy and procedural details relevant to your proposal.

A copy of the customised application form relevant to your proposal is available at Council’s Customer Service Centre. Completion of the forms allow us to address the various legislative components which apply. Information which needs to be provided includes:

- Applicant details
- Proposal details, including details of the proposed design and materials of street furniture to be used
- Layout sketch (see below for example)
- Public indemnity details
- Payment and direct debit authority for ongoing licensing if appropriate.



Figure 2: Example of layout sketch

## One-Stop Licensing and Fees

Many commercial operators seek recurrent licenses, and/or are required to pay a number of fees and charges to Council to comply with a number of regulatory requirements or services provided. To reduce red-tape for licensees, Council is investigating a *one-stop* fee payment arrangement, including quarterly payments by direct debit, covering relevant items which may include footpath licensing, sign licensing, food/ health premises inspections, trade waste, lease of air space.

# A. Footpath Eating Areas

**Context:** A footpath eating area is used for the serving and consumption of food. The area provides a natural extension to an existing café, restaurant or food shop.

## 1. - Initial Assessment Criteria

### 1.1 Suitable Locations

#### Objective

The location of footpath eating areas should provide a comfortable, attractive, safe and relaxing environment for patrons, while complementing other street activities.

#### Standards

- Suitable locations are limited to streets with sufficient footpath space to accommodate seating without compromising the safety and convenience of pedestrian access and other street activities (see **Item 1.2** below).
- Streets with narrow footpaths, or which are subject to very high pedestrian volumes, may be unsuitable unless footpath widening arrangements can be made.
- To minimise impact on pedestrian flows (particularly that of people with visual impairments) and other businesses, footpath eating areas are to be sited immediately in front of a café, restaurant or food shop. Street trees, street furniture and other public infrastructure, such as bus stops, may preclude the establishment of a footpath eating area for certain food premises.
- Council will only give consideration to kerb-side dining areas only where these are proposed in purpose-designed footpath widening areas).
- Before Council will give consideration to the occupation of “next door’s” footpath area an applicant will be required to provide ongoing consent from the tenant and landlord of the next door building.

### 1.2. Layout & Accessibility Corridors

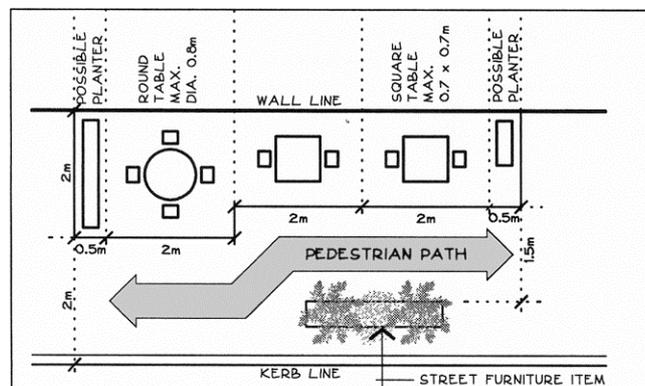
#### Objective

Footpath eating areas should be integrated into the street in a manner that does not compromise pedestrian movement and safety or other existing street activities, through maintaining adequate clearances.

#### Standards

- The area available for footpath dining will be determined dependent on the available width of the footpath area and any existing (and proposed) street furniture.

- A minimum of 2m is required between the outer extremity of the area allocated for footpath dining and the kerbline, for through pedestrian movement. See sketch.



**Figure A1:** A minimum of 2m is required between kerbline and the area allocated for outdoor dining. Actual area available for outdoor dining is dependent on existing and proposed street furniture (eg poles, signs, seats, etc ) with 1.5m minimum path of travel.

- Notwithstanding the above, footpath eating areas should not unreasonably prejudice provision of a continuous path of accessible travel. A minimum clear path of 1.5m is required including consideration of existing (and proposed) street furniture (eg seating, waste bins, utility poles, bike racks, phone booths, bush shelters etc)
- The approved licensed area is to be appropriately marked in a manner agreed to by Council. The method of marking must be neat and unobtrusive and not pose a safety hazard. Appropriate methods include:
  - marking out the corners of the licence area through pavement markers such as metal studs or stone inserts installed flush with the paved surface;
  - using existing landscape features such as trees and bollards to indicate the boundaries of the licence area; and
  - marking out the corners of the licence area through markers fixed to an existing or proposed awning directly above the licence area.

The markers must remain in place throughout the duration of the licence.

- In some instances it may be possible to relocate existing street furniture (eg waste bins) to allow more space for dining. Applications should be made to Council. If supported the cost will be borne by the applicant (current costs are \$1400 to relocate waste bins).
- The use of barriers to define licensed areas is not encouraged by Council. Where the use of barriers is approved, ground supports extending beyond the defined zone must not be a trip hazard for pedestrians.

- Licensed areas will only be approved in the zone adjacent to the building, rather than on the road kerbline (with the exception of purpose-designed footpath widening areas).
- Indicative dimensions are shown in the following diagrams.

- Additional kerbside setback provisions (2.5m min.) may be required on major roads, in accordance with RTA “Clear Zones” provisions.

### 1.3. Streetscape and Urban Character

#### Objective

Footpath eating areas should enhance and enrich the social function and community’s enjoyment of our streets. The design and siting of footpath eating areas should be sensitive to and enhance existing urban character, heritage and streetscape quality.

#### Standards

- Detailed standards for streetscape and urban character are covered at **Item 1.6 Furniture and Landscaping** and **Item 1.7 Advertising**.

