

guidelines for the

COMMERCIAL USE OF FOOTPATHS

policy | F07

Ballina Shire Council supports vibrant and stimulating commercial centres where the public is encouraged to shop and dine in an outdoor environment and take advantage of the favourable local climate.

Responsible small-scale street vending and footway restaurants on public footpaths will enhance and promote the established central business areas of the shire, particularly those of Ballina, Lennox Head, Alstonville and Wardell as focal shopping, business and social places.

1. Applications

A development application is usually not required, but approval from Council is still required. Applications must be submitted to Council on the Commercial Use of Footpaths Application Form, together with the prescribed application fee (where applicable). Applications must include:

- accurate scaled and dimensioned plans of the application area
- details of the proposed placement of landscaping, lighting, temporary structures and/or furniture.

2. Footway Restaurants

Applications for a footway restaurant must include details of the intended operation of the alfresco dining area, including:

- nature of dining
- hours of operation
- seating capacity
- type of service, etc.

Applications must be accompanied by detailed evidence that the existing kitchen, washing and trade waste facilities are suitable to cater for the proposed additional capacity associated with the application area. It must specify whether the applicant will be applying for a licence for the service and consumption of alcohol within the approval area. If the approval area is within a designated Alcohol-Free Zone, a special exemption will need to be obtained.

The use of a footpath area for a purpose authorised under this policy must not commence until a valid street

vending or footway restaurant approval has been issued and all conditions have been complied with.

3. Is a development application needed?

The commercial use of footpaths can be approved without a development application if it meets the following requirements:

- it involves the use of footpaths within a road reserve for which Council is the roads authority under the *Roads Act 1993*
- it's for the purpose of small-scale commercial/business use such as alfresco dining, display of merchandise and the like
- it occupies an area not greater than 30 m² per operator
- it's operated in conjunction with an authorised adjoining use
- it does not involve the erection of permanent enclosures/structures
- it does not interfere with the safety and free passage of other users of the footpath
- it does not result in the loss of any car parking.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 also specifically covers the use of footpaths for dining and has different controls to Council's policy. In the event of an inconsistency, the SEPP will prevail.



4. What's permitted?

- no permanent structures are permitted within an approval area, and all temporary structures and/or furniture must remain wholly within the specified boundaries of the approval area
- items placed in the approval area must be stable and suitably designed to prevent damage to the footpath, withstand weather conditions and maintain an attractive appearance
- clothing racks and/or display tables must have lockable wheels so they can be secured on the footpath
- landscaping, lighting, structures and/or furniture within an approval area must be designed and configured to positively contribute to the overall streetscape
- no advertising signs, including free-standing A-frames, are to be placed within the approval area, other than incidental advertising
- the placement of temporary structures within an approval area must allow sufficient clearance for pedestrians to make normal use of the footpath without unreasonable impact.



5. Occupation Fee

Council will charge a footpath occupation fee based on a per metre rate of the approval area in accordance with Council's annual schedule of fees and charges. The fee is based on a reasonable return on land value, which may vary for different parts of the commercial areas.

6. Non-compliance

A street vending consent or footway restaurant approval may be cancelled by Council with 90 days' notice within the first year of its operation, and with 30 days' notice in any subsequent year. No claim for compensation will arise from such cancellation, and the applicant will be responsible for vacating the approval area.

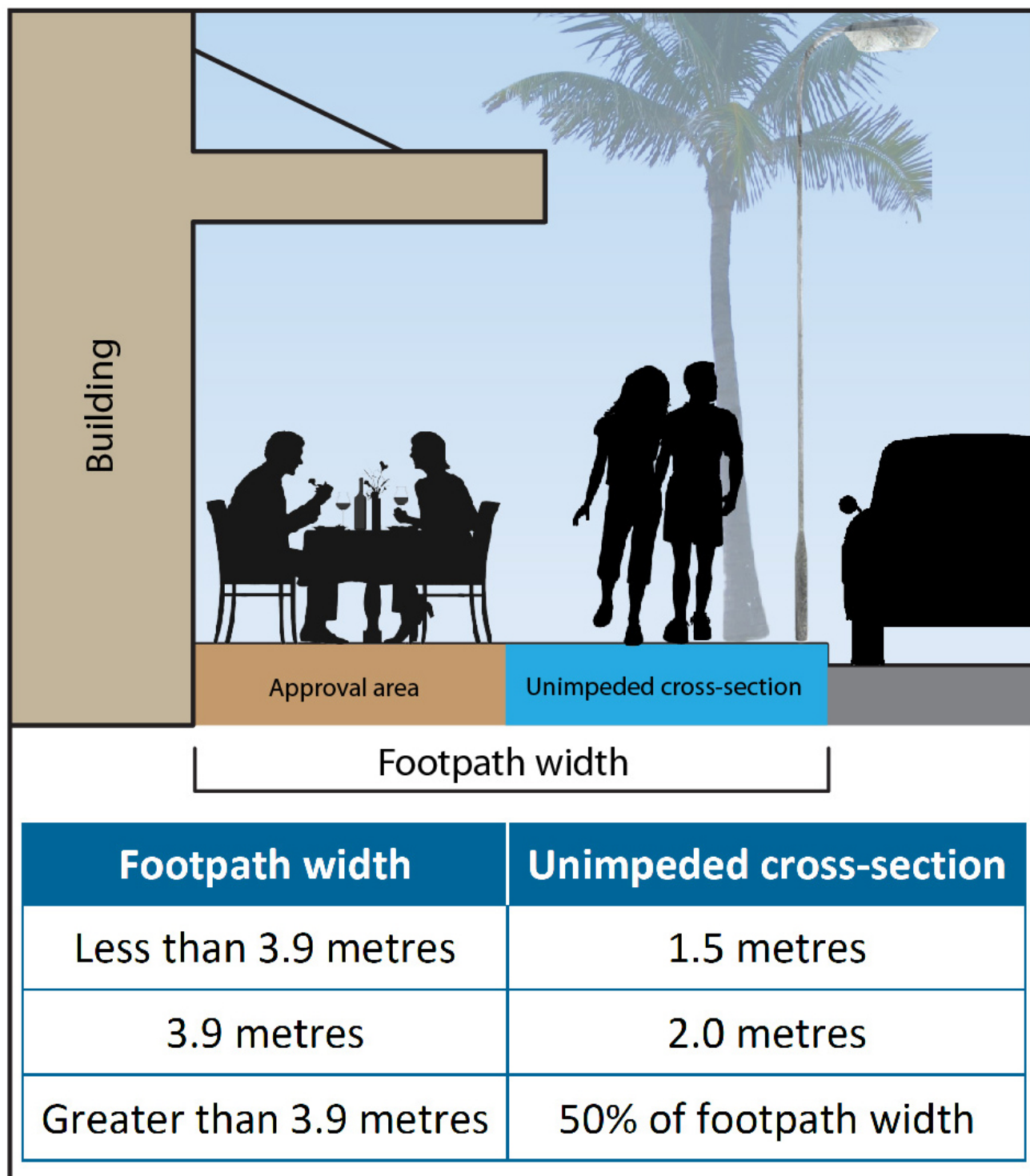
Council regularly monitors approvals granted to ensure compliance with conditions. Non-compliance may result in on-the-spot fines being issued.

7. Further information

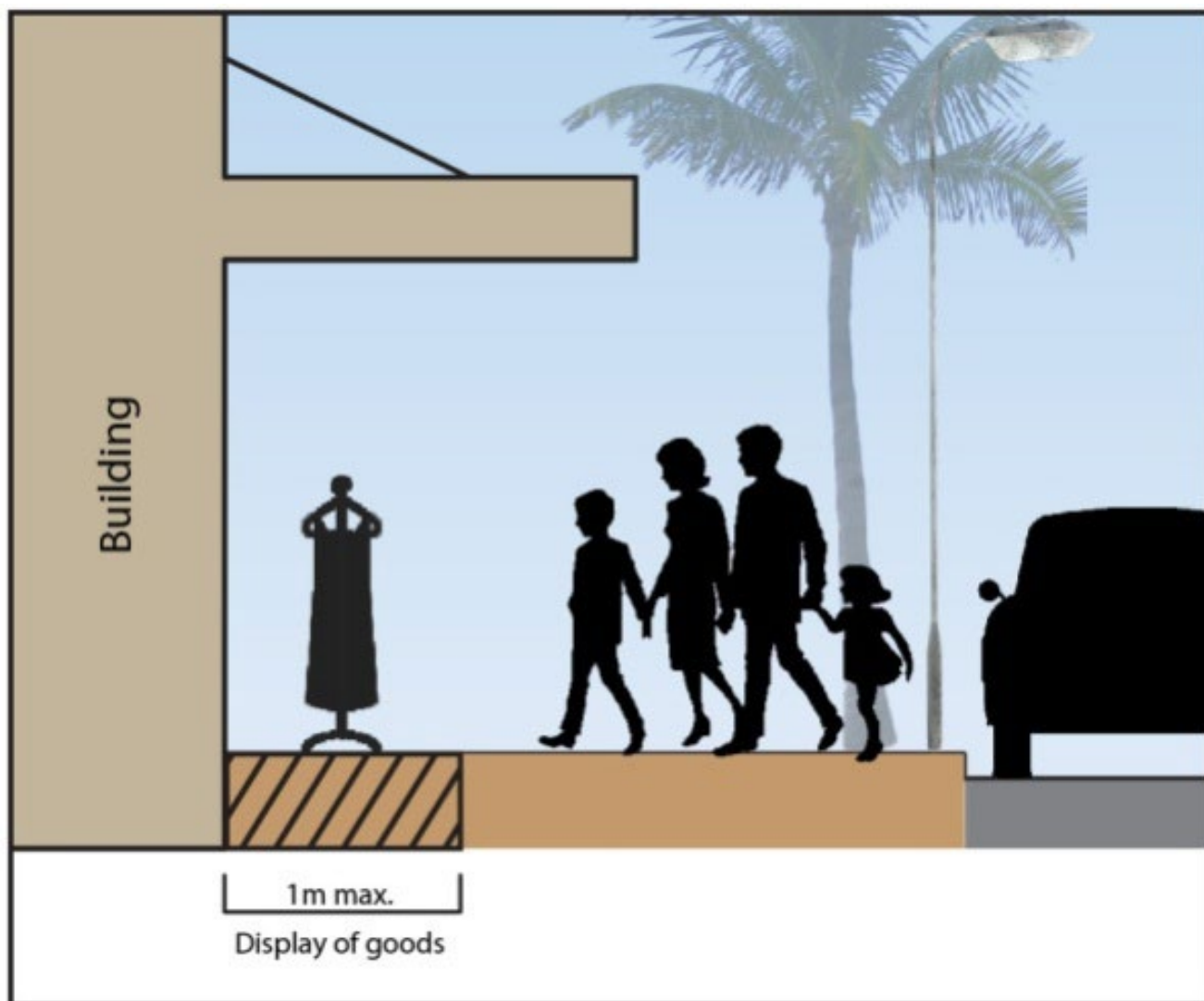
For further information, please refer to Council's **Commercial Use of Footpaths policy**.

Ph: 6686 4444
ballina.nsw.gov.au





The placement of temporary structures within an approval area must allow sufficient clearance for pedestrians to make normal use of the footpath without unreasonable impact



Displays of goods must extend no further than 1 metre forward of the property boundary.