



WARRNAMBOOL
CITY COUNCIL

Footpath Trading Procedures

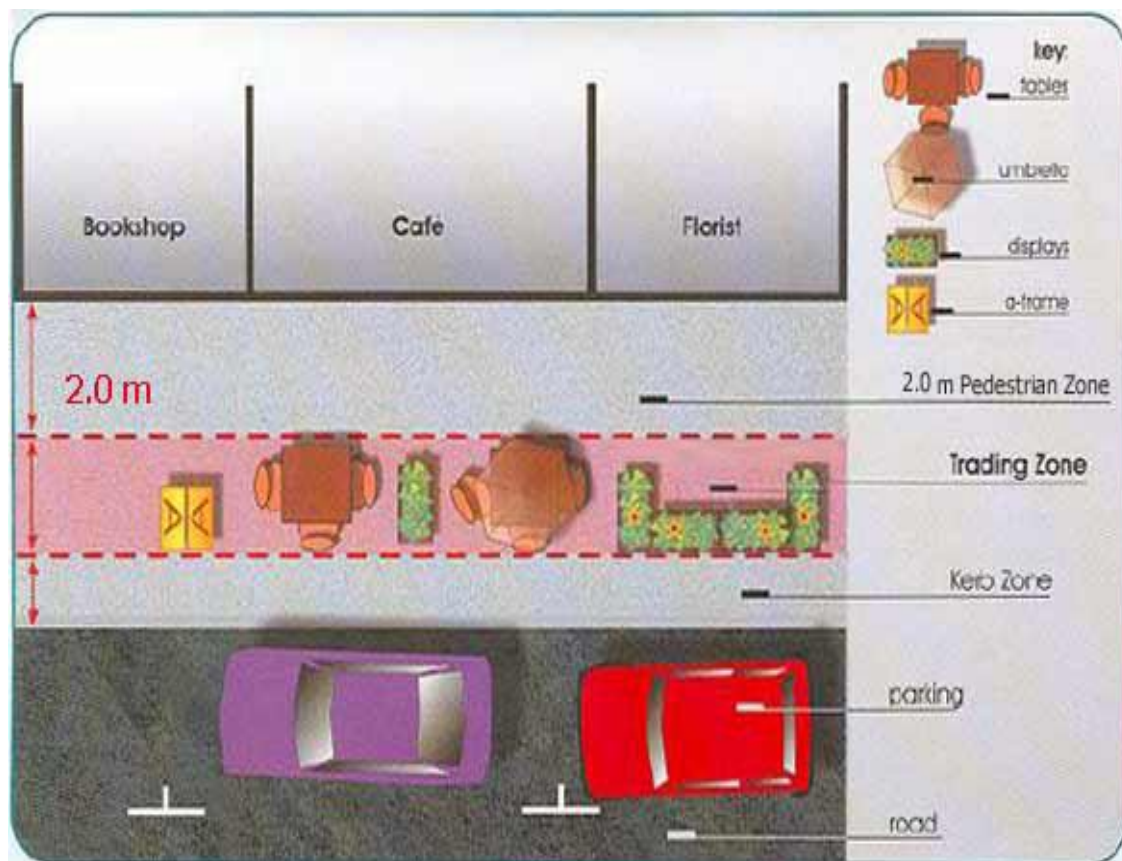
1. Introduction

These Procedures have been developed to assist businesses, individuals and Council to facilitate appropriate footpath trading options. The Procedures should be read in conjunction with the Warrnambool City Council Footpath Trading Policy. The Procedures provide information and certainty to the community over what treatments and infrastructure are preferred and the manner in what footpath trading is conducted.

2. General Standards

2.1 Footpath Zones and Locations

Footpaths refer to the area of pavement which is public land between a private property boundary and the roadway. The land is Council owned and controlled, and is part of the road reserve.