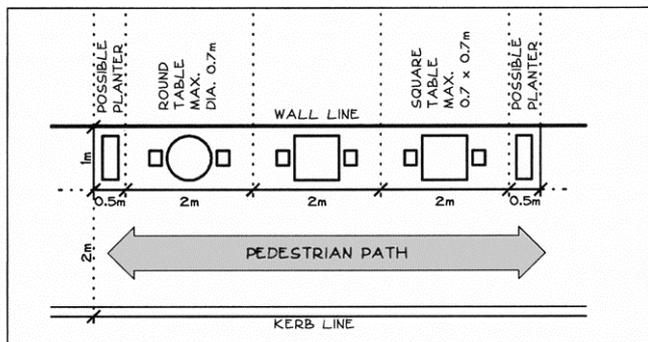


Figure A2: 3m footpath width (indicative only, area may be reduced if poles, signs or other street furniture impinge on a clear 1.5m travel path).

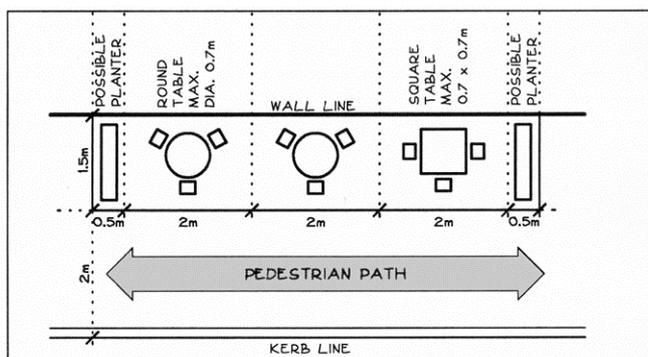


Figure A3: 3.5m footpath width (indicative only, area may be reduced if poles, signs or other street furniture impinge on a clear 1.5m travel path).

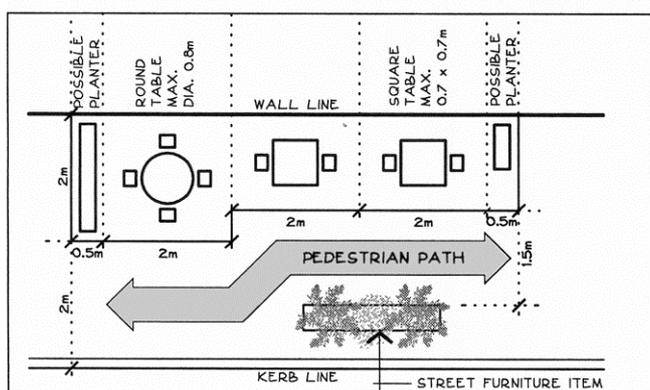


Figure: 4m pathway width (indicative only, area may be reduced if poles, signs or other street furniture impinge on a clear 1.5m travel path).

- Special provisions apply at street intersections where a splayed setback area of at least 2m from the building corner is required.
- Where clear path of travel is less than 1.8m wide, passing areas should be provided at a minimum of 6m intervals. These passing areas should be of at least 2m width (suitable for wheelchairs).

### 1.4. Public Safety – Traffic

#### Objective

Footpath eating areas place diners in a more exposed position to motor vehicle hazard due to their proximity to the road compared to, say, indoor diners. Appropriate crash protection barriers must be in place in circumstances of significant motor vehicle hazard.

#### Standards

- Footpath dining areas will generally only be permitted adjacent to the building façade (ie away from the carriageway kerbline).
- Applications seeking support for a dining area on a purpose designed footpath widening area will need to satisfy Council that adequate provisions relating to safety have been made<sup>1</sup>.
- Also note **Item 1.8 Footpath Widening Criteria**.

### 1.5. Public Safety – Design for Crime prevention

#### Objective

The introduction of outdoor dining can provide a community benefit in increasing natural surveillance within an area. Detailed design of the outdoor dining area should address crime potential within the outdoor eating area itself. Design and management of footpath dining areas are required to be consistent with principles for minimising crime risk.

#### Standards

- Clear sightlines from the indoor premises (eg shopfront windows) to outdoor dining areas.

<sup>1</sup> Compliance with the following guideline will be deemed satisfactory to Council: Transport SA, *Roadside Dining Protection – A Guideline for Local Government Authorities in South Australia*, 13 November 2000.

- Provision of physical or symbolic barriers to control and impeded access into the outdoor dining area
- Site cleanliness and quick repair of vandalism and graffiti.

## 1.6. Furniture and Landscaping

### Objective

The furniture used in outdoor eating areas should be portable yet sturdy and safe. It should promote the amenity of those enjoying the outdoor eating area. Furniture should be visually attractive, providing an harmonious feature in the streetscape.

### Standards

#### Tables and Chairs

- Tables and chairs to be clean, undamaged, level, safe and sturdy.
- The dimensions of tables and chairs should be carefully chosen to ensure they will fit into the area allocated, while occupied.
- The legs of chairs, tables and other items should be of sufficient width to prevent indentations in asphalt and the like during warm weather.
- Council reserves the right to require replacement of inappropriate tables and chairs (ie. furniture not in accordance with the approved design or in poor condition) as a license condition.

#### Shade Structures

- Generally, all buildings in a commercial centre are encouraged to have permanent protective structures over adjacent footpaths (refer to ***Part B*** of this policy and ***Section CI.7 of Development Control Plan 2000*** for further information).
- New fixed building awnings, balconies, verandahs and drop down blinds may be provided subject to Council consent. The height of such structures should be consistent with those nearby (2.8m-3.8m). The extremities of an awning, balcony or verandah should generally not be less than 1m from the kerblines. Also see ***Part B*** of this document for details.
- The use of freestanding umbrellas is discouraged and should not be used under awnings, balconies or verandahs (or in areas where such protective structures may reasonably be installed). The use of umbrellas must be justified by the applicant. Umbrellas should be safely anchored and secured to ensure stability in wind gusts.
- Umbrellas must not overhang any carriageway and must have a minimum clearance height of 2.1m.

