Street Trading
Guidelines for applications
Review date February 2028

Devonport City Council

1. Introduction

Street trading is where an individual, organisation or business sells or offers for sale goods, merchandise or services including food and uses portable signs on a regular or permanent basis in a street or public place.

Devonport City Council recognises that street trading is commercially beneficial to businesses and can add colour and vibrancy to the City. Council also recognises the need to ensure a balance between the benefits of street trading and the safety of pedestrians.

Street trading is regulated under a By-law and supported by a Policy to help regulate the on-street activities within the Devonport central business district.

Businesses wishing to use Council's footpath for portable signage, display of goods or on-street dining, require Council approval.

This Guideline has been developed to assist businesses to comply with the By-law and Policy.

2. General Principles

These guidelines have been developed to enable applicants to:

a) assess the eligibility of their proposal for compliance with the By-Law and Policy;

b) assist applicants in preparation of their application; and

c) ensure consistency in application of the By-Law and Policy.

3. Types of Street Trading

3.1 Portable Signage (A-frame sign)

- Portable advertising signs and A-frame signs will only be allowed:
  - on the frontage of the business that it advertises,
  - be located in the Trading Zone,
  - be professionally made and presented,
  - be aimed at informing pedestrians (not directed at drivers), and
  - must not exceed 600mm in width or 1100mm in height.

Examples of portable signage

- All Street Trading License signs generally referred to as 'A-frames' or 'Sandwich boards' are to be secured in place by a means that is not reliant on or physically tied to any Council structure. The means by which these signs are secured must not extend beyond the circumference of the permitted sign and must be of a type satisfactory to Council. Any securing device is to be removed with the sign in accordance with Street Trading License nominated trading hours.
- One arcade directional sign, which lists businesses within an arcade, will be allowed in front of the arcade entry unless approved by council officer. No sign is to have any moving, rotating or illuminated components.
- Signs must only be in place during nominated trading hours.
- The maximum number of signs permitted per premises is one (1) per shop frontage or 1 per business represented by that shop frontage (i.e., single shop frontage - 1 sign;

double shop frontage - 2 signs to a maximum of 2 for large frontage premises such as supermarkets, hotels, commercial offices and department stores. For corner properties this clause applies to each shop frontage.

3.2 Display of Goods (trading goods)

- Trade goods may only be displayed in the Trading Zone of the footpath.
- Goods and temporary displays must not be on the footpath outside nominated trading hours.
- Goods must be displayed on stable stands that are secure and do not pose a safety risk to the public. These stands must be able to withstand adverse weather conditions and must be secured in a manner which ensures that adverse conditions will not create a risk for pedestrians, property and passing traffic. Stands and goods must not cause any damage to the footpath.
- Goods or displays will not be permitted where access to a loading zone or designated accessible parking bay will be impeded. In these circumstances, the setback requirement is 1800mm from the kerb.
- Trade displays will not be permitted to overhang either the Kerbside or Pedestrian Zones.

Example of display of goods in the Mall

Example of display of goods

3.3 On-street Dining (Alfresco Dining)

- The licensee is responsible for the conduct of patrons at tables and chairs in the alfresco dining area and must:
    - ensure that patrons do not obstruct Pedestrian or Kerbside Zones, and
    - not permit the serving of food or beverages to patrons within the pedestrian or kerbside zone.
- Dining furniture includes tables, chairs, umbrellas, portable heaters, etc. must be within the area approved one the license.
- Applications for on-site dining that are greater than the premise that they relate to must be supported by neighbouring business operators.
- All food must be stored and prepared within the approved food preparation area of the premises.
- All furniture, other facilities and the surface being occupied shall be kept clean at all times. A licence may be cancelled or suspended if instances of Alfresco Dining areas not being kept clean are noted. Keeping areas clean is important to avoid attracting wildlife to the area (namely pigeons, seagulls, rodents etc).
- The licensee is responsible for litter generated by patrons of their Alfresco Dining areas. A licence may be cancelled or suspended if instances of littering, untidiness or failure to keep Pedestrian and Kerbside Zones clear are noted. Furthermore,

businesses must use their own bins for waste disposal and refrain from using Council bins intended for the general public.

- Where kerbside parking occurs a screen fence must be installed.
- No furniture is to be placed within 1000mm of any parking meter or other street furniture or tree.
- Any premises where alcohol is served or consumed on the footpath must have its liquor licence endorsed with the footpath as part of the 'licensed area' on the liquor licence for that premises.
- The licensee will be responsible for reimbursing Council for any reinstatement works as a result of damage to footpaths or street fixtures and furniture.
- Each licence application for Alfresco Dining will be assessed and conditioned based on the circumstances of the application and premises in question.