2.2 Appropriate Zones and Locations

The footpath has been divided into three 'Zones' to ensure complementary use of the area between public and commercial uses. The zones consist of:

- Pedestrian Zone
- Trading Zone
- Kerb Zone

In laneways and other footpaths where the above standards are not able to be met, a Council road closure permit may be required and the application will be assessed on a case by case basis.

2.3 Pedestrian Zone

The Pedestrian Zone must have an unobstructed, safe and continuous path of travel from the building line or shop front of a **minimum 2.0 metres**. No goods/services, activities, footpath markings, A-Frame signage, furniture (including mats) or trading can occur in this zone at any time.

The Pedestrian Zone also includes the area above the footpath to a height of 2.4m. No items should protrude into the Pedestrian Zone.

2.4 Kerb Zone

The Kerb Zone is the area between the Trading Zone and the gutter. There are strict requirements for the width of this area dependent on parking conditions adjacent to the area.

- 2.4.1 There must be a minimum of 0.8m setback from the kerb line to the Trading Zone when adjacent to angled or parallel parking bays.
- 2.4.2 The area adjacent to disabled parking areas, loading zones or zones is not permissible for footpath trading. There may be some instances where footpath trading can be permitted safely in these areas which will be considered on a case by case basis.
- 2.4.3 No advertising, trading or dining activities are permitted to obstruct Council street furniture. Council will only consider the relocation of street furniture in extreme circumstances and relocations will be at the expense of applicants.

It should be noted that footpath trading may not be permissible in these areas.

2.5 Trading Zone

2.5.1 This zone allows for commercial use including furniture, goods/services, activities, A-Frame signage and trading. This zone is the distance between the Pedestrian Zone and the Kerb Zone and the width will vary depending on the overall width of the pavement.

All commercial use must be contained within this zone and can occur only during normal trading hours, provided that no furniture, goods/services or A-Frame signage remains on the footpath after 10pm unless otherwise agreed by Council.

Applications must be submitted for the following activities in the Trading Zone:

- A-Frames or sail signs – All businesses
- Goods on footpath – All businesses
- Outdoor dining / screens – Existing café or registered food premises
- Other activities eg busking, fundraising, charitable activities, promotions, footpath markings

This zone must have a 1.5m break between each adjacent premises to allow for access from the Kerb Zone to the Pedestrian Zone and a 1 metre break between two displays in front of the same business (if permitted).

Applications to trade in front of a disabled or hatched bay are required to comply with AS1428.2 design for access and mobility, these applications will be handled on a case by case basis.

2.5.2 To ensure that street cleansing and maintenance can be undertaken, all portable furniture/fittings must be removed by 10pm each day, unless otherwise permitted by the footpath trading permit.

2.5.3 Any advertising on portable or fixed infrastructure must adhere to the advertising guidelines listed below under advertising.

2.5.4 All furniture and equipment must be approved by Council prior to manufacture / installation.

2.6 Footpath Dining

2.6.1 All tables and seating must remain within the Trading Zone for the duration of their use. Cafe furniture must be of a high standard in appearance and durable in nature. In all instances Council must approve furniture design before use.

2.6.2 Tables and seating must be portable unless otherwise approved by Council, to facilitate maintenance and cleaning, however need to be strong and windproof. This may include metal and timber or metal frame and plastic tabletop and chair back/seat.

2.6.3 All unfixed furniture or items must have suitable protective measures for safety and to prevent damage to public infrastructure. It is the responsibility of the permit holder to ensure all unfixed furniture and equipment to comply with the terms and conditions of the permit.

2.6.4 In accordance with AS1428.2, tables and chairs are required to have minimum 30% colour contrast to their background to assist the vision impaired.

2.6.5 Table and chair legs should not extend on an angle that would cause tripping points to pedestrians.

2.6.6 Footpath protection may be required for some uses eg BBQ or food trading. Note: Could be sealing of pavement in area.