## Barriers and Planting Boxes

- 900mm high (canvas) screens, and/or planting boxes of a high standard of appearance may be used subject to Council approval. The use of barriers and planting boxes are not encouraged and will only be approved where they do not pose a trip hazard to pedestrians and where they will not clutter the streetscape.

## 1.7. Advertising

### Objective

Any outdoor advertising should complement and be compatible with both the footpath dining activities and the surrounding locality. Sensitive designed advertising signs can help create a lively daytime and evening atmosphere. ***Section A9.0 of Development Control Plan 2000*** provides further guidance on the sensitive design and placement of advertising signs.

### Standards

- Sensitive advertising signs associated with footpath dining may be supported. These comprise signs giving directions, business identification and promotion.
- Advertising signage which is integrated into the design of fixed structures associated with the licensed area (ie. awning fascias and drop down blinds) will be supported provided that as a consequence of its design and location it does not add to local visual clutter and instead enhances the surrounding urban character and visual interest.
- Advertising signage attached to moveable furniture items (ie. chairs and tables) will generally not be supported.
- Illuminated signage will not be supported.

### Temporary Footpath Signs including A-frames

- A-frame advertising signs are not generally supported, and will only be allowed as a component of a co-ordinated urban design scheme for the site. Such signs shall:
  - have a design theme compatible with other street furniture
  - be professionally made and painted
  - be located so that pedestrian areas are uncluttered and access and egress to facilities and vehicles is unimpeded
  - not be located within the designated obstacle free pedestrian path
  - be aimed at informing pedestrians (not directed at drivers)
  - have a maximum face area of 0.7m<sup>2</sup>.
- Only one A-frame sign per licence will be permitted.

- Chalk board menu signs on the footpath will only be supported consistent with the principles nominated above.
- All signs should be safely anchored and secured to ensure stability in wind gusts.

## 1.8. Footpath Widening Criteria

### Objective

In some instances footpath widening would be appropriate to optimise the community benefits from the introduction of an outdoor dining area, or because of other uses in the footpath area. Council will consider footpath widening proposals subject to the following criteria.



### Standards

- Widening provided as a component of an adopted streetscape master plan.
- Assessed impact on: pedestrian amenity, streetscape, vehicular traffic and parking, indicates to Council satisfaction that footpath widening would provide a positive outcome.
- Clear sightlines from the indoor premises (eg shopfront windows) to outdoor dining areas.
- Public consultation program to identify and address any issues of impact or loss of amenity, or potential for similar schemes as part of an integrated plan.
- Generally isolated widenings are not favoured as one-off responses where no pattern of footpath widening currently exists (or is proposed) and where community benefits are very limited.
- Funding arrangements satisfactory to Council. Consideration will be given to:
  1. *Self funding arrangements with 2 year annual fee free period?*
  2. *50/50 funding*
- All design, materials and works to the satisfaction of Council.

## 1.9. Toilet and Sanitary Facilities

### Objective

To provide an adequate number and standard of toilet and washbasin facilities to cater for user requirements.

### Standards

- Generally there will be no requirement to increase toilets or sanitary facilities. This is based on the principle that outdoor dining is about providing improved facilities for customers, rather than markedly increasing customer numbers from that assessed at the initial development application for the café, restaurant or food shop.

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## 2. Ongoing Management

Maintenance and operation of the footpath eating area is ultimately the responsibility of the licensee (when not the same party, the licensee must ensure responsible day-to-day management by the operator). Good ongoing management can ensure that the eating area itself is enjoyable for all.

### 2.1. General

- The licensee shall ensure a copy of the current licence is on display whenever the footpath is in use. This will inform members of the public and allow Council officers to check the approval without disrupting business.
- The licensee shall maintain a Public Risk Insurance Policy of the amount of \$10 million against any action that may arise as a result of the use of the footpath.

### 2.2. Maintaining accessibility corridors

- Licensed outdoor areas will be suitably marked to ensure accessibility corridors are maintained (refer to ***Item 1.2***).
- Operators are required to ensure that all furniture remains located within the allocated areas, repositioning furniture as may be necessary, whether in use or not. Sufficient space must be allowed to ensure the arms and legs of patrons do not intrude onto public walkway areas.

### 2.3. Litter and cleanliness

- Maintain the cleanliness of the dining area, ie ensure litter is removed from the area and tables and chairs are kept clean.
- Ensure that furniture and fittings are clean in good order and well presented.
- Immediately remove all spills, especially those likely to cause pavement staining, including oils or fat spills, and slip hazards broken glass and the like.
- Remove any graffiti as soon as practicable.

### 2.4. Community Amenity & Safety

- Monitor the activities of patrons at all times and take responsible action to stop any behaviour that may interfere with the use, enjoyment or personal comfort of another person within the dining area, or adjacent footway or neighbours.
- Amplified music or singing associated with the outdoor eating area requires Council consent.

- Council may restrict trading hours depending on existing approvals and proximity existing dwellings
- The operator shall ensure that any structures on the footpath (eg signs, umbrellas) are weighted down so as to prevent them being blown over by the elements, or easily knocked over by patrons or passers by.

