

1 Policy History

Revision No.	Council Meeting Date	Minute No.	Adoption Date
1	11/05/2010	0142	11/05/2010
2	25/06/2013	0203	25/06/2013
3	14/06/2016	16/168	14/06/2016
4	13/03/2018	18/084	13/04/2018

2 Policy Objective

- The purpose of this policy is to set down guidelines and application requirements relating to the use of Council’s footpaths within the CBD for the following:
 - a) To provide local food and drink premises including hotels, refreshment rooms, cafes, restaurants in the city's commercial zone with the opportunity to establish safe outdoor eating areas on the public footpath;
 - b) To provide opportunities for not-for-profit organisations, charities and commercial operators to set up food vending carts and barbeques to operate from appropriate locations on Council’s footpath;
 - c) To provide local business the opportunity to display merchandise in appropriate locations on Council’s footpath;
 - d) To provide local business the opportunity to display temporary advertising structures in appropriate locations on Council’s footpath; and
 - e) To enable buskers to perform on land owned by or in the control of Council.
- To manage public safety on footways for all people living in and visiting the Griffith area, especially for the elderly and the visibility/mobility impaired.
- Maintain a safe environment and prevent obstruction to pedestrian and vehicle movement in the designated area.

3 Land to Which This Policy Applies

- 3.1 This policy applies to land within the Griffith CBD and the Yenda Town Centre identified within the black line area on the following maps.

- 3.2 The display of temporary advertising structures and goods for sale is not permitted in the following areas:
- a) Parks, open spaces or public road median strips.
 - b) Narrow footpaths that are considered to have high pedestrian use.
 - c) Footpaths that are occupied by other uses, such as bus stop, taxi ranks, fire hydrants, Australia Post facilities.
 - d) Footpaths in the vicinity of intersections which may interfere with visibility or distract vehicular movement.

4 Policy Statement

4.1 Outdoor Dining Area – Requirement for Development Consent and a Licence to Occupy

Where it is proposed to use Council's footpath for outdoor dining incorporating the placement of tables, chairs and associated shade structures, an application for development consent is to be made to Council and determined in accordance with the provisions of Environmental Planning & Assessment Act, 1979 and Section 125 of the Roads Act, 1993.

In addition, applicants will be required to enter into a licence agreement with Council, make payment of fees based on the dimensions of the area approved by Council in accordance with Council's Revenue Policy and provide written indemnification against action or claims against Council included in Public Liability Insurances.

Development consent determines only that the footpath may be used for the purpose of outdoor dining. The licence to occupy the footpath is an agreement between the occupier and the land owner (Council) describing the terms under which the footpath is used. This may vary from time to time in accordance with this Policy or its amendments.

The existence of development consent does not imply approval of any of the terms of the licence agreement. A licence agreement will not be entered into that departs from conditions of development consent.

4.1.1 Controls

The following controls have been developed to provide guidelines for applicants seeking development consent for outdoor dining:

- a) Only applies to premises which have received development approval for or are lawfully used as food and drink premises.

- b) There shall be no obstruction or danger created for pedestrian or vehicular traffic flow.
- c) The area to be occupied shall normally be of a dimension that is equal to the width of the shop front. A development or licence application which proposes to extend forward of the neighbouring shop front will be referred to the neighbouring property owner and business operator unless written permission of the parties is contained in the application. Objections by the neighbouring land owner or business operator will be referred to a Council meeting for determination.
- d) A minimum 2.6 m wide clear area is to be provided to enable pedestrian movement. A greater distance may be required based on the proposal and the circumstances of the case including existing constraints due to the volume of pedestrian traffic, proximities to other footpath obstructions, proximity to intersections and other footpath conditions including cross-fall and slope.
- e) Outdoor dining will not be permitted on the footpath adjacent to the shop wall.
- f) Where parking is adjacent to any proposed outdoor eating area a setback of one metre is required for passengers to alight from their vehicles. A suitable road safety barrier system may be required with a 1.0 metre setback from the kerb.
- g) If alcohol is to be served, it shall be done in accordance with Liquor and Gaming NSW licensing requirements for primary service authorisation. In the case of hotel premises, the outdoor eating area on Council's footpath is to be used primarily for the serving and consumption of meals and is not to be used solely for serving alcohol such as a 'beer garden'.
- h) Any approval for meal consumption will require appropriate signage stating that the furniture is only to be used by customers who are to consume a meal prepared or sold by the establishment, and stating any restriction to hours where alcohol is consumed. The wording is to be approved by the Director Sustainable Development (or equivalent position) or their nominated delegate.
- i) Where it is proposed that alcohol will be consumed, specific approval is required from the Liquor and Gaming NSW and where no liquor license is in force both Griffith City Council and Liquor and Gaming NSW.
- j) The hours of operation generally will be:-
 - (i) For premises where no alcohol service is provided, the hours for the use of the outdoor seating shall be between 6.00am until the

close of trade of the approved use of the premises or 2.00am whichever is the earliest.