3. Design Standards

Fixed Street Furniture and Equipment

In many cases fixed permanent screens, seating and other equipment will require planning or building approval or both and as such will be dealt with on a case by case basis having consideration of the Footpath Trading Policy and Procedures.

Portable Street Furniture and Equipment

3.1 Screens

- 3.1.1 Portable screens must not exceed 0.9 m in height or 5.0m in length. Only approved design of portable screens are acceptable.
- 3.1.2 Screens must comply with the access requirements of Section 2 of these Procedures.
- 3.1.3 The use of planter boxes as a replacement for screens will be assessed in a case by case basis.

3.2 Umbrellas

- 3.2.1 Umbrellas are required to be rated to minimum 110km per hour wind rating.
- 3.2.2 Are to be used only in areas where there is no obstruction caused to canopies or trees, or where the use of the umbrella will not interfere or damage existing infrastructure.
- 3.2.3 Umbrellas must be a minimum (at the lowest point) of 2.4m above the level of the footpath.
- 3.2.4 Umbrellas must not extend beyond the Trading Zone.
- 3.2.5 All umbrellas are required to be anchored by fixed in-ground socket or anchored in a method approved by Council.
- 3.2.6 The cost of installation and removal will be charged to the permit holder if a continuous footpath trading permit is not maintained.

Fixed furniture and equipment

3.3 Heaters

All outdoor heaters must be fixed to an awning or veranda and comply with relevant safety standards specified by Energy Safe Victoria (or relevant authority).

Council approval is required for the installation of fixed heaters.

3.4 Advertising

- 3.4.1 Council understands the need for businesses to engage in marketing and advertising as a part of their comprehensive business strategy. All advertising must directly relate to the permit holder's business and consider the amenity of the area and streetscape appearance for the whole community. Third party advertising is not permitted.
- 3.4.2 No more than 20% of the total area of advertising on furniture and equipment.
- 3.4.3 Details of any proposed signage on furniture and equipment must be submitted with any application to trade on the footpath.

3.5 Portable Advertising Signs (A-Frames) and Sail/Tear Drop Signs

- 3.5.1 A-frames must be displayed in a safe manner and must be monitored and removed in inclement weather.
- 3.5.2 A frames must be displayed within the Trading Zone and must be securely placed and windproof.
- 3.5.3 Flashing, revolving/spinning signs are prohibited at all times.
- 3.5.4 A frames must not exceed a height of 0.9m.
- 3.5.5 Signage can only be displayed during normal business hours and must be removed from the trading area at the close of business, or no later than 10pm.
- 3.5.6 Only **one** sign per shop frontage will be considered.
- 3.5.7 A frames or advertising signs must be free-standing and not be fixed to any footpath, pole or other structure.
- 3.5.8 Permission may be granted for an application where the business has no street frontage and the sign is placed outside premises not occupied by the applicant. In this instance the owner of the premises where the sign is to be placed will be consulted. Public liability must be extended to cover the goods/sign.