### 2.5. Removal of furniture at night & end of day clean-up

- Remove street furniture from the street at the close of business.
- Clean the public space at the end of the trading period by dry sweeping of food, paper, cigarette butts and other debris.
- Scrub remnant spills and stains.

### 2.6. Alcohol

- Alcohol shall not be sold or served in or from the footpath except where specific Council approval and the appropriate Liquor License has been obtained.

## 3. Liaison and Compliance Protocol.

### 3.1. Relationship Management

- Council is responsible to the community for the management of the roadside area, with footpath dining a potentially positive addition to the urban fabric in our area.
- Council seeks to encourage a professional partnership approach in its liaison with operators of footpath eating areas. Council wishes to support such activities subject to compliance with the public interest principles documented in this policy.
- Council encourages operator record keeping on ongoing compliance through Management Plans. An incentive for demonstrated continued compliance is provided through reduced Council site audit actions.
- Licensees are encouraged to submit Management Plans with annual renewal applications. Council will issue, and publicly promote, award certificates for leading practice operations.

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## Protocols on non-compliance actions

- The following are general guidelines for non compliance. Council has discretion to vary these protocols depending on the individual circumstances, the nature or extent of non compliance or prior non compliance.
- Non-compliance protocols are aimed at achieving responsible and amicable solution to footpath dining licence breaches.
- Infringement notices will include penalty fines **not less than \$355**. See Council's *Register of Annual Fees and Charges*, available from the Customer Service Centre for penalty details.

### Breaches of Conditions

- Step1 – Written and verbal notice to operator and licensee requesting compliance.
- Step 2 – Infringement Notice served if failure to act after Notice to Comply
- Following Infringement Notice, permit may be cancelled and/ or further action taken.

### Operating with an Expired Licence

- Step 1 – Application form is issued to operator and licensee. Written and verbal notice issued.
- Step 2 – Infringement Notice served if failure to act after Notice to Comply
- Step 3 – Continued non compliance may then result in further action being taken

### Operating without a Licence

- Step 1 – Application form is issued to the registered proprietor. Written and verbal notice issued.
- Step 2 – Infringement Notice served if failure to act after Notice to Comply
- Step 3 – Continued non compliance may then result in further action being taken

# B. Balconies, Verandahs & Awnings

**Context:** In this section the terms *balcony*, verandah and *awning* refer to permanent structures over public footpaths which provide protection to the public in terms of shade, shelter, safety and convenience. Balconies and verandahs may be in use for commercial or domestic purposes.

## 1. - Initial Assessment Criteria

### 1.1. Suitable Locations

#### Objective

To enhance the community's use of our streets (especially in our commercial areas), through provision of above kerb balconies, verandahs and awnings to provide shade, shelter, safety and amenity.

#### Standards

- Generally all buildings in a commercial centre are encouraged to have permanent protective structures over adjacent footpaths. The only exceptions are where such structures are not compatible with the heritage or architectural values of the building. This may be the case with civic buildings, churches, and often with banks

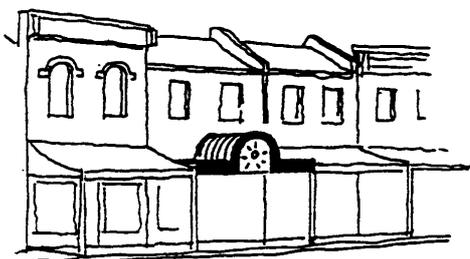
### 1.2. Streetscape and Urban Character

#### Objective

Balconies, verandahs and awnings should enhance the building and streetscape. Design should be sensitive to and enhance existing urban character, heritage and streetscape quality.

#### Standards

- With respect to heritage buildings the original form of the protective structure shall be restored/reconstructed on the basis of known evidence.
- With conjectural reconstruction, details from comparable examples in terms of form, period and style may be used, or a stripped or simplified form adopted. Such structures shall be researched by a heritage specialist and documented by a heritage architect, including certification for purposes of the Construction Certificate.



- With existing buildings that are not contributory in heritage terms, or on new buildings, the choice of structure shall hinge on it being complementary to the building, and compatible with the particular streetscape.
- All structures shall be visually light with an exposed structure, unlined soffits etc.
- Heritage structures may only be enclosed by drop down blinds, and the like; other structures only by frameless glazing and louvres, so as to maximise transparency and open-ness.
- A minimum of 50% of the vertical sides of upstairs verandahs or balconies shall be open or openable, including the balustrading and returns against the building. Solid balustrading and walling is not acceptable.

### 1.3. Public Safety and Pedestrian Flows

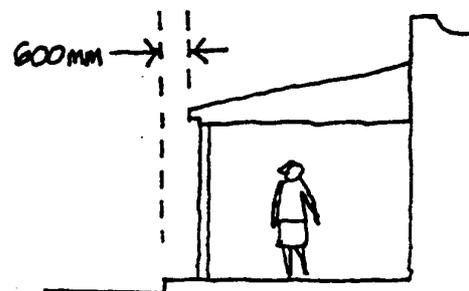
#### Objective

Balconies, verandahs and awnings above public footpaths need to be designed with an emphasis on public safety. Posts and other structural elements should be sited clear of vehicle parking and movement paths, without unreasonably inconveniencing pedestrian flows.

Appropriate crash protection barriers must be in place in circumstances of significant motor vehicle hazard.

#### Standards

- The setback from the kerb shall be the minimum required for safety; between 300 and 600 mm depending on the exposure to vehicles and site particulars.



- Additional kerbside setback provisions (2.5m min) may be required on major roads, in accordance with RTA "Clear Zones" provisions.
- Verandahs shall be designed to remain standing in the event of removal of any one post or both corner posts with respect to a street corner.