- (ii) For premises where alcohol is proposed to be served including BYO premises, the hours for the use of the outdoor seating shall be between 6.00am until the close of trade of the approved use of the premises or 2.00am whichever is the earliest. Alcohol shall not be served or consumed on the footpath prior to 10.00am or after 10.30pm Sunday to Thursday, and prior to 10.00am to midnight Friday and Saturdays

A legible sign describing the requirements above is to be clearly displayed.

- k) No moveable furniture is to be left on the footpath area outside the hours stated in (i) above.
- l) Unless otherwise approved by Council, Street Furniture must meet the following objectives:
 - (i) Moveable tables must be metal mesh, timber or similar construction.
 - (ii) Chairs must be metal mesh, timber or similar finish.
 - (iii) High quality plastic furniture shall be permitted with the approval of Council.
 - (iv) A range of umbrella colours will be permitted provided there is consistent grouping of the theme of the umbrellas in colour and advertising.
 - (v) Discrete advertising related to the restaurant premises will be permitted on the umbrellas.
 - (vii) Street furniture must be kept in good serviceable order and repair.
- m) Where it is proposed or is considered necessary to carry out footpath construction works, paving materials shall be in accordance with the relevant policy or masterplan.
- n) Planter boxes, screens, menu boards or other paraphernalia may be approved subject to specifications required by the Director Sustainable Development (or equivalent position) or their nominated delegate provided details are provided in the development application.
- o) Where no onsite toilet facilities are provided, the maximum number of chairs on the footpath plus within the premises shall not exceed 20.

- p) Drop-down screens that interfere with the effectiveness of CCTV coverage will not be allowed.
- q) Where the use of a heating device is proposed, details of the type, location and design must be included in the application. Appropriate fire safety equipment must be easily accessible and its location noted in the application.

Heating devices should turn off automatically if overturned to prevent injury to patrons and property. Heating devices must be removed from public land and appropriately stored when not in use.

Direct access to the gas mains and use of electrical extension cords are not permitted.

Installation of gas heaters should be in accordance with AS 4565 – 2004 Radiant Gas Heaters. Heaters must not be placed where they may present a fire hazard (eg in close proximity to umbrellas).

- r) In limited circumstances Council may approve the use of a portion of an Outdoor Dining Area for the purposes of a coffee cart to be used in conjunction with an approved refreshment room. The coffee cart shall comply with the, Australia New Zealand Food Standards Code and the NSW Food Act 2003 and Regulation. Patrons of the coffee cart shall be within the outdoor dining area while being served and queuing outside of this area is not permitted.
- s) Council may require the approved area to be delineated at the applicant's expense. The method of delineation will be determined by Council.

4.1.2 Application Requirements

- a) The applicant shall lodge a completed development application with Council which shall be accompanied with the following:
 - (i) Owner's consent from the land owner of the food and drink premises and Griffith City Council as the owner of the footpath. Should the siting of any tables and chairs extend beyond the boundary of the site, then owner's consent is also required from the neighbouring properties;
 - (ii) Payment of the prescribed fee for a development application, as published in Council's Revenue Policy;
 - (iii) Detailed plans of the footpath, showing the exact dimensions and position of the proposed area, siting of the street furniture, a cross-section from the property boundary to the top-of-kerb and details of the style, type and colour of the street furniture;

- (iv) A statement of environmental effects.
 - (v) Completion of any extension of an existing Licensing Authority trading licence to incorporate the footpath area.
 - (vi) Evidence of a current public liability insurance cover (minimum \$20 million) which must indemnify Council and include footpath trading.
 - (vii) An application for a licence to occupy the footpath
- b) Where conditional approval is granted the following will be payable in accordance with Council's Revenue Policy:
- an annual fee per square metre
 - a bond
 - a licence preparation fee
- c) The footpath license approval will be limited to a maximum 36 months for the area forward of the shop front and 12 months for areas that extend forward of adjoining shop fronts.

