

# FOOTPATH TRADING AND AWNINGS POLICY





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# 1. OVERVIEW

## **Purpose of the Footpath Trading and Awnings Policy**

The Policy has been developed to maintain the balance between pedestrian access, trading activities and ensuring an enjoyable shopping experience. Council will respond to the changing needs of the community and traders to maintain this balance.

Council aims to provide a safe environment for people who move through the City. Part of this aim requires Council to provide a clear unobstructed footpath for all people to move along.

The community represented by Council owns the footpath and has a legal responsibility for the regulation of any trading activities. Traders may not undertake any activity on the footpath without a permit issued by Council under this Policy or, in some cases also a Planning Permit.

The Policy has been developed by Council in consultation with the local community to provide a framework for the sustainable use and management of our footpath trading areas. The Policy explains when and how to trade on the footpath.

Stonnington has a diverse range of strip shopping centres and business precincts that attract local people, interstate and international visitors. This diversity means differences in footpath trading may occur between different centres and locations. Trading activities on the footpath are an integral part of Stonnington's unique shopping experience. Council is committed to ensuring that the vibrancy of our strip shopping centres and business precincts are enhanced by providing the opportunity for footpaths to be used for trading and, in particular, outdoor dining. However, pedestrian access and safety is the primary purpose of footpaths.

Council's Footpath Trading and Awnings Policy has been developed with this distinction in mind. Council is committed to ensuring that safe and unobstructed access is maintained for people to move along footpaths and as a minimum, to meet the requirements of the *Commonwealth Disability Discrimination Act 1992*.

The key to pedestrian accessibility is the maintenance of a continuous open path of travel. Council will ensure that there is a clear path of 1.5 metres from the building line to provide a basic footpath width inclusive of the needs of all of the community.

Any street furniture, signs, trader's activities or displays must be located on the kerbside, not on the building line.

## What is footpath trading?

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



## Why do we have footpath trading?

Footpath trading can be a valuable use of public space. It can improve the look of our streets and add life and vibrancy to shopping strips. It supports the prosperity of the local economy and provides opportunities for businesses to expand their floor space and advertising. It also provides opportunities to dine outside.

With the potential benefits come potential problems and competing demands. Footpath trading, displays and awnings can obstruct the views of customers and businesses. What is good for one trader is not necessarily good for their neighbours.

In issuing permits, Council will consider the broader implications of any application and the interests of the centre as a whole, not just the individual trader. Council has a responsibility to regulate the use of this public space.

If granted a Footpath Trading Permit, it is also necessary to adhere to other legislation and requirements including the following:

**Liquor Control Reform Act 1998** contact Victorian Commission for Gambling and Liquor Regulation on **1300 650 472** (if liquor is to be consumed within a tenancy including within a Footpath Trading Zone).

**Tobacco Act 1987** contact City of Stonnington Health Office on **8290 1333** (laws regarding smoking within a Footpath Trading Zone).

**Planning and Environment Act 1987**, contact City of Stonnington Planning Office on **8290 3329** (if liquor is to be consumed within a tenancy including within a Footpath Trading Zone or if buildings or works to the shop are proposed).

## **An annual permit is required to place items or trade on the footpath**

An annual Footpath Trading Permit is required for **all trading and/or occupation of the footpath** in accordance with the Council Local Law 2008 (No 1). The permit holder is liable for any breach of the conditions set out in this Policy, including those committed by their staff or patrons.

To be granted an annual permit under the Footpath Trading and Awnings Policy, an applicant must agree to comply with the Policy and sign the application form which contains a condition to this effect. A permit must be renewed annually. Any non-compliance with this Policy is an offence against the City of Stonnington General Local Law 2008 (No 1) and may result in enforcement measures being taken. This may include the issuing of a Notice to Comply, Official Warning or Infringement Notice in the first instance.

It may also result in the cancellation, suspension or amendment of the existing permit as described above. Subsequent breaches may result in prosecution in the Magistrates Court.

Permits are issued for one year and Council has the right, at its discretion, not to renew a permit or cancel an existing permit for reasons including non-compliance, safety, accessibility or any other amenity issues considered detrimental to the immediate or wider area.

## **Footpath trading schedule of fees**

There are fees associated with footpath trading and these are determined by Council from time to time. For more information, contact the City of Stonnington on **8290 1333** or alternatively, a schedule of these fees can be found on Council's website [www.stonnington.vic.gov.au](http://www.stonnington.vic.gov.au)



## 2. COUNCIL'S FOOTPATH TRADING PRIORITIES

**Council has adopted the following order of priorities for considering footpath trading applications:**

### **Public safety**

Streets are safe and have an unobstructed passage for all pedestrians and safe and unobstructed vision for drivers and cyclists (particularly around intersections).

### **Accessibility for all**

Streets are easily navigated by all pedestrians including those who may be physically or vision impaired, allowing for unobstructed pedestrian passage flows and supporting public transport use.

### **Vibrant street-life**

Streets are vibrant, lively and contribute positively to an area's sense of place and character.

### **Prosperous economy**

Businesses and shopping areas are thriving and prosperous.

### **Attractive streetscape**

Streets are attractive, clean and pleasant and any heritage significance is enhanced and not diminished.

### **Leisure opportunities**

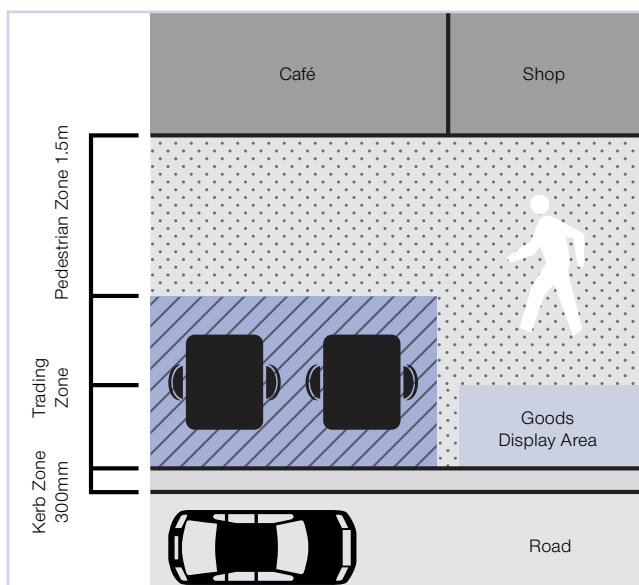
Footpath trading supports local interaction and alfresco dining as enjoyable leisure activities.

# 3. THE FOOTPATH

## Footpath zones

In order to provide a safe, clear and suitably unobstructed walkway for pedestrian access, the City of Stonnington describes the footpath as being made up of three zones:

- Pedestrian Zone
- Kerb Zone
- Potential Trading Zone



A range of factors including existing trees, street furniture, traffic and parking, other existing footpath trading and the width of the footpath may rule out or limit footpath trading.

*Left: This illustration shows allowable area for the display of goods in Chapel Street and Glenferrie Road. Previously, the area was the same for dining and display.*

### **Pedestrian Zone**

The Pedestrian Zone is the area that extends from the property line to the potential Trading Zone to allow for a continuous and accessible path of travel for footpath users. This area is for the exclusive use of pedestrians and must be kept free at all times.