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- Where exposed to heavy traffic or where the posts/columns will interfere with pedestrian flows, the structure may be required to be cantilevered. All structures shall be certified by a structural engineer.

#### 1.4. Exclusive Use of Balcony and Verandah Areas Above Public Roads

##### Objective

Balconies and verandahs above pedestrian footpaths can provide floor space for commercial use (eg dining), or as additional private open space for a residence. In such instances Council can support exclusive use of these areas, providing that such use supports, and does not compromise, public interest principles.

##### Standards

- Initial and ongoing commercial or residential occupation of balconies and verandahs above public roads is subject to Council approval of a license under the Roads Act, 1993.

#### 1.5. Advertising

##### Objective

Any outdoor advertising should complement and be compatible with the surrounding locality. Advertising signage on balconies, verandahs and awnings can help create a lively daytime and evening atmosphere.

##### Standards

- Signage integrated into the design of balconies and awnings (and drop-down blinds) of commercial premises should relate to that premise only and should be adequate and effective. Signs giving directions, business identification and promotion will be supported by Council.
- Signage should minimise the extent of visual clutter and enhance the surrounding urban character.
- *Refer to Section A9.0 of Development Control Plan 2000* for further guidance on the design and placement of advertising signs.

## 2. Ongoing Management & Annual Licensing

### 2.1. Licensing

- Council will seek market rental rates for the occupation of balconies above public footpaths for commercial purposes.
- These revenues will cover administration costs, and provide for a return on the public asset to the Leichhardt community.
- Restaurant and café activities are the most popular use of balconies. A number of categories of rental rates apply, reflecting commercial potential, with higher rates applying to streets with higher vehicle and/or pedestrian traffic, and higher use characteristics.
- Rates are documented in Council's *Register of Annual Fees and Charges*.

### 2.2. Community relations & Noise

- Licensees must monitor the activities of patrons at all times and respond to any behaviour that may interfere with the use, enjoyment or personal comfort of another person within the dining area, adjacent footway, or nearby residences.
- Amplified music or singing associated with an outdoor eating area requires Council consent.

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## 3. Liaison and Compliance Protocol.

### 3.1. Applications

- Completion of an application form and submission of plans and documentation as listed in the Balcony or Awning Application form is required.
- The application form documents the licence agreement which must be executed with Council for all structures over public land, setting out mutual responsibility.
- Applications for new structures shall be documented with 1/20 scale plans, and elevations, with half to full size details of critical details such as column/beam junctions, and joinery sections, so as to fully describe the structure
- For new structures the licence shall be executed before issuance of a Construction Certificate (CC). The licence is linked to the CC and the documentation of the structure.
- After completion all structures shall be certified by a registered architect. With respect to restored structures, the documentation and the execution of the structure must be verified by a heritage architect.
- The licensee shall display a copy of the current display licence whenever the footpath reservation is in use for commercial purposes. This will allow Council officers to check the approval without disrupting business.

### 3.2. Protocols on non-compliance actions

- The following are general guidelines for non compliance. Council has discretion to vary these protocols depending on the individual circumstances, the nature or extent of non compliance or prior non compliance.
- Non-compliance protocols are aimed at achieving responsible and amicable solution to footpath dining licence breaches.
- Infringement notices will include penalty fines **not less than \$355**. See Council's *Register of Annual Fees and Charges*, available from the Customer Service Centre for penalty details.

#### Breaches of Conditions

- Step 1 – Written and verbal notice to operator and licensee requesting compliance.
- Step 2– Infringement Notice served if failure to act after Notice to Comply
- Step 3 - Following Infringement Notice, permit may be cancelled and/ or further action taken.

#### Operating with an Expired Licence

- Step 1 – Application form is issued to operator and licensee. Written and verbal notice issued.
- Step 2 – Infringement Notice served if failure to act after Notice to Comply
- Step 3 – Continued non compliance may then result in further action being taken

#### Operating without a Licence

- Step 1 – Application form is issued to the registered proprietor. Written and verbal notice issued.
- Step 2 – Infringement Notice served if failure to act after Notice to Comply
- Step 3 – Continued non compliance may then result in further action being taken

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# C. Merchandise, A-Frame Signs & Other Articles on Footpaths

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**Context:** The display of merchandise, A-Frame signs, planting boxes and other articles on public footpaths requires Council approval, unless listed as Exempt Development in Council's LEP. To be exempt from approval, among other things, the footpath area in use must be within 500mm of the front of the shop.

## 1. Initial Assessment Criteria

### 1.1. Suitable Locations

#### Objective

Any use of public footpath areas for display of merchandise, or the like, should not result in reduced pedestrian convenience, safety or amenity, and should complement other street activities.

#### Standards

- Suitable locations are limited to streets with sufficient footpath space to accommodate display of merchandise and the like without compromising pedestrian access and other street activities. (see **Item 1.2** below)
- Street areas with narrow footpaths (<3.5m), or which are subject to very high pedestrian volumes may be unsuitable.
- To minimise impact on other premises, merchandise and other items are to be sited immediately in front of the subject premises.

### 1.2. Layout & Accessibility Corridors

#### Objective

Display of merchandise and similar material should not compromise existing street activities, through maintaining adequate clearances.

#### Standards

- A continuous clear and accessible path of travel must be provided, with a minimum clearance of 2m considering existing street trees, signs, street furniture, bus shelters and other public infrastructure.
- In addition to the above, the proposed area used for display of merchandise and similar material should not exceed 1m from the shopfront.
- The approved licensed area is to be appropriately marked in a manner agreed to by Council. The method of marking must be neat and unobtrusive and not pose a safety hazard. Appropriate methods include:
  - marking out the corners of the licence area through pavement markers such as metal

studs or stone inserts installed flush with the paved surface;

- using existing landscape features such as trees and bollards to indicate the boundaries of the licence area; and
- marking out the corners of the licence area through markers fixed to an existing or proposed awning directly above the licence area.