4.2 Food Vending Carts and Barbeques

Where it is proposed to use Council's footpath for the sale of food and drinks on a take-away basis incorporating the placement of food vending carts and gas operated barbeques as defined in this policy an Activity Application is to be made to Council and determined in accordance with the provisions of Local Government Act, 1993. Any such approval will be subject to compliance with the provisions set down in 3.2.1 of the Policy and will be subject to conditions including, but not limited to, annual agreement where the payment of fees is in accordance with Council's Revenue Policy and written indemnification against action or claims against Council included in Public Liability Insurances.

4.2.1 Controls

The following controls have been developed to provide guidelines for applicants seeking approval for mobile food vending carts and barbeques.

- a) No obstruction or danger is created for pedestrian or vehicular traffic flow.
- b) The area to be occupied shall be parallel in length to the shop front. Any extensions on to the neighbouring shopfront of the same premises must have the neighbouring property owner's written permission prior to submitting an Activity Application.

- c) A minimum 2.6 m wide clear area being provided to enable pedestrian movement. A greater distance may be required based on the proposal and the circumstances of the case including existing constraints due to the volume of pedestrian traffic, proximities to other footpath obstructions, proximity to intersections and other footpath conditions including cross-fall and slope, or the nature of the proposed activity.
- d) The hours of operation for the vending cart or barbeque selling or displaying commodities are limited from 8.00am to 7.00pm daily during Daylight Saving period and from 8.00am to 6.00pm daily during other times of the year. In exceptional circumstances, hours of operation may be varied at the discretion of the Director of Sustainable Development (or equivalent position) or their nominated delegate.
- e) The mobile food vending cart or barbeque shall not operate within 50 metres from any existing business or other premises, displaying or selling similar types of food stuffs at the same time. In addition a mobile food vending cart shall not operate within 50 metres from any not-for-profit or charity organisation operating a fund raising activity which includes a barbeque facility.
- f) No alcohol is to be served.
- g) No food vending cart or barbeque equipment moveable furniture is to be left on the footpath area outside the hours stated in d) above.
- h) All food vending carts and barbeque equipment displaying or selling food must comply with the Food Standards, Australian and New Zealand Food Safety Standards, the Food Act 2003 and the applicable requirements of the NSW Food Authority – Mobile Food Vending Vehicles, 2009.
- i) Suitable garbage receptacles with close-fitting lids must be provided in the food vending cart. When directed, a suitable receptacle must be provided adjacent to the food vending cart for placing litter and all garbage must be removed daily or more frequently when the need arises

4.2.2 Application Requirements (Food Vending Cart)

- a) The applicant shall lodge a completed application with Council which shall be accompanied with the following:
 - (i) Owner's consent from the premises where the food vending cart is to set up in front of and Griffith City Council as the owner of the footpath.
 - (ii) Payment of the prescribed fee;

- (iii) Detailed plans of the footpath, showing the exact dimensions and position of the proposed siting of equipment, a cross-section from the property boundary;
- (iv) Design and specifications of the proposed food vending cart.
- b) Where conditional approval is granted the following will be payable:-
 - an annual fee per square metre
 - a bond
 - a licence preparation fee
- c) Evidence of a current public liability insurance cover (minimum \$20 million) is to be provided which must indemnify Council of all public liability.
- d) The approval will be limited to a maximum 36 months and be renewable after the end of this period
- e) The fees payable under 4.2.2 (a)(ii) and (b) above are amended and adopted by Council annually and published in Council's Revenue Policy.

4.2.3 Application Requirements (Barbeques)

- a) The applicant shall lodge a completed application with Council which shall be accompanied with the following:
 - (i) Owner's consent from the premises where barbeque is to set up in front of and Griffith City Council as the owner of the footpath.
 - (ii) A plan of the footpath, showing the proposed siting of barbeque equipment
- b) Evidence of a current public liability insurance cover (minimum \$20 million) is to be provided which must indemnify Council of all public liability.
- c) The approval will be limited to a one (1) day only and be renewable after the end of this period

4.3 Display of Goods

Where it is proposed to use Council's footpath for the display of goods incorporating the placement of merchandising racks and trade tables an Activity Application is to be made to Council and determined in accordance with the provisions of Local Government Act, 1993. Any such approval will be subject to compliance with the

provisions set down in 4.3.1 of the Policy and will be subject to conditions including, but not limited to, annual agreement where the payment of fees is based on the dimensions of the area approved by Council and written indemnification against action or claims against Council included in Public Liability Insurances.