A minimum 1.5 metre clear pedestrian walkway (measured from the building line) must be maintained at all times in all areas.

### **Kerb Zone**

The Kerb Zone is the area between the face of the kerb and the Trading Zone. The Kerb Zone is important for the safety of pedestrians crossing the road and allowing for access to and from parked vehicles, including loading and delivery bays. The Kerb Zone must be kept free from any items or structures at all times.

The minimum distance between the face of the kerb and the Trading Zone is 300mm. Council may vary this setback dependent on pedestrian activity and parking restrictions adjacent to the area.

Instances where the Kerb Zone clearance rate may be increased (reducing the trading area) include where a shopfront faces an existing or proposed loading zone, delivery bay, bus stop, tram stop and/or taxi rank or other infrastructure. Council will determine the appropriate clearance rates in these circumstances.

In some instances these constraints may mean that new footpath trading will not be permitted and existing permits may be amended or not renewed.

Parking spaces adjacent to a kerb help to protect footpath trading activity from moving traffic. Where there are no parking spaces next to a kerb, the footpath trading application may be referred to Council's Transport and Parking Department for consideration. In some instances, footpath trading will not be permitted on grounds of traffic and/or pedestrian safety.

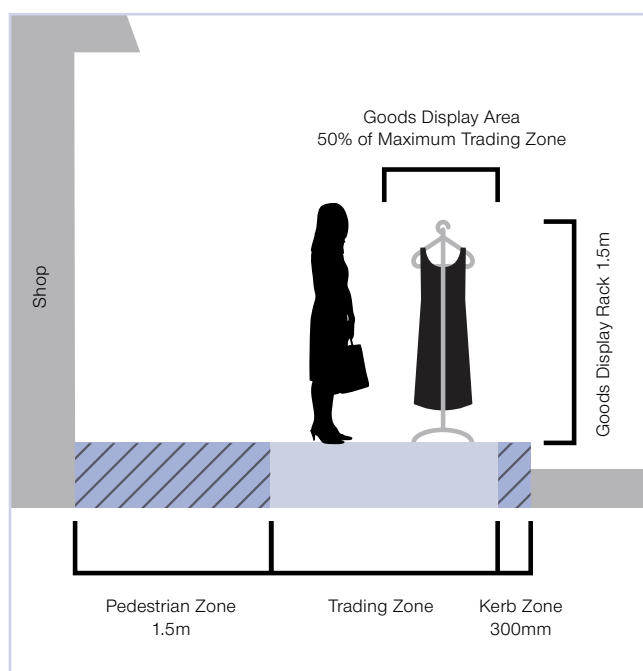
### **Potential Trading Zone**

The potential Trading Zone is the only area of the footpath which allows for commercial activity (subject to an annual Footpath Trading Permit). The Trading Zone is the area left between the Pedestrian Zone and the Kerb Zone after these clearances are taken out.

Approved items must remain within the Trading Zone at all times and must not intrude on the Pedestrian or Kerb Zones. It is the permit holder's responsibility to ensure items remain within the Trading Zone. A gap of one metre must be left between abutting Trading Zones. This will usually be achieved by a reduction of 0.5 metres at the side of each Trading Zone. This is to ensure that adequate access is provided for pedestrian safety when crossing the road, to allow passengers who are exiting a vehicle to gain access to the Pedestrian Zone and to allow adequate access to litter bins.

If a Trading Zone extends greater than 10 metres in length a gap or opening of no less than one metre will be required to be created in the centre of the Trading Zone.

### **Display of goods on the footpath**



Within the Glenferrie Road and Chapel Street Precincts, a Footpath Trading Permit can allow for goods to be displayed on the footpath within an approved area, with the exception of white goods which are prohibited across the municipality.

*Left: This illustration shows the requirements of goods displayed on the footpath in Chapel Street and Glenferrie Road precincts. The Pedestrian Zone of 1.5m, the allowable area for the display of goods of half the potential Trading Zone and the maximum height for goods displays of 1.5m.*



The approved area to display goods will be determined by calculating the potential Footpath Trading Zone and then allowing 75% of the length of the zone and 50% of the width of the zone. The area to display goods must be positioned abutting the Kerb Zone. This allows space for shoppers to view and access the goods within the Trading Zone without impeding the Pedestrian Zone. A Footpath Trading Permit may allow for goods to be displayed up to a height of 1.5 metres, however this height may be reduced in locations where the goods would obscure vision for drivers. In locations other than within the Glenferrie Road and Chapel Street Precincts it is prohibited to display goods on the footpath with the exception of fruit and vegetable stands and flower and plant stands, which are permitted throughout the City of Stonnington, The approved area to display fruit and vegetable stands and flower and plant stands will also be calculated as above.

### **Queuing for licensed venues**

It is the permit holder's responsibility to ensure the safe management of patrons queuing at venues. Queuing shall only occur adjacent to the building line. New premises should incorporate queuing areas within the premises.

The "roping off" of a section of the footpath adjacent to a licensed venue in order to facilitate the queuing of patrons requires an annual Footpath Trading Permit.

The "roping off" may involve the use of temporary bollards or similar in conjunction with tapes or ropes.

Roped off areas must be located directly adjacent to the building or property line and positioned to allow for the unimpeded access of pedestrians adjacent to any roped off area.

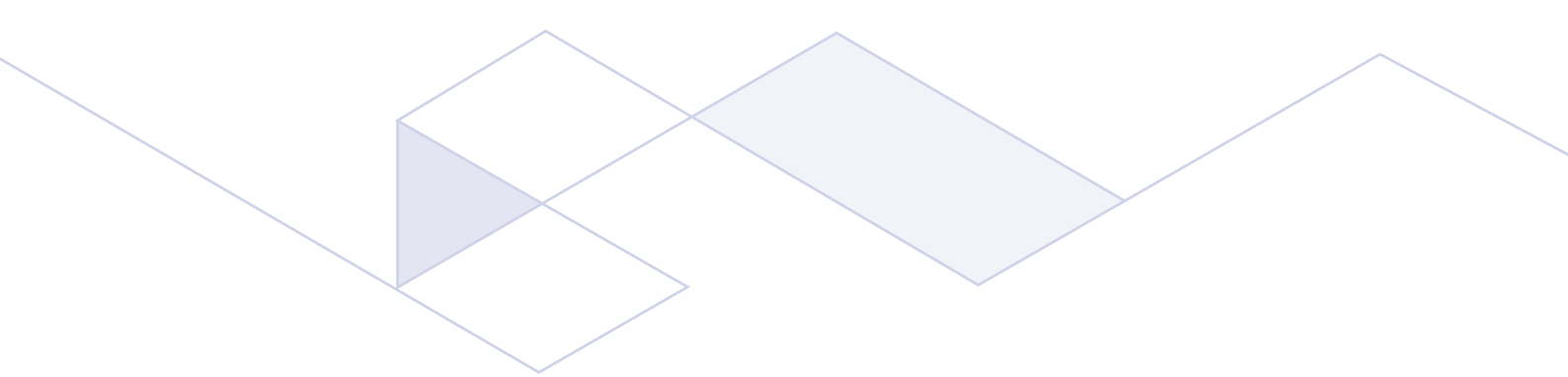
The permit holder must maintain a public liability Policy of Insurance for an amount of not less than \$10 million. Where a roped area is found to restrict orderly pedestrian movement on the footpath, an Authorised Officer may direct the "roping off" to be moved or removed, as the circumstance requires, notwithstanding that a valid permit may be held by the permit holder.

