

# FAQs – Footpath Activity Policy

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**Why does Council need to manage commercial footpath activities?**

Council wants to encourage outdoor dining and the display of goods on the footpath because these activities add to the liveliness and character of town centres and support local small businesses.

Footpaths can get very busy and cluttered which can make it difficult or uncomfortable for people walking or moving around our town centres. Some people may need more space than others to move around, for example people using mobility aids or parents with prams. If the footpath is constantly obstructed, affecting the ability of people to easily get to where they need to go, people may become frustrated and make a complaint to Council, risks of accident and injuries increase and some people may feel excluded from participating in public life which is a form of discrimination.

Footpath activities need to be managed for reasons of safety and equity and the Footpath Activities Policy seeks to do this in the simplest and fairest way possible, balancing commercial activities with keeping footpaths accessible for pedestrians of all abilities.

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**Why am I allowed only 1 A-Frame sign?**

Effective business signage can be very helpful for businesses to advertise their services and products. Excessive signage (of any form) can drown out a message, providing too much visual clutter and appear untidy or frantic, doing the opposite of appealing to consumers. Therefore simple signage is promoted by the policy, restricting A-frames to one per business and only allowing them in areas with enough space to avoid visual and physical clutter on the footpath.

Shops within Bellingham Shire are often small with narrow street frontages, which greatly add to character but these shopfronts are not conducive to A-frame signs. Too many A-frame signs close together (in front of narrow shopfronts) compete with each other for attention, are difficult to read and detract from the rest of the street.

A-frame signs are limited in size by the policy as they are intended as signage for pedestrians only and should not be designed to attract (and distract!) the attention of people driving past.

The Footpath Activities Policy also provides examples of different types of business signage that may be worth considering. A-frame signage should therefore be used sparingly and creatively.

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**How much will this cost me?**

Following feedback received from businesses during the community engagement period, Council received many comments objecting to payment of fees for commercial use of the footpath.

After considering this feedback and to provide an incentive for businesses to comply with Council's policy and accessibility requirements, Council resolved to waive all fees for a 6 month period.

A Footpath Activity Approval will last for two (2) years, before requiring to be renewed, so any business applying for an approval within the fee-free period will not need to pay any fees for at least 2 years.

Council will revisit the fee structure for footpath activities as part of the review of all Council fees and charges in May-June 2018.

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**The footpath outside my shop is too narrow – what can I do?**

Keeping a 1.8 metre wide clear path of travel for walking along the footpath is a key requirement of the Footpath Activities Policy. To get an approval it will need to be demonstrated that this can be achieved.

If your current outdoor furniture arrangement does not leave enough space for a 1.8 metre wide walkway, you should consider revisiting your furniture choices. Less bulky furniture (that is still of a high quality) may leave more room, and some footpaths may be able to accommodate narrow bench seating for example.

Pot plants are attractive as a display and often do not take up much room. Temporary bunting and small flags (not advertising) can be used where they do not interfere with

traffic or people moving along the footpath.

If the footpath is too narrow for outdoor dining (<2.9m) or display of goods (<2.5m) you could consider fitting openable windows and/or integrated bench seating and/or vertical gardens or shop display within your shopfront to create a similar ambience.

Some businesses in the Shire use chalk to create artwork/wayfinding signs on the footpath which can be a good temporary activation idea. Ideally, chalk drawings will include an artistic element as well as identify a business and not contain overt advertising.

The importance of an attractive window display shouldn't be dismissed, Bellingin Shire has many shopfronts with the perfect composition to position, display and highlight goods. Window displays should not consist of blatant advertising or too much signage and should be used to present wares in attractive manner. Regularly changing window displays will keep consumers interested.

Providing sensory cues can attract people to linger, for example lighting, smells and music can all create ambience. However, these cues should be sensitive to neighbours (including neighbouring public space), and noting that some people may be sensitive to certain smells and sounds. More information on how to consider the needs of people with sensory processing difficulties can be obtained from Council's Community Wellbeing Officer.

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**I am affected by the main street works in Bellingin Town Centre, what do I do?**

The main street beautification works will result in some disruption to businesses during the construction phases of the works; however, over the medium term businesses are expected to benefit from an improved pedestrian and town centre environment.

Businesses in areas where main street works are underway will be required to submit a Footpath Activity Application and obtain approval once works in their area are completed.

If works take longer than the 6 month fee-free period, businesses delayed by the main street works will not be required to pay any application fees associated with footpath activities (for their initial application).

The main street works may also impact on the footpath space and arrangement outside your business so refer to the landscaping plans published on the Create website for more details.

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**I already have approval for my footpath activity – how will this policy affect me?**

Any business with existing DA and/or Roads Act/Local Government Act Approval will need to obtain a *Footpath Activity Approval* once their current Roads Act/Local Government Act approval runs out/lapses. Many such approvals have lapsed and only a minority of businesses in the Shire hold a current approval.

Rolling everyone over to a *Footpath Activity Approval* will mean everyone is treated in the same manner and that accessible and predictable footpaths will be provided for pedestrians of all abilities.

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**Do I need public liability insurance?**

Yes. All businesses using the public footpath need their own valid public liability insurance.

Compliance with Council's Footpath Activities Policy will minimise risks of accidents. Public liability insurance is your protection if your business is found to be legally responsible for personal injury to a third party or damage to their property.

