



**GEORGES
RIVER
COUNCIL**

**LOCAL APPROVALS
POLICY – USE OF PUBLIC
LAND**

October 2018

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POLICY ADMINISTRATION

Dates	Policy approved 29/10/2018 This policy is effective upon its approval. Policy is due for review October 2018.
Approved by	Council Meeting 29/10/2018 Council Resolution CCL058-18
Exhibition Period	1 August 2018 – 29 August 2018
Policy Owner	Executive Manager, Premium Facilities and Properties
Related Documents	Refer to Appendix A for a full list of relevant references including legislation, regulations and Council controls.
Appendices	Appendix A – Relevant Legislation and Regulatory Frameworks Appendix B –Requirements Relating to Permitted Articles for Footway Trading Appendix C – Designated Locations for Activities on Public Land Appendix D – List of Classified Roads in the Local Government Area
References & Legislation	Refer to Appendix A for a full list of relevant references, legislation and other controls.
Document Identifier	Policy #: Pol-052.01 Doc #: D18/218279
Breaches of Policy	Breaches of any policy will be dealt with and responded to in accordance with adopted codes and/or relevant legislation.
Record Keeping	All documents and information obtained in relation to the implementation of this policy will be kept in accordance with the NSW State Records Act 1998, Georges River Council's Corporate Records Policy and adopted internal procedures.

PURPOSE

Georges River Council (Council) supports the activation of its city centres and local areas by encouraging a vibrant mix of activities to enhance local amenity.

The purpose of this Policy is to list the circumstances when activities included in the table under Section 68 of the *Local Government Act 1993* (the Act) do not need Council approval; and to outline the criteria for activities that do require approval.

SCOPE

This Policy applies to the activities (or activities that are of a similar nature) included in the table to Section 68 of the Act (refer to Table 1: Section 68 Activities) proposed to be undertaken on public land in the Georges River Local Government Area (LGA).

This policy does not apply to water supply, sewerage or stormwater activities on land within the LGA as these activities are under the authority of the Sydney Water Board (Sydney Water).

Prohibited Activities

The following activities are prohibited within the LGA:

- Activities, displays, performances, promotions or behaviour that conflicts with acceptable community standards or such activities that are considered to be likely to cause public offence
- Unauthorised selling of goods of any type for commercial purposes
- Placement of charity clothing bins on public land.

Pre-Approved Activities

- Activities that have already been approved under existing development consent or in conjunction with a community event approved by Council are not required to obtain further approval from Council, so long as they are undertaken in the manner specified on the approval.

DEFINITION OF TERMS

Term	Meaning
<i>'A' Frame Sign</i>	An A-Frame sign, also known as a sandwich board, blackboard, A board, or footway sign, means any portable, self-supporting sign.
<i>Activity</i>	For the purpose of this Policy, activity refers to the undertaking of any action, event, occasion, or task on public land in the Georges River Council that relates to a type of activity included in the table to Section 68 of the <i>Local Government Act 1993</i> .

<i>Activation</i>	The encouragement by Council of community, cultural or commercial activities to enliven public spaces.
<i>Approved area</i>	Refers to the location approved by Council to be used for undertaking an activity
<i>Approval</i>	An appropriate agreement under the relevant legislative provisions of the Roads Act 1993 and Local Government Act 1993.
<i>Area</i>	A public area that abuts a length of road between intersections (in reference to real estate signage).
<i>Article</i>	A particular item or object placed on or over a footway.
<i>Authorised Council Officer</i>	For the purposes of this Policy, Authorised Council Officer means an employee of Georges River Council with delegated authority under the <i>Local Government Act 1993</i> .
<i>Busking</i>	Singing, playing a musical instrument, giving a recitation or a dramatic or dance performance. Other forms of expression include conjuring (magic), juggling, puppetry, mime or 'live statues'.
<i>Classified Roads</i>	Roads owned and managed by the Roads and Maritime Service or the Minister for Roads including main roads, state highways, freeways, controlled access roads, secondary roads, tourist roads and tollway roads. See the <i>Roads Act 1993</i> , part 5 for further information or Appendix D for a list/map of the classified roads in the LGA.
<i>Clothing Bin</i>	A receptacle used to collect clothing and other miscellaneous items for reuse or resale.
<i>Community Land</i>	Land vested in a Council that is kept for use by the general public such as parks and reserves.
<i>Council</i>	Georges River Council.
<i>Development Consent</i>	Approval allowing an activity or development to take place in an area under Council jurisdiction.
<i>Designated Location</i>	Specified locations designated by Council for the undertaking of activities as listed in Appendix C: <i>Listing and Map of the LGA and Designated locations</i> .
<i>Domestic Greywater</i>	Water from washing machines, laundry tubs, showers, hand basins and baths and not waste water from a kitchen, toilet, urinal or bidet.

<i>Domestic Greywater Diversion</i>	Installation and operation of a system for diverting greywater generated on residential premises to a garden or lawn on those premises, but does not include the manual collection and re-use of greywater (for example, by means of a bucket or similar receptacle).
<i>Food</i>	Food includes: <ul style="list-style-type: none"> a) Any substance or thing of a kind used, or represented as being for use, for human consumption (whether it is live, raw, prepared or partly prepared); or b) Any substance used in preparing a substance or thing referred to in paragraph (a) (other than a substance used in preparing a living thing) if it comes into direct contact with the substance or thing referred to in that paragraph, such as a processing aid; or c) Chewing gum or an ingredient or additive in chewing gum, or any substance used in preparing chewing gum; or d) Any substance or thing declared to be a food under a declaration in force under section 6 of the <i>Food Standards Australia New Zealand Act 1991</i> of the Commonwealth, whether or not the substance, thing or chewing gum is in a condition for human consumption.
<i>Food business</i>	A business, enterprise or activity that involves the handling of food intended for sale, or the sale of food regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.
<i>Food standards code</i>	Means the Australia New Zealand Food Standards Code as defined in the <i>Food Standards Australia New Zealand Act 1991</i> .
<i>Footway</i>	Part of a road as is set aside or formed as a path or way for pedestrian traffic (whether or not it may also be used by bicycle traffic).
<i>Footway Trading Zone</i>	Part of a road as is set aside or formed as a path or way for approved use of public land.
<i>General Business</i>	All other mobile vending vehicle businesses other than a food business.
<i>Handling of Food</i>	Includes the making, manufacturing, producing, collecting, extracting, processing, storing, transporting, delivering, preparing, treating, preserving, packing, cooking, thawing, servicing or displaying of food as defined in Food Act 2003 Section 4 (or as amended).
<i>Kerb</i>	A raised border of rigid material formed at the edge of a road.
<i>Local Area Command</i>	Local police station.