Queuing patrons and other passing pedestrian traffic must not under any circumstances be forced from the footpath towards the road carriageway. Night club queue permits will not be issued adjacent to any outdoor dining areas.

### **Consumption of liquor**

A Footpath Trading Permit only authorises the placement of tables and chairs and other associated items and the consumption of food on the footpath (in the Trading Zone). It does not permit the supply and consumption of liquor on the footpath.

A Planning Permit and a Liquor Licence are required to sell or consume liquor on the footpath (in the Trading Zone) and the footpath becomes part of the licensed area of the premises. For more information about Planning Permit requirements, refer to Clause 52.27 of the Stonnington Planning Scheme or contact Council's Statutory Planning Department on **8290 3329**.



The permit holder must obtain a licence from Victorian Commission for Gambling and Liquor Regulation (pursuant to the provisions of the *Liquor Control Reform Act 1998*) authorising the sale and consumption of liquor within the authorised Footpath Trading Zone, in addition to the area within the premises.

Proprietors can only serve liquor on the footpath (in the Trading Zone) provided they have obtained all relevant permits and licences including the Footpath Trading Permit, Planning Permit and Liquor Licence.

The granting of a Footpath Trading Permit from the City of Stonnington does not remove the right for Council to refuse a Planning Permit application or lodge an objection to a Liquor Licence application (pursuant to Section 40 of the *Liquor Control Reform Act 1998*) if it considers the proposal would be detrimental to the amenity of the area. For more information about liquor licensing matters, contact The Department of Justice (Victorian Commission for Gambling and Liquor Regulation) on **1300 18 24 57**.

### **Real estate agent signs (pointer boards)**

The placement of temporary real estate agent signs (pointer boards) requires a Footpath Trading Permit. Estate agents may be granted a permit for signs (pointer boards) to be placed on the nature strip at or near a property for which the agent is acting. No sign may be placed on the road, on any roundabout, traffic island or garden bed, or where it creates any hazard to pedestrian or vehicle safety. One permit allows up to 10 signs to be used at any one time.

Real estate agent signs (pointer boards) are only to be placed within two hours of the activity that they are advertising and removed within two hours after the activity they are advertising has ceased.

'Corflute' style pointer boards or similar are not to be attached to any Council controlled assets.

### **Busking**

A Footpath Trading Permit is required for busking. Buskers must comply with the conditions specified on the permit as well as the requirements set out in this Policy.

Where busking is to be performed as a group (a group being more than one person but not more than six persons); the person who is issued the Footpath Trading Permit must be part of, or supervising, the performing team at all times. Busking groups of more than six people are not permitted.

The permit will specify the area where the busking is to take place. Busking in front of or around Town Halls and other Council buildings is generally not permitted during business hours. No amplified music or use of percussion type instruments is permitted. Busking will only be permitted between 7am and 11pm daily.

Should any occupier of premises within hearing distance wish the busker to move out of hearing distance, the busker is required to do so on direction from an Authorised Officer. The use of fire, animals, materials, substances or equipment as part of the Busking act that in the opinion of the Authorised Officer may pose threat to public safety is prohibited. For children under the age of 13 to be permitted to busk, they must be accompanied by a person over the age of 16, and have with them parental or guardian written permission. Buskers must keep 1.5 metres of the footpath adjacent to the building line clear for pedestrians at all times.

### **A-frame boards**

The following conditions apply to permits issued under this Policy for the placement of A-frame boards:

- The current permit sticker must be displayed by the permit holder on the front window of the permit holder's premises at all times.
- A-frame boards must be no larger than one metre high and 75cm wide, and must be placed on the kerbside, a minimum off 300mm from the kerb in the Trading Zone, to allow for safe pedestrian and vehicle access.
- A-frame boards must not be placed in the Pedestrian Zone.
- A-frame boards must only advertise the business or service provided by the premises to which they relate.
- No A-frame board is permitted on a street corner; they are only to be placed on the kerbside directly in front of the premises.
- Before any extension to an existing permit or the issue of a new permit is to be considered under this section, where the premises contains more than one business or service, written permission must first be obtained from the relevant business/property/Body Corporate and provided to Council.
- Only one advertising sign per business of any type is usually permitted on the footpath. Approval is dependent on space available and will be assessed by an Authorised Officer upon application.
- A-frame advertising signage on the footpath will not be permitted for traders located above the ground floor.

## Advertising billboards in Council open space

Advertising billboards for approved non-profit Stonnington based community events on Council controlled open space (i.e. parks and reserves) may be considered. For more information, contact the City of Stonnington on **8290 1333**.

## Street parties

Street parties are encouraged by Council but require a permit. For more information on permits for street parties, contact the City of Stonnington on **8290 1333**.

## Street sampling and commercial promotions

A Local Law Permit is required for street sampling and promotions. This includes fund raising and commercial promotions. For more information, contact the City of Stonnington on **8290 1333**.

## Street selling

Street selling is prohibited in the City of Stonnington. The following activities are prohibited on the road, footpath or Council land within the City of Stonnington:

- Hot dog stands
- Food and drink/coffee vans or similar
- Ice cream vans

This prohibition does not apply to goods sold at markets, stalls or fairs permitted by Council.



## **Tin shakes/highway collections**

Only not-for-profit, non-political organisations are permitted to conduct tin shakes following the issue of a permit. The conducting of tin shakes within Stonnington during the month of December is not permitted.

The total number of days that any one organisation can collect within the City of Stonnington is five days per application. The maximum number of collections per year is four but only one request will be granted per quarter (annual total 20 days).

A minimum of 14 days 'Notice of Application For Permit' is required. Applications will not be considered for any proposed periods if more than six months prior to the proposed date of collections.

The operation of intersection tin shakes may only take place where the consent of Victoria Police has been obtained by the organisation. While collecting, tin shake collectors shall carry a copy of the permit with them to be produced on demand by an Authorised Council Officer or Police.

## **Footpath trading and the *Tobacco Act 1987***

The sale and use of tobacco products, including cigarettes, is controlled by the *Tobacco Act 1987*. Smoking bans in enclosed areas have resulted in businesses without a suitable on-premises area using the footpath as a smoking area.

If Council issues a permit, smoking is allowed in the dining area (in the Trading Zone) provided that the area complies with the following requirements (and any updates) of the Tobacco Act:

- The area must be outdoors. All furniture must be designed to be exposed to the elements.
- There must be no roof or ceiling covering the area (including removable awnings over the footpath), unless:
  - the total actual area of wall surface does not exceed 75% of the total notional wall area.
- Air flow must not be impeded.
- Ashtrays must be provided.

The smoking status of an area may change if the roof and walls are retractable or moveable. No-smoking signs must be displayed if the above requirements are not met. In these instances, ashtrays must not be provided.