Approval will only be given where in the opinion of Council there is adequate area for pedestrian circulation and safe lines of sight and where the use is considered to contribute positively to the proposed character of the area and streetscape.

Where heritage values are applicable, street use and styling of street furniture shall be complementary to the heritage values.

If operation of the business is found to cause undue inconvenience or disruption to pedestrian and traffic circulation or the adjoining premises, Council may take steps to terminate the licence.

Where compliance cannot be achieved due to the circumstances of the case, a development application is to be made to Council and determined in accordance with the provisions of the Environmental Planning and Assessment Act, 1979.

4.3.1 Controls

- a) Council will consider the following matters in determining the application:
 - (i) Suitability of goods for open display: Whether products may be considered offensive in a manner from accepted social, moral, religious and cultural perspective.
 - (ii) Safety aspects of display: Whether the proposed display and sale of goods is likely to cause a safety hazard for pedestrians or detrimentally affect the amenity of the surrounding area or cause damage to footways.
 - (iii) Stability: Any display structures with wheels must incorporate a locking device for safety and stability.
 - (iv) Public health requirements: Display and sale of food items must meet all requirements of the relevant health legislation (eg. safe storage, appropriate temperature regulation, etc).
- b) Approval permits the use of the footpath adjacent to the business premises. The display must not extend further than 1 metre from the existing shop front and be restricted to the length of the street boundary of the premises unless otherwise agreed by Council and stated on the licence permit.

- c) A minimum clear width of 2.6 metres must be obtained for pedestrians at all times without obstructions from urban features including street trees, bins, street furniture and signs.
- d) Empty boxes or disused packaging must not remain on the footway area or be rested against Council's litterbins, trees or other street furniture. Failure to remove waste may result in the termination of licence.
- e) All outdoor furniture is to be stored away from the public area and off public land outside the hours of operations as approved of the current business.
- f) The day-to-day operation of a business in a licensed street trading area is the responsibility of the proprietor/permit holder and the use is at the permit holder's own risk. It is their responsibility to ensure good management practices occur, and the permit holder must:
 - (i) Operate the business in accordance with principles outlined in this policy and conditions of license agreement;
 - (ii) Manage the furniture and features within the designated approved area, and ensure furniture is returned to position when moved by customers;
 - (iii) Monitor behaviour of customers and ensure courtesy is extended to both the general public and surrounding occupants in terms of noise and social behaviour;
 - (iv) Observe all legal requirements and laws relating to the business;
 - (v) Maintain access in and around the site with consideration that the occupied space is publicly owned space;
 - (vi) Comply with all requests made by Council's Planning and Compliance Officers, both formal and informal during the course of the daily operation of the business.
- g) All goods for sale must be established well clear of driveway access points and routes for emergency vehicles;
- h) Display stand(s) must be:
 - (i) Stable, and in the case of inclement weather conditions be removed from the footpath;
 - (ii) Constructed of metal or solid timber construction and of a colour harmonious to the surrounds;
 - (iii) High presentation quality and appearance;

- (iv) Fit for purpose; and
 - (v) Suitably finished so that no damage is caused to Council's pavements.
- i) Displays must be placed immediately against the front wall of the approved business;
 - j) Displays must not exceed 1 metre in width or extend beyond the common boundary between adjacent shops;
 - k) The permit holder shall be permitted to display goods and place display stands within the approved trading area only during the hours that the business premises is open. All display stands, racks, containers and goods must be removed from the footway and stored within the business premises after business hours;
 - l) No temporary containers, milk crates, cardboard boxes, packing cases, packing material or similar receptacles are to be used at any time;
 - m) Goods, boxes or packing material are not to be stored above or under the display, or stored anywhere outside the approved trading area. All empty or disused boxes must be removed from footway area and stored or disposed of in private garbage bins;
 - n) No goods shall be placed directly upon the ground;
 - o) Full supervision and control must be readily available from the licence holder, proprietor or employees;
 - p) The placement of food, perishables or produce of any type within the approved area must comply with health regulations, legislation and requirements;
 - q) Displays and goods must not hang from awnings or be attached to the shop fronts;
 - r) The permit holder will only be permitted to sell goods that are available from the subject business;
 - s) The projection of amplified music, spruiking, live or taped advertising material into the street is not permitted;
 - t) Any repair or maintenance works to be carried out on the footpath by Council will take precedent over the approval for commercial use. The approval will be suspended during any such work on the footpath and the Licence Holder will be given reasonable period of notice in advance;
 - u) The display of the following items are prohibited:

- (i) Cooking or preparation of food;
 - (ii) Breakable items such as glass, china ware and bottled liquids;
 - (iii) Offensive materials;
 - (iv) Computer games, vending machines, pinball machines and the like;
 - (v) Large items of household furniture and whitegoods;
 - (vi) Liquor products, beers, wines or the like, tobacco products or drugs of any type including scheduled medicines; and
- v) The following are general conditions of a standard licence agreement:
- (i) The approved area shall not be utilised by anyone other than the permit holder;
 - (ii) The permit holder shall pay a fee to Council on the first day of each financial year. Council will issue notification and request for updated Public Liability insurance prior to this time. Public liability insurance is to be for a minimum value of \$20 million, with Griffith City Council noted as an interested party. Council reserves the right to review fees at any time;
 - (iii) The licence holder shall be responsible for any damage caused to Council's footway by the installation, maintenance and/or removal of the outdoor furniture or facilities, and will bear all costs to repair and make good to existing;
 - (iv) A copy of the licence agreement must be kept on the premises, and is to be produced on request by Council's officers. The permit sticker must be displayed in a prominent position in the front window of the premises at all times;
 - (v) Licence agreements are to remain with the property.
 - (vi) Failure to comply with any of the requirements of this policy or conditions of the approval may result in the termination of the approval. Any breach of safety must be rectified immediately as non-compliance will result in immediate loss of permit.

In the event that Council cancels the approval then it may be cancelled by notice in writing by the Council to the Licence Holder given at any time on receipt of which the Permit Holder must remove all material from the footway and shall have no other rights under the agreement. If the furniture is not removed and the public

place is not reinstated to its original condition within a period specified by Council, works will be carried out at the licence holder's expense;

- (vii) If the conditions of the licence are to be varied, the necessary documentation must be submitted to Council requesting the change and giving appropriate reasons for the request. Depending on the extent of the requested change, referral to Council staff for assessment and payment of reassessment fees may be required. If Council staff agrees to the amendments, the licence must then be amended and re-signed prior to any changes being made to the street trading area.

4.3.2 Application Requirements

- a) Where the display of merchandising racks and trading tables comply with the provisions of clause 4.3.1 of this policy applicant shall lodge a completed Activity Application with Council which shall be accompanied with the following:
 - (i) Owner's consent from the land owner of the premises and Griffith City Council as the owner of the footpath.
 - (ii) Payment of the prescribed fee;
 - (iii) Detailed plans of the footpath, showing the siting of the merchandise rack and/or display table; and details of the style, type and colour of the street furniture; and
- b) Where the display of merchandising racks and trading tables do not comply with the provisions of clause 4.3.1 the applicant shall lodge a completed development application with Council which shall be accompanied with the following:
 - (i) Owner's consent from the land owner of the premises and Griffith City Council as the owner of the footpath. Should the siting of any tables and chairs extend beyond the boundary of the site, then owner's consent is also required from the neighbouring properties;
 - (ii) Payment of the prescribed fee;
 - (iii) Detailed plans of the footpath, showing the siting of the merchandise rack and/or display table; and details of the style, type and colour of the street furniture; and
 - (iv) A statement of environmental effects which is also to include justification for the variation to the requirements of the policy.

- c) Where approval is granted evidence of a current public liability insurance cover (minimum \$20 million) is to be provided which must indemnify Council.
- d) The approval will be limited to a maximum 36 months at which time a new application is to be lodged with Council. Applications for renewal should be lodged with Council at least 4 weeks prior to any approval lapsing.
- e) The fees payable under 4.3.2(a)(ii) and (b)(ii) above are adopted by Council annually and published in Council's Revenue Policy.

4.4 Temporary Advertising Structures

Where it is proposed to use Council's footpath for temporary advertising structures incorporating the placement a-frame or sandwich board or like type structures an Activity Application is to be made to Council and determined in accordance with the provisions of Local Government Act, 1979.

Any such approval will be subject to compliance with the provisions set down in 3.4.1 of the Policy and will be subject to conditions including, but not limited to, annual agreement where the payment of fees is based on the dimensions of the area approved by Council and written indemnification against action or claims against Council included in Public Liability Insurances.