Bellingin Shire Council should be listed as an interested party on the policy, as well as the Roads and Maritime Services if the business uses the footpath on the Waterfall Way, a State Classified Road. Public liability cover of \$10-20 million is recommended.

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**Could I be fined for not**

The objective of the Footpath Activities Policy is to raise awareness of why accessible footpaths are important and to provide a consistent policy and process for managing

**complying with a Footpath Activity Approval?**

commercial footpath activities so they coexist harmoniously with people moving about town centres. It is not intended as a mechanism to collect fines.

Council wants to work with businesses to create interesting and accessible main streets and will discuss non-compliances in the first instance with businesses. Should an issue persist Council may issue warnings and where Council receives complaints and activities are consistently obstructing the footpath Council can revoke approval to trade on the footpath and in some circumstances can impound items that are proven to be non-compliant and obstructive. As a last resort, penalty infringement notices could be issued.

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**In what circumstances will Council accept furniture to be placed along the building line?**

The Footpath Activities Policy encourages businesses to put items and structures away from the edge of the building to keep the building line clear as this is considered best practice access for people with a disability as recognised by the Human Rights Commission. Keeping the walkway free of objects next to the building allows for better views into storefronts and window shopping and importantly keeps pedestrians dry in wet weather/shaded in hot weather.

Council recognises that it may be safer or more practical in certain circumstances to keep furniture and items up against the building. For example, on a very busy road with no effective barriers to the road, or where people looking at a display on the kerb and people looking in the shop window opposite would obstruct access on the walkway.

The important thing to remember is to make sure that pedestrians (and pedestrian comfort) are prioritised. You must make sure there is enough space for people to walk along the footpath, noting that people with a disability may require more room or require certain conditions to allow for equitable access and movement along the footpath.

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**What is a suitable barrier and when will I need a barrier to protect my table and chairs?**

Barriers can be used to delineate spaces and sometimes to protect people sitting on the footpath. Every footpath is different and in certain areas suitable barriers already exist in the streetscape – these could include small walls, bollards, trees, planter boxes or fencing, and in low-speed roads parked cars can act as a barrier, negating the need for an additional barrier.

The type of barrier required will depend on the individual circumstances including the nature of the adjoining road (traffic speed/volume), the width of the footpath, the presence or otherwise of environmental barriers, footpath traffic etc. Barriers can include café barriers, screens, planter boxes, concrete blocks etc., and the Roads and Maritime Services may specify the type of barrier required on classified roads.

Barriers should not be used for the sole purpose of advertising and where sufficient environmental barriers exist, additional barriers will not be required to avoid cluttering of the footpath.

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**I am having trouble drawing a site plan/understanding the requirements within the Footpath Activities Policy, can you help?**

It is the responsibility of business owners to read Council's policies relating to their business. Council cannot prepare a Footpath Activity Approval on behalf of a business owner. The process has been simplified and information available to business owners has been improved.

However, there are a number of people who can assist with the application process.

Customer and Business Services can advise on the approval procedure and assist with initial questions.

Ideas for activations can be pitched to Council's Economic Development Section, who may also be able to make connections with other business networks to share ideas.

Council's Development Engineer or Duty Planner can help with explaining the Footpath Activities Policy and its requirements.

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**How can I**

Many Councils have adopted policies that seek to provide accessible footpaths for

### **improve accessibility to my business?**

everybody, including people with a disability, older people and parents with prams.

There are many good access guides which provide useful information for businesses wanting to improve their accessibility, including:

- Inner West Council (Marrickville) Missed Business Small Business Guide: <https://www.marrickville.nsw.gov.au/en/community/community-services/accessibility/missed-business/>
- Yarra City – Make Your Business Accessible tips: <https://www.yarracity.vic.gov.au/services/business-in-yarra/running-a-business/make-your-business-accessible>

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### **Can I place structures outside my neighbour's business if they do not have any outdoor furniture?**

Yes but only with their consent. The signatures of the neighbouring business owners/operators would be required at the application stage. If at any stage this consent is revoked, you will need to remove outdoor furniture from out the front of the neighbouring premises.

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### **What do I do in wet weather?**

In wet weather, if moving furniture around so patrons to stay dry means that a 1.8m wide path of travel cannot be provided for pedestrians, then furniture should not be placed on the footpath for the duration of the wet weather. Pedestrians staying dry on the footpath must be the priority.

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### **What about busking?**

Currently no formal approval process exists for busking in Bellingen Shire. Council advises that should you wish to busk that you get the approval of the adjacent business owner/operator and respect their directions.

Buskers should also be mindful of the need to share the footpath with other people and should not obstruct a clear path of travel on the walkway. Amplified music on the footpath associated with a commercial use is not permitted without Council approval (under Section 68 of the Local Government Act 1993).

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### **How do Bellingen Shire Council's requirements compare with other areas across the State?**

Bellingen Council has been working towards simplifying the outdoor trading process for businesses for some time.

The NSW State Government and Small Business Commission are rolling out an outdoor dining trial across some areas of the State in order to simplify approval processes.

Bellingen Shire's requirements and approach is very similar to that of this trial. For more information visit: <http://www.smallbusiness.nsw.gov.au/supporting-business/outdoor-dining-trial>