More information is available from the Department of Health by calling the Tobacco Information Line on **1300 136 775** or visiting **[www.health.vic.gov.au/tobaccoreforms](http://www.health.vic.gov.au/tobaccoreforms)**

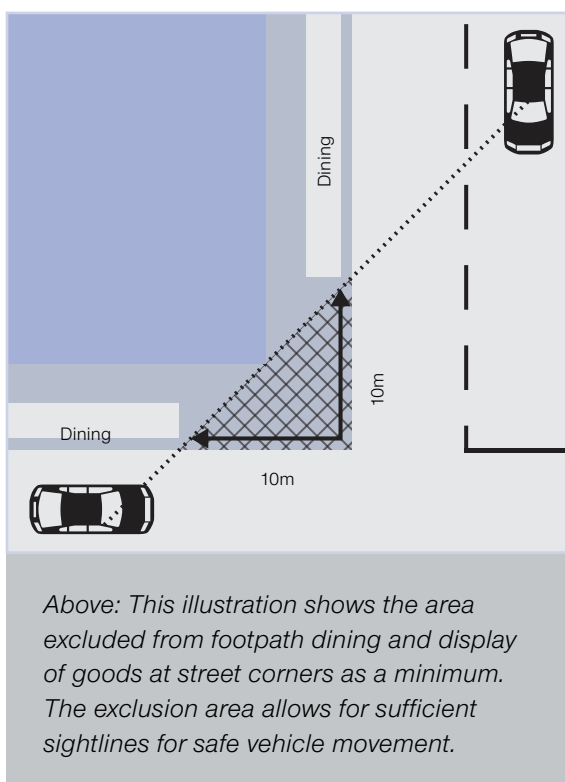
If you require further information or clarification contact Council's Environmental Health Unit by phone on **8290 3393** or email **[health@stonnington.vic.gov.au](mailto:health@stonnington.vic.gov.au)**

## 4. FOOTPATH TRADING AND TRANSPORT AND PARKING

Footpath trading has the potential to restrict the delivery of goods to the abutting properties, restrict passengers to access vehicles, impact on access to public transport and restrict driver visibility and impede safe driving.

Any application that has these potential effects will be referred to the Transport and Parking Department for assessment and may not be permitted or may be restricted. Criteria for review include, but are not limited to the following applications:

- Applications adjacent to bus stops, loading zones, truck zones, tram stops or other Transport and Parking Infrastructure.
- Footpath trading within 10 metres from a non signalised intersection.
- Footpath trading within 20 metres from a signalised intersection.
- Footpath trading where there is no parking next to the kerb.



Footpath trading within 10 metres of a non-signalised intersection will generally not be supported, unless Council is satisfied that safety and access will not be impacted on.

### Obstruction height

The maximum height of any footpath trading obstruction for food and drinks premises (including safety barriers, tables and the like) is one metre.

Within Glenferrie Road and Chapel Street Precincts where goods may be permitted, a Footpath Trading Permit may allow for goods to be displayed up to a height of 1.5 metres, however this height may be reduced to one metre in locations where the goods would obscure vision for drivers.

### Gas heaters

Fixed gas heaters that are permanently connected to a mains pressure gas supply are safer and preferred by Council. Fixed gas heaters (or any part of) must be installed a minimum of 600mm from the kerb and within the Footpath Trading Zone. This would prevent a truck hitting the heater whilst pulling up to park next to the kerb. In addition, there must be at least a 2.2 metre vertical clearance between the bottom of the heater and the ground level to prevent pedestrians from hitting the heater.

Bottle heaters must also be located a minimum of 600mm from the face of the kerb and located within the approved Footpath Trading Zone.

## 5. FOOTPATH TRADING AND PLANNING

Council Officers will advise you of any further approvals you may require after you have lodged your Footpath Trading Permit application, if any.

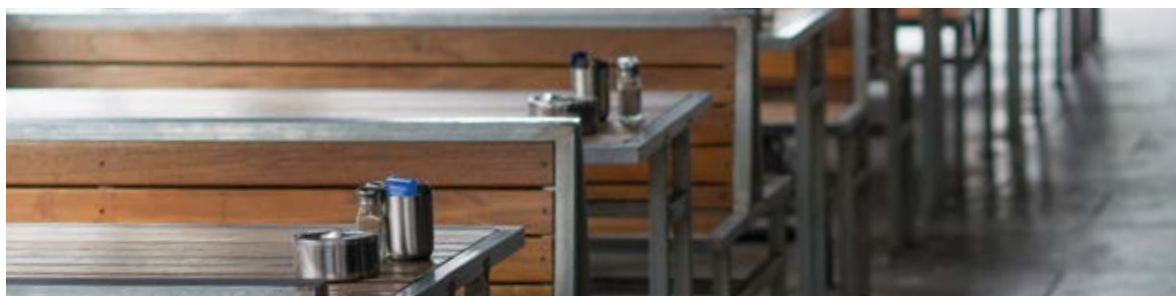
### What requires a Planning Permit?

A Planning Permit **is** required to install fixed items attached to buildings such as awnings attached to the building and gas heaters attached to the building (including to an awning).

A Planning Permit is **not** required to install fixed items attached to the footpath such as fixed furniture and fixed dining barriers. These items **do** require a Local Laws Permit.

### Heritage issues

Most of the main shopping strips in Stonnington are located within the Heritage Overlay. Awnings may obscure views to facades and detract from the heritage value of buildings and the streetscape, in these areas they may not be permitted from a heritage perspective. Council's Officers will advise if this is applicable.



## 6. AWNINGS

A Planning Permit is required for all awnings that are fixed to buildings – the full policy is included in Stonnington’s Planning Scheme. Awnings should be integrated into the street in a way that does not compromise Stonnington’s high-quality public spaces. Awnings should not impede pedestrian traffic or car parking to the kerb or any street trees (including at expected size of maturity). Awnings must not detract from pedestrian safety, the safety and efficiency of traffic movements or the operation of public transport services and must not prevent reasonable access for the loading and unloading of goods. Awnings should be designed to ensure that shopfronts are visible and to avoid clutter.

Awnings should not form a continuous row (of awnings) along the footpath.

### Definitions of awnings

Awnings include:

- Horizontal awnings that are fixed to buildings and project over a footpath to form a verandah.
- Vertical drop-down awnings (including partial and full length) that are fixed to verandahs and project over a footpath.

### Design guidelines for awnings

Awnings provide weather protection for shoppers and can complement the streetscape when they are designed to respond to street elements such as street trees and street furniture. Awnings should be simple in style and appearance, and made of quality materials which are durable. If they are full length they should be transparent to allow views for pedestrians. This ensures they maintain a high standard and complements Stonnington’s high quality public spaces. Full length awnings are only to be used for a premises occupied by food and drink or entertainment uses or fresh food/flower outlets at street level and should contain no signage.

The only signage supported is on partial drop-down awnings and is a small business identification sign or logo which is in keeping with the character of signage within the streetscape (maximum 1.5 square metres in total).

### Types of awnings that are supported by Council

- Horizontal awnings that are fixed to buildings to form a verandah.
- Partial drop-down awnings which are at least 2.2 metres above the footpath level.
- Full length drop-down awnings which are transparent, which may include a non-transparent section for the bottom one metre of the awning.
- Drop-down awnings which are transparent and are attached to a footpath trading barrier.