<i>Local Government Area</i>	Refers to the Georges River Council Local Government Area (LGA). Refer to Appendix D for a map of the LGA.
<i>Manufactured Home</i>	A self-contained dwelling (that includes at least one kitchen, bathroom, living area, toilet and laundry facilities) that comprises one or more major sections and that is not a motor vehicle, trailer or other registrable vehicle within the meaning of the <i>Road Transport Act 2013</i> .
<i>Major Community Event</i>	A large-scale community event approved by Council.
<i>Mobile Vending Vehicle</i>	All types of registered vehicles that are used for the sale of articles, on a public road or in a public place, making brief intermittent stops and does not involve the erection of stalls, hoardings or any other physical structures.
<i>Not for profit organisation</i>	An organisation engaged in activities for a charitable, cultural, educational, political, social welfare, sporting or recreational purpose and is not carried on for the profit or gain of its individual members.
<i>Offensive noise</i>	Noise that by reason of its level, nature, character or quality or the time at which it is made, or any other circumstances: <ul style="list-style-type: none"> a) a person who is in or on any Council land must not play or operate any device that produces a sound so that the sound is heard within a habitable room of any dwelling; or b) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted; or c) As prescribed by the regulations as defined in the <i>Protection of the Environment Operations Act 1997</i>.
<i>Operational land</i>	Land vested in Council that is not generally open to the public but is used by Council to carry out its functions such as a works depot or Council garage.
<i>Private land</i>	Refers to land that is not directly owned or managed by Council.
<i>Public land</i>	Any land (including community land and operational land) vested in or under the control of the council, but does not include: <ul style="list-style-type: none"> a) A public road; or b) Land to which the <i>Crown Lands Act 1989</i> applies; or c) A common ;or

	<ul style="list-style-type: none"> d) Land subject to the <i>Trustees of Schools of Arts Enabling Act 1902</i>; or e) A regional park under the <i>National Parks and Wildlife Act 1974</i>.
<i>Public Road</i>	A road which the public are entitled to use.
<i>Roadway</i>	An area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles.
<i>Selling of food</i>	<p>Selling includes:</p> <ul style="list-style-type: none"> a) Bartering, offering or attempting to sell, b) Receiving for sale, c) Having in possession for sale, d) Displaying for sale, e) Causing or permitting to be sold or offering for sale, f) Sending, forwarding or delivering for sale, g) Disposing of by any method for valuable consideration, h) Disposing of to an agent for sale on consignment, i) Providing under a contract of service, j) Supplying as a meal or part of a meal to an employee, in accordance with a term of an award governing the employment of the employee or a term of the employee's contract of service for consumption by the employee at the employee's place or work, k) Disposing of by way of raffle, lottery or other game of chance, l) Offering as a prize or reward, m) Giving away for the purpose of advertisement or in furtherance of trade or business, n) Supplying food under a contract (whether or not the contract is made with the consumer of the food), together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment, o) Supplying food (whether or not for consideration) in the course of providing service to patients in public hospitals (within the meaning of the Health Services Act 1997) or inmates in correctional centres (within the meaning of the Crimes (Administration of Sentences Act 1999), or p) Selling for the purpose of resale as defined in Section 4 of the <i>Food Act 2003</i> (or as amended).
<i>Small amusement device</i>	An amusement device that is designed primarily for the use of children 12 years of age or under and includes such amusement devices as mini-Ferris wheels, battery operated cars and miniature railways but, in the

	case of rotating amusement devices, includes only those devices that have a maximum of 14 revolutions per minute.
<i>Standing vehicle</i>	Any vehicle whether registered or not which is stationary on a public road for the purpose of selling any article.
<i>Street vending</i>	Involves the selling of articles either directly from a stall or a standing vehicle on a public road or public land.
<i>Temporary stall</i>	A stall that is set up for a specific or occasional event with temporary equipment and appliances for the purpose of selling articles. Temporary stalls may include installation of a tent, marquee or similar temporary structure.
<i>Vehicle</i>	<p>Includes any of the following, in accordance with the definition found in Rule 15 of the <i>Road Rules 2014</i> (or as amended):</p> <ul style="list-style-type: none"> a) Motor vehicles, trailers or trams; b) Bicycles; c) Animal-drawn vehicles, or animals being ridden or drawing vehicles; d) Combinations; or e) Motorised wheelchairs that can travel at over 10 kilometers per hour (on level ground). <p>Vehicles do not include another kind of wheelchair, trains, wheeled recreational devices or wheeled toys.</p>

DOCUMENT STRUCTURE

This Local Approvals Policy (LAP) has been prepared and structured in accordance with Sections 68 and 158 of the Act, to contain four parts:

- **Part 1: Business Use of Public Footways** – this part outlines details associated with the commercial use of public footways for outdoor dining, footway trading, a-frame signage and street stalls.
- **Part 2: Exemptions** - this part outlines the circumstances by which low impact activities can be undertaken without Council approval.

In some instances exempt activities are required to be registered with Council who will issue a permit detailing conditions of operation.

- **Part 3: Determination Criteria** – this part outlines the matters that Council will consider in determining applications for activities that do not meet the criteria for exemption (as listed in Part 2) and any conditions of approval.

Note: This section does not apply to business use of public footways.

- **Part 4: Additional Information** – this part specifies other matters relating to the approvals process, including application submission, fees and enforcement information.

Failure to obtain prior approval, comply with conditions of approval or criteria for exemption, is an offence under Sections 626 and 627 of the Act.

Should an applicant consider the standards of this Policy inappropriate in relation to an application for approval, then an objection can be submitted to Council in accordance with the provisions of Section 82 of the Act.

In the event of an inconsistency between this Policy and the Act or associated Regulation, the Act or Regulation shall prevail to the extent of the inconsistency.

POLICY STATEMENT

1. PART 1 – Business Use of Public Footways

1.1. Introduction

- 1.1.1. Business use of the footway is a valuable use of public space. It can improve the look of our streets and adds life and vibrancy to shopping areas. This policy regulates the placing of goods, chattels, furniture and advertising on public footways. The policy acknowledges the importance of footway trading opportunities for traders, whilst being mindful that footways are available for everyone to use.

1.2. Legislative Provisions

- 1.2.1. The Roads Act 1993 and the Local Government Act 1993 generally require that a person shall not carry out any activity on a public road or place without the approval of Council.
- 1.2.2. Section (S.)125, S.126 and S.127 and, in some cases, S.137-139 of the Roads Act 1993 allow Council to approve the use of a public footway for restaurant purposes as long as using the footway for this purpose is not taken to constitute a public nuisance and does not give rise to an offence contrary to the Roads Act 1993 or any other relevant legislation.
- 1.2.3. S.68 of the Local Government Act 1993 allows Council to approve the placing of articles on or to overhang the footway.

1.3. Objectives

1.3.1. The objectives of this policy are to:

- Ensure the Disability Discrimination Act 1992, in particular S.23 relating to 'Access to Premises', is considered for all footway dining locations to ensure the safety and convenient passage of all pedestrians when using public footways (particularly those who may have a disability or have restricted mobility);
- Ensure clear sight lines are maintained for pedestrians, cyclists and motorists, particularly near pedestrian crossings, bus stops, street corners and intersections; and
- Ensure adjoining premises are not adversely affected by any business use of footway areas.

1.4. Applying for a business use of Footway Approval

1.4.1. The applicant should read and understand the Use of Public Land Policy and Guidelines (under development) as part of the application process.