Example of alfresco dining in the Mall

Example of on-street dining

3.3.1 Shade Structures

- Umbrellas, free standing awnings and similar shade solutions may only be placed in the Trading Zone.
- Must have a minimum height above footpath level of 2.2 metres.
- Edge of awning, umbrella and similar shade solutions must not occupy the Kerb Zone.
- Umbrellas must be secured in a manner recommended by their manufacturer and satisfactory to Council.
- Umbrellas, awnings, etc must be removed or lowered when weather conditions impact the safety of their use.

Example of a shade structure

3.3.2 Heaters

- Where the use of a heating device is proposed, details of the type, location and design must be included in the application. The design of the device and the safety of persons and property will be the main consideration.
- Heating devices should turn off automatically if overturned to prevent injury to patrons and property.

3.3.3 Screen Fence

- Must be used when kerbside parking occurs.
- Must be used for wind protection or to separate uses within the footpath.
- Must be non-fixed and removed at the end of business hours.
- Must be stable in strong winds.
- Must not be a hazard to pedestrians or motorists.
- Must not be in the Kerb Zone.

Example of screen fence

3.3.4 Advertising

Business or supplier name/logo only may be placed on umbrellas and screen panels. It must appear only once on each item. The applicant must ensure that the advertising is in keeping with the area.

Example of advertising

3.3.5 Outdoor Speakers/Amplification Equipment:

Council reserves the right, to direct that any sound amplification equipment or speakers to be removed or reduced in volume.

All furniture/infrastructure, other than Council approved permanent items, must be removed at the end of the day trading by the license holder.

4. Existing Public Infrastructure

Public assets including tables, seats, benches, bins, pedestrian crossings, fire hydrants, emergency assets, parking metres, traffic signal boxes, public transport shelters, trees and other permanent fixtures placed on the footpath have priority over commercial interests.

A minimum clearance of 1000mm will be required on either side of any public asset permanently affixed to the footpath.

4.1 Asset Relocation

Applications may be made to relocate public assets. A request in writing to the General Manager must be submitted with the application for a street trading licence together with written permission from the asset owner if the asset is not owned by Council.

The request must include a plan showing the site of the proposed relocation and a letter of support signed by the trader outside whose premises the asset will be relocated.

The applicant will be responsible for the cost of relocation of the public assets.

4.2 Service Authority Works and Special Events

Service Authorities or Council may require the use of a site to undertake works.

When this is required, or any special event is scheduled, it will be normal practice to give at least 7 days' notice. In an emergency, sites may need to be cleared immediately. Licensees will be responsible for the movement of all items and any associated costs. Licensees will not be entitled to reimbursement from the Service Authority or Council for loss of trade whilst these works are undertaken.

5. Privately Owned Infrastructure – permanent

5.1 Permanent Infrastructure

As part of the associated street trading licence application, the property owner (shop owner) must apply in writing to the General Manager for the installation of privately-owned permanent infrastructure that otherwise conforms with these guidelines.

The application must include sufficient details for the proposal to be assessed against these guidelines and associated policies. Details required with the application should include, but not necessarily limited to the following:

- Plan of proposed layout, adequately dimensioned and to scale, including any relevant structures immediately adjacent to the site (i.e., kerbs, poles, seating and bins etc);
- Types of structures and materials proposed to be installed;
- Methodology for fixing the proposed private infrastructure, including ease of future relocation and modification, to suit future works by Council;
- Compliance with disabled access to the relevant Australian Standards is to be demonstrated;
- Proposed private infrastructure must be weather resistant to relevant structure and durability standards;
- Compliance with the street zone requirements as defined above is to be demonstrated; and
- No advertising logos or advertising signage is to be attached to the private infrastructure.

All approved privately owned infrastructure remains the property of the property owner. If the infrastructure is no longer required or becomes hazardous or obstructs future development, then the property owner is responsible for facilitating removal and rehabilitation of the site at their cost.

5.1.1 Fixed Screens

All permanent screens are to be translucent.