Approval will only be given where in the opinion of Council there is adequate area for pedestrian circulation and safe lines of sight and where the use is considered to contribute positively to the proposed character of the area and streetscape.

If the placement of the sign is found to cause undue inconvenience or disruption to pedestrian and traffic circulation or the adjoining premises, Council will take steps to terminate the licence.

Where compliance cannot be achieved due to the circumstances of the case, a development application is to be made to Council and determined in accordance with the provisions of the Environmental Planning and Assessment Act, 1979.

4.4.1 Controls

- a) The maximum number of a-frame or sandwich board or like type structures permitted shall be one (1) per premises. Where a premises is occupied by more than one business, such as an arcade or a first floor use, one (1) additional sign may be permitted.
- b) The content of the sign is only to display details of the business, including details of goods and services available or special sales. The sign shall not contain third-party advertising.

- c) A minimum clear width of 2.6 metres must be obtained for pedestrians at all times without obstructions from urban features including street trees, bins, street furniture and signs.
- d) All moveable signage is to be stored away from the public area and off public land outside the hours of operations as approved of the current business.
- e) All signage must be kept clear of access points to the shop including those of adjoining premises. and routes for emergency vehicles;
- f) The a-frame sign, sandwich board or like type structure must be:
 - (i) Stable, and in the case of inclement weather conditions be removed from the footpath;
 - (ii) Constructed of metal or solid timber construction and of a colour harmonious to the surrounds;
 - (iii) High presentation quality and appearance;
 - (iv) Suitably finished so that no damage is caused to Council's pavements.
- g) The a-frame sign, sandwich board or like structure must not exceed a height of 1200mm nor exceed 600mm in width.
- h) Displays must be placed immediately against the front wall of the approved business;
- i) Any repair or maintenance works to be carried out on the footpath by Council will take precedent over the approval for commercial use. The approval will be suspended during any such work on the footpath and the Permit Holder will be given reasonable period of notice in advance;
- j) The following are general conditions of a standard licence agreement:
 - (i) The approved area shall not be utilised by anyone other than the permit holder;
 - (ii) The permit holder shall pay a fee to Council on the first day of each financial year. Council will issue notification and request for updated Public Liability insurance prior to this time. Public liability insurance is to be for a minimum value of \$20 million, with Griffith City Council noted as an interested party. Council reserves the right to review fees at any time;
 - (iii) The permit holder shall be responsible for any damage caused to Council's footway by the installation, maintenance and/or removal

of the outdoor furniture or facilities, and will bear all costs to repair and make good to existing;

- (iv) A copy of the licence agreement must be kept on the premises, and is to be produced on request by Council's officers. The permit sticker must be displayed in a prominent position in the front window of the premises at all times;
- (v) Licence agreements are to remain with the property.
- (vi) Failure to comply with any of the requirements of this policy or conditions of the approval may result in the termination of the approval. Any breach of safety must be rectified immediately as non-compliance will result in immediate loss of permit.
- (vii) In the event that Council cancels the approval then it may be cancelled by notice in writing by the Council to the Permit Holder given at any time on receipt of which the Permit Holder must remove all material from the footway and shall have no other rights under the agreement. If the signage is not removed and the public place is not reinstated to its original condition within a period specified by Council, works will be carried out at the licence holder's expense;
- (viii) If the conditions of the licence are to be varied, the necessary documentation must be submitted to Council requesting the change and giving appropriate reasons for the request. Depending on the extent of the requested change, referral to Council staff for assessment and payment of reassessment fees may be required. If Council staff agrees to the amendments, the licence must then be amended and re-signed prior to any changes being made to the street trading area.

4.4.2 Application Requirements

- a) Where the display of temporary advertising structures complies with the provisions of clause 4.4.1 of this policy applicant shall lodge a completed Activity Application with Council which shall be accompanied with the following:
 - (i) Owner's consent from the land owner of the premises and Griffith City Council as the owner of the footpath.
 - (ii) Payment of the prescribed fee;
 - (iii) Detailed plans of the footpath, showing the siting of the advertising structure and details of the style, type and colour.