1.4.2. To apply for a Business Use of Footway Approval an application form must be completed and submitted with the following:

- a) Application fee as per Council's adopted fees and charges;
- b) Site plan of proposed conditions 1:100 - accurately showing the area and layout of the proposed Business Use Of Footway Zone, including the proposed location of all items and access and service points to premises;
- c) Photographs of the site - clearly showing the proposed Business Use of Footway Zone relative to buildings and existing features of the footway area;
- d) Details of Furniture - including colour drawings and/or colour photographs;
- e) Details of Advertising - a coloured photograph or detailed design drawing of proposed advertising logo, and clear indication of its size and location within the Footway Trading Zone;
- f) Details of other relevant approvals from Council - e.g. Development Services;
- g) Details of relevant Business Use of Footway Approvals and/or permits - e.g. liquor licence;
- h) A copy of current lease documentation for current premises if shop is not owner occupied (front page of lease required only);
- i) A copy of the applicant's current drivers licence or proof of identification e.g. passport/or government issued i.d card;
- j) Letter/s of Consent - in writing from the tenant or agent and landlord if the applicant wishes to operate from in front of the adjacent property. This permission must be submitted to Council each year; and

- k) A Certificate of currency for public liability insurance noting Georges River Council as an interested party for the period of the Business Use of Footway approval which is being applied for - \$20M if on an RMS controlled road, \$20M if on any other road or place. If the certificate of currency does not cover the full period of the Business Use of Footway Approval which is being applied for, then the applicant must provide details of how the certificate of currency will be managed to prevent the insurance cover expiring.

Note: Georges River Council reserves the right to reassess and amend approval conditions to ensure compliance with the Business Use of Footway Policy at any time.

1.5. Renewal of Existing Approval

- 1.5.1. The same details as above are required. It is the responsibility of the Approved Trader to ensure that all required information is submitted to Council prior to the expiry date of the current Business Use of Footway Approval.

1.6. Transfer of Ownership

- 1.6.1. Business Use of Footway Approval only applies to the premises for which it is issued and is not transferable from one owner to another on the sale or transfer of a business.
- 1.6.2. Prior to taking over an existing business or commencing a new business the business owner must submit an application to Council and pay any applicable fees. Use of the footway is not permitted until approval has been granted and all Documentation has been finalised.

1.7. Amendments to Existing Approval

- 1.7.1. Any changes to existing approvals must be submitted to Council for consent including changes to business or company name, modification of the approved area or changes to existing awnings.
- 1.7.2. Any unauthorised additions to awnings or shade structures without permission will be removed at owner's expense.

1.8. Fees

- 1.8.1. Fees are calculated on a per m² basis with a minimum approval area of 1m².
- 1.8.2. If the applicant wishes to occupy less than 1m² the fee charged will be for 1m².

Note: Fees are charged annually each financial year.

1.9. Adjacent Premises

- 1.9.1. Should an approved trader seek to extend their Business Use of Footway across adjoining premises, written permission is required from the trader occupying the adjacent premises and remains subject to Council review and approval.
- 1.9.2. This approval needs to be renewed annually and must be clearly marked on submitted plans (as per the application process).
- 1.9.3. This approval would run with the owner of the adjacent business and not with the premises.
- 1.9.4. Thus the approval would be nullified if the business were to close or change hands. Furniture, goods and services are permitted only outside the premises to which they
- 1.9.5. Relate and must be contained within the property line, unless the above exemption/approval is valid.

Note: The footway is a public zone and as such is not owned by any business. This means that no trader or land owner is allowed to rent footway space to an adjoining premise seeking to occupy that area.

1.10. Footway Access

- 1.10.1. To ensure that access and equity objectives are met, a minimum width of at least 2 continuous metres for the clear passage of footway users is required.
- 1.10.2. Areas adjoining bus stops or areas closer than 10 metres from an intersection or pedestrian crossing may be considered for footway dining only where they do not cause inconvenience to the public.
- 1.10.3. Council's Traffic Team will assess applications where pedestrian and driver safety could be of a concern and determine if the occupation is appropriate in that location.
- 1.10.4. All approvals are at Councils complete discretion.

Note: The minimum width for classified roads will be at Council's discretion (2.5 continuous metres) and subject to RMS Approval if applicable.

1.11. Bus Zones and Intersections

Bus Zones

- 1.11.1. Clearance from bus zones must be maintained at all times to provide direct access from the pedestrian zone when exiting a bus. Approved areas adjoining bus stops must be located at least 10 metres from the bus stop.

Intersections/Corners

- 1.11.2. Trading within 10 metres of an intersection is prohibited to ensure adequate sight lines for vehicles, cyclists and pedestrians.

1.12. Kerb Side Dining

- 1.12.1. When applying for outdoor dining towards the kerbside of the footway, it is important to consider the safety of patrons from traffic and to allow room for access to vehicles parked along the kerb.

- 1.12.2. Applicants should leave the following clearances from the kerb:

- 2.5 metres when next to a RMS classified road, or traffic moving at 20km/hour or more;
- 1.5 metres when next to an accessible parking spot;
- 2 metres when next to a local road;
- 0.9 metres when next to a loading zone;
- 0.6 metres when next to normal parking conditions, or next to traffic moving at 20km/hour or less.

General Conditions

1.13. Footway Furniture

- 1.13.1. Footway furniture includes shade structures, tables, chairs, display stands, heaters, umbrellas, perimeter barricades and planter boxes.

- All furniture must be approved by Council and will be considered on a case-by-case basis.
- Outdoor furniture should be made from high quality materials and enhance the character of the street.
- Heating devices must comply with the relevant Australian Standards and be designed in a manner which minimises risk and shall turn off automatically if overturned.
- All outdoor furniture must be temporary and must be removed at the close of business each day.

- No furniture or items are to be fixed to the footway except for permanent shade structures (may be subject to development consent).
- No part of the footway is to be used for storage at any time.
- Goods for sale are not to be displayed on milk crates, pallets, cardboard, foam boxes, etc.

1.14. Umbrellas

1.14.1. Umbrellas should only be used where existing shelter such as awnings, verandas or trees do not provide sufficient sun protection.

1.14.2. Umbrellas and other shade structures must:

- Be secured to ensure that they are capable of withstanding the effects of wind at all times;
- Be able to be removed in windy conditions;
- Be removed when the outdoor seating area is not in use;
- Not encroach on, or interfere with, pedestrian movement;
- Be maintained in a sound and aesthetically acceptable condition to Council's satisfaction;
- Only contain advertising if in compliance with signage/advertising controls of this policy;
- Have an unobstructed vertical clearance of a minimum height of 2 metres;
- Be removed and stored (not on the footway) outside of business hours;
- Always be located wholly within the approved footway dining area;
- Be removed immediately if torn or damaged;
- Not be connected together when they are in a row;
- Be manufactured from fire retardant material if heaters are to be fixed to the frame.