3.5.9 A-frame design and colour scheme to be approved by Council.

3.5.10 Applications will only be considered if there are no obstructions to visual site lines.

3.5.11 The base must avoid the sail falling and trip points.

3.5.12 Must not be used in an area that may cause interference.

3.5.13 Must not be attached to building facades, posts, power poles or Council infrastructure.

3.5.14 Design to be approved by Council prior to manufacture / installation.

3.5.15 Removed at the close of trade, or no later than 10pm.

3.5.16 Only one sail sign is permitted per 6 metres.

3.6 Display of Goods

3.6.1 Goods for sale or display must be located within the Trading Zone in an orderly manner.

3.6.2 Display cases must be designed specifically for display purposes.

3.6.3 Must be safe, sturdy, and windproof.

3.6.4 Display cases and racks must be secured by a Council approved locking device.

3.6.5 Should be designed to prevent damage to footpaths.

3.6.6 Must be of a design and construction approved by Council.

3.6.7 Should not cause tripping points to pedestrians.

3.6.8 Should not be of a material that will easily deteriorate or discolour.

- 3.6.9 Must be removed after trading hours (no permanent displays will be considered).
- 3.6.10 Council will not permit improvised devices such as shopping trolleys, milk crates, laundry baskets, moving trolleys and market style shopping carts.
- 3.6.11 The maximum dimensions for a display case and/or rack inclusive of product are: Height – 1.5m, Length – 1.8m, Width – 0.75m.
- 3.6.12 Goods can only be displayed in an approved display case or rack and not placed directly on the ground.
- 3.6.13 Display cases and racks to be free of all coverings.
- 3.6.14 Display of foodstuffs must comply with Council's Health requirements.
- 3.6.15 Goods displayed must be for sale and not for storage purposes.
- 3.6.16 Goods and goods stands must only be placed on the footpath during the normal business hours, or no later than 10pm.
- 3.6.17 All goods stands must be suitable / stable and approved by the responsible authority.
- 3.6.18 Goods or their displays must not be fixed to any footpath, building, asset, pole or other structure.
- 3.6.19 The placement of goods on the footpath must not exceed a height of 1.5 metres, depth of 0.8 metres or length of 1.5 metres for a single display.
- 3.6.20 If the shop front exceeds 6 metres, one additional display of the same maximum dimensions may be permitted at the discretion of Council subject to there being no amenity, aesthetic or obstruction issues or conflicts.
- 3.6.21 The second display shall be subject to a separate permit with a fee equal to the first permit fee.

- 3.6.22 Goods should have a contrasting colour to their background to assist the vision impaired.

3.7 Busking, Fundraising and Street Art

Busking, Fundraising and Street Art are all permitted subject to a Footpath Trading application being completed and approved in accordance with the conditions contained within the Footpath Trading application for Busking, Fundraising and Street Art.

Street Art must not be permanent and must use materials that are able to be readily removed without causing staining or damage to the footpath surface. Street Art must not interfere with Council maintenance programs such as street cleansing and must be removed within 48 hours upon request.

Advertising by painting or chalking on the footpath is not considered Street Art and is not permitted.

3.8 Permit Holders responsibilities

- 3.8.1 All furniture and equipment remains the property of the permit holder and must be operated and maintained in a safe manner in all weather conditions. This may mean that furniture and equipment must be removed in a storm event or inclement weather.
- 3.8.2 The permit holder must maintain continuous public liability insurance cover for the amount of \$20 million.
- 3.8.3 The permit holder must operate in accordance with the conditions of the permit and the requirements set out in this document, must monitor the footpath trading at all times, and must meet all obligations to a high standard.
- 3.8.4 It is the responsibility of the permit holder that no chairs or tables (or other items) on the footpath are moved by patrons and obstruct the Pedestrian Zone.
- 3.8.5 If fixed footpath trading infrastructure such as screens, tables, umbrellas, etc. are required to be moved to facilitate repairs, maintenance or other works by service authorities, the cost of re-fixing such items will be borne by the permit holder.

- 3.8.6 Where fitted furniture and fixtures prevent Council from cleaning the area of the Trading Zone designated under the permit, cleaning will be the responsibility of the permit holder.

4. Management Responsibilities

4.1 Council Responsibilities

The Council is responsible for the management of the road reserve at all times and reserves the right to revoke permission to conduct footpath trading.

Council and other service authorities regularly require access to footpath areas for the purposes of programmed and emergency maintenance and asset renewal programs. In these circumstances, goods and signage must be renewed.