5.1.2 Bollards

- Must be used when adjacent to the trafficable lanes where there is no on-street parking to ensure the safety of dining patrons. Trafficable lanes include clear lanes and turning lanes.
- Bollard types must be in accordance with Devonport City Council Streetscape Guidelines.
- Design must be suitable for proposed location and offer protection for the entire dining area. For example: frangible may be required in some locations.
- Location of diners within the dining area must consider the likely deflection of the bollards under impact.

5.2 Installation Costs

All costs associated with the proposed installation of permanent privately-owned infrastructure is to be borne by the applicant, including but not limited to the following:

- Liability insurances;
- Installation works;
- Works associated when merging with adjoining infrastructure;
- Any associated planning and building permit fees;

- Future maintenance; and
- Removal and rehabilitation as per Clause 5.3 below.

Existing public assets approved for removal and recovery are to be delivered to Council's Works Depot in Lawrence Drive, in a condition suitable for reuse elsewhere unless specified otherwise.

5.3 Removal or Modification of Private Permanent Infrastructure

Modification to the existing approved private permanent infrastructure may require a new application outlining full details on any changes is required. Works are not to proceed unless approved by Council.

5.4 Future Works Undertaken by Council

In the event of any future works deemed necessary by Council (including street upgrade works undertaken by Council), the property owner will be given the opportunity to retrieve the private permanent infrastructure prior to such work commencing. Council will inform the property owner if it will be permissible to reinstate the permanent infrastructure, and to what extent, after the works have been completed at the licensee's cost.

Private permanent infrastructure that remains at the start of the works will be removed and either disposed of or stored at the discretion of Council, at the Street Trading Licensee cost.

5.5 Council Indemnity

The applicant indemnifies Council from any claims for loss of damages resulting from the approved infrastructure.

5.6 Road Reserve Permit

Prior to any works commencing on site for the installation of permanent infrastructure, an application for undertaking works within a road reservation must be submitted to Council for approval. Details can be found on Council's website:

Road Reserve Permits | Devonport City Council

6. Definitions

Arcade Directory Sign: A fixed sign located outside an arcade entry that lists businesses within the arcade.

Building Line: The boundary of freehold / privately owned land as shown on the Certificate of Title for the land. In the context of this policy the building line also defines the boundary of the road reserve.

Business: Any commercial activity including retail or wholesale of goods/food, professional services, restaurants, amusement centres, nightclubs etc.

Emergency Access Zone: The central 4700mm portion of the Rooke Street Mall and covers the central area between the shade sail poles and extends from Best Street to Stewart Street.

Emergency Access Zone

Footpath: The paved or sealed area within the road reserve between the road edge usually kerbed) and the building line. The width of the footpath may vary, and this will impact on the width of the Trading Zone. The footpath is divided into 3 distinct zones:

- Pedestrian Zone
- Kerbside Zone
- Trading Zone

Kerbside Zone: The Kerbside Zone is a 500mm buffer from the kerb to allow for access to and from parked vehicles.

Licensee: The person to whom a Street Trading Licence has been granted pursuant to the Street Trading By-law.

Mall: For the purposes of this policy the word 'Mall' shall apply to the Rooke Street Mall.

Photo of Rooke Street Mall

Pedestrian Zone: The pedestrian zone extends provides an uninterrupted path of travel to or within a building, providing access to all required faculties. The minimum width of a Pedestrian Zone is 1800mm (where possible) with a height of 2200mm. No items may extend into this zone at any time.

Note: For non-ambulatory pedestrians this accessible path of travel does not include any step, stairway, turnstile, revolving door, escalator or any other impediment which could prevent it from being safely negotiated by people with disabilities.

The Pedestrian Zone includes all the requirements of an access-way. It follows the building line where possible, extending a minimum of 1800mm from the building line to the Trading Zone and Council may insist on the pedestrian zone being increased if the footpath design enables this.