1.15. Public Assets

- The removal or relocation of any Council assets (for example: rubbish bins, existing street furniture and planter boxes) shall be subject to Council approval and will be at the applicant's cost.
- The removal or relocation of any public utilities, infrastructure (e.g.: traffic control boxes, Sydney Water drainage, sewerage pits and public telephone boxes) shall not be permitted unless justification on public benefit grounds is made to Council and consent has been obtained from all relevant authorities. Works will be carried out at the applicant's cost.
- Proposed footway changes may be considered by Council to enhance the streetscape.
- The design and works shall be in consultation with Council and will be at the applicant's cost.
- No compensation or refund of approval fees is provided for any inconvenience or loss of trade as a result of works carried out by Council or service providers on Council owned footways, plazas and public areas.
- The approval holder accepts the condition of the footway when the approval is issued. At the expiration of the term, the approval holder is to remove and restore the area to Council's requirements.
- Any cost for restoration by Council will be at the approval holder's expense.

1.16. Lighting

- 1.16.1. Any proposed lighting must be included in the application for approval by Council and be in accordance with the relevant Australian Standards and Council's Development Control Plan.
- 1.16.2. The design of the lighting shall be designed so as to not cause nuisance to other neighbouring properties in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area through light over spill or glare.

1.17. Planter Boxes

- 1.17.1. Planter boxes may be considered where the footway has been widened for specific business use and not within the pedestrian zone.
 - All planter boxes and plants must be well-maintained by the approval holder;

- Council reserves the right to order the removal of planter boxes that are not properly maintained.
- Where business use of the footway is approved on the building line suitable solid, high-contrast barriers must be installed on either side of the area being used.
- Planter boxes must be moveable to allow them to be removed during non-trading hours.
- Moveable planter boxes may be used to physically define the perimeters of the footway dining area however enclosures are to be kept to a minimum.

1.18. Perimeter Barricades

1.18.1. Barricades, safety rails, bollards, etc., may be permitted if required for safety reasons.

- The applicant must obtain Council approval prior to the installation of any permanent safety barriers and must comply with Australian Standards.
- Bollards and concrete footings are to be installed in accordance with the manufacturer's specifications and at no cost to Council.
- The use of framed fabric or any other style of low-height barriers must ensure minimal impact on the use, enjoyment and safety of pedestrians and patrons.
- Barriers may be considered between adjoining cafe areas to show clear demarcation lines between business activities.
- Barriers (including planter boxes) must be removed from the footway when the business is not open and must not be used as an opportunity for advertising signage promoting products, specials or sales.
- Pedestrians must not be forced onto the road carriageway by footway dining activities or other non-permanent items/structures on the footway.
- The height of any solid barrier is to be between 900 mm and 1.2 metres high.
- Solid barriers may be in the form of planter boxes containing vegetation to a total height between 900mm and 1.2 metres.

- Any proposed transparent solid barrier (such as Perspex) must comply with Australian Standards.

1.19. Signage/Advertising

1.19.1. The following controls apply to all advertising/signage to be displayed on the footway:

- All signs must be portable, free-standing, stable, windproof and of high quality.
- The dimensions of all signs must be between 0.75 metres – 1.1 metres in height with a maximum width of 0.65 metres.
- Only one portable sign per street-fronted premises will be considered unless the combined shop frontage is greater than 11 metres.
- Electric, illuminated, flashing, revolving or spinning signs are prohibited.
- All signs must be displayed within the approved Business Use of Footway zone as far away from the pedestrian zone as possible.
- Signs must only be displayed during approved trading hours and are to be removed at the close of business.
- All advertising and signage must be displayed in English but may also include a translation in another language. Any translated message must be accurate and complete, and using wording and/or numbering that is not larger than the English message.
- All signs must display a current Approved Sign/Stand sticker (under development).
- Signs are not to be placed within 3 metres of a street corner or an arcade.
- Signs must not be fixed to the footway, poles or infrastructure.

1.20. Safety

1.20.1. Business use of the footway must not reduce the safe egress of people from the business premises.

1.20.2. Where the footway is required to be paved, raised, reconfigured, constructed or reconstructed to address any WH&S issues, slope or uneven surface conditions, works shall only be carried out in accordance with Council's specifications, supervision and approvals. In such situations, the minimum security deposit set in Council's annual

Schedule of Fees and Charges shall not apply and the security deposit shall be determined by Council's delegated staff to appropriately address risks associated with the proposed works and reflect the value of those works.

1.21. Footway Pedestrian Access Requirements

- The applicant must provide access for people with disabilities in accordance with Australian Standards.
- No business use of footway approval will be approved adjacent to an accessible parking space.
- Clearance of one (1) metre is required from essential public infrastructure at all times for access purposes. This includes electricity boxes, fire hydrants, etc.
- Under no circumstances are kerbside approvals allowed to place furniture along the building line, even in inclement weather.
- To ensure that access and equity objectives are met a minimum width of at least 2 continuous metres for the clear passage of footway users is required.

1.22. Permanent Shade Structures

1.22.1. All sunshade or awning structures require Development Consent – refer to Council's appropriate planning guidelines. If structures are installed without Council consent they are to be removed immediately at the owner's costs.

1.22.2. If structures are damaged they are to be repaired immediately or completely removed at the owner's cost following Council's instruction.

1.23. Roller Blinds/Clear Plastic Dropdowns

1.23.1. The use of clear plastic roller or drop down blinds may be considered subject to Council's approval.

1.23.2. The enclosures must:

- Be manufactured of a high quality marine grade clear plastic. Black mesh may be considered if there is no obstruction of sight lines;
- Be securely fitted and installed to the pavement or base of the structure to withstand the effects of wind conditions (method of securing to the pavement must be shown on the application);
- Have a minimum of one side open at all times;

- Be regularly maintained and cleaned to a reasonable standard;
- Not be located near any heating devices;
- Not undermine the strength of the structure to which they are attached;
- Be removed if blinds are torn or damaged and replaced as soon as possible.

1.24. Delineation of Approved Area

1.24.1. Approved areas are delineated by pavement markers fixed in the corners and are installed and maintained by Council. All furniture must be located within the defined trading zone at all times.

1.25. Display of Goods

1.25.1. The display stands must:

- Display stands must be located within the approved trading zone and must be removed when the business is not operating.
- Display stands must be of a high quality design:
- Height: minimum 700mm : maximum 1,000mm
- Width: minimum 1,000mm : maximum 3,000mm
- Wheels on display stands must be lockable. All goods must be secured so they cannot be displaced by wind.
- All fixtures and fittings must be easily cleaned.

1.26. Public Liability

1.26.1. A business use of the footway approval will only be valid where adequate insurance cover is provided by the business owner.

1.26.2. To ensure protection from claims that may arise the business operator must:

- Provide evidence of public liability insurance for not less than \$20,000,000 at all times during the term of the approval;
- Indemnify Georges River Council (as an interested party) against any public liability claims within the area between the front property boundary of the shop and the kerb line for the full frontage of the shop or area approved;

- At least 2 weeks prior to the expiry date, provide Council with a certificate of currency of insurance renewal for each annual approval period.