### Types of awnings that are not generally supported by Council

- Full length drop-down awnings which are not transparent, and/or have signage.
- Partial drop-down awnings or full length awnings with side wings.







### **Traffic and parking considerations**

Full length and partial drop-down awnings will not be permitted where they obscure traffic and parking signs or obscure the sight lines at an intersection. Full length and partial drop-down awnings will generally not be permitted within 10 metres from a non-signalised intersection and 20 metres from a signalised intersection.

### **Heritage considerations**

The erection of both full length and partial drop-down vertical awnings are generally discouraged in the case of graded heritage buildings and especially where the building has an intact original shopfront or is located within a heritage streetscape which is currently free from drop-down awnings. Where evidence of an early street verandah/canopy exists, Council would encourage its reinstatement.

### **How to obtain a Planning Permit**

A Planning Permit can be obtained by submitting a planning application to Council's Planning Department. An application must include a completed application form, recent copy of the title, relevant elevation and site plan and application fee. For more information Council's Statutory Planning Services Unit can be contacted during businesses hours on **8290 3329**. The Planning Counter is located at Prahran Town Hall on the corner of Chapel Street and Greville Street, Prahran and is also open during business hours.

Visit Council's website at [www.stonnington.vic.gov.au/planning](http://www.stonnington.vic.gov.au/planning) to download a planning application form.

## 7. PRECINCT DESIGN GUIDELINES

Within Toorak Road, South Yarra, horizontal and partial drop-down awnings must be black in colour. Council is willing to consider further Precinct Design Guidelines with traders to further enhance and distinguish the individual character of Stonnington's commercial precincts.

## 8. PRECINCT ART

Public artworks, both historic and contemporary are an important part of our City's character. Council's Arts and Cultural Strategy supports public art in a variety of forms, including enlivening public spaces with arts and cultural activities.

Examples of precinct art could include:

- artwork integrated into the fabric of a building
- a sculptural or decorative installation located in an open space
- text or poetry inscribed in a footpath or on public seating
- a mural, footpath design or wall relief
- creative markers which reflect the character of the precinct
- performance or multimedia presentations.

Contact Council to discuss your idea before a proposal is submitted. A contract will detail matters, including location, maintenance and the duration of the installation would normally apply. Contact Council's Cultural Development and Events Unit for further information on **8290 1333**.



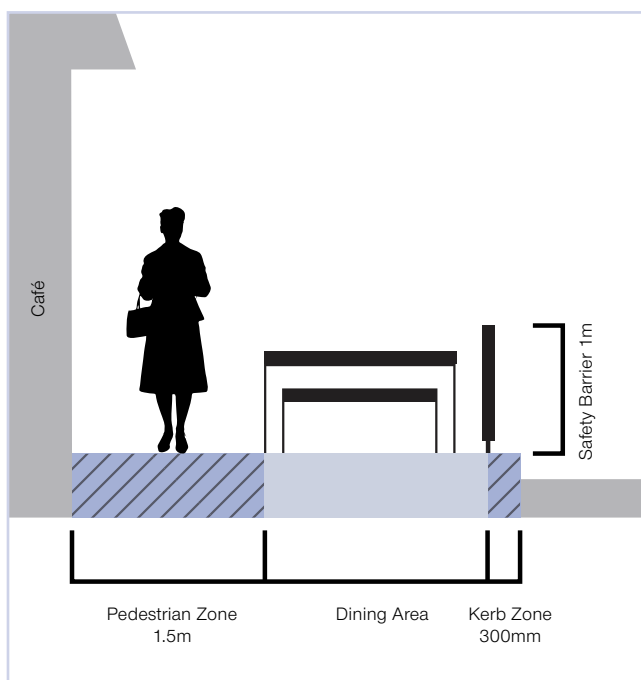
## 9. FOOTPATH DINING, FURNITURE AND GOODS

### Tables and chairs

Permits for footpath dining will only be granted to businesses that hold a registration as a Food Premises. As part of an application for a Footpath Trading Permit for tables and chairs, the applicant is required to provide a copy of their Registration as a Food Premises issued by the City of Stonnington's Environmental Health Unit.

#### Design

- Tables and chairs must be hardy and sturdy.
- Tables and chairs must be solid enough to resist wind gusts.
- Tables and chairs must be constructed of materials that do not deteriorate quickly.
- Tables and chairs must be stackable for ease of storage and readily removed and stored within the indoor (private) part of the café (unless a permit allows items to be fixed).
- Bar-style furniture (i.e. bar stools) will not be approved.
- No form of advertising is permitted on tables and chairs.
- Chairs should be oriented parallel with the footpath.
- Footpath trading furniture may be permitted to be installed permanently in accordance with Council's requirements (to be further specified). Reinstatement of the footpaths by the permit holder is required if the footpath trading furniture is removed.



*Left: This illustration shows the Pedestrian Zone of 1.5m, the dining area and the Kerb Zone of 300mm. The maximum safety barrier height of 1m is displayed.*

### **Placement and storage**

- The number of tables and chairs permitted on the footpath in the Trading Zone is determined by the square metre space available and whether or not the requirements of this Policy are met.
- The number of tables and chairs and their location needs to be shown on the plan submitted as part of the footpath trading application.
- Tables and chairs must be set back from existing infrastructure, including street trees, lights, public furniture.
- Bench-style furniture is generally supported.
- Tables and chairs must be positioned to ensure seats are entirely within the approved Trading Zone at all times (seats should not back on to the Pedestrian Zone if there is inadequate space within the approved Trading Zone).

### **Neighbouring footpath**

If seeking to occupy the Trading Zone of an adjacent premises, Council requires the applicant to obtain the written consent by the owner, body corporate and/or occupier of the adjacent premises. If the neighbouring business is sold, a new letter of consent must be submitted to the Council by the new occupier.

The application must include plans to scale including both premises, a signed indemnity form for both properties and a copy of certificate of currency noting both premises.

Council will assess applications on a case-by-case basis and reserves the right to approve or refuse any application with reference to streetscape and community outcomes.

In the event of withdrawal of the neighbour's consent, the permit will be cancelled.

The permit holder will be liable for any breach of this Policy that occurs outside the neighbouring shopfront where an adjoining Trading Zone has been approved.

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

### **Delineation markers**

To support traders in setting up their approved footpath trading area, Council will continue to install delineation markers (circular stainless steel disks) flush into the footpath as a means of distinguishing the permitted Trading Zone from the required Pedestrian Zone. Council may also install delineation markers to define the minimum Kerb Zone. The permit holder must ensure all furniture and goods associated with footpath trading are located within the defined Trading Zone.

## Footpath trading safety barriers

### **Design**

- Footpath trading safety barriers can be used to assist businesses in containing their furniture within their approved Trading Zone.
- To preserve the general appearance and openness of the streetscape, the maximum height for a footpath trading barrier is one metre.
- A gap of 150mm between the bottom of the barrier and the footpath must be maintained to allow for street cleaning.
- All types of removable barriers must be lightweight to ensure that they can be removed from the footpath at the close of business.
- No other structure (i.e. drop-down blinds, menu boards) can be attached to the barriers at any time (except in Chapel Street and Toorak Village where full length transparent awnings may be supported).
- The City of Stonnington will consider the approval of footpath trading safety barriers on a case-by-case basis and applications will be assessed according to available space, streetscape, pedestrian activity, amenities and traffic conditions.