The markers must remain in place throughout the duration of the licence.

- Special provisions apply at street intersections where a splayed setback area of at least 2m from the building corner is required.

### 1.3. Streetscape and Urban Character

#### Objective

Any use of the public footpath should enhance and not detract from the social function and general enjoyment of the street by the community.

#### Standards

- The display of merchandise and other material should be orderly and not constitute visual clutter.
- All merchandise and display equipment must be safely anchored and secured to ensure stability in wind gusts. No cardboard, foam or polystyrene boxes shall be displayed - unless they are in a suitable enclosure.
- No trolleys or shopping baskets shall be displayed or stored on the footpath.
- Any article or other structure displayed shall be stable and aesthetically pleasing in appearance.

### 1.4. Display and Storage of Items

#### Objective

Merchandise should be stored and displayed in accordance with high standards of public health and safety.

#### Standards

- Detailed provisions on acceptable goods for storage and display on footpaths are outlined under **Item 2.2 Display and Storage of Items**.



### 1.5. Advertising signage

#### Objective

Any outdoor advertising should complement and be compatible with pedestrian and other activities and the surrounding locality.

#### Standards

- Signage should minimise the extent of visual clutter and enhance the surrounding urban character.
- A-frame advertising signs are not generally supported, and will only be allowed as a component of a co-ordinated urban design scheme for the site. Such signs would:
  - have a design theme compatible with other street furniture
  - be professionally made and painted
  - be located so that pedestrian areas are uncluttered and access and egress to facilities and vehicles is unimpeded
  - not be located within the designated obstacle free pedestrian path
  - be aimed at informing pedestrians (not directed at drivers)
  - have a maximum face area of 0.8m<sup>2</sup>.
- Only one A-frame sign per licence will be permitted.
- All signs should be safely anchored and secured to ensure stability in wind gusts.



## 2. Ongoing Management

Maintenance of the footpath area is the responsibility of the licensee. Good ongoing management can ensure that the area's use is optimised without impinging on the public interest.

### 2.1. General

- The licensee shall ensure a copy of the current licence is on display whenever the footpath is in use. This will allow Council officers to check the approval without disrupting business.
- Public Indemnity Insurance The licensee is to maintain a public risk policy to the minimum value of \$10 million with the policy noting the interests of Leichhardt Council

### 2.2. Display and Storage of Items

- Licence holders are required to ensure that all display remains located within the allocated licensed areas, repositioning articles as may be necessary.
- No perishable food including meat, fish, poultry, dairy products, cooked rice, eggs and shellfish, but excluding flowers, fresh fruit and vegetables, shall be displayed.
- All externally displayed fruit and vegetables should be protected from contamination.
- Any food, including tinned and packaged goods, displayed, shall be at a height not less than 750mm above the footpath level.
- No sharp, protruding objects (eg uncovered hardware items) shall be displayed.
- Materials shall not be stored for any period on the footpath during loading or unloading activities. Where no other suitable on-site location exists, all loading and unloading should occur immediately from the vehicle to the interior of the shop.
- All goods shall be securely anchored or supported so as to ensure a safe environment for members of the public.

### 2.3. Maintenance and Cleanliness

- The area is to be maintained in a tidy condition during use and left in a tidy condition after use.
- All equipment shall be removed from the area when the activity ceases or in the case of a shop display at the end of each trading day
- Dry processes, such as sweeping and scrubbing if necessary, are to be used for cleaning the area

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## 3. Liaison and Compliance Protocol.

### 3.1. Relationship Management

- Council is responsible to the community for the management of the roadside area.
- Council seeks to encourage a professional partnership approach in its liaison with approved licensees for the display of merchandise, A-Frame signs and other articles on the footpath.
- Council encourages operator record keeping on ongoing compliance through Management Plans. An incentive for demonstrated continued compliance is provided through reduced Council site audit actions.
- Licensees are encouraged to submit Management Plans with annual renewal applications.

### 3.2. Protocols on non-compliance actions

- The following are general guidelines for non compliance. Council has discretion to vary these protocols depending on the individual circumstances, the nature or extent of non compliance or prior non compliance.
- Non-compliance protocols are aimed at achieving responsible and amicable solution to footpath dining licence breaches.
- Infringement notices will include penalty fines **not less than \$355**. See Council's *Register of Annual Fees and Charges*, available from the Customer Service Centre for penalty details.

### Breaches of Conditions

- Step 1 – Written and verbal notice to operator and licensee requesting compliance.
- Step 2 – Infringement Notice served if failure to act after Notice to Comply
- Step 3 - Following Infringement Notice, permit may be cancelled and/ or further action taken.

### Operating with an Expired Licence

- Step 1 – Application form is issued to operator and licensee. Written and verbal notice issued.
- Step 2 – Infringement Notice served if failure to act after Notice to Comply
- Step 3 – Continued non compliance may then result in further action being taken

### Operating without a Licence

- Step 1 – Application form is issued to the registered proprietor. Written and verbal notice issued.
- Step 2 – Infringement Notice served if failure to act after Notice to Comply
- Step 3 – Continued non compliance may then result in further action being taken

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# D. Rubbish Skips, Building Hoardings, etc

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**Context:** In certain instances there is a need for use of the footpath area for the temporary storage of building materials or waste. Often metal storage skips are used for this purpose. In other instances where new building works are occurring close to the public road boundary, there is a need for the erection of building hoardings as a safety measure. On occasions these hoardings will encroach onto the public footpath area.