1.27. Awning Certification

- 1.27.1. Where a building awning projects over the footway or other Council land, certification confirming the structural integrity and safety of the awning for a period of 5 years may be required to be provided from a suitable qualified structural engineer.
- 1.27.2. Under S.142 of the Roads Act, 1993 the owner of the building is responsible for the awning structure, its maintenance and ensuring it remains in a satisfactory state of repair.
- 1.27.3. All maintenance of the awnings should be carried out in accordance with the Association of Consulting Structural Engineers of NSW Practice Note No.18 (or its replacement if superseded), where the process by which an engineer is able to certify an existing awning is described.
- 1.27.4. Where the business use of footway approval holder is not the owner of the building it is still a requirement of Council that structural certification is provided to ensure that the footway dining area is safe for the public to occupy.
- 1.27.5. For new business use of footway applications Council may require the structural certification of the building awning prior to any approval.

1.28. Approval and Associated Fees

- 1.28.1. An agreement must be entered into between the business operator and Council and includes the provision for an annual rental fee charged per square metre.
- 1.28.2. The approval is for a period of three (3) years and may be varied or revoked at any time at the discretion of Council.
- 1.28.3. A security deposit is required to be paid at the time the agreement is entered into at Council's discretion.
- 1.28.4. The deposit amount will be increased for applicants installing permanent shade structures.
- 1.28.5. The deposit is refundable at the conclusion of the agreement on the basis that no damage has been caused to Council land and all fees are up to date.

1.28.6. Council's schedule of fees and charges are reviewed annually. Refer to Council's Customer Service Centre or Council's web site at www.georgesriver.nsw.gov.au for current fees.

1.29. Maintenance and Cleaning

1.29.1. The approval holder is required to comply with all health and maintenance aspects of being a food and beverage business, including the conditions of the Business Use of Footway Approval.

1.29.2. Specific requirements are:

- Ensure the furniture in the approved area is clean and well maintained;
- Where outdoor dining areas adjoin nature strips or garden areas, operators must ensure that all waste generated from their premises and by their customers (including cigarette butts) is promptly removed;
- Litter generated by footway trading must be picked up and deposited in business's bins kept within the premises;
- Ensure the pavement is kept clean at all times.
- If pressure cleaning is required to remove grease/oil food spills from the footway this is the responsibility of the approval holder;
- Environmentally safe cleaning methods must be used at all times.

1.30. Smoking

1.30.1. Smoking is NOT permitted in any area which is covered or substantially enclosed as defined in the Smoke-free Environment Act 2000.

1.30.2. Smoking is defined to the use, consuming, holding or otherwise having control over a tobacco product, non-tobacco smoking product or e-cigarette that is generating (whether or not by burning) smoke or an aerosol or vapour.

1.30.3. The Smoke-free Environment Act 2000 came into effect from 6 July 2015 in all commercial footway dining areas across NSW.

1.30.4. No smoking is permitted in any footway dining area where food is served.

1.30.5. No smoking signs are to be placed where food is served.

1.31. Selling and Consumption of Liquor

- 1.31.1. The selling of any alcoholic or intoxicating liquor is only permitted on the footway area if the appropriate license from the NSW Government has been obtained.
- 1.31.2. Council, in its absolute discretion (within the agreement), reserves the right to prohibit the sale or consumption of alcohol within the approved area, should it be considered that such activities would detrimentally affect the use of the footway, by the general public or generate negative publicity regarding the Use of Public Land Policy and public amenities.

1.32. Enforcement and Compliance

- 1.32.1. Georges River Council has a responsibility to monitor activities in the public place, including the operation of outdoor cafés, to ensure Approval conditions, requirements and design guidelines are consistently maintained.
- 1.32.2. Where it is evident this is not the case, Georges River Council undertakes an educational approach by initiating discussions with permit holders to explain the reasons behind Approval specifications.
- 1.32.3. This method of open communication seeks to resolve issues as quickly and amicably as possible.
- 1.32.4. Following a complaint or a report of a breach of permit conditions or any requirements pursuant to the policy, a Georges River Council representative will visit the premises and seek rectification if a breach is identified.
- 1.32.5. Action is initiated according to the impact the breach is having on the safety, access and amenity of the area.

1.33. Failing this, the following compliance protocol shall apply:

Breach of Approval conditions

- 1.33.1. Enforcement is permitted under the Roads Regulation 2018, Environmental Planning and Assessment Act 1979 and Local government Act 1993
 - a) Education and verbal warning issued.
 - b) Notice of intention to Comply issued.
 - c) Order to Comply.
 - d) Penalty Notice may be served if offender has failed to act after Order.
 - e) Permit/Approval will be suspended or cancelled.
 - f) Seizure of unapproved items
 - g) Institute legal proceedings.

Operating an outdoor café with an expired Approval

- 1.33.2. Enforcement is permitted under the Roads Regulation 2018, Environmental Planning and Assessment Act 1979 and Local government Act 1993
- a) Education and verbal warning issued. An application form will be issued to the approval holder and details documented.
 - b) Notice of intention to Comply issued.
 - c) Order to Comply.
 - d) Penalty Notice may be served if offender has failed to act after Order.
 - e) Seizure of all unapproved items.
 - f) Institute legal proceedings.

Operating an outdoor café without an Approval

- 1.33.3. Enforcement is permitted under the Roads Regulation 2018, Environmental Planning and Assessment Act 1979 and Local government Act 1993
- a) Education and verbal warning issued. An application form will be issued to the approval holder and details documented.
 - b) Notice of intention to Comply issued.
 - c) Order to Comply.
 - d) Penalty Notice may be served if offender has failed to act after Order
 - e) Seizure of all unapproved items.
 - f) Institute legal proceedings.

Cancellation or suspension of an Approval

- 1.33.4. If an approval holder fails to comply with three (3) written notices from Georges River Council relating to breaches of the guide or conditions of the permit, Georges River Council may at its discretion cancel or suspend the permit, or decide not to re-issue a new permit (upon expiry) for a period of at least 12 months or greater.
- 1.33.5. Georges River Council may also suspend the permit by giving at least thirty (30) days written notice to the permit holder if the Georges River Council or any other external bodies require the site for events, festivals, or for any other purpose.
- 1.33.6. The permit holder will be given at least fourteen (14) days written notice of any footway maintenance works undertaken by the Georges River Council.

- 1.33.7. A period of 14 days' notice will be given to traders in these circumstances.
- 1.33.8. Where the Georges River Council suspends, relocates, amends, and/or cancels the permit, neither the permit holder or any other person shall be entitled to any payments, compensation or damages of any kind from Georges River Council.

Cancellation of an Approval

- 1.33.9. The permit holder may request the cancellation of a permit at any time. Thirty (30) days' notice of intention to cancel must be provided in writing to Georges River Council. No refund of permit fees paid in advance will be made.

Approval Process for Business Use of Footway

1.33.10. Step 1 - Preliminary Consultation

- Discussion with Council's Property Approvals Officer;
- Property Approvals Officer will investigate and confirm suitability of site.