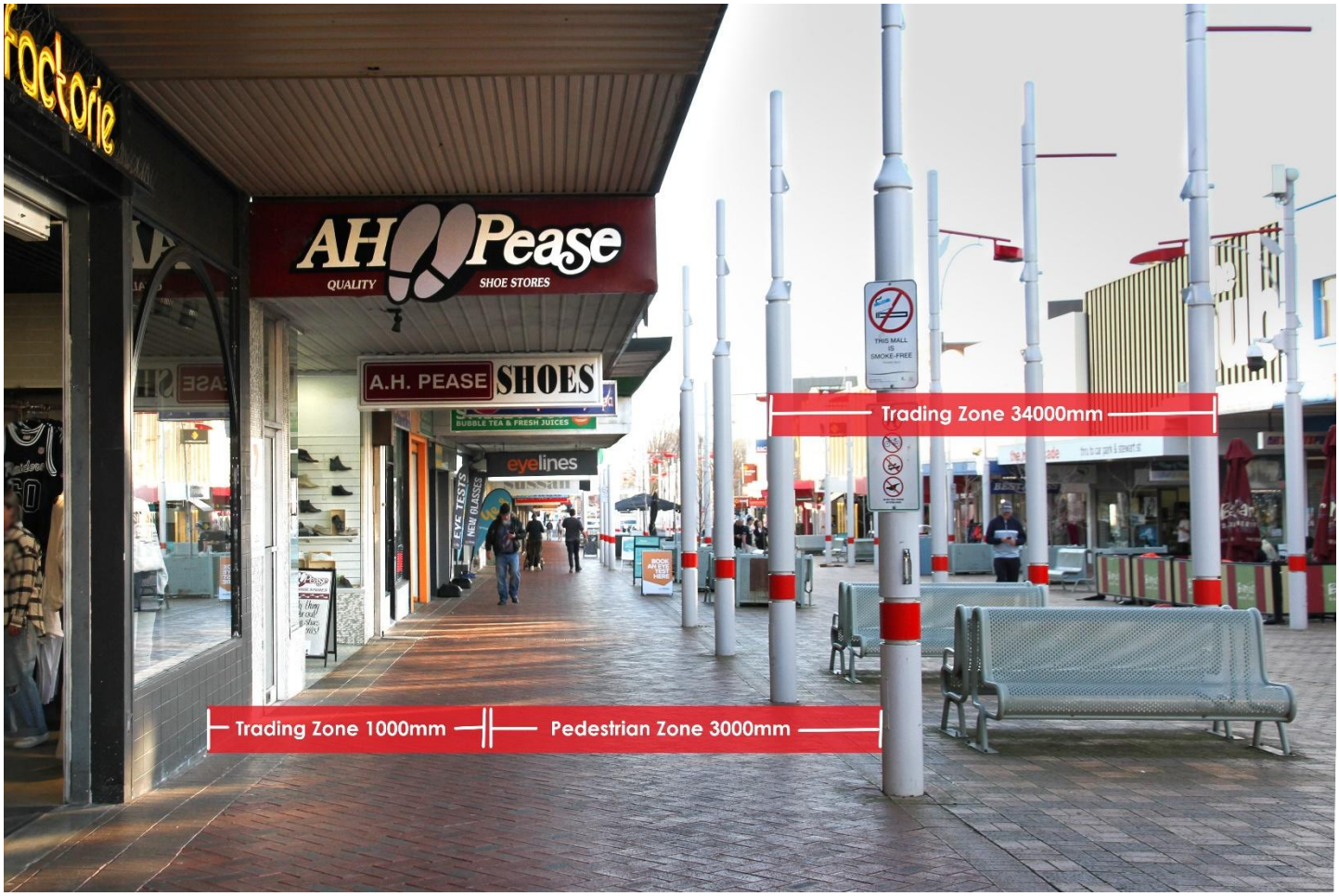
Public Places: For the purposes of this policy 'Public Places' shall apply to the Market Square area and/or similar locations.

Road Reserve: The area of public reserve between property boundaries including any footpath, road or pedestrian right of way under the control of Devonport City Council.

Trading Zone: The Trading Zone is that area of the footpath between the Kerbside Zone or Emergency Zone and the Pedestrian Zone where portable signage, displaying goods and on-street dining can be located and approved by Council.

Where premises are adjacent to an intersection the Trading Zone must not extend past the building line.

Note: The Trading Zone for the Mall is permitted 1000mm from the building line and then between the pedestrian zone and the emergency access zone.



Mall Zones

The width of the Trading Zone may vary depending upon the overall width of the footpath. Only the Pedestrian and Kerbside Zones have default minimum widths whereas the Trading Zone is flexible providing these defaults are achieved.

Clearance distances for the Trading Zone include:

- Clearance from side boundary – 500mm
- Side access setback (driveways, crossovers or private access roads) – 1800mm (min)
- Setback between footpath items (adjacent to objects, seats, bins, street trees, streetlights etc.) – 1000m (min)
- Setback from disabled access car parking space(s) parallel to kerb - 1800mm (min)
- Setback from bus, taxi and loading zones and pedestrian crossings - 1800mm (min)

In this regard, the adjacent Kerb and Pedestrian Zones are to remain clear and unobstructed at all times. Objects should not be placed so as to obstruct or impede a vehicle door when opened, provided that the vehicle is parked lawfully on the carriageway.

The approved Trade Zone is to be appropriately marked in a manner agreed to by Council. The method of marking must be neat and unobtrusive and not pose a safety hazard i.e., trip or slip hazard. Appropriate methods include:

- Marking out the corners of the area through pavement markers such as metal studs, stone inserts installed at or near flush with the paved surface and or use of tactile indicators; or
- Use existing landscape features such as trees and bollards to indicate the boundaries of the area.

7. Frequently Asked Questions

7.1 What information is required to apply for a Street Trading Licence?

The following information is required from an applicant when submitting an application to Council for a Street Trading Licence:

- Completed Street Trading Application Form.
- Application Fee:
  - A fee is payable to Council for the assessment of the application and preparation of the license.
- Public Liability Insurance:
  - A current copy of public and products liability insurance for the sum of $20 Million.
- Site Plan of Existing Conditions:
  - A plan showing the width of the building frontage and of the footpath from the outside edge of the kerb to the building lines, types of adjacent properties, existing trees, light poles, signs, existing street furniture, service pits etc. All dimensions associated with the footpath area should be shown.
- Site plan of Proposed Footpath Activity:
  - A plan showing the area and layout of the proposed footpath activity. This may include the proposed location of chairs, tables, screens, heaters, umbrellas, advertising signs etc.
- Photographs of the site:
  - To clearly show proposed street trading zone relative to buildings and existing features in the street trading zone.
- Details of Furniture (where applicable):
  - Colour photographs or detailed design drawings of proposed furniture to be used including screens, planter boxes, heaters and market umbrellas.
- Details of Advertising (where applicable):
  - A colour photograph or detailed design drawings of the proposed advertising logo and clear indication of its size and location within the trading zone.
- Applications for on-site dining that are greater than the premise that they relate to must include written support from neighbouring business operators.

<u>Failure to submit all the above details may result in delays in processing the application.</u>

7.2 What is the Assessment Process?

Upon the receipt of an application Council staff will:

- Check that all relevant information has been received.
- Check the application to ensure it meets the intent and requirements of the Street Trading By-law, policy and guidelines.
- Inspect the site and check accuracy of submitted plans.
- Undertake an assessment of the application.
- Assess requests for permanent structures (if applicable) and make a recommendation to the General Manager.
- Approve or refuse the application.
- Formally advise the applicant of Council's decision.

7.3 What if I need to amend my Licence?

Licence holders must submit an application in writing for any amendments to their existing licence. Amendments may include changing furniture design, adding furniture or increasing advertising.

Council will advise the licence holder within 3 weeks of their decision on the amendment.

7.4 What if I sell my business?

Licences are not transferable between businesses or if a business is sold. The new operator would need to apply to Council for a new licence.

If the Street Trading License includes permanent infrastructure the property owner is responsible for removal and reinstatement of the area.

7.5 How is my licence renewed?

Licences for Street Trading are issued annually at the beginning of August and must be renewed annually.

Prior to expiry of the current licence, the licence holder will receive written notification from the Council advising that the licence is due for renewal.

It is the responsibility of the licence holder to ensure all renewal details including public liability; amendments and fees are forwarded to the Council with the renewal application.

A licence expires if the licensee ceases to maintain public liability insurance or to meet any of the conditions of the licence and the street Trading Policy.

If a licence is revoked for any non-compliance issue and the applicant wishes to re-apply the full fee will apply.

7.6 What is the process for enforcement of the Street Trading Policy?

Upon detection of a breach of Council's Street Trading Policy or By-Law, Council may issue:

- Written Notice to comply – first and final warning with time limit for addressing the notice.
- An Infringement Notice in accordance with the Street Trading By-law – a fine for non-compliance with the Notice to comply.
- Further fines or license suspended for a minimum period of 12 months and/or prosecution.
- Council may impound any items on the footpath that do not comply with the Council's Street Trading By-law and Policy, or any conditions placed on the License.
- Second and subsequent fines will be issued without additional warning for further acts of non-compliance.
- Incidents of non-compliance will be noted on a permit holders file and will be taken into consideration in delivering an appropriate penalty at a later date should further incidents of non-compliance be noted.
- Incidents of non-compliance will be taken into consideration when requests to vary or add to a permit are considered for approval.