### **Placement and storage**

- All removable barriers must be secure to ensure that they are not moved or knocked over.
- Barriers may be permitted to be installed permanently in accordance with Council's requirements (reinstatement of the footpaths by the permit holder is required if the footpath trading barriers are removed).
- The applicant must ensure that adequate storage is provided on the premises for all approved footpath trading furniture. If the business operates past the hours approved on the permit, the applicant must show the Council where and how the items will be stored and moved between the end of footpath trading and the close of business.



# 10. APPLICATION PROCESS

## Applying for a Footpath Trading Permit

Applicants are advised to familiarise themselves with this Policy prior to making an application to Council.

Understanding the responsibilities involved in managing the footpath area, design requirements, legal obligations, costs involved and other relevant matters is important.

## Required information with application

Applicants need to:

- Complete and sign a footpath trading application form (available on Council's website or at one of Council's Service Centres).
- Provide a copy of the Planning Permit for the business or advice from Council's Statutory Planning Department indicating that a Planning Permit is not required for the proposed/existing business to which the outdoor area relates.
- Where relevant, provide a copy of the approved Liquor Licence for the premises to which the outdoor area relates.
- Provide proof of the company and business registration certificates, showing the company name, ACN, ABN and business name.
- Provide a Certificate of Currency in relation to a public liability policy of insurance. The Council requires the insurance policy to note the Council's interest and be for the amount of no less than \$10 million in respect to any single occurrence. Public liability insurance must remain current and valid for the life of the permit.
- Provide a form of indemnity to indemnify the Council against all claims of any kind arising from any negligent act either by the permit holder or the permit holder's agents and users.
- When proposing tables and chairs for the purpose of footpath dining within the Trading Zone, provide a copy of registration as a Food Premises issued by the City of Stonnington Environmental Health Unit.
- Provide a plan, drawn to scale 1:100, showing:
  - The location and dimensions of the principal shop frontage, the adjoining shop frontages (and their business names), the width of the Kerb Zone and Pedestrian Zone and the length of the Trading Zone.
  - All existing fixed street and footpath features within or near the footpath trading such as trees, light poles, rubbish bins, bike racks, public transport shelters, fire hydrants, signs, pits, car parking and parking restrictions.
  - The area and layout of the proposed footpath activity. This includes the required zone dimensions (i.e. Kerb Zone, Pedestrian Zone, Trading Zone) and the location of all proposed items to be placed on the footpath (i.e. location of chairs, tables, screens, heaters, umbrellas, advertising signs, in-ground sockets and any other item).
  - Details of any proposed advertising including a clear indication of its size and location.
- Pay an application fee payable to City of Stonnington (non-refundable) being the fee for an on-site meeting, review and assessment of the application.

Failure to submit any of the above information required for the application will result in delays in processing the application and/or refusal of the application.

### **Council decision making (assessment and consideration)**

On receiving an application, a Council Officer will:

- Check that all relevant information has been received.
- Refer the application to other departments within Council for advice and comment as necessary.
- Inspect the site and check the accuracy of submitted application plans.
- Advise the applicant of any additional information or any changes that need to be made to the submitted plans.
- Consider whether the application would detract from footpath accessibility or be detrimental to the safety and amenity of an area or negatively impact on the wider community using the following criteria:
  - Having regard to local conditions, whether the footpath trading proposal has the potential to compromise or impact negatively on the functionality of the footpath, pedestrian traffic movement, pedestrian or traffic safety, public amenity; or impact negatively on the functionality of the roadway, car parking space, loading bay or the like.
  - The visual impact of the proposal, including the potential to obscure or obstruct other businesses, creates visual clutter or poor street image (especially in the case of display of goods).
  - The potential amenity impacts of the proposal, including the obstruction of other businesses and the cumulative impact of footpath trading on nearby occupancies.
  - Noise levels.
  - The possibility of nuisance, vandalism or anti-social behavior.
  - Any non-compliance with other legislation associated with the footpath trading.
  - Whether a condition restricting trading or display hours is warranted, having regard to matters such as the use and development of surrounding land, the location of the footpath trading, the nature of the use of the footpath and any management conditions including the hours of operation of nearby commercial premises.
  - The interaction between the proposed use of the footpath area including proposed structures, with existing heritage elements.
  - Key features of the local environment.
  - The nature, design, layout and function of the proposed structures and associated land use.
  - Any impacts on other public land or public infrastructure/assets having regard to available footpath area and local conditions.
  - Whether the application is Disability Discrimination Act compliant.
  - Any other relevant matters.
- Approve or refuse the permit application.



If a permit is to be issued, Council will send the applicant an invoice for the costs associated with the footpath activity based on the current schedule of fees.

Once Council has received and processed payment, the permit together with the permit registration sticker will be posted out immediately or made available for collection.

Markers may be placed on the footpath by Council to set out the area in which footpath trading activity is permitted to take place.

### **Display of permit registration**

Operation within the approved footpath trading area can commence once the permit registration sticker has been clearly and legibly displayed in the shop-front window.

Failure to display the current permit registration sticker is a breach of the permit conditions.

### **Amendments to an existing permit**

Permit holders must submit an application in writing using the application form for any amendments to their existing permit. Amendments may include changing furniture design, adding furniture or increasing advertising. An upfront amendment fee is required, payable to the City of Stonnington (non-refundable).

### **Transfer of ownership**

Permits issued under this Policy are for the person/company/association listed on the permit and cannot be transferred to any other trader. Traders can apply to Council for refund of unused annual permits.

### **Renewal of an existing permit**

Permits are issued until 1 October of each year. A renewal notice is issued for all existing permit holders.

It is the responsibility of the permit holder to ensure all permit renewal details including public liability, amendments and fees are forwarded to the Council. Failure to provide all renewal documentation and fees will result in the cancellation of the permit.

Where a new permit has been issued before or after this time, a pro-rata invoice will be calculated up to the annual renewal date.

Council allows footpath trading for up to one year at a time. Council may at its sole discretion decide not to renew a permit.

# 11. ENFORCEMENT OF FOOTPATH TRADING

To be granted a permit under this Policy, an applicant must agree with this Policy and sign the application form. Any non-compliance is an offence against the City of Stonnington General Local Law 2008 (No 1) and will result in enforcement measures being taken.

Clause 1006 of the City of Stonnington General Local Law 2008 (No 1) sets out in full the circumstances when Council may cancel, suspend or amend a permit.

Failure to maintain a current public liability insurance Policy is considered a serious breach of this Policy and will result in cancellation of the permit. The permit holder is liable for any breach of the conditions set out in this Policy, including those committed by their staff or patrons.

Council's Buildings and Local Laws Services monitors the operation of street trading and ensure the conditions of permits and the Footpath Trading and Awnings Policy supported are complied with.

If you have any questions, please ask these officers or contact the Buildings and Local Laws Services on **8290 1333**.