1.33.11. Step 2 - Prepare Application

- Consult and obtain consent of the owner of the premises (landlord or principal leaseholder)
- Complete Business Use of Footway Application Form (available on Council's website www.georgesriver.nsw.gov.au)
- Refer to the Business Use of Footway Policy for checklist requirements
- Supply all requested documentation (if all information is not supplied application will not be processed)

1.33.12. Step 3 - Lodge Application

- Lodge application with Council's Customer Service and pay application fee;
- Property Approvals Officer assesses application.

1.33.13. Step 4 - Determination of Application

- Determination of application.
- Implementation of approved proposal:

- Security deposit to be paid (if applicable)
- Approval documentation to be signed and returned to Council
- Public liability insurance certificate of currency supplied to Council
- Engineer's certificate supplied to Council (if applicable)

1.33.14. **Step 5 - Approval of Application**

- A display sticker will be issued which is to be displayed in the front window of the premises.
- Executed copy of the Approval agreement will be provided to the applicant.
- Invoice to be paid upon receipt.

2. PART 2 – Exemptions

2.1. General

- 2.1.1. This part outlines the criteria by which low-impact activities can be undertaken without Council approval if the operator complies with all appropriate guidelines.
- 2.1.2. Exemptions apply to activities that are minor or common in nature, and which have little environmental impact.
- 2.1.3. It is a condition of exemption that the person carrying out an activity specified in this part complies with:
- The relevant exemption circumstances or requirements listed in the exemption table; and
 - Any relevant legislation, regulation or Australian performance standards.
- 2.1.4. Exemptions may be provided either under a relevant regulation or by Council under this Policy. Where exemptions are provided under a regulation, the relevant title and clause of that regulation will be noted.
- 2.1.5. Exemptions do not apply where approval is required by any other legislation or where subsequent activities involve an increase over and above the exemption criteria or to buildings or structures proposed to be erected over an existing easement or sewer main.

- 2.1.6. **Should there be any doubt as to whether an activity requires approval; consultation with Council is recommended prior to undertaking the activity.**
- 2.1.7. In relation to exempted activities, a person must give due consideration to:
- Maintaining the amenity of adjoining or neighbouring property
 - Providing adequate drainage
 - Eliminating potential fire risk
 - Ensuring structural stability
 - Providing external finishes that are easy to maintain, and don't cause nuisance or offence
 - Avoiding creating obstruction or risk to public safety
 - Not creating a nuisance
 - Maintaining good public health.
- 2.1.8. **Where this Policy requires exempted activities to be registered with Council, a temporary permit will be issued outlining any conditions of exemption that must be complied with.**
- 2.1.9. Permits are to be made available for inspection by authorised Council officers on request at any time while an activity is being undertaken.
- 2.1.10. Council reserves the right to terminate any activity that is causing nuisance, offensive noise, increased risk to public safety or that is not in adherence with relevant legislation, regulation or other controls.
- 2.1.11. Individuals/organisations undertaking exempt activities must hold a current public liability insurance policy with a minimum insured value of \$20 million that covers the activities involved and the context in which they will be undertaken.
- 2.1.12. Council accepts no liability for any injury or damage associated with any exempt activity undertaken or purportedly undertaken under the provisions of this Policy.
- 2.2. Structures or places of public entertainment (exemptions relating to S.68, part A activities)

Install a manufactured home, moveable dwelling or associated structure on land

Caravans, campervans and tents

2.2.1. Council approval is not required to:

- Install not more than 2 caravans, campervans or tents on any land if the requirements of Clause 77(a) of the NSW Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings Regulation 2005 are observed.
- Install one caravan or campervan on land occupied by the owner of the caravan or campervan in connection with that owner's dwelling-house, if the requirements of Clause 77(b) of the NSW Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings Regulation 2005 are observed.
- Install one caravan or campervan on pastoral or agricultural land, if the requirements of Clause 77(c) of the NSW Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings Regulation 2005 are observed.
- Waste management (exemptions relating to S.68, part C activities)
- For fee or reward, transport waste over or under a public place

Transport waste

2.2.2. Council approval is not required to transport waste over or under a public place for fee or reward if the conditions of clause 48(a) of the Local Government (General) Regulation 2005 are observed.

2.3. **Community land (exemptions relating to S.68, part D activities)**

Note: No more than one group/activity will be permitted to occupy an area of community land at any one time. Use of Council's parks and reserves requires a valid booking.

Engage in a trade or business

Sporting clubs

2.3.1. Council approval is not required for Sporting Clubs to charge a spectator fee to cover its commitments to a sporting association if they have obtained prior approval from Council for the use of the associated sporting facility.

Local area photography or filming

2.3.2. Council approval is not required for photography or filming in the local area if the activity:

- Is registered with Council (and a permit issued)
- Includes no more than 3 crew members in attendance at any one time
- Involves the use of handheld equipment only
- Occurs in public open spaces or on footways only and
- Does not involve filming or photographing community members without their prior consent.

Public gatherings for political purposes

2.3.3. Council approval is not required for public gatherings for political purposes or electioneering if the activity:

- Has been registered with Council (and a permit issued)
- Occurs in a Council designated location (see Appendix C for the list/map of allowable locations)
- Involves a table or stall no larger than 1 meter x 1 meter
- Is attended by no more than 3 representatives at any one time
- Continues to enable the safe passage of pedestrians and vehicles
- Continues to enable the amenity of the area at all times (including collection and appropriate disposal of all election materials) and
- Does not involve:
 - a) Fundraising activities or
 - b) The use of a public address, sound system or amplification or
 - c) Any signage not directly attached to the table.

Note: Any signage related to the activity must be compliant with the State Environmental Planning Policy (Exempt and Complying Development Codes 2008). Political signs for election campaigns are regulated under the Parliamentary Electorates and Elections Act 1912.

2.3.4. Organisers of a public assembly must submit A Notice of Intention to the Commissioner of Police via the Local Area Command 28 days prior to the event.

- 2.3.5. The regulatory and compliance provisions of the Protection of Environment Operations Act 1997 must be observed.

Note: Georges River Council reserves the right to decline any application for the use of or the organising of public gatherings at any Council-owned or managed site, which may be deemed culturally sensitive, including but not limited to war memorials and monuments.

2.4. For fee or reward, play a musical instrument or sing

Busking and street theatre

- 2.4.1. Council approval is not required for busking or street theatre if the activity:

- Has been registered with Council (and a temporary permit issued)
- Occurs in a Council designated location (refer to Appendix C for the list/map of allowable locations)
- Is undertaken between the hours of 8.00am and 6.00pm and for a maximum of 2 hours
- Involves the use of handheld equipment only
- Continues to enable the safe passage of pedestrians and vehicles
- Continues to enable the amenity of the area and
- Does not involve:
 - a) Dangerous implements, materials or animals or
 - b) Drawing, marking or affixing anything to the footway or
 - c) The use of a public address, sound system or amplification or
 - d) Solicitation of funds (however performers may receive voluntary donations) or
 - e) Advertisement or promotion of goods for sale, other than products consisting of the artist's own work.
 - f) Set up, operate or use a loudspeaker or amplifying device on community land (D5)

2.5. Deliver a public address or hold a religious service or public meeting

Preaching, religious services or other public assemblies

- 2.5.1. Council approval is not required for public assemblies if the activity:

- Is registered with Council (and a temporary permit issued)

- Occurs in a Council designated location (see Appendix C for the list/map of allowable locations)
- Is undertaken between the hours of 8.00am and 6.00pm and occurs for a maximum duration of 2 hours
- Involves the use of handheld equipment only
- Continues to enable the safe passage of pedestrians and vehicles
- Continues to enable the amenity of the area (including collection and appropriate disposal of all materials) and
- Does not involve the use of a public address, sound system or amplification.