## 1. Initial Assessment Criteria

### 1.1. Location

#### Objective

Skips and hoardings should be positioned safely without blocking access or visibility for pedestrians or cars.

#### Standards

- Suitable locations are limited to streets with sufficient footpath space.
- Street areas with narrow footpaths (<2.5m), or which are subject to very high pedestrian volumes may be unsuitable.

### 1.2. Accessibility Corridors

#### Objective

The skip or hoarding should not compromise existing public road activities, through maintaining adequate clearances.

#### Standards

- A continuous (preferably straight) accessible path of travel must be maintained on the footpath, generally a minimum clearance of 2m is required considering existing street trees, signs, street furniture, bus shelters and other public infrastructure.
- Notwithstanding the above, skips in place for short term periods (eg 1 week or less) may provide for a narrower access corridor (to a minimum of 1.2m) at the discretion of Council.
- In some instances it may be necessary to store the skip on the road carriageway.
- Skips and hoardings placed in the footpath must maintain a clearance of at least 1m at all times in front of exit doorways from adjoining and adjacent premises.
- Special provisions apply at street intersections where a splayed setback area of at least 2m from the property boundary is required.
- The skip or hoarding shall not cover or impede access to public or private utility access and drainage pits or obstruct the view of advisory and regulatory signs and traffic controls.



## 2. Ongoing Management

### 2.1. General

- The licensee must ensure that the site for placement of the skip or hoarding is maintained and operated safely and that pedestrians have free access to the remaining area of the footpath
- The licensee (or agent eg lessor of the rubbish skip) shall maintain a Public Risk Insurance Policy of the amount of \$10 million against any action that may arise as a result of the use of the footpath.
- The licensee shall have available a copy of the current license and allow inspection of it by an authorised Council officer on request.

### 2.2. Environment Protection Controls

- The licensee is responsible for any environmental pollution resulting from the skip. Should pollution occur, the licensee is responsible, at their own cost, for returning the affected area to its condition prior to the pollution. If the licensee does not comply with this condition, Council may carry out the necessary work and the licensee will be required to reimburse Council for the cost of this work.
- On expiry the licensee shall, at their own expense, remove the skip or hoarding and ensure the area is returned to its original condition. Where there is evidence of damage, contact shall be made with Council to make arrangement for a mutual inspection in the first instance.

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## 3. Liaison &

### Compliance Protocol

#### 3.1. Relationship Management

- Council is responsible to the community for the management of the roadside area.
- Council seeks to encourage a professional partnership approach in its liaison with rubbish skip users or those requiring building hoardings. Council wishes to support such activities subject to compliance with the public interest principles documented in this plan.

#### 3.2. Applications and Fees

- Unless the proposal is for a skip of less than **2m<sup>3</sup>** in volume, proponents are required to complete the relevant application form.

#### 3.3. Protocols on non-compliance actions

- The following are general guidelines for non compliance. Council has discretion to vary these protocols depending on the individual circumstances, the nature or extent of non compliance or prior non compliance.
- Non-compliance protocols are aimed at achieving responsible and amicable solutions to license breaches and/or unauthorised skips and hoardings.
- Infringement notices will include penalty fines **not less than \$355**. See Council's *Register of Annual Fees and Charges*, available from the Customer Service Centre for penalty details.

#### Breaches of Conditions

- Step 1 – Written and verbal notice to operator and licensee requesting compliance.
- Step 2 – Infringement Notice served if failure to act after Notice to Comply.
- Step 3 - Following Infringement Notice, license may be cancelled and/ or further action taken.

#### Operating with an Expired Licence

- Step 1 – Application form is issued to operator and licensee. Written and verbal notice issued.
- Step 2 – Infringement Notice served if failure to act after Notice to Comply.
- Step 3 – Continued non compliance may then result in further action being taken.

#### Operating without a Licence

- Step 1 – Application form is issued to the registered proprietor. Written and verbal notice issued.
- Step 2 – Infringement Notice served if failure to act after Notice to Comply.
- Step 3 – Continued non compliance may then result in further action being taken.

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# E. Street Fairs and Other Community Activities

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**Definitions & Principles:** There are a number of established community street fairs and other local community activities which occupy the public road for temporary periods.

Among other things, such activities can include:

- Temporary stalls (both open and covered)
- BBQs and other food sales
- Flags, banner signs and bunting
- Temporary traffic restrictions.

Council welcomes well managed community activities in the road reservation, consistent with principles of this plan.

## 1. Initial Assessment Criteria

### 1.1. Location

#### Objective

The locations selected for community fairs and such activities will respond to the scale of the activity proposed.

#### Standards

- The location of these activities will usually be in well established local centres, with locations nominated by Council.
- The following locations have been designated for street stalls:
  - Corner of Darling and Mort Streets, Balmain, outside ANZ Bank (not in front of Autobank or CBA, Balmain) – capable of holding 2 stalls.
  - Loyalty Square, Darling Street, Balmain.
  - Norton Street, Leichhardt in between Short Street and Wetherill Street, outside No. 140, bank and Short Street.
  - Glebe Point Road, Glebe, outside Commonwealth Bank (not in front of Autobank).
  - Glebe Point Road, outside Post Office
  - Corner of Booth and Johnston Streets, Annandale.
  - Corner of Darling and National Streets, Rozelle.
  - Adjacent to the Gladstone Park bus stop (south of Darling Street in recess areas either side of shelter).
- The following locations have been designated for street banners:
  - Glebe Point Road, near St Johns Church, Glebe.
  - Victoria Road amenities block, corner of Darling Street, Rozelle.
  - Norton Plaza, Leichhardt.

- Norton Street, Leichhardt between Wetherill and Short Streets.
- Balmain Town Hall Darling St, Balmain.



### 1.2. Accessibility Corridors

#### Objective

Ensure that reasonable accessibility corridors are maintained, while acknowledging the special and “one-off” nature of street fairs.

#### Standards

- A continuous accessible path of travel must be maintained through the subject area, generally a minimum clearance of 1.2m is required considering proposed stalls and existing street trees, signs, street furniture, bus shelters and other public infrastructure.
- Layout plans shall be prepared and approved by Council prior to the issue of the permit.

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## 2. Managing the Activity

### 2.1. Bookings for Established Fairs

- Stall permits can generally be issued on-the-spot at Council's Customer Service Counter.

### 2.2. New Proposals - Stall Reservation Arrangements

- For new proposals, proponents will need to provide details on stall reservation arrangements

### 2.3. Food Handling and Clean-Up

- Instructions on food handling arrangements shall be provided to all proposed operators of BBQs and other food premises by licensee.
- Instructions on full clean-up arrangements shall be provided by licensee to all groups. Where there is evidence of unexpected problems with damage or waste, contact shall be made with Council to make arrangement for a mutual inspection in the first instance.
- Council's other detailed policies relating to food handling will also be applied in appropriate circumstances.

## 3. Liaison & Compliance Protocol.

### 3.1. Relationship Management

- Council seeks to encourage a professional partnership approach in its liaison and support such activities subject to compliance with the public interest principles documented in this plan.
- In some instances it will be necessary to prepare a traffic management plan and liaise with the RTA and/or local traffic committee prior to gaining approval. Contact Council for further details.

### 3.2. Bookings for Established Fairs

- Stall permits are generally issued on-the-spot at Council's Customer Service Counter.

### 3.3. Applications and Bookings for New Community Proposals

- For new proposals, proponents will need to provide details on stall reservation arrangements.

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# F. "Street Furniture" and other Public Infrastructure

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**Definition and Principles:** Council and other public utilities are responsible for the placement of various items of public infrastructure in the road reserve. Above ground items relevant to this policy can include: seating, waste bins, utility poles, bike racks, phone booths, bus shelters, street signs, landscaping and the like.

- Above ground public infrastructure should not unreasonably prejudice provision of a continuous path of accessible travel. A minimum clear path of 1.5m is generally required including consideration of existing (and proposed) street furniture.

## 1. - Initial Assessment Criteria

### 1.1 Suitable Locations

#### Objective

The location of above ground public infrastructure should be chosen mindful of the objective of providing a comfortable, attractive, safe and relaxing environment for street users, and with a mind to complementing other street activities.

#### Standards

- Streets with narrow footpaths or which are subject to very high pedestrian volumes may be constrained in their capacity to provide discretionary infrastructure elements unless footpath widening arrangements can be made
- Selection of the location of above ground infrastructure will give consideration to existing lawful commercial uses within the road reservation (eg footpath eating areas and merchandise storage on the street), seeking not to disturb such uses where there are practical alternatives.
- While obviously not available for every street in the municipality, wherever available, streetscape master plans will be used as the blueprint for the location of public infrastructure in the road reservation.

### 1.2. Layout & Accessibility Corridors

#### Objective

Public infrastructure should be integrated into the street in a manner that does not compromise pedestrian movement and other existing street activities, through maintaining adequate clearances.

#### Standards

- The area available for above ground infrastructure will be determined dependent on the available width of the footpath area and any existing (and proposed) street improvements.



### 1.3. Streetscape and Urban Character

#### Objective

The design and siting of above ground public infrastructure should be sensitive to and enhance existing urban character, heritage and streetscape quality.

#### Standards

- Visually prominent elements of street furniture such as phone booths, bus shelters and landscaping should be visually attractive, providing an harmonious feature in the streetscape. .

### 1.4. Footpath Widening Criteria

#### Objective

In some instances footpath widening will be necessary or appropriate to facilitate the provision of improved street furniture or other public infrastructure, to optimise the amenity and use of the street.

#### Standards

- Where practicable, widenings will be provided as a component of an adopted streetscape master plan.
- Assessed impact on: pedestrian amenity, streetscape, vehicular traffic and parking, indicates to Council satisfaction that footpath widening would provide a positive outcome.
- Public consultation program undertaken to identify and address any issues of impact or loss

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of amenity, or potential for similar schemes as part of an integrated plan.

## 1.5. Advertising

### Objective

Any outdoor advertising should complement and be compatible with the surrounding locality. Sensitively designed advertising signs can help create a lively daytime and evening atmosphere. **Section A9.0 of Development Control Plan 2000** provides further guidance on the sensitive design and placement of advertising signs.

### Standards

- Advertising signs associated with street furniture can be supported in appropriate settings on their merits, conscious of the above objective and the public interest.

## 2. Ongoing Management

- Maintenance of public infrastructure is the responsibility of the accountable public authority. It is Council's intent to work towards satisfactory upkeep of all elements of above ground public infrastructure, in partnership with other responsible authorities.

## 3. Liaison and Compliance Protocol.

- Council's inspection and audit personnel will liaise with officers responsible for management and maintenance to ensure appropriate streetscape standards are met.
- Similarly Council will liaise with other authorities in relation to above ground infrastructure for which they may be responsible, in accordance with its legal powers, with the aim of ensuring appropriate streetscape standards are met.