If there is non-compliance noted, depending on the severity and/or repetitive nature of the breach, the permit holder may receive:

- A written 'Notice to Comply'
- A written Official Warning
- An Infringement Notice
- A cancellation of the permit.

Failure to pay an infringement notice or continued non-compliance may result in prosecution proceedings in addition to cancellation of the permit.

If there is continued non-compliance or a serious breach of the Policy, Council may cancel, suspend or amend a permit. For example, non-payment of any fees required under this Policy, or failure to maintain a current public liability insurance policy, will result in cancellation of the permit. Council may also cancel a permit where a neighbouring owner objects to placement of tables and chairs outside their premises. Additionally, pursuant to Council's Local Law, an Authorised Officer may seize and impound footpath trading furniture and goods where there has been an ongoing contravention of the Footpath Trading and Awnings Policy or Local Law.

Council reserves the right to cancel or temporarily suspend any permit issued under this Policy where necessary to enhance or protect community safety, accessibility or amenity. For example, Council's right to temporarily suspend a permit may be exercised during street festivals where alcohol consumption may be restricted to inside licensed premises.

Council may cancel, suspend or amend a permit where the footpath trading activity detracts from, or is detrimental to, the safety, accessibility or amenity of an area or negatively impacts on the wider community.

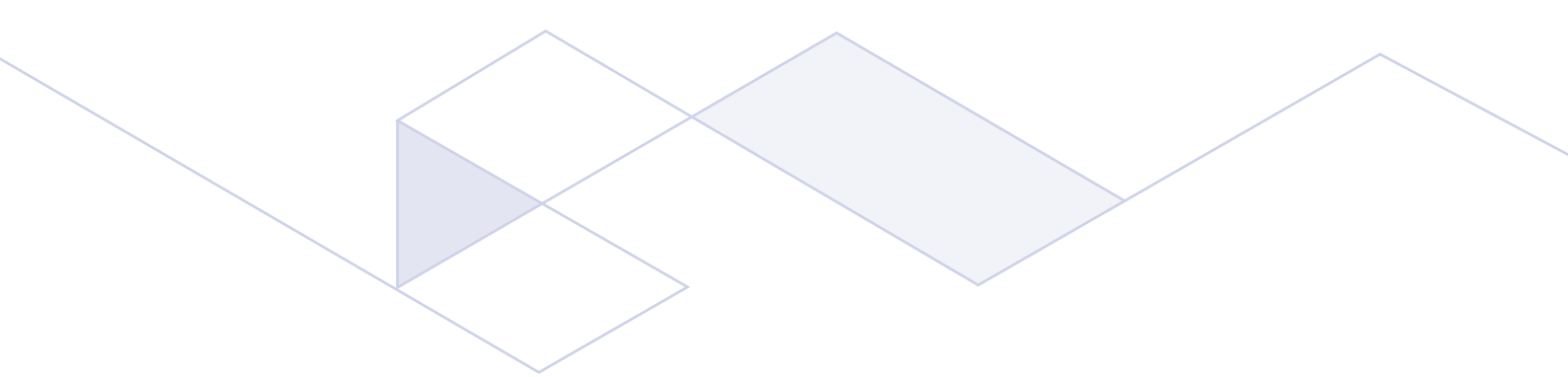
# 12. MANAGEMENT AND RESPONSIBILITIES

## Permit holder's responsibilities

The management of the Footpath Trading Permit is the responsibility of the permit holder.

To ensure appropriate management, permit holders are required to adhere to the following:

- Operate in accordance with the conditions of the permit, approved plan and requirements and objectives as outlined in this Policy.
- Must ensure footpath trading areas are kept clean and tidy, including cleaning around any fixed furniture or barriers.
- Operate in accordance with the conditions of any other relevant Planning or Liquor License Permits.
- Observe all local law provisions relating to footpath trading, including noise, responsible serving of liquor, and health and amenity.
- Display the permit registration sticker in the shop-front window at all times.
- Only the trading activity as shown on the approved plan shall take place on the footpath and must be contained within the "trading area" at all times.
- The Pedestrian Zone of the footpath must remain clear at all times.
- The permit holder must not allow the footpath trading activity, including the behaviour of patrons, to detract from, or be detrimental to the safety, accessibility and amenity of an area or negatively impact on the wider community.
- The permit holder must not allow patrons to cause nuisance within an approved Trading Zone nor allow an offensive noise to be heard by adjoining properties or the public.
- Ensure that no amplified music is played on the footpath. Loud speakers are not permitted to be attached externally to the shop front.
- Entertainment is not allowed on the footpath without the consent of an Authorised Officer.
- No food is to be prepared or cooked on the footpath.
- The footpath is to be kept clean and tidy of all food/rubbish/refuse or other waste matter at all times.
- Permit holders are responsible for the cleaning, and removal of all litter generated by their trading or patrons using the Trading Zone.
- If the Footpath Trading Permit allows for tables and chairs, the permit holder is to provide ashtrays or other suitable windproof receptacles for the collection of cigarette/cigar ash and butts as well as any other litter.
- The permit holder is to ensure that ashtrays and appropriate litter receptacles are supplied for the disposal of rubbish associated with the trading. These are to be emptied and cleaned on a regular basis to avoid spillage.
- No food/rubbish/refuse or other waste matter is to be deposited into the stormwater drainage system including the gutter.
- Any lawfully displayed goods within an approved Footpath Trading Zone must be stacked or stored safely at all times.



The permit holder is responsible for the conduct of all patrons including those at tables and chairs in the approved outdoor seating area and must:

- Adhere to the approved plan and permit conditions at all times.
- Ensure that patrons do not move tables, chairs or other ancillary items into the Pedestrian or Kerb Zones.
- Ensure that patrons do not allow pets, prams, bicycles or any other personal items to obstruct the Pedestrian or Kerb Zones.
- Ensure that staff does not serve food or beverages to a person in the Pedestrian or Kerb Zones.
- Ensure that patrons do not congregate in the Pedestrian or Kerb Zones.
- Ensure that patron behaviour does not interfere with the use or enjoyment of the area by other patrons or members of the public.

### **Conduct of serving staff**

Where a Footpath Trading Permit has been issued, staff shall give pedestrian movement priority over their own movements across the Pedestrian Zone.

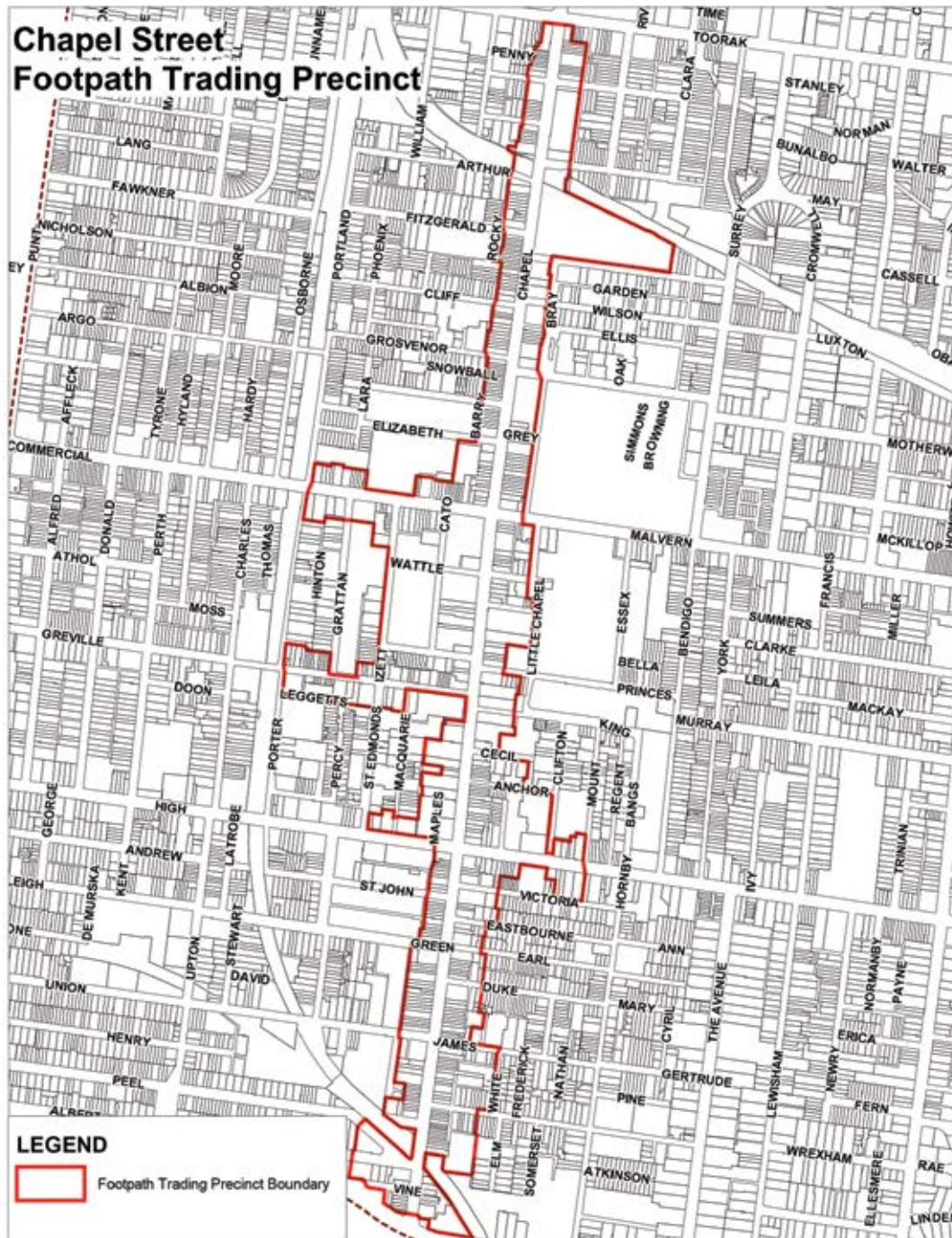
### **Public liability insurance and indemnity**

The permit holder is totally responsible for all items placed on the footpath and the activities of persons participating in footpath trading, whether a proprietor or customer.

A permit will not be issued by Council unless the applicant indemnifies Council against any suit, action, proceeding, judgement, claim, demand, cost, expense, loss or damage for which Council becomes or may become liable in relation to the death or injury to any person or the damage to any property caused by anything authorised by a permit.

The licensee must maintain a Public Liability Policy of insurance for an amount of not less than \$10 million. The Policy must be able to meet any possible claim which may be sustained against the licensee or Council in relation to the death or injury to any person or the damage to any property arising out of anything authorised by the Footpath Trading Permit.

# 13. APPENDIX A



# 14. APPENDIX B



# 15. MULTILINGUAL INFORMATION

Call the Stonnington Community Link. A multilingual telephone information service.

## General Enquiries

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8290 1333

## Mandarin 普通話

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9280 0730

## Cantonese 廣東話

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9280 0731

## Greek Ελληνικά

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9280 0732

## Italian Italiano

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9280 0733

## Polish Polski

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9280 0734

## Russian Русский

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9280 0735

## Indonesian Bahasa Indonesia

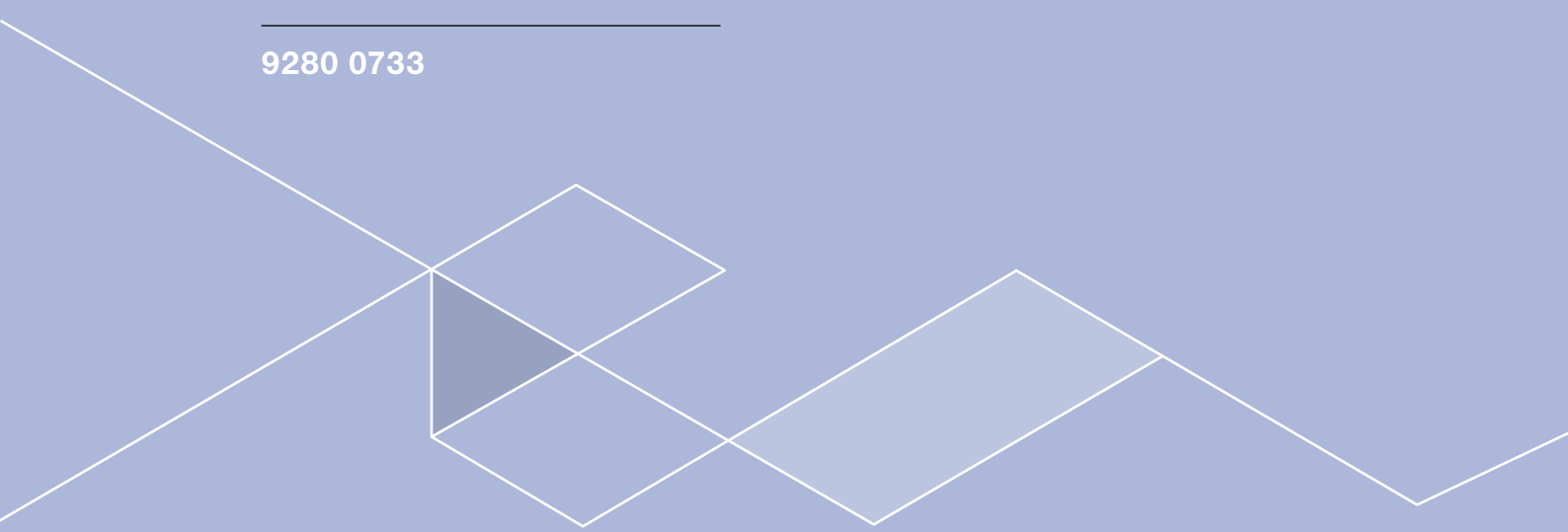
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9280 0737

## All other languages

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9280 0736



**CITY OF STONNINGTON**

**T: 03 8290 1333** F: 03 9521 2255  
E: [council@stonnington.vic.gov.au](mailto:council@stonnington.vic.gov.au)  
PO Box 21 Prahran, Victoria 3181

**SERVICE CENTRES**

Cnr Glenferrie Road and High Street, Malvern  
Cnr Chapel and Greville Streets, Prahran  
[www.stonnington.vic.gov.au](http://www.stonnington.vic.gov.au)