4.2 Compliance and Enforcement

- 4.2.1 Council staff will monitor and evaluate all footpath trading on a regular basis. Any observed noncompliance of the Footpath Trading Policy, Procedures or permit conditions will be investigated and compliance action taken if considered necessary.
- 4.2.2 Upon detection of a breach of the Local Law, Footpath Trading Policy, Procedures or a specific license condition, Council (including its staff and authorised officers) may take the following action:
1. Verbal Notice to Comply issued to the permit holder – a first and final verbal warning.
 2. Written Notice to Comply issued – a first and final written notice - Must comply within the time limit stated.
 3. Infringement Notice issued – fine for non-compliance.
 4. Cancellation of the permit.
- 4.2.3 Council may take immediate action to remove or require to be removed items which may pose a risk to persons or property/infrastructure.

4.2.4 Council may also impound any items that are placed on the footpath that do not comply with Local Laws, the Footpath Trading Policy or any conditions placed on a permit. Any impounded items can be reclaimed subject to Council process.

4.2.5 Council has an infringement review process which provides the opportunity to request a review of an infringement as required under the Infringements Act 2006 legislation.

4.3 Fees

4.3.1 Footpath Trading Permit fees are payable by 1st August each year. ½ year fee for new applications available (refer to application form).

4.3.2 The fee payable is advertised on Councils website and through the annual budget in the fees and charges. Fees must be paid at the lodgment of application. The application will not be assessed until the fee has been paid in full.

4.3.3 All footpath-trading permits expire on the 31st July of every year and will be required to be renewed prior to commencement of footpath trading. Any outstanding fees or areas of non-compliance must be addressed prior to the renewal of the Footpath Trading Permit.

4.3.4 Council will undergo a review of the fee structure and application process every 12 months to ensure it is in line with any changes in legislation and to make changes to fee structures as required.

5. Permit Fees and Application Process

5.1 Application and Renewal Process

Please read and ensure your understanding of the requirements contained within the Footpath Trading Policy and Procedures, prior to submitting your application to Council for footpath trading.

To apply for a permit you must obtain an application form and checklist and submit this with the following:

5.2 New Application Requirements

Each person seeking a permit will be required to provide the following information:

- 5.2.1 Completed Application form stating what kind of permit is being sought and a copy of certificate of Public Liability Insurance.
- 5.2.2 Site plan to scale showing the width of the building frontage and the footpath from kerb to building line, location of building lines and abutting properties, existing infrastructure and other features (including Council infrastructure, such as bins or parking meters, and disabled parking or loading, taxi or bus zone bays). All dimensions associated with the footpath area should be shown. (Site plan not required for A-Frame signs). Proposed conditions showing the area and layout of the proposed footpath activity, including the proposed location of all items.
- 5.2.3 Details of Furniture including drawings, colour scheme, design, photograph etc. (e.g. tables, chairs, screens, A-frames, sail / tear drop signs, planter boxes, heaters and umbrellas), together with details of fixings and anchor points.
- 5.2.4 Details of advertising with a colour photograph or detailed design drawing of proposed advertising, size and location.
- 5.2.5 Details of approval from other Council departments eg. Environmental Health or Planning or building permits.
- 5.2.6 Details of liquor licence (including plan of licensed area).
- 5.2.7 Certificate of Currency (Public Liability Insurance) – for a minimum of \$20,000,000, specifically covering the area occupied by the footpath trading.
- 5.2.8 A checklist is also included in the application material to ensure you provide all information correctly. Applications received without all required information may delay the assessment of a permit application.

5.3 Application Assessment

On receipt of an application Council will check all relevant information has been received – If incomplete, the applicant will be contacted to discuss and clarify outstanding requirements and make arrangements for the information to be provided.

5.4 Final Assessment

Provided the application or renewal meets the requirements of the Footpath Trading Policy and Procedures and all information required has been submitted, Council will assess the application and either issue the permit or contact the applicant if aspects of the application require amendment. It may be necessary for Council to hold an on-site meeting with the applicant to assist in the assessment process.

5.5 Refusal of permit

5.5.1 If the application does not meet the requirements of the Footpath Trading Policy and Procedures the application will be refused and the applicant notified in writing.

5.5.2 If the permit is refused a fresh application will then be required to be submitted.

5.6 Renewal of a permit

5.6.1 Permits must be renewed by the 1st August. It is not necessary to submit site plan etc if the details of the application are unchanged.

5.6.2 A renewal is required to ensure the applicants details are current and the renewal fee is paid.

5.7 Transfer of Business

Permits are not transferable. If business ownership changes, a new permit must be submitted prior to the commencement of Footpath Trading.

5.8 Consumption of Liquor within a Kerb side Cafe area

Should the applicant intend to serve alcohol from the outdoor eating facilities, it will be necessary to obtain a liquor license. (Proof of license is required when applying for a Footpath Trading Permit). You may require a Town Planning Permit and approval for open alcohol containers in accordance with the provision of Local Laws.

5.9 Public Liability

Unless provided by Warrnambool City Council in the form of a blanket cover, every applicant for a permit to trade on the footpath/Council land shall have and maintain for the term of any permit issued joint public liability insurance cover of at least twenty million (\$20,000,000) dollars. This cover must be demonstrated when the application is lodged. It is the responsibility of the permit holder that the insurance remains up to date for the duration of the permit issued. If a joint name policy is not available then Council should be nominated as an interested party and be named on the Certificate of Currency.

5.10 Transition period

Each permit holder must make all attempts to comply with the Footpath Trading Policy and Procedures immediately. There will be a transition and compliance period for renewal permit holders of 12 months from the date of the permit issue date.

Council staff will work collaboratively with applicants to address outstanding issues of non-compliance with the Footpath Trading Policy and Procedures.

The permit holder will then be required to reasonably meet all of the Policy and Procedures prior to the permit being renewed.

6. Checklist

6.1 Checklist for Applicants

Your application must contain:

Tick the Boxes

- | | |
|--|--------------------------|
| 1. A signed and completed application form | <input type="checkbox"/> |
| 2. Public Liability Insurance for a minimum of \$20,000,000 for the permit area | <input type="checkbox"/> |
| 3. A site plan to scale of existing conditions and proposed conditions
(e.g. building frontage, abutting properties, existing infrastructure, etc.) | <input type="checkbox"/> |
| 4. Details of furniture/goods/items (colour, design, etc.) | <input type="checkbox"/> |
| 5. Details of any advertising (design, size, etc.) | <input type="checkbox"/> |
| 6. Details of approval from other Council departments | <input type="checkbox"/> |
| 7. Details of liquor licence (including plan of licenced area) | <input type="checkbox"/> |



Footpath/Itinerant Trading Application

Warrnambool City Council (WCC) is collecting this information from you in order to consider your application for Footpath/Itinerant Trading in accordance with Local Laws.

The information collected will only be used by Council unless otherwise required by law.

The purposes for this information will only be used in the case of the following:

- To determine your business/trading requirements for a Permit
- To confirm your personal and business information is current and correct
- To confirm that the business owner you may trade/busking in front of has given full permission of the activity to go ahead

WCC advises the applicant may obtain access to their personal information upon request.

Please contact WCC in person at 25 Liebig Street, Warrnambool, Victoria 3280 between the hours of 8:30am – 5:00pm Monday – Friday or alternatively you can telephone us on (03) 5559 4800

Please complete relevant section for Outdoor Dining, Advertising Sign/Displaying Goods, Busking or Itinerant Trading no later than 21 days prior to the date required.

If approval is given, your permit with conditions and invoice will be emailed or posted to you for your reference.

(Please tick)

Do you have a current NAR (Name and Address Record) account with Warrnambool City Council?

Yes ☐ No ☐ Unsure ☐

Type (Please tick)

New Permit ☐ Renewal of Permit ☐

Applicant Details

Name _____ Surname _____ Contact Number _____

Address _____ Suburb _____

Post Code _____ Email Address _____

Business Details

Trading Name of Premises _____

Address of Premises _____

(If the account is to be sent to a PO Box the actual address of premises must be included)

Post Code _____

Business Phone Number _____ Mobile _____ Facsimile _____

Business Email _____

Description of use of premises (eg café, takeaway, restaurant, bakery) _____

ABN Number _____ ACN Number _____

Outdoor Dining

Please provide a detailed plan of your proposal to accompany the application. All applications must be in accordance with the Footpath Trading Policy and Procedures. The Policy and Procedures and applicable fees (in the Fees and Charges section) are available on Warrnambool City Council website www.warrnambool.vic.gov.au.

The fee is calculated based on the number of tables.

Number of tables _____ Fee Payable 2018/2019 **\$180.00 per table**

Note: New applications received between 1 February and 31 July will pay 50%. The permit period is from 1 August to 31 July each year. The issue of a permit under Local Laws includes a blanket cover for Public Liability Insurance of \$20 million. It is the owner's responsibility to keep current.

Advertising Signs/Displaying Goods Details

Please provide a detailed plan of your proposal to accompany the application. All applications must be in accordance with the Footpath Trading Policy and Procedures. The Policy and Procedures and applicable fees (in the Fees and Charges section) are available on Warrnambool City Council website www.warrnambool.vic.gov.au.

A-Frame (Please tick): Yes: _____ No: _____ (Max. height 0.9m)

Total Fee Payable for A-Frame 2018/2019 **\$140.00 per A-Frame**

Display of goods required (NB. 1 fee amount for each sign/display of goods) _____

Total Fee Payable for Display of Goods 2018/2019 **\$200.00 per Display**

Note: Display of Goods - One permit entitles trader to maximum 1.8m length x 0.75m width x 1.5m height of display area.

New applications received between 1 February and 31 July will pay 50%. The permit period is from 1 August to 31 July each year. The issue is a permit a blanket cover for Public Liability Insurance of \$20 million. Permits must be kept current. A second display of goods may be permitted if shopfront exceeds 6m in width.

Busking, Fundraising and Street Art

Please provide a detailed plan of your proposal to accompany the application. All applications must be in accordance with the Footpath Trading Policy and Procedures. The Policy and Procedures and applicable fees (in the Fees and Charges section) are available on Warrnambool City Council website www.warrnambool.vic.gov.au.

For fundraising, the Organisation conducting this fund-raising activity **must** be a Registered Community or Charitable Organisation under the Victorian Commission for Gambling Regulation and comply with its conditions, or otherwise approved by Council.

2018/2019 – **No fee applicable**

Details: _____

Location(s) _____

Times: _____

Date(s) from ____/____/____ to ____/____/____

Business premises in which you will be performing or fundraising in front of:

Name _____

Address _____

Has the permission of the owner of this business been obtained? (Please circle) Yes No

(If "No" obtain approval before applying to Council)

Name and contact number of the person who approved the permission

Name _____ Contact No _____

Itinerant Trading

Please provide a detailed plan of your proposal to accompany the application. All applications must be in accordance with the Itinerant Trading Policy and applicable fees (in the Fees and Charges section) are available on Warrnambool City Council website www.warrnambool.vic.gov.au.

Details: _____

Location(s) _____

Times: _____

Date(s) (a) on _____

(b) from ____/____/____ to ____/____/____

Special Conditions

1. This permit is issued in accordance with the Footpath Trading or Itinerant Trading Policies.
2. An account may be sent to the applicant to make good any costs incurred by Warrnambool City Council as a result of the function (damage to lawn, paving, services, rubbish removal etc.).
3. Council reserves the right to withdraw or amend the permission granted at any time due to unforeseen circumstances, non-compliance with the Itinerant Trading Policy, associated Council Policies or substantiated complaints.
- 4.
- 5.
- 6.

Signature of Applicant _____ Date _____

OFFICE USE ONLY

Date: _____

Receipt No: _____