Notes: Any signage related to the activity must be compliant with the State Environmental Planning Policy (Exempt and Complying Development Codes 2008).

Under part 4 of the Summary Offences Act 1988 prior to undertaking the activity, organisers of public assemblies and processions must submit a Schedule 1 Notice of Intention to hold a public assembly to the NSW Police Local Area Command.

- 2.5.2. The regulatory and compliance provisions of the Protection of Environment Operations Act 1997 must be observed.

Note: Council reserves the ultimate discretion in permitting public gatherings at sensitive sites such as War Memorials or other culturally significant monuments situated on Council owned land.

2.6. Public Roads (exemptions relating to S.68, part E activities)

- 2.6.1. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a show window or doorway butting the road or hang an article beneath an awning over the road (E2)

Distribution of flyers

- 2.6.2. Council approval is not required for local business to distribute flyers to promote their own goods and services on the public footway in front of the related premises only.

Street parties

- 2.6.3. Council approval is not required for street parties if:

- The party occurs on the nature strip abutting the resident properties or in a resident's front yard
- The local police and emergency services have been notified and
- Road closures are not required.
- For further information, refer to Council's Street Party Guidelines.
- Other activities (exemptions relating to S.68, part F activities)

2.7. Use a standing vehicle or any article for the purpose of selling any article in a public place

Standing vehicle or temporary stall

2.7.1. Council approval is not required to use a standing vehicle or temporary stall if the activity:

- Has been registered with Council (and a permit issued)
- Is undertaken by a not for profit , community based or government organisation
- Occurs in a Council designated area (see Appendix C for a list/map of allowable locations)
- Continues to enable the safe passage of pedestrians and vehicles
- Continues to enable amenity of the area
- Complies with all relevant road and parking rules and
- Does not involve:
 - The use of a public address, sound system or amplification or
 - The sale of food

Note: Operators of standing vehicles, mobile food vehicles or temporary stalls used to sell or distribute food or beverage within the Council area, must notify Council, in accordance with section 100 of the Food Act 2003; and must ensure compliance with the Food Act 2003, Food Standards Code, NSW Food Authority Guideline for Mobile Food Vending Vehicles or Guidelines for food Businesses at Temporary Events.

2.8. Carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations

Domestic grey water diversion device

- 2.8.1. Council approval is not required for domestic grey water diversion if the provisions of Clause 75a of the Local Government (General) Regulation 2005 are met.

3. PART 3 – Determination Criteria for Non-Exempt Activities

3.1. General

- 3.1.1. This part only applies when the activity is not exempt from approval under Part 1 of this Policy.

- 3.1.2. Under Section 89 of the Local Government Act 1993, in determining an application to undertake an activity, Council must consider:

- All relevant requirements of any relevant regulation and
- Principles of ecologically sustainable development and
- Any relevant local criteria adopted in part 3 of this Policy.
- Council must not approve an application if the activity or its undertaking would not comply with the requirements of any relevant legislation, regulation or other control.

- 3.1.3. If no relevant regulatory provisions or local criteria apply, in addition to principles of ecologically sustainable development, Council will make a determination by:

- Considering all matters relevant to the application; and
- Seeking to give effect to the applicant's objectives to the extent to which they are compatible with the public interest including protection of:
 - a) The environment
 - b) Public health, safety and convenience and
 - c) Any items of cultural and heritage significance which might be affected.
 - d) All applicants must possess a current Public and Product Liability Insurance Policy that meets the requirements set out in Part 3, clause 5 of this Policy. Evidence of the required insurance will be requested by Council at the time of submission via the application form. Other specific matters that are to be considered when determining applications are outlined in the following sections.

- e) Approvals granted under this policy may be subject to compliance with approval conditions. Where applicable, the approval conditions have been included.

3.2. Water supply, sewerage and storm water drainage work activities (determination criteria and approval conditions for S.68, part B activities)

Carry out water supply (B1, B2, B3), sewage (B4, B6) or stormwater drainage work (B5)

Water, sewerage and drainage activities

- 3.2.1. Approvals to undertake water supply, sewage or stormwater drainage work in the LGA are under the authority of the Sydney Water Board (Sydney Water).
- 3.2.2. Waste management (determination criteria and approval conditions S.68, part C activities)
- 3.2.3. Place a waste storage container on a road (C3)

Skips and other waste storage containers

- 3.2.4. Assessment criteria - applications to place a waste storage container on a road will be assessed with regard to:
 - The provisions of clause 27 the Local Government (General) Regulation 2005; and
 - The proposed placement of the waste storage container in relation to:
 - a) Any area where parking on the road would be illegal for a vehicle under Road Rules 2014;
 - b) Maintaining minimum clearances of 2 meters for pedestrian footway access and at least 1 meter for paved/concreted paths;
 - c) Issues of public risk including any interference with the sight lines of, or visibility to pedestrians, drivers and cyclists entering or leaving premises;
 - d) Access to utility services or other devices that may require 24 hour servicing; and
 - e) Obstruction to vehicular access entering or leaving premises.

Note: The placement of a waste skip bin must not restrict access to any service that may be contained in the road reserve. The applicant should contact the relevant utility company and determine their requirements if

they are unsure whether the placement of the waste skip bin will cause any risk of injury to person or property or inconvenience to the public.

3.2.5. Approval conditions - approvals to place a waste storage container on a public road are subject to the following conditions:

- The size of the waste container must be consistent with the NSW Roads & Maritime Services recommended maximum dimensions:
- 7.0 meters in length
- 2.5 meters in width and
- 2.0 meters in height.
- The waste container must have retro-reflective marking tape with a minimum width of 50 mm applied around the entirety of the rim.
- When placed within a road reserve in locations that are poorly lit, flashing yellow lights must be mounted on the front and rear panels of the container so they are visible to oncoming traffic in both directions
- The colour of the waste container must be consistent with the Roads & Maritime Service approved colours for bulk and skip waste containers as listed in Australian Standard AS 2700S-1996, Colour Standards for General Purposes
- Each container must be clearly labelled with the name of the supplier and a 24-hours contact phone number
- The area where the waste container is placed must be kept tidy and free of hazards and obstacles that may cause a risk to pedestrians or road users and
- The placement of the container must not cause damage resulting in the need for repairs to any road or road related area.

Note: Council may seek damages to a Council asset and/or prosecute for any offence relating to roadways or nature verge as per The Roads Act 1993.

3.2.6. Skip bins are a workplace within the meaning of the Work Health and Safety Act 2012, and as such Safe Work NSW would apply appropriate warnings, fines and prosecution if any public safety aspect came to its attention.

