

Mildura Rural City Council



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Introduction

Purpose of the Policy

This policy has been developed by Mildura Rural City Council in consultation with the local community, stakeholders, and traders to provide a comprehensive framework for the development, management and monitoring of activities within footpath areas, including alongside streets, in a consistent and municipal wide basis. The policy aims to encourage and promote a cohesive and activated streetscape.

Footpaths are a part of Mildura's public open space and movement network, owned and managed by Council. Mildura Rural City Council aims to provide a safe environment for people to move through the City. This requires a clear, unobstructed footpath for people of all abilities to move through. Traders must not undertake any commercial activities within the footpath areas without a permit issued by Council and in line with this policy and the Local Law. This policy recognises the different stakeholder interests and attempts to balance the needs of businesses, residents and visitors to Mildura, while providing a vibrant and enticing place to be.

Street and Footpath Trading Objectives and Principles

The Policy seeks to encourage cohesive design and higher quality outdoor dining and trading activities within the footpath area that:

- Make a positive contribution to improve the streetscape.
- Integrate with the existing business activity.
- Improve the physical and visual amenity of the footpaths in a sensitive and responsive manner.
- Does not interfere with safe movement of both pedestrian and vehicular traffic or access.
- Provide an extension of trading activity associated with the main business.
- Encourage new forms of trading which activates public spaces.

It aims to:

- Bring about a consistent standard to make trading on the footpath fair for all including traders, customers and pedestrians.
- Encourage the sensitive location of outdoor dining facilities.
- Encourage the sensitive display of goods and advertising on the footpath.
- Encourage good-quality, cost-effective design.
- Make requirements for footpath trading transparent and easy to understand.
- Respect adjoining amenity through appropriate design.
- Maintain visual amenity and pedestrian circulation standards
- Improve litter management.
- Provide a clean, enjoyable dining environment.

This policy does not relate to:

- On-road dining and road closures/events.
- Indoor dining.
- Temporary food stalls.

Where Does the Policy Apply?

The policy applies to outdoor dining and trading activities extending from adjoining private land (eg. Trader premises) in the defined footpath area within the road reserve, as well as on any public land under Council's direct control throughout the municipality.

This policy also applies to an outdoor dining and trading activity within the defined street area or footpath area at Council's discretion, such as a mobile food van operating from a public car parking space.

The policy does not apply to events, such as festivals or street parties, organised and held by traders. A separate permit application is required to be made by traders and administered by Council for special events.

This policy does not apply to the riverfront area as a Riverfront Commercial Trading Policy applies to this area. See Riverfront Commercial Trading Policy.

The Footpath and Street Area

It is important to draw the distinction between the Road Reserve, the Street Area and the Footpath Area. The road reserve is the entire width of the road between property boundaries and typically includes both the street and the footpath area. The street area is defined as the area between the kerbs and includes traffic lanes and parking. The footpath area is defined as the space between the property boundary and the face of the kerb.

This policy will look at the trading activities in the Footpath Area (including specific guidance for the Langtree Mall) under Section 1 of this policy and trading activities within the Street Area (including specific guidance for mobile and fixed food vans) under Section 2.

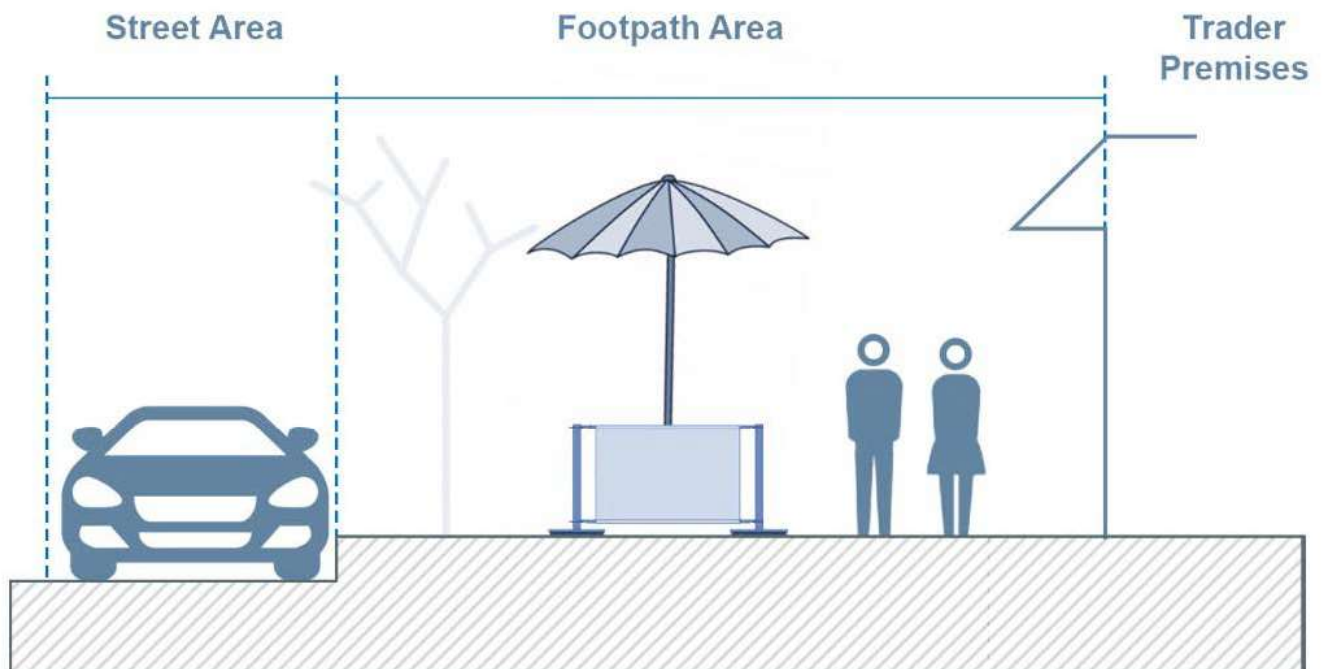


Figure 1 – Footpath and Street Area (*Not to Scale*)

The footpath area can be further broken down into distinct areas of activity. These are:

- The Pedestrian Area
- The Trading Area
- Kerb Area

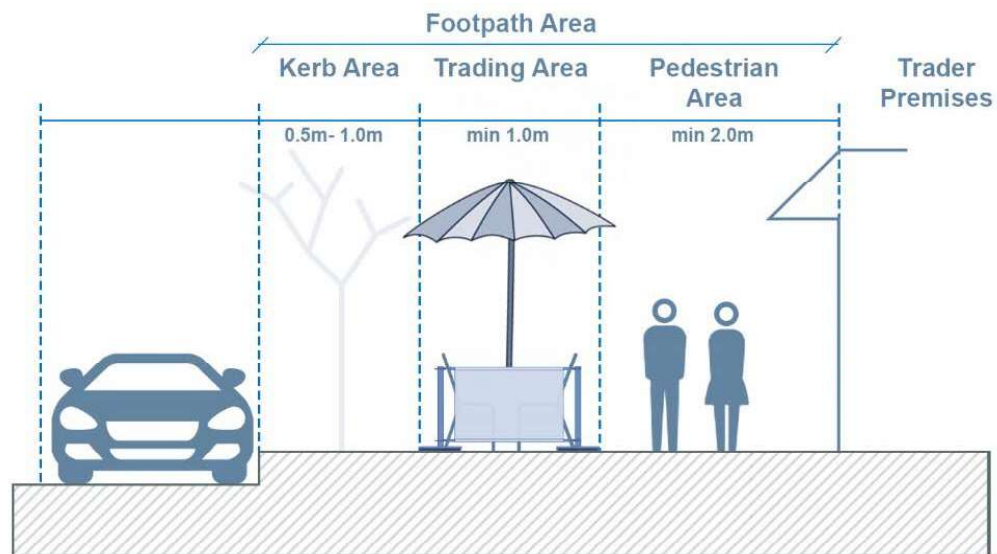


Figure 2 – Footpath Area (Not to Scale)

The Pedestrian Area is measured from the property boundary and must be a **minimum of 2m**. This area provides a continuous and accessible path of travel along the property boundary for the community. It must meet the minimum access needs for people with mobility aids and for shopping trolleys and prams to comfortably pass each other. Trading activity must not encroach into the Pedestrian Area.

The Trading Area is defined as the area between the Pedestrian Area and the Kerb Area. It must have a **minimum 1m width** across the municipality as some streets and footpath areas and building frontages vary in width and length. The commercial activities that can occur in this area typically include outdoor dining and display of goods. Trading elements such as tables, chairs, umbrellas, heaters, planter boxes, clothing racks, screens, advertising signs and A-frame boards, must be kept within the defined Trading Area at all times to keep the pedestrian walkways clear.

The Kerb Area is defined as the area between the edge of the Trading Area and the face of the kerb. It must be a **minimum of 0.5m-1m** dependant on car parking type. This area acts as a buffer between trading activities and on-street parking and allows people to gain access to their cars. On-street parking provides a safe distance between traffic and trading activities. The kerb area is to remain clear and any footpath trading items must not encroach into this space.

The **Street Area** is defined as the area between the faces of the kerbs and includes traffic lanes and parking areas. Trading activities can only take place within the street area in areas specified by Council and in some instances, VicRoads. This includes food trucks trading from car spaces and the use of car spaces for temporary parklets.

Langtree Mall

The Mall is the pedestrianised area of Langtree Avenue between Eighth and Ninth streets. Within Langtree Mall the Footpath Area takes on a different definition. It applies to the area from property boundary to property boundary as there is no dedicated street area for the movement of cars. However, a service area wide enough to accommodate emergency service vehicles (6m) must be provided. The Pedestrian and Trading Areas still apply and clear circulation is key to defining this space. A defined Trading Area is illustrated in Figure 14 and design and access requirements are outlined under *Langtree Mall Specific Requirements*.

Footpath Trading

Application and Approval Process

This section of the policy sets out the approach to be taken when making an application to trade within the footpath area. It outlines how Council will assess applications and issue permits for footpath trading to ensure an appropriate balance between the interests of the Council, traders, residents and visitors to Mildura.

Council manages all aspects of the Footpath Trading permit application process. This includes providing information about requirements, receiving and assessing applications and issuing permits.

Approval from Council's Local Laws department is required under the Local Government Act. This approval seeks to protect Council and public interests arising from activity on public land.

An annual fee is charged for this application, with Footpath Trading Permits expiring on 31 August each year. Renewal of the Footpath Trading Permit confirms that the Trader agrees to the conditions and guidelines of the current policy.

Consideration must be given to this policy when designing and assessing Footpath Trading Areas.

Transitional Period

Existing permit holders will be given 12 months from the renewal of their permit on 31 August 2018 to comply with the revised policy. At the conclusion of the 12-month period, all requirements of this policy must be met or the permit will not be renewed.

Required Information for a Footpath Trading Permit Application

The first step for proponents wishing to trade within a footpath area is to make an application to Council. This form requires proponents to provide details of the proposal, such as proposed use of the area, existing use of adjacent land, the extent of the Trading Areas and proof of public indemnity insurance.

An **Application Check Sheet** is supplied in **an attachment** to guide the preparation of an application. As part of the application process, proponents must outline how each performance requirement of the policy is met and identify any non-compliance issues with the policy. In some circumstances, the applicant will be required to provide justification why non-compliance should not prohibit approval of the permit request.

An **Application Form** is provided as an attachment for all trading within the Footpath Trading Area.

Footpath Trading Application Assessment

Once lodged and fees paid, the application will be managed by Council's Local Laws department. Local Laws will review the information provided in the submission and, where necessary, refer the application to other internal departments such as Asset Services, and Statutory Planning. Additional information about the relevant departments is provided below.

Local Laws

Local Laws will assess the Footpath Trading Area Plan and determine whether the requirement of this policy are being adhered to and if a permit can be issued. If building or works are planned for the footpath Trading Area, further permits may be required. The relevant Mildura Rural City Council Community Local Law which outlines the rights and responsibilities of commercial activity on Council land, including footpath trading, is Local Law No. 2.

Asset Services

Approval/authorisation is required for any structures that are fixed to public land, including but not limited to shade structures, umbrellas, awnings, fixed tables or chairs, pergolas or verandas. Considerations to be made by the Asset Services department are to ensure all fixed items meet Council standards around safety, structural integrity, and ease of maintenance.

Statutory Planning

Statutory Planning will review the application to determine if any additional planning permits are required. Typically, buildings and works associated with a Footpath Trading Areas approved by Local Laws are exempt from requiring a planning permit from the Statutory Planning Department but this will be confirmed as part of the referral process.

Planning permits may be required for signage, fixed items attached to buildings (e.g., awnings, gas heaters), a liquor licence, or buildings or works in a heritage area. Planning permit requirements can be confirmed by discussing the proposal with a member of Council's Statutory Planning department.

Other Authorities and Additional Approvals

Referral and approval from other authorities may be required. Other authorities may include VicRoads, Victoria Police, the Victorian Commission for Gambling and Liquor Regulations, Lower Murray Water, Powercor or EL Gas.

If additional approvals are required, a Footpath and Street Trading permit will need to be issued before external approvals may be issued. This permit provides consent from Council for the use of Council owned land.

Consideration will also be given to existing strategic plans such as the CBD Plan and town structure plans.

Application Determination

Once assessed by each department, their comments will be provided to Local Laws, who will then compile an overall assessment of the application and make their determination.

If an application meets all the requirements then Council will grant a permit.

If the assessment identifies non-compliance with the requirements and the overall intent of the policy, the applicant will be provided an opportunity to amend the proposal for further review by Council.

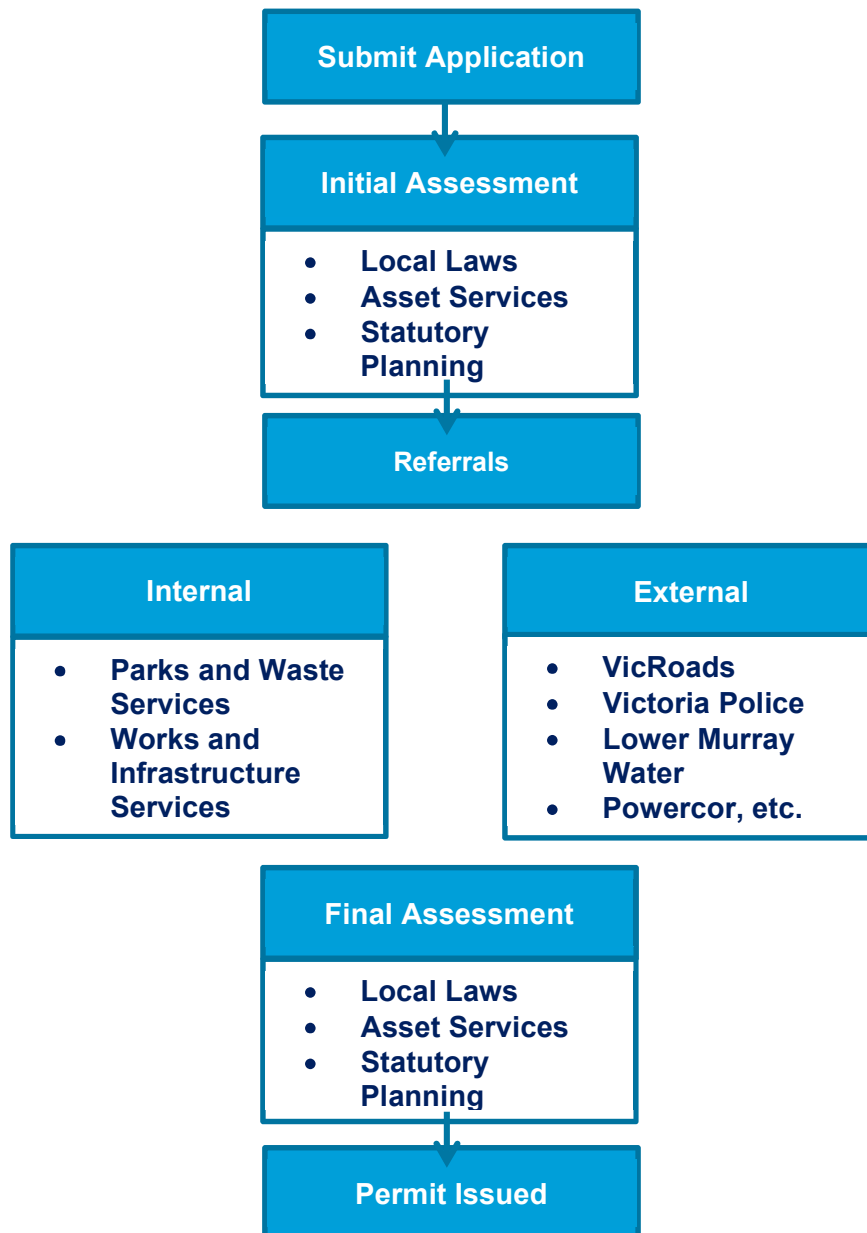


Figure 3 – Application Process

Footpath Trading Access and Design Requirements

Pedestrian Access

The location of trading furniture should be based on an evaluation of the site conditions and potential impacts on the Pedestrian Area. The Pedestrian Area provides an important circulation path for pedestrians. Attention must be given to providing safe and unobstructed pedestrian opportunities in and around Trading Areas.

Objectives

- To achieve a layout which minimises the impact of the Trading Area on the Pedestrian Area, Kerb Area and neighbouring properties.
- To provide clear lines of sight and navigable streets for the public while activating the street.

Performance Requirements

- The minimum width of a Pedestrian Area must be 2.0 metres where the footpath is wide enough to accommodate it. No furniture or ancillary items including A-frame signage is to be located in this area.
- The minimum width of a Kerb Area must be:
 - 0.5 metres from the gutter when adjacent to angle (45°/90°) vehicle parking
 - 0.7 metres from the gutter when adjacent to parallel vehicle parking
 - 1.0 metres from the gutter when adjacent to a disability access parking space



Figure 4 – Typical Section showing relative width of kerb depending on adjacent parking condition (Not to Scale)

- The **minimum** width of a Trading Area must be **1.0 metre**.
- A 2.0 metre minimum clearance is required for access to pedestrian crossings to allow for safe, unobstructed pedestrian access as outlined in Figure 5.

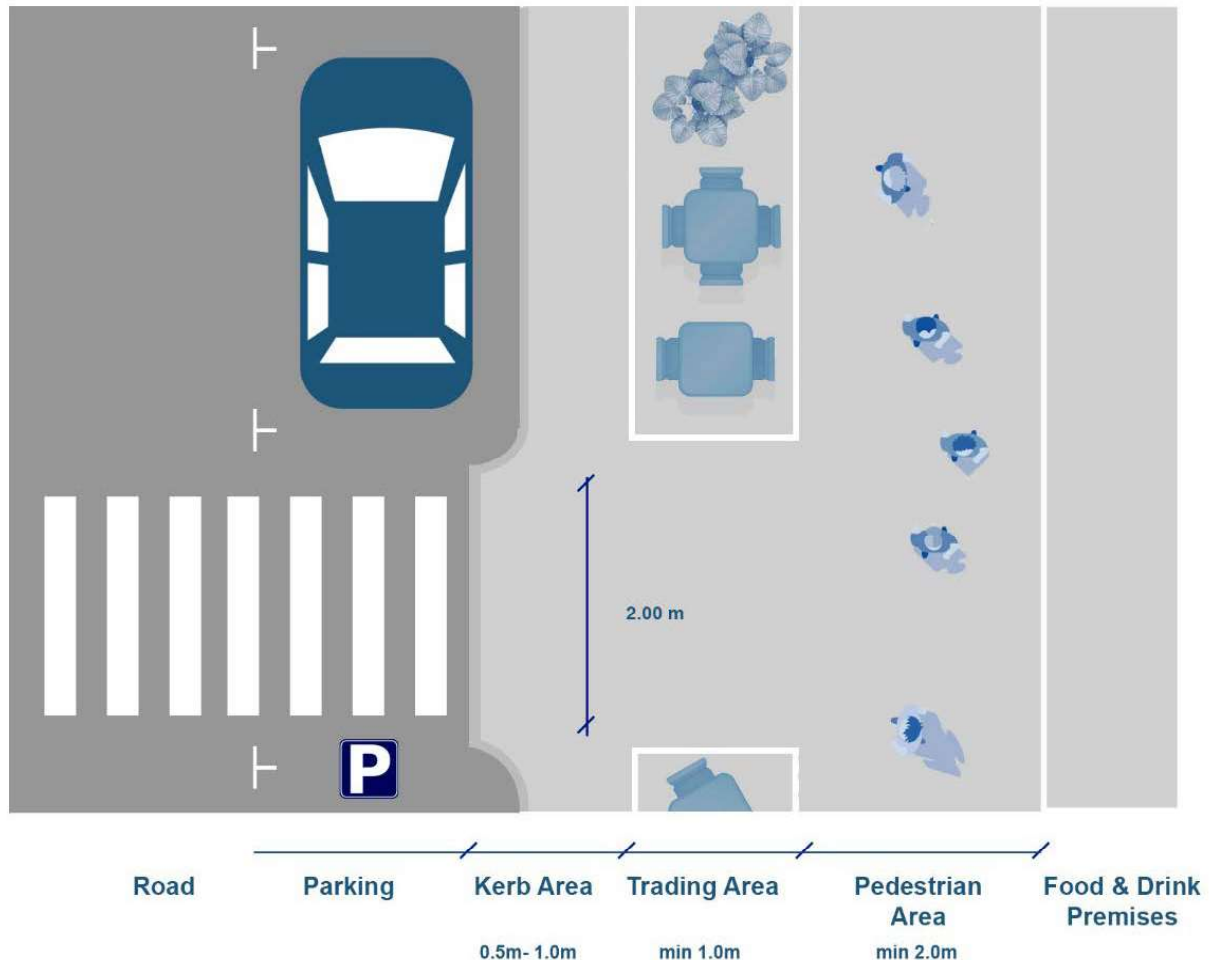


Figure 5 - Indicative Location Plan – Mid-block pedestrian crossing scenario (Not to Scale)

- The Trading Area must not be located outside an adjoining property without written consent of both the adjacent landowner and the land occupier (if they are not one or the same), and Council. These extensions will only be permitted on a temporary basis.
- If Council, the adjacent landowner or land occupier of the adjacent premises, revokes their consent for the footpath Trading Area to include the area adjacent to the permit holder's premises, then the applicant must cease using that area immediately and reinstate the footpath within the time specified by Council. No permanent fixtures or permanent structures are permitted outside adjoining properties.
- Consideration must be given to the location of accessible parking so that proposed footpath Trading Areas do not affect access and movement from the street to the Pedestrian Area.

- The Trading Area should be located at least **3 metres** from the corner of the property boundary at an intersection on a road with a 40km/h speed limit, or 5 metres from the corner of the property boundary on a road with a 60km/h speed limit. This distance may be reduced following an assessment of sight distances for road users and pedestrians. This is outlined in Figure 6.

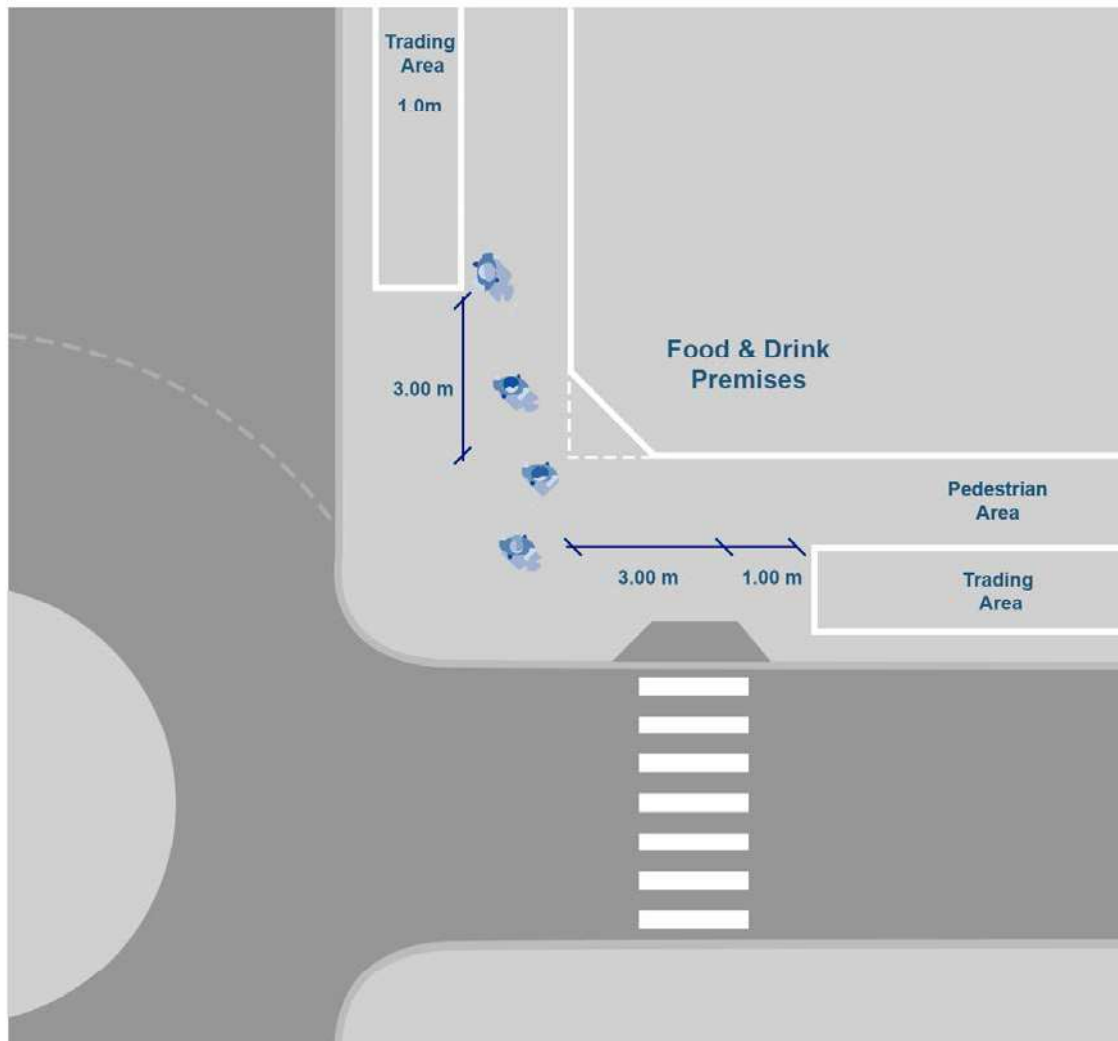


Figure 6 – Required setback distances from roundabouts where the speed limit is 40 km per hour
(Not to Scale)

- Consideration must be given to the location of pedestrian crossings so that proposed footpath Trading Areas do not affect access and movement from the street to the Pedestrian Area. Footpath trading must be a minimum of 1m from the pedestrian crossing. This is outlined in Figure 7.

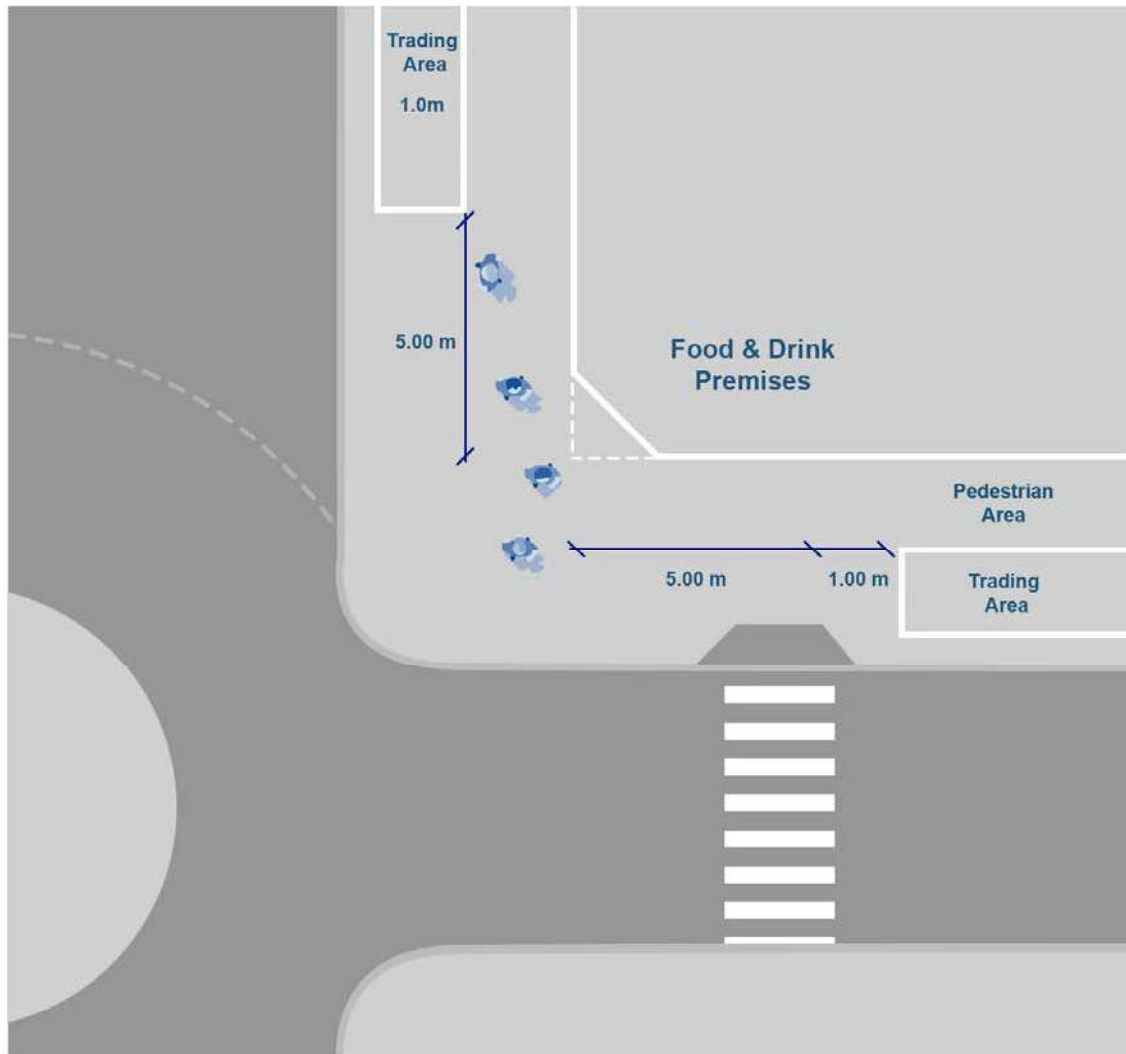


Figure 7 – Required Trading Area setback distances from roundabouts where the speed limit is 60km per hour

- The Mildura, Merbein and Red Cliffs CBD areas include service laneways. Clearances from intersections of laneways must be at least **2 metres** from the property boundary, as outlined in Figure 8.

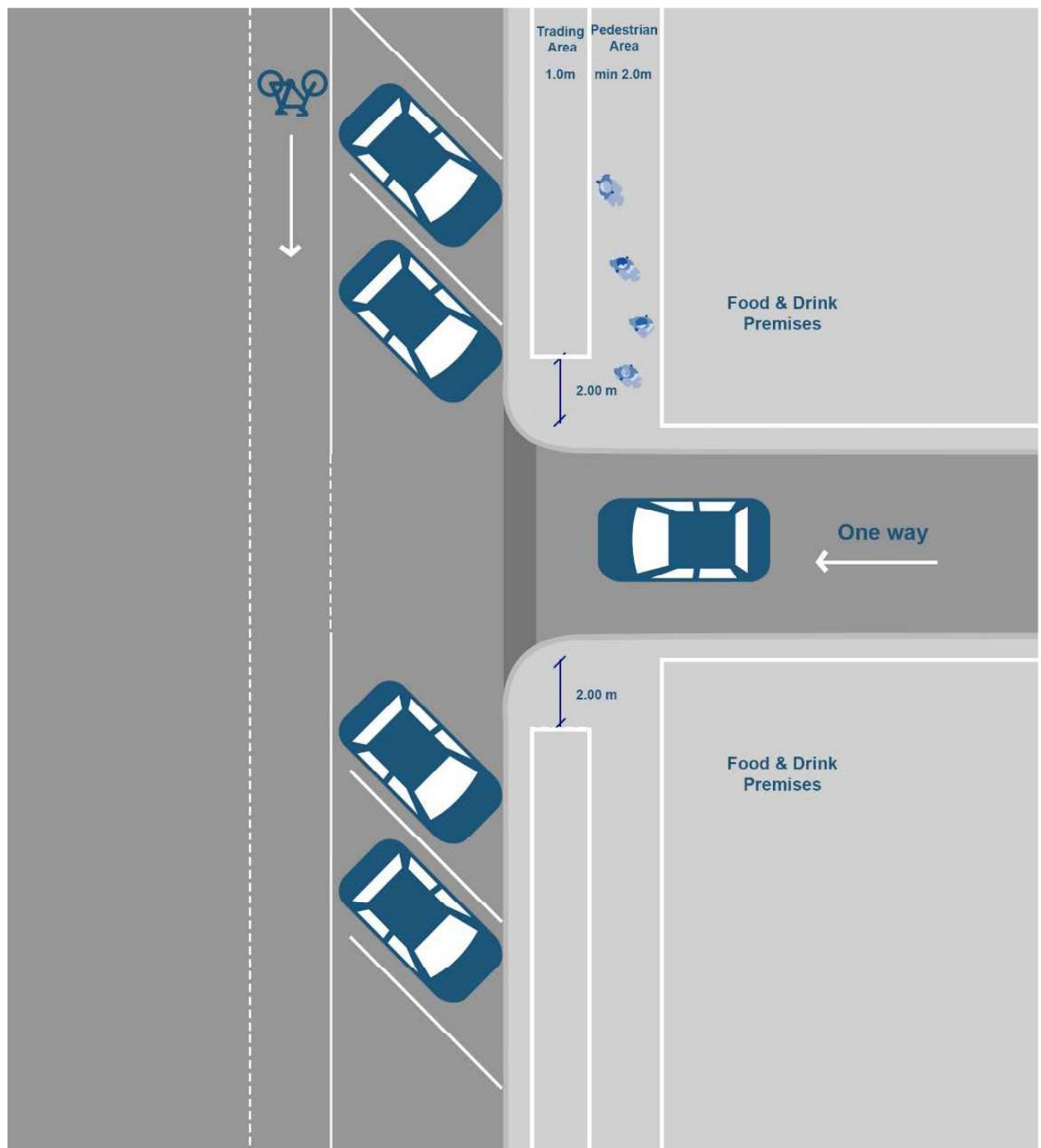


Figure 8 - Trading Area setback requirements from the intersection of a laneway with main road

Once the location has been assessed and approved, the permit holder will be required to install pavement delineation markers to identify the area. These must be installed to the requirements of Council.

Streetscape and Amenity

Footpath Trading Areas should complement and enhance the existing streetscape and amenity. In determining the streetscape and community impacts particular attention should be given to:

- Provision of a tidy and hygienic Trading Area;
- Positive relationship with existing buildings from public areas;
- Integration with key design elements/principles;
- Colour and appearance of materials used;
- Design of trading furniture; and
- Clearance from existing public infrastructure.

Objectives

- To provide an attractive and comfortable place for people to experience an extended trading and dining area, without limiting the amenity of other people in the street or the footpath area.
- To ensure that the size, appearance and materials used within footpath Trading Areas are compatible with and improve the existing streetscape and public realm.

Performance Requirements

- An application for footpath trading must demonstrate how the proposal will positively contribute to the existing streetscape.
- The Trading Area must be maintained in a tidy and hygienic manner to the satisfaction of Council.
- Permanent Structures, Permanent Fixtures, Permanent Trading Furniture or other permanent items are discouraged.
- Permanent Structures should not obstruct view of main areas of street activity and significant sight lines to important landmarks.
- If any permanent structures are approved there must be no logos or advertising on them. All approved Permanent Structures must be removed and public realm made good when the premises are vacated by the trader. Removal and disposal will be at permit holders cost.
- Removal or relocation of any existing street furniture is discouraged. No existing street element or asset can be removed or relocated or modified without the written consent from the appropriate authority and/or Council in a permit issued in accordance with this policy (eg. trees, signs, bins, seats, public utilities etc).
- Footpath trading areas should not compromise access to street furniture by the public.
- Existing street trees and tree pits must be maintained to prevent damage to the root system and to provide an uncluttered environment.
- Clearance from litter and recycling bins and bike stands must be adhered to so the public and Council contractors can access them from the Pedestrian and Kerb Areas.
- Clearance from way-finding and other signage must be provided to ensure visibility and access to help the public navigate.
- Clearance from other street infrastructure, such as electricity boxes, fire hydrant, parking meters, payphones, light posts and traffic lights must be provided for access and to minimise visual clutter.

Table 1 (below) indicates a minimum clearance distances recommended from existing infrastructure.

| Existing Public Infrastructure | Minimum Clearance in Metres |
|--|-----------------------------|
| Street furniture (seats, tables, benches etc). | 1m |
| Public seating | |
| Bicycle stands | |
| Fire hydrants | |
| Payphones | |
| Parking meters | |
| Traffic lights | |
| Pedestrian-operated lights | |
| Post Boxes | |
| Way-finding signs | |
| Trees and tree pit edge | 0.5m |
| Electricity boxes | |
| Electricity poles | 0.25m |
| Street lights | |

Table 1 – Recommended Clearance Distances

Layout of Tables and Chairs

Trading furniture including chairs and tables are integral to the provision of the footpath trading experience.

Objectives

- To provide chairs and tables that contribute to an engaging, comfortable and safe outdoor dining experience.
- To provide chair and tables which improve the visual amenity of the streetscape.

Performance Requirements

- All Trading Furniture must be contained within the approved Trading Area at all times, whether in use or not. Warnings or infringement notices may apply for non-compliance.

Chairs and tables should not be placed with their back to the roadway without a barrier between the Trading Area and the Kerb Area.

- Chairs and tables utilised within the Trading Area must be suitable for outdoor use, of high quality and suitable for the location. Indoor style furniture is not permitted.
- For each individual trading area, chairs and tables should be uniform in their style and design. The use of one shape and colour of chair and table is preferred.
- Chairs and tables should be unobtrusive and contemporary in style, appearance, materials, finishes and colours. Any major variation to the style or type of furniture approved under this policy to be used in the Trading Area will require Council approval by amending a permit issued in accordance with this policy.

- Chairs and tables must be made of materials that do not deteriorate quickly. Fragile materials, such as natural wicker and non-sturdy plastics will not be permitted.
- Chairs and tables should be portable yet sturdy and windproof. Metal and timber frames are required. Plastic frames are generally not permitted, unless made of a sturdy plastic, such as a hard resin. Light weight plastics are not permitted as they cannot withstand heavy weight or pressure and are not wind resistant.
- Chairs and tables must be physically maintained in a manner to the satisfaction of Council. The materials and colours of tables and chairs must be easy to keep clean. White materials should be avoided as they rapidly deteriorate and discolour. Deteriorated or damaged furniture must be replaced as soon as possible.
- Fixed tables and chairs are discouraged. No fixed chairs and tables may be used in the Trading Area without the written consent of Council in accordance with this policy. A fixed item is defined as something that will not be removed from the Trading Area at the end of the trading day.
- The style and colour of chairs and tables should not detract from the integrity and character of significant buildings, landscape features and structures in the street. Muted colours should be used for outdoor furniture within a Trading Area adjacent to culturally significant building.
- Chairs and tables should have a minimum 30mm diameter rubber pad on legs to protect the pavement surface. Chair and table legs should be adjustable to suit pavement levels as required.
- As a guide Council will generally allow a maximum of 1 table and 4 chairs to every 4m² within the Trading Area. This is dependent on the Trading Area size, size of Pedestrian Area and accessibility. Furniture or fixtures should not impede safe pedestrian movement or access.
- Tables and chairs should be stackable to allow easy storage within the cafe outside business trading hours.
- Preference will be given to footpath trading proposals that do not increase the number of chairs and tables associated with the existing food and drink operation. *Applications that increase the seating capacity of the premises may trigger the need for planning approval to provide additional car parking* (Also refer to Element 8 – Management, Performance Requirement 18) and may also trigger the need for a building permit to provide additional amenity provisions including disabled toilets and disability access.

Display of Goods

The display of goods on footpaths provides businesses with the opportunity to display items that are sold within the adjoining trader premises and includes additional items which enhance the shopping experience. The display of goods on a footpath contributes to diversity on the street and are essential in creating a positive shopping experience.

Objectives

- To provide goods display areas that contribute to a comfortable and safe outdoor shopping experience.
- To provide goods displays that do not detract from the visual amenity of the streetscape.
- To provide goods displays that do not impede pedestrian movement.
- To promote and enhance the shopping experience.

Performance Requirements

- The display of goods must only be placed within a defined Trading Area.

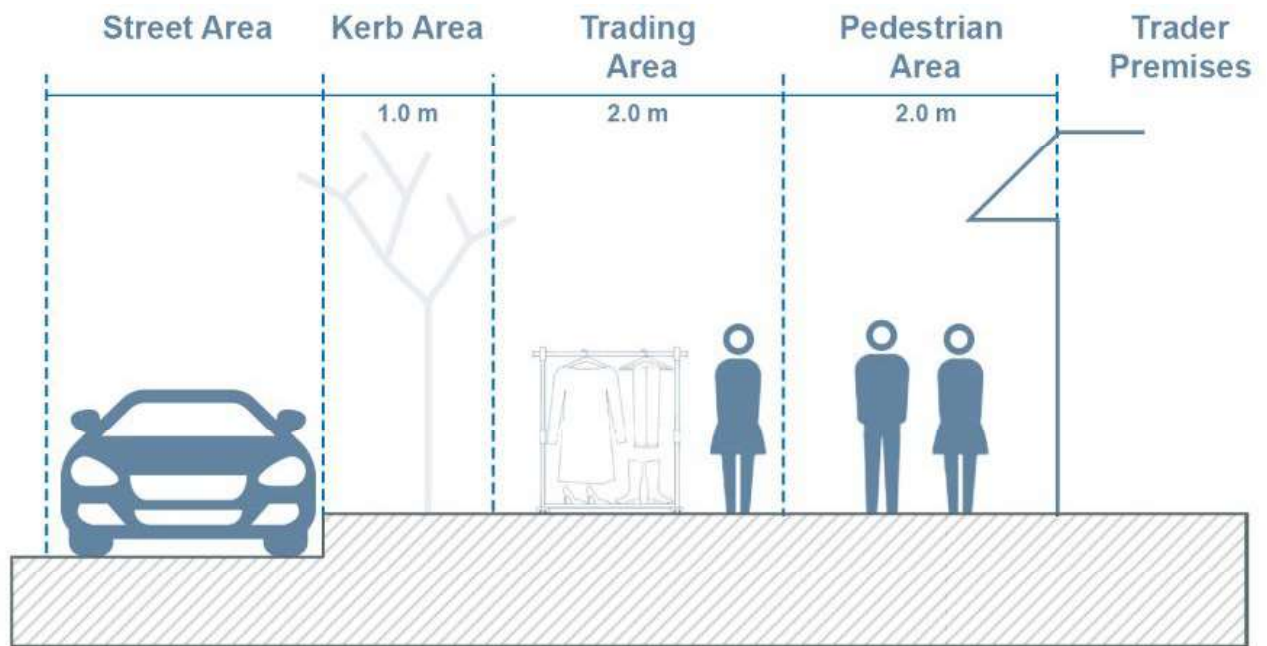


Figure 9 - Typical section showing display of goods on the footpath (Not to Scale)

- The goods on display must not occupy the entire Trading Area to permit customer movements. The appropriate area for the display of goods should be no greater than 75% of the length and width of the Trading Area to allow pedestrians to stop and view the products without blocking pedestrian access. For example, if a trading area is 10m in length and 4m in width, then the goods display area should measure 7.5m by 3.0m respectively (see Figure 10 below). A site plan should be provided with the application to show the detailed trading area.

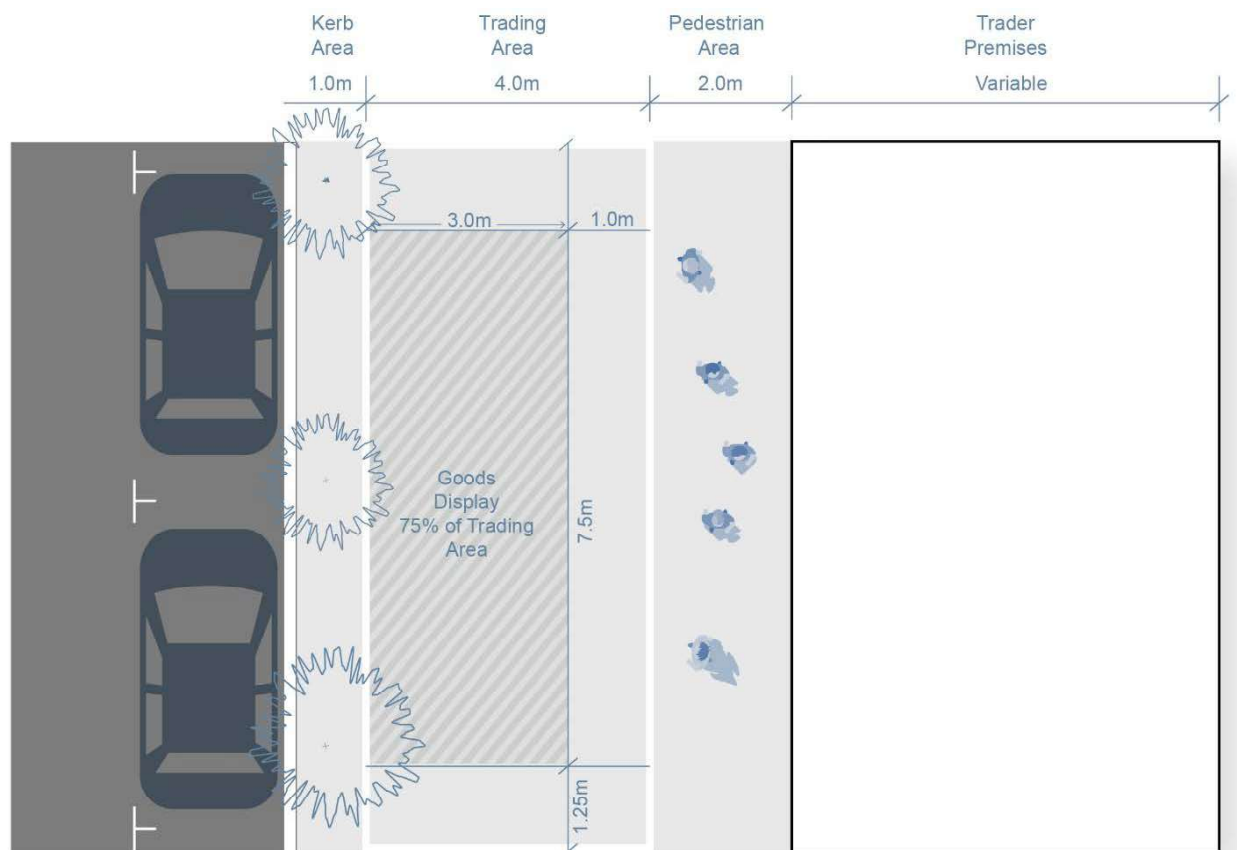


Figure 10 - Plan showing the extent of area that goods can be displayed within the Trading Area (Not to Scale)

- Goods can be displayed up to a height of 1.5m. This height may be reduced in locations where the goods could potentially obscure lines of sight for drivers and pedestrians.
- Display stands must be of a high standard in appearance and style, and made of quality materials, with finishes that are safe, durable, attractive and respect and enhance the existing amenity of the streetscape.
- All goods and any stands must be stable
- Goods must not be affixed to any footpath, building, street furniture, or other structures in the public realm.
- Food display must comply with any requirement of Council's Environmental Health department.
- For corner sites, footpath displays should not be placed within 3m from the corner of the building property along a road with a 50 km per hr or 5m from the corner of the building property for roads with a 60km per hr speed limit.

CCTV Cameras

Council operates a number of CCTV cameras at key locations in the Mildura and Red Cliffs central business districts. The cameras are installed at locations determined on the basis of advice provided by the Victoria Police, Council's Community Safety Reference Group and other intelligence. A full list of cameras and further information can be found within the *'Mildura Rural City Council CCTV program Code of Practice.'*

Objective

- To ensure outdoor dining and trading activities do not impact public safety by blocking or distorting a view from an existing CCTV camera to a public area.

Performance Requirements

- The location of any objects within the Trading Area must not block or in any way diminish the view of the CCTV to the public areas.
- The applicant may request the location of the CCTV camera to be relocated, however this would be at the cost of the applicant. In this scenario, the new location must provide the same extent to the public area as the original location.

Heating, Cooling and Lighting

Heating, cooling, and lighting infrastructure is important to improve customer comfort. To achieve this comfort, it is imperative that these facilities are provided in a manner that minimises potential risk.

Objectives

- To allow traders to artificially modify the microclimate of the trading area to increase comfort of outdoor diners and shoppers.
- To facilitate the provision of heating, cooling and lighting in a manner that will protect public safety and property.

Performance Requirements

- Heaters must be Australian Gas Association (AGA) approved and be used in accordance with manufacturer's instructions, particularly in relation to required clearances from other combustible objects. The heater must be fitted with a tilt safety switch where the gas will

automatically turn off if the heater unit is tilted. Portable heaters which are returned to the trader premises at close of business, rather than fixed gas heaters, are preferred.

- Any fixed or portable gas heater within the Footpath Trading Area is to be installed and/or checked by a registered gas fitter to ensure they comply with:
 - AS 5601/AG-006 – 2004 Gas Installations
 - AS/NZS 1956 – 2008 Storing and Handling of LP Gas
 - AS 4565 – 2004 Outdoor Radiant Heaters
 - And any other relevant Gas Standards
- All fixed heaters or fans must remain within the approved Trading Area at all times, whether in use or shut off.
- Misters must be located within the trading areas.
- Misting and fogging systems are required to be permanently fixed and maintained in good working order. A high-pressure system must be used to ensure a fine mist that evaporates quickly without getting people or furniture, or the footpath wet. Static misting and fogging systems installed along fascia, under verandas, awnings, shade structures and umbrellas, should be installed at a minimum height of 2.7 meters from the ground to ensure people and furniture don't get wet.
- Outside of daylight hours, adequate lighting must be provided to ensure the safety of pedestrians within the Pedestrian Area and the amenity of the Trading Area.
- Chasing/flashing lights are not permitted in Footpath Trading Areas.
- Lighting is to be permanently fixed and must be maintained in good working order and should not create unreasonable spill into neighbouring properties. Portable lighting and leads are not permitted.
- Temporary lighting for seasonal, cultural and festive events, such as Christmas is permitted. The lighting must be safely fixed and in good working order. Lights must be battery operated. No lighting or leads are to encroach the pedestrian area or create unreasonable light spill to adjoining trading areas.

Shelter, Shade, Barriers and Screens

The local climate attracts users to outdoor trading areas and these areas should reflect the unique environment of the Mildura area. Shelter, shade, barriers and screens have the effect of enhancing the footpath trading experience. Inappropriate provision of these has the potential to impact on amenity, pedestrian circulation also the opportunity to complement existing buildings and streetscape.

Objectives

- To provide a designated footpath trading area, rendering a comfortable dining and shopping experience.
- To minimise potential impacts of footpath trading on the streetscape, amenity, pedestrian circulation, property and public safety and visual clutter.

Performance Requirements

- **Removable Barriers** may be permitted within the Trading Area, subject to available space, clearance from existing infrastructure and the surrounding traffic conditions. Barriers will not be

permitted if they adversely impact the openness or character of the streetscape or obstruct pedestrian and vehicle sightlines. Barriers must not exceed 1.2m in height.

- **Screens** are used along one edge of the Trading Area to separate an outdoor drinking area from an outdoor dining area. The screen must be demonstrated to accord with all aspects of any relevant legislation relating to purpose between Trading Areas to minimise smoke drift. The screen should be simple in design and made from a translucent material, such as a water-resistance café blind.
- Retractable Awnings are attached to the existing veranda or awning to increase shade while not impeding access. They are generally permanent fixtures which are retracted at close of business.
- A **side curtain** is a roll-up weather blind attached to an awning or retractable awning to protect the trading area from the elements. Side curtains are not permitted without careful consideration of how they will impact the openness and accessibility of the street and footpath area. If a side curtain is desired it must be noted on any application form under this policy.
- A combination of shelter, shade, and vertical dividers, such as barriers, shade curtains and screens can be used to create a comfortable dining experience. For the purposes of this policy the difference between each is presented in Figure 11 below.

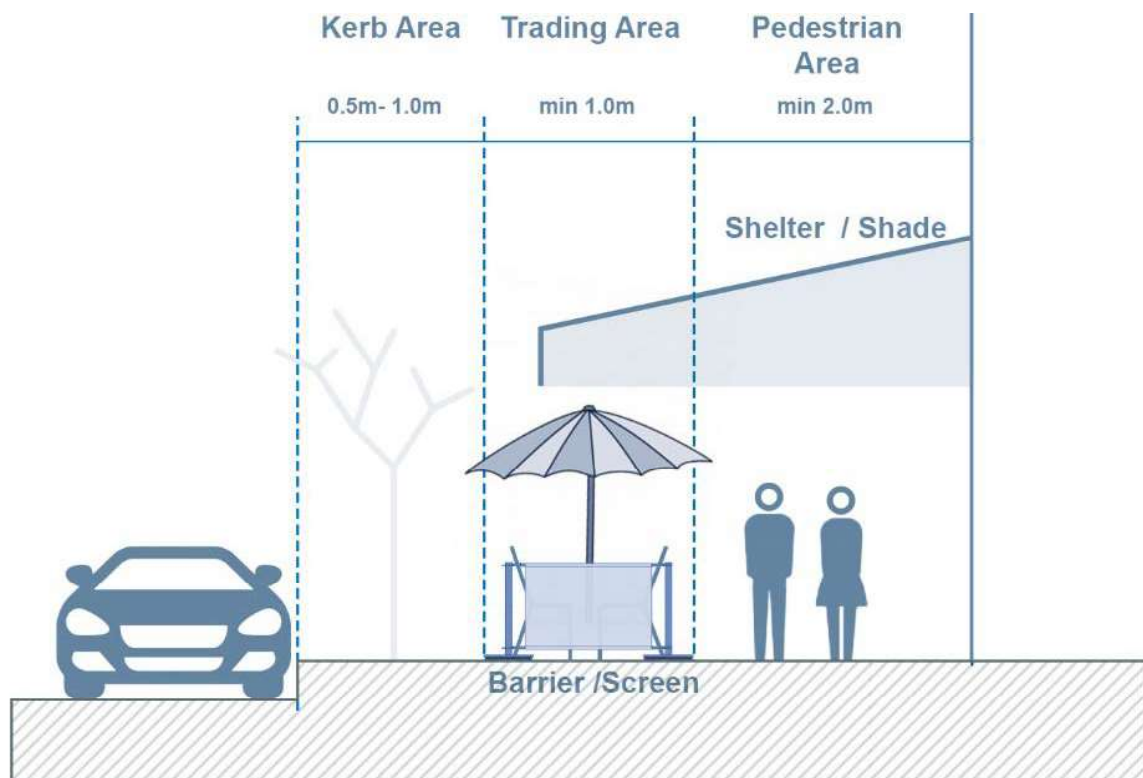


Figure 11 - Shelter, Shade and Barrier/Screen

- Barriers, screens and side curtains should maintain a minimum of 0.6m access way between the projected property lines and the Trading Area to accommodate pedestrian movements from car parking areas. This is to allow people to move from the parking areas to the Pedestrian Area in a safe manner. Screens located along adjoining property lines should maintain a 1.2m access way within traders projected property line.
- Barriers, screens and side curtains are not permitted between the building and Trading Area. The Trading Area facing the building must remain open.

- If a property has a wide frontage, 15m or greater, an access way break 1.2 m wide is required every 7 metres to allow for pedestrians to access the footpath from the road area, or as instructed by Local Laws.
- At no time can a barrier, screen or side curtain extend across a neighbouring property without the written consent of the land owner/land occupier of adjoining properties and Council. If consent is granted, a minimum of 1.2 metre (0.6m + 0.6m) access way must be provided from the projected property boundary to accommodate pedestrian movement from car parking areas. This is depicted in Figure 12 below.

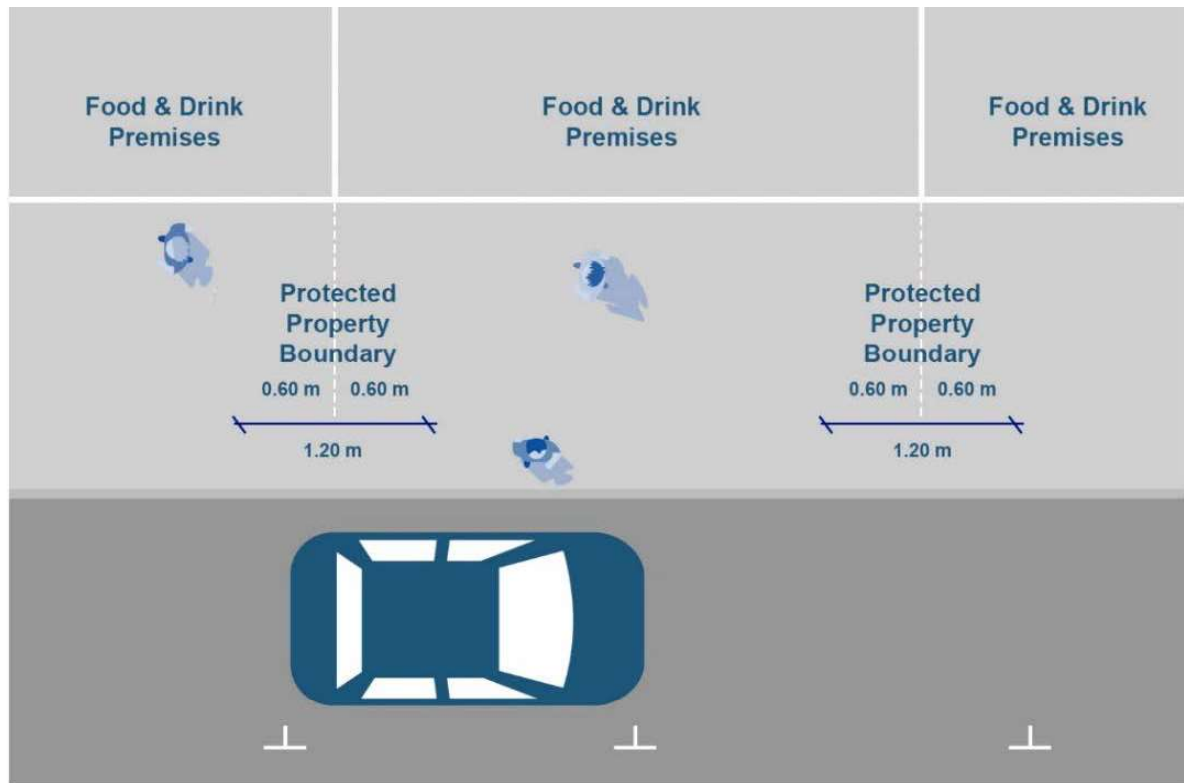


Figure 12 - Required access way between properties (Not to Scale)

- Permanent fixtures are strongly discouraged. Barriers, screens and shade structures which are fixed to the ground require the prior written consent of Council's Asset Services department in accordance with this policy. Any connection bolts associated with awnings along the pavement need to be flush with the adjacent horizontal surface and meet required kerb area and pedestrian area clearances. Only flush mounted anchor points with recessed "D Rings" (Figure 13) or an approved alternative will be allowed to secure awnings, vertical blinds or similar structures.



Figure 13 – Example of appropriate D Rings

- Energy Absorbing Bollards (EAB) may be required at trading locations that would otherwise be considered unsuitable for the purpose based on local traffic conditions. Requirements for EAB in unsuitable footpath trading locations are to be assessed on a case by case basis. Preference will be given to applicants in more suitable trading locations.
- Planter boxes must positively contribute to the streetscape and amenity of the area. Larger plant boxes may be permitted to remain in some footpath trading areas with the written consent of Council.
- Plants species selected should be compact forms, not have spikes, thorns, or cause allergies that may be poisonous or toxic.
- Compact plants requiring low maintenance and requiring only weekly watering are encouraged and must be maintained in a healthy and vibrant condition by the permit holder to the satisfaction of Council.
- Where a permanent structure is proposed along the footpath a minimum of 2.5m clearance from the building must be maintained for the provision of street cleaners to the satisfaction of Council. Any proposed pergola will need to be designed in accordance with relevant design guidelines in any relevant adopted policy.
- Consent may be required from VicRoads under the Roads Management Act 2004 for all fixed fittings on the arterial road network including the footpath. This includes the use of pergolas, verandas, planter boxes, and similar structures.
- Umbrellas or other furniture using fixed in-ground socket fittings or other approved fixings must be removed outside of trading hours and/or when trader premises is closed.

Advertising

Mildura Rural City Council will consider identification and promotional signs that add vitality and colour to business areas. Approval is generally accommodated under the Mildura Planning Scheme however additional requirements are sought in Footpath Trading Areas to enhance visitor and customer experience.

Objectives

- To provide signage that will improve and compliment the amenity of the premises.
- To distinguish between business and product signage on trading furniture.
- To guide the provision of general advertising (i.e., brands and products) on trading furniture.

Performance Requirements

- Consideration will need to be given the Mildura Planning Scheme to determine business advertising requirements. A planning permit may also be required to incorporate business signage on trading furniture approved in a permit issued in accord with this policy depending on the location and advertisement area.
- No advertising or display materials, including A-boards are permitted in public places, including the Trading Area, without written consent from Council in a permit issued in accordance with this policy. An annual fee is chargeable for stand-alone signage and Council indemnified against any public liability claim.
- The name and/or logo of the footpath trading operation, or images pertaining to it, may be displayed on shelter, shade, barriers, canvas screens and/or umbrellas within the Trading Area provided the advertising should cover no more than 10% of the surface area.
- No part of the advertising hereby permitted shall be internally or externally illuminated without written consent of Council or subject to a planning approval.
- No advertising is permitted on chairs and tables.
- No advertising is permitted on Council street furniture.
- No liquor or tobacco advertising is permitted on any item within the Trading Area.
- Consideration must be given to regulations that restrict advertisement of particular goods and services.

Hazard Management

This policy introduces a mechanism to identify and avoid potential sitting and design hazards associated with footpath trading activities. Presented below are potential hazards that may not fall specifically under one of the previous design considerations.

Objective

- To ensure that footpath and street trading provides a safe environment at all times for users and the public.
- To ensure that potential hazards are considered during the preparation and assessment of footpath trading operations.

Performance Requirements

- Footpath trading facilities will be located in areas that are considered safe for patrons and avoid locations that are deemed unsuitable.

- Careful consideration must be given to the approval of footpath trading activity in locations that:
 - Have been associated with loss-of-control crashes (e.g., where vehicles have had a historic tendency to leave the roadway)
 - Where inherently special risk factors for crashes exist (e.g., unusual cross-fall, steep longitudinal grade or sites on the outside of road curves or radius less than 40 metres)
 - Are located on major circulation routes and are subject to large numbers of passing heavy vehicles
 - Are located in areas that are monitored by CCTV to not obscure the sightlines of cameras
- Footpath trading facilities should provide a sense of safety and security for patrons at all times. This will be achieved through the provision of unobstructed sightlines and vistas.
- Pedestrian routes of travel, including wheelchair access to ramps, must not be compromised by Trading Furniture, including barriers or shades.
- Adjoining buildings must not be compromised by restricting vehicular or pedestrian access to, or adding unreasonable risk to emergency service personnel.
- All furniture (with the exception of fixed furniture with specific written Council approval) must be removed from the Trading Area outside the trading hours of the footpath trading operation.
- Safe operation of all trading furniture is to be maintained at all times.
- Mildura can experience significant weather changes resulting in strong winds. In the event of a significant wind warning from the Bureau of Meteorology, all Trading Furniture must be made secure or taken inside.
- Council Local Law officers may request the removal of any furniture at any time if deemed unsafe or in the event of an emergency.
- All furniture located within the Trading Area must not have sharp edges.
- Once temporary or permanent structures are removed, the footpath area must be returned to the standard required by Council.

Langtree Mall Specific Requirements

The above objectives and design and requirements also apply to trading activities within Langtree Mall. In addition to the above, the below objectives and requirement are specific to the Langtree Mall area.

Objectives

- To maintain the balance of areas for public use and trading activities in Langtree Mall.
- To achieve a safe and legible pedestrian environment.

Performance Requirements

Trading will only be approved within the defined Trading Areas of Langtree Mall (refer to Figure 14). Additional locations may be considered based on meeting the below performance requirements.

- Trading areas must not be located directly against the building line. A minimum 2m pedestrian access must be provided.
- Trading Areas must be set back 3m from the corner of the property boundary in both directions.

- In addition to the Service Lane, a central accessway of 4m is to be maintained through the centre of the Mall. A centre line is indicated on the Langtree Mall Trading Area Plan, and is measured as the mid-point between property boundaries. 2m either side of the centreline must be observed to keep a clear path of pedestrian movement. Refer to Figure 14.
- Temporary place making items may require relocating based on the traders improved activation of the same space in accordance with this policy. The trading area or activity must not encroach the 6m service lane required for emergency service vehicles to access the full length of Langtree Mall.
- Existing street furniture including tables and chairs must not be used by a trading premises.
- The placement of trading items must avoid the river stone paving design of Langtree Mall.
- Trading items must be removed from Langtree Mall at the close of business and stored on the Trader Premises.
- Minimum clearances from existing infrastructure in the mall should adhere to the minimum clearances outlined in Table 2 (below).

| Existing Public Infrastructure | Minimum Clearance in Metres |
|--|-----------------------------|
| Street furniture (seats, tables, benches etc). | 1m |
| Public seating | |
| Bicycle stands | |
| Fire hydrants | |
| Payphones | |
| Parking meters | |
| Traffic lights | |
| Pedestrian-operated lights | |
| Post Boxes | |
| Way-finding signs | |
| Trees and tree pit edge | 0.5m |
| Electricity boxes | |
| Electricity poles | 0.25m |
| Street lights | |

Table 2 – Langtree Mall Recommended Clearance Distances



Figure 14 - Langtree Mall Trading Area Plan

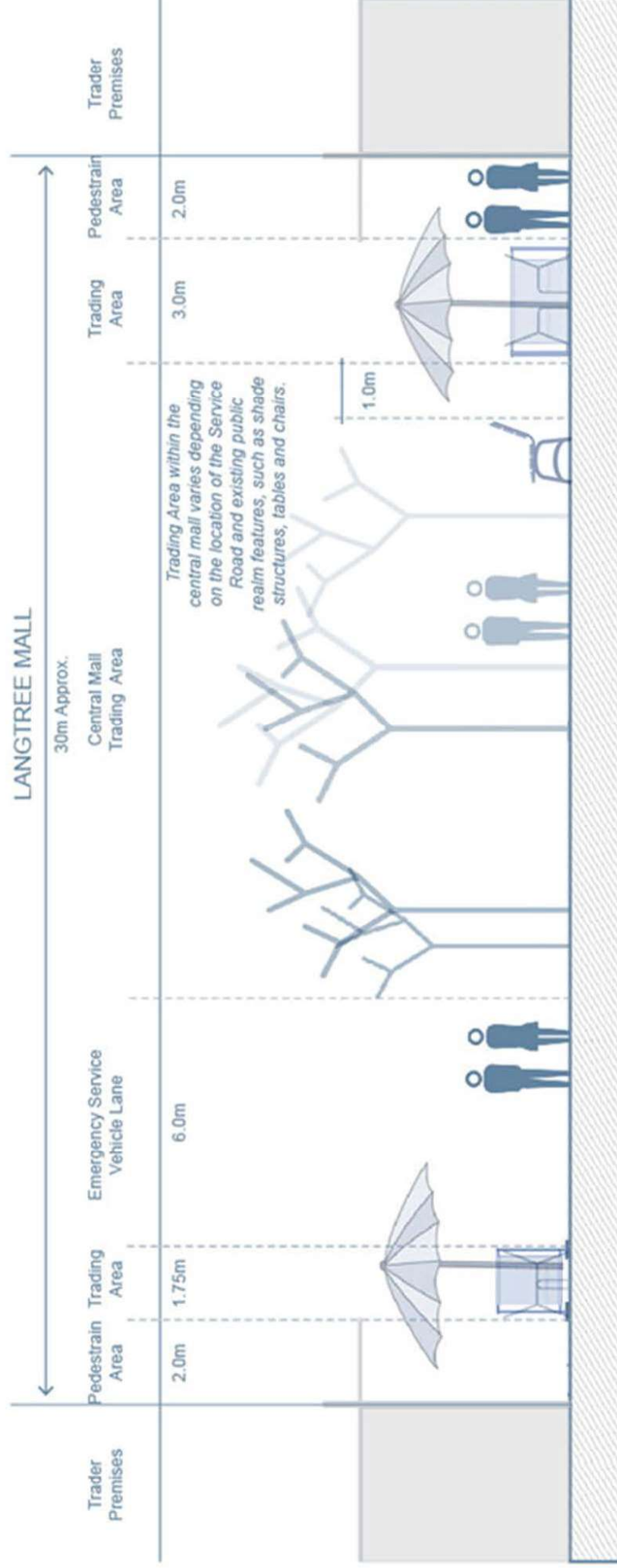


Figure 15 – Example Trading Area Scenario within the Mall

Footpath Trading Operation and Management

Good management is fundamental to reducing risks associated with footpath trading. A high standard of hygiene and cleanliness is essential to pleasant, attractive and safe public spaces. There are several roles and responsibilities to ensure the footpath area is managed in a way that minimises risks and enhances the visitor experience and streetscape amenity.

Permit Holder Responsibilities

The management of the Footpath Trading Permit is the responsibility of the permit holder. As is typically addressed in the permit, the conditions of approval for Street Trading include the follow requirements for Street Traders to:

- Make all reasonable precautions to prevent risk to the public and take out and keep current for the period of the permit a Public Liability Policy of Insurance for a minimum sum of \$10 million.
- Limit footpath trading to the boundaries as detailed in the permit.
- Maintain cleanliness and hygiene in the Footpath Trading Area in accordance with relevant food health and safety acts and regulations.
- Ensure that the Trading Furniture and the Footpath Trading Area is clean and hygienic at all times. This standard should be consistent with the internal retail area.
- Undertake spot cleaning, as required to ensure a clean and hygienic standard is maintained.
- In dining areas, tables must be cleared promptly to prevent blown litter.
- Ensure cleaning and checking must occur frequently during trading hours.
- Remove all grease, stains and other marks from the footpath area as soon as they occur.
- Ensure waste, scraps or litter must not be swept or washed into the gutter or drainage pits or placed in Council's litter bins.
- Empty bins daily or as necessary when full and ensure all litter from the Footpath Trading Area is disposed in an appropriate manner.
- Ensure that pedestrian clearances and safety requirements are maintained at all times during the operation of the Footpath Trading Area.
- Not prepare food or dispense beverages on the Footpath Trading Area (e.g., no coffee machines, etc) except for special events, which require the written consent of Council Health Department and Local Laws.
- Only set tables when required to prevent them from being exposed to contamination prior to use by the public.
- Provide toilet facilities for use of customers and staff in accordance with the Building Code of Australia during operating hours and must be within an adjacent building under the trader's control.
- Remove all furniture and other items at close of business.

Any additional cleaning required by Council, will be at cost to the trader and will be billed for use of additional chemicals/labour as required.

Also, any variation to a Footpath Trading Area requires an updated permit to be issued. This includes changes to, but not limited to, barriers, shades, furniture etc. An application must be submitted and approval from all relevant Council departments is required.

Compliance with Local Laws

Any breach of the Performance Requirements or Permit Conditions will result in the following steps:

Step 1

A verbal warning will be issued. Compliance must be achieved within the time requested by a Council Officer.

Step 2

Should compliance not be achieved, written Notice to Comply will be issued. Compliance must then be achieved timeframe specified on the notice.

Step 3

Should compliance still not be achieved the Permit for the Footpath Trading Area will be cancelled. No refund will be applied and the Trader may not apply for a permit within 2 years of cancellation.

Should a Footpath Trading Area be operated without a permit issued in accordance with this, an infringement notice may be served and/or further action will be taken.

Non-Premises Trading Area

This section of the policy covers trading that occurs within the defined Street Areas, such as mobile food van operating from a carpark, or the use of table and chairs within a parklet. It also covers fixed food vans in designated areas on a three-year basis agreed to by Council.

This section of the policy also covers permits for limited trading opportunities within the footpath area for businesses not associated with an existing premise, such as newspapers or flowers.

Application and Approval Process

Permits must be in accordance with this policy and are used to control trading from streets and to identify those operators and vehicles that have been allowed to sell their products within the municipality. Only vehicles with a Non-Premises Trading Permit will be allowed to trade within the Mildura Rural City Council.

There are four types of Non-Premises Trading Permits:

- Mobile food vending (e.g., ice cream vending).
- Fixed food vending site e.g. burger van. One permanent site is currently allocated for this use. This is in Deakin Avenue outside 73 Deakin Avenue, Mildura. Any additional sites may be permitted with the approval of Council in accordance with this policy.
- Non-foodstuff vending (e.g., flowers).
- Parklets.

Applying for a Non-Premises Trading Permit

Non-Premises Trading Permits are limited to a certain amount of spaces per permit type per year. This is to balance the interests of pedestrian safety and other trading activities on a footpath, such as outdoor dining. A formal tender process is used for the long-term sites and mobile vendors. However, Council may choose to use the following processes in attracting suitable vendors:

- Individual application
- Formal tender with business proposal

Council's priority is to ensure local amenity for pedestrians, existing traders and local residents. A mobile and fixed food van cannot be located to next to a Footpath Area that is already trading under an existing permit. Where an existing business does not have a trading permit for the adjoining Footpath Area, and consent from the business is granted, then an application for a mobile and fixed food van may be considered, providing the below performance requirements are met.

In this instance, the applicant will be required to obtain and submit to Council the written consent by the owner, body corporate and or occupier of the adjacent trader premises. A plan of the proposed Trading Area, and desired furniture or other amenity enhancing items, must be included to scale and signed by both parties.

Transitional Period

Existing permit holders will be given 12 months from the renewal of their permit on 31 August 2018 to comply with the revised policy. At the conclusion of the 12-month period, all requirements of this policy must be met or the permit will not be renewed.

Council Decision Making

Applicants will be assessed on their merits, pending the availability of permits in specific locations/sections of Council.

Authority to assess and determine applications for non-premises trader permits is delegated to the manager of Development Services and Local Laws Coordinator. Non-Premises Trading Permits may then be issued by the Local Laws Coordinator after consultation with the Manager of Development Services.

Non-Premises Trading Permits are issued for a fixed, maximum three-year period, ending on 31 August, but reviewed annually. Temporary permits are issued for a 12-month period, ending on 31 August each year. Successful tenders may be offered a right of renewal for their permits for a further two years, subject to satisfactory performance and CPI adjustments.

| Type | Period of validity | Number of permanent sites |
|--|--------------------|--|
| Mobile food vending (e.g. ice cream vending) | 3 years | 2 (additional sites may be considered) |
| Fixed food vending site | 3 years | 2 (additional sites may be considered) |
| Non-foodstuff vending (e.g. flowers sales) | 3 years | 2 (additional sites may be considered) |

Generally, two permits will be issued for each type of Non-Premises Trading Permit. Any further permits must be approved by Council's Executive Leadership Team (ELT), where the application and business proposal will be presented and considered in accordance with this policy.

Access and Design Requirements

Mobile and Fixed Food Vans

Mobile and fixed food vans are encouraged in locations that enhance the amenity of the existing area and activate the public realm. Design and access considerations include road type, existing street furniture, footpath widths, safety and public amenity.

Although mobile and fixed food vans operate from the Street Area, they are accessed by customers from the Footpath Area. Therefore, the interface between the Street Area and Footpath Area need to be considered when making and assessing an application for mobile and fixed food vans.

Objectives

- To protect and improve the amenity of the streetscape whilst providing a regulatory framework for mobile and fixed food vans to operate.
- To ensure the location and operation of mobile and fixed food vans do not impact the use of open space, including transport corridors and pathways, by the public.

Performance Requirements

- The location of the mobile or fixed food van must provide clear, continuous access for all pedestrians along nearby Footpath Areas and ensure no obstruction occurs to surrounding car parking and users of the road such as cyclists.
- A 2-metre clearance from existing street infrastructure, such as electrical boxes, fire hydrants, litter bins, public seats, payphones, bicycle stands, post boxes, parking meters is required at all times.
- A clearance of 15 metres from existing bus stops and taxi zones is required at all times for safety and access of public transport users.
- The mobile or fixed food van must not obstruct sightlines, traffic signals or road signage.
- The food van must not impede existing traffic conditions and sightlines for both drivers and pedestrians.
- The food van must be located adjacent to a Pedestrian Area and not an area already used for footpath trading.
- The site of the food van is to be monitored at all times by the operator to provide a safe, clean and pleasant space for people to use.
- Amenity of nearby neighbours should not be compromised by the operation of the food truck, noise, odour, lighting and disposal of litter.
- Litter must be cleared at all times around the site.
- Appropriate rubbish bins must be provided and trade waste must not be placed in street bins.
- Mobile and fixed food van sites cannot be located in front of or adjacent to permitted Footpath Trading Areas during the hours of operation of the footpath trading permit.
- The applicant is required to obtain prior written consent from the occupiers of the adjacent premises if seeking to occupy the footpath trading area immediately adjacent to the mobile and fixed food van site. Written consent must be signed by both parties and submitted with the application.

Parklets

This policy provides guidance for footpath and non-premises trading activities adjacent to parklets, such as dining or display of goods. The footpath and non-premises trading should be incorporated into the street in a way which will not impact on the existing adjacent use, including traders, parklets, street furniture and infrastructure, building entrances and pedestrian safety. The location and use of the trading area must also consider the adjoining use of the parklet and allow for pedestrian movement between the Street Area, Kerb Area and Pedestrian Area.

Objectives

- To protect and improve the amenity of the streetscape whilst providing a framework for footpath and street trading to integrate with parklets operating in the Street Area.
- To ensure the location and operation of footpath and street trading in conjunction with parklets does not impact the use of footpath and streets for the use of the public
- To manage any conflicting interface issues and use of potential trading areas between the parklet and the trading areas and any adjoining food and drink premises.

Performance Requirements

- The interface of the footpath and the parklet must remain open.
- Multiple points of entry into the parklet from the footpath are encouraged.
- At least one entrance must be provided from the footpath to the parklet with no slope and a minimum width of 900mm.

Council Information

Roles and Responsibilities

Mildura Rural City Council is responsible from implementing this policy.

| | |
|------------------------------|---|
| Managers and General | Managers are responsible for ensuring staff are aware of this policy. |
| Manager Development Services | Responsible for reviewing this policy. |
| SMT & ELT | Responsible for communicating this policy. |
| All Staff | Adhering to the policy and procedures as listed in this document. |

Compliance with Laws

Any person vending on public land/road without a permit is in breach of Council's Community Local Law No 2 and may be issued with an infringement notice subject to one penalty unit or be guilty of an offence. Maximum penalty \$5000. A permit is not required if the trader is engaged by an organisation with an alternative hiring agreement with Council for the land/road.

Contact Information

Applications for Footpath and Street Trading Areas may be obtained from Council and are available on Council's website. The application forms are also attached at the end of this document at Appendix B.

All Footpath and Street Trading Area Applications are to be addressed to:

Mildura Rural City Council
Development Services, Local Laws
PO Box 105
Mildura VIC 3502

Any queries regarding prospective Footpath Trading Permit applications or existing outdoor dining areas can be made by contacting the Council Customer Service on 03 5018 8100.

Please direct your call to the relevant department/s, which are as follows:

| Responsibility | Council Department |
|--|-----------------------------------|
| Removable furniture including barriers, umbrellas, A-Boards etc. | Local Laws |
| Any permanent fixture which is fixed to Council property (e.g., shade umbrellas fixed to footpath, side curtains with D-bolts) | Asset Services |
| Building development requiring a planning permit, eg. Liquor Licensing, advertising | Statutory Planning |
| Footpath cleaning, tree maintenance | Parks and Waste Services |
| Footpath maintenance | Works and Infrastructure Services |
| Smoking regulation compliance | Environmental Health |

Definitions

The following definitions provide a guide to terms used within this policy. These definitions are not statutory definitions.

Council

Refers to Mildura Rural City Council.

Feast Street

Langtree Avenue from Seventh Street to Eighth Street. This area is the primary restaurant and outdoor dining area in Mildura.

Food Van Sites

The sale of food and beverages from food vans parked in permanent locations within the municipality agreed to by Council under fixed term.

Footpath Area

Includes the Pedestrian Area, Trading Area, and Kerb Area to the front of the retail premises.

Footpath Trading

The activity of selling goods by the adjoining property.

Kerbside Area

The area between the top of the kerb and the Trading Area, which ensures that adequate space is provided between the Trading Area and roadside activities (e.g., opening of car doors).

Licensed Area

The approved area under the *Liquor Control Reform Act 1998*, permitting the serving of alcohol. This must be within the approved trading area. It is noted that during special events a Local Law permit can override the Pedestrian Area and Licensed Area (which may include use as an extension of the trading area of the adjoining premises when approved by Council).

Non-Premises Trading

The activity of selling goods and services within the street area by other than the adjoining trader premises.

Parklet

A Parklet is a small 'park' which may include a seating or green space designed to improve public amenity. A Parklet is public space and may be used whether the trading premise is open or not.

Pedestrian Area

The space located immediately adjacent to the front of the building line, with a minimum width of 2.0 metres. This area will have a continuous accessible path of travel, unobstructed by any trading furniture.

Permanent Fixture

Items which can be fixed to the ground or attached to a building and can also be moved. This includes awnings or umbrellas which can be locked into the ground and then unlocked and moved away.

Permanent Structure

Building or structure fixed to the ground and or attached to a building. This can include a verandah or a pergola.

Permit

This refers to a permit issued by Local Laws in respect to approval given under *Mildura Rural City Council Community Local Law No. 2* where Part 7 regulates Commercial Activity on Council Land including Street Trading Facilities.

Removable Furniture

Items such as chairs, tables and removable gas heaters which are not fixed to the ground or attached to a building and can be moved freely.

Road

Has the same definition outlined in the *Local Government Act 1989 and the Roads Management Act 2004*.

Street

Same definition of a road.

Street Area

The space in-between the face of the kerbs, including lanes, car-parking and medians.

Trader

The holder of the permit and is responsible for the operation of the street trading area.

Trading Area

Area between the pedestrian area and the kerbside area, containing trading furniture used for outdoor dining or the display of goods.

Trading Furniture

Includes chairs, dining tables, display tables, waiter's stations, planter boxes, heaters, fans umbrellas, barriers, curtains, screens, awnings (including fixed and retractable), display boards (A-frame signs), clothes racks and other structures or devices to be set up in the Trading Area.

Temporary Food Stalls

Temporary food stalls are temporary sites or stalls where food is sold. This applies to short-term events such as markets, festivals, and school fetes where the stall is not permanently fixed to a site. An example of a Temporary Food Stall is a sausage sizzle, or cake stall.

Definition provided in Line with The Food Act 1984 (the Act). "The Act defines a temporary food premises as a tent, stall or other structure that is not permanently fixed to a site. The definition also includes a permanent structure not owned or leased by the food business and used on an occasional basis. A business that bakes cakes in a hired or community kitchen, for example, is required to be registered as a temporary food premises."

https://stretrader.health.vic.gov.au/media/41816/running-a-market-stall-in-victoria_2016.pdf



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United Arab Emirates, Vietnam, Zimbabwe.