- b) Where the display of the advertising structure does not comply with the provisions of clause 4.4.1 the applicant shall lodge a completed development application with Council which shall be accompanied with the following:
 - (i) Owner's consent from the land owner of the premises and Griffith City Council as the owner of the footpath.
 - (ii) Payment of the prescribed fee;
 - (iii) Detailed plans of the footpath, showing the siting of the advertising structure; and details of the style, type and colour of the advertising structure and
 - (iv) A statement of environmental effects which is also to include justification for the variation to the requirements of the policy.
- c) Where approval is granted evidence of a current public liability insurance cover (minimum \$20 million) is to be provided which must indemnify Council and include footpath trading must be provided annually
- d) The approval will be limited to a maximum 36 months at which time a new application is to be lodged with Council. Applications for renewal should be lodged with Council at least 4 weeks prior to any approval lapsing.
- e) The fees payable under 4.4.2(a)(ii) and (b)(ii) above are adopted by Council annually and published in Council's Revenue Policy

4.5 Public Performance including Busking

Griffith City Council encourages performances and busking within the central business district provided that a permit is obtained from Council's City Strategy and Development Department and the prescribed fee is paid.

4.5.1 Controls

- a) Buskers can perform anywhere in the central business district with the exceptions of the following:
 - (i) Median strips within a public road
 - (iii) Within the area immediately surrounding the Cenotaph in Memorial Park.
- b) Buskers can perform at any one time between the hours of 9.00 am and 8.00 pm each day.
- c) A busker may accept but cannot solicit donations in appreciation of their performance

- d) All buskers need a Griffith City Council Busking Permit to perform on land owned by or in the control of Council. The permit must be displayed at all times while performing
- e) If busking as a group, each member of the group will need to apply for an individual busking license. Groups of up to 5 licensed buskers can perform at any one time, providing all members have their license on display.
- f) Public performances will require a permit and the permit will prescribe the approved location, which would normally be in one of the parks adjoining the footpath.
- g) Performances must not cause a nuisance by:
 - (i) Obstructing pedestrian or vehicle traffic or entrances to shops or buildings.
 - (ii) Excessive noise, due to the amplification of musical or other equipment.
 - (iii) Selling or offering for sale of any articles, commodities or services other than a busker's own original recordings.
 - (iv) Using dangerous implements or materials as part of the performance.
 - (v) Vilifying or harassing any member of the community, including but not limited to racial, sexual, gender or disability discrimination.

4.5.2 Application Requirements

- a) Application shall be made to Council for a Performance or Busker's Permit and shall be accompanied with the following:
 - (i) In the case of Buskers, owner's consent from the business operator and/or landowner of the premises where the busker is to perform.
 - (ii) Payment of the prescribed fee;
- b) The approval will be limited to a maximum 12 months at which time a new application is to be lodged with Council.
- c) The fees payable under 4.5.2(a)(ii) above are adopted by Council annually and published in Council's Revenue Policy.

4.6 Unauthorised Use

The unauthorised use of the footpath, including additional tables and chairs associated with outdoor dining, temporary advertising structures, merchandise racks or trade tables that are not in accordance with an approval or otherwise permitted by Council shall be removed upon the direction of an authorised Council Officer. Where a direction to remove the unauthorised items has been ignored, Council shall impound the unauthorised items.

4.7 Council Consent as Land Owner

Council's consent as land owner is required prior to the submission of any application for the use of the footpath. Where Council refuses to grant land owner's consent, it shall provide reasons for withholding such consent.

5 Definitions

- **busker** is a person who plays a musical instrument, sings, dances, mimes or performs an act to entertain the public.
- **food and drink premises** means retail premises used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes restaurants, cafes, take away food and drink premises, milk bars and pubs.
- **food vending cart** means a barrow, trolley or cart that does not require registration with the NSW RMS and any adjacent area reasonably used for the purpose of displaying and selling food stuffs.
- **hotel** means the premises to which a hotelier's licence granted under the Liquor Act 1982 relates.
- **Public performance** means performance by a group of music, singing, dance or similar activity or public speaking on behalf of a group, agency or Church.
- **primary service authorisation** enables liquor to be served to patrons without another product or service under an on-premises licence. The most common example is the sale of liquor in a restaurant without a meal. All restaurants, including those with a primary service authorisation, cannot operate with the primary purpose of selling or supplying liquor. Restaurants with a primary service authorisation must have meals available at all times. A primary service authorisation does not allow a restaurant to operate as a bar.
- **refreshment room** means a restaurant, café, tearoom, eating house or the like.

6 Exceptions

None



7 Legislation

None

8 Related Documents

None

9 Directorate

Sustainable Development