3.3. Activities involving community land (determination criteria and approval conditions S.68, Part D activities)

Note: No more than one group/activity will be permitted to occupy an area of community land at any one time. Use of Council's parks and reserves requires a valid booking.

3.4. Engage in a trade or business

Fundraising activities

3.4.1. Assessment criteria – applications to fundraise will be assessed with regard to:

- Authorisation to fundraise by the Office of Liquor, Gaming and Racing
- Authorisation to fundraise from NSW Fair Trading
- The proposed location, extent and duration of the fundraising activities and
- Any potential public and commercial impacts
- Application form completed and submitted 21 days prior to proposed date of fundraising
- Public liability for no less than \$20 million submitted with Council identified as a interested party

3.4.2. Approval conditions - approvals to fundraise will not permit the sale of potentially hazardous foods or food not for immediate consumption as per the NSW Food Authority's Guidelines for Food Businesses as Temporary Events 2016.

Local area photography or filming

3.4.3. Application assessment – applications to film or take still photography in the LGA will be assessed with regard to:

- Division 4 of the Local Government Act 1993;
- Clause 118 of the Local Government (General) Regulation 2005; and
- The Office of Local Government's NSW Local Government Filming Protocol 2009.

3.4.4. Approval conditions – approvals to film or take still photography are subject to compliance with the following approval conditions:

- Step 7 of the NSW Local Government Filming Protocol 2009 relating to Filmmaker's Responsibilities
- Any other conditions as contained in the approval as deemed appropriate by Council regarding the nature, scale and potential impacts of the activity.

- Direct or procure a theatrical, musical or other entertainment for the public (D2)

Festivals or Community Events

- 3.4.5. Assessment criteria – applications for festivals or community events will be assessed with regard to Council’s Event Strategy.
- 3.4.6. Approval conditions – approvals for festivals or community events are subject to any conditions as contained in the approval as determined by Council and will depend on the size, nature and inclusions of the event.

Hiring public parks and reserves

- 3.4.7. Assessment criteria – applications to book a Council park or reserve will be assessed with regard to:
- The nature, scale and potential impacts of the activity or function being undertaken
 - The time and duration of the activity and
 - Whether any devices or marquees will be erected as part of the activity.
 - Approval conditions – approvals to use a Council park or reserve do not permit:
 - The storage of any equipment
 - Amplification or use of a loud speaker or sound amplifying device
 - Any mobile floodlights or spotlights
 - The installation or use of jumping castles
 - The use of more than 10 chairs and one table
 - The installation or use of arches, stages, carpet aisles, decorations, confetti, or rice
 - The use of Council’s sport floodlights
 - Pressurised air-horns, whistles or other similar devices
 - Consumption of alcohol
 - Selling, hiring or promoting of goods or services or
 - Signage of any kind (including ‘A’ frame signs).

Note: Further information relating to hiring a Council park or reserve is available on Council's website.

Swing/hoist items across a road

- 3.4.8. Assessment criteria – applications to swing or hoist goods across a public road will be assessed with regard to clause 50 of the Local Government (General) Regulation 2005.
- 3.4.9. Approval conditions – Approvals to swing or hoist goods across a public road are subject to compliance with clause 51 of the Local Government (General) Regulation 2005.

3.5. Operate a public car park (F1)

Car parks

- 3.5.1. Assessment criteria – applications to operate a public car park will be determined with regard to give the provisions of clauses 53 and 54 of the Local Government (General) Regulation 2005.
- 3.5.2. Approval conditions - approvals to operate car parks are subject to compliance with Clause 55 of the Local Government (General) Regulation 2005.

3.6. Install a domestic oil or solid fuel heating appliance other than a portable appliance (F4)

Unmoveable oil/solid fuel heating appliances - Health

- 3.6.1. Assessment criteria – applications to install a domestic oil or solid fuel heating appliance (other than a portable appliance) will be assessed with regard to clause 67 of the Local Government Regulation (General) 2005
- 3.6.2. Approval conditions – approvals to install a domestic oil or solid fuel heating appliance (other than a portable appliance) are subject to the following conditions:
- Compliance with clause 68 and 69 of the Local Government Regulation (General) 2005 and
 - Certification undertaken by a suitably qualified person is provided to Council confirming that the installation of the solid fuel heater has been carried out in accordance with the approved plans and specifications and the approval conditions.
 - Certification is to be submitted to Council after completion of all works and prior to the initial operation of the unit.

Note: The operation of the solid fuel heater must not emit excessive smoke as defined in Section 135a of the Protection of the Environment Operations Act 1997.

3.7. Set up, operate or use a loud speaker or sound amplifying device

Loud speakers

3.7.1. Assessment criteria – applications to set up, operate or use a loud speaker or sound amplifying device will be assessed with regard to:

- The nature, scale and potential impacts of the amplification on the surrounding area and
- The time and duration of the activity.
- Approval conditions – approvals to set up, operate or use a loud speaker or sound amplifying device will only be granted in conjunction with a major community event.
- Activities involving public roads (determination criteria and approval conditions S.68, Part E activities)

3.8. Install or operate an amusement device

Amusement devices

3.8.1. Assessment criteria – applications to install and operate amusement devices will be assessed with regard to Clause 72 of the Local Government (General) Regulation 2005.

3.8.2. Approval conditions – approvals to install and operate an amusement device are subject to compliance with clauses 73 and 74 of the Local Government (General) Regulation 2005 and will only be granted in conjunction with a major community event.

3.9. Use a standing vehicle or any article for the purpose of selling any article in a public place

Temporary stalls or stationary vending vehicles

3.9.1. Assessment criteria – applications for temporary stalls or stationary vending vehicles will be assessed with regard to the following considerations:

- Clause 50 of the Local Government (General) Regulation 2005
- Section 139a of the Roads Act 1993

3.9.2. Where the temporary stall or stationary vending vehicle intends to sell or distribute food or beverages, the following legislation and guidelines are to be complied with:

- The Food Act 2003
- The Food Regulations 2004
- Food Standards Australia New Zealand - Food Standards Code
- Local Government (General) Act 1993
- The Roads Act 1993
- NSW Food Authority's Food handling Guidelines for Temporary Events.
- NSW Food Authority Guidelines for Mobile Food Vending Vehicles

3.9.3. The potential impacts of the activity on the local area including:

- Issues of public amenity
- Risks to public safety and
- Maintaining pedestrian and vehicular accessibility and
- Proximity to existing businesses.

3.9.4. Approval conditions – approvals for temporary stalls or stationary vending vehicles will be subject to the following conditions:

- Hours of operation will be limited to between 8:00am and 6:00pm, unless adequate street lighting or other forms of lighting is available to warn pedestrians and road users
- The area approved to be used for undertaking an activity must:
- Be maintained to a satisfactory standard, kept in good repair and clean of any food scraps or litter
- Be repaired of any damage caused by the installation, removal or demolition of articles, to restore the land to its original condition and
- Must not be used for any purpose other than what is specified on the approval documentation without further consent of Council.

- Any signage associated with the activity must be directly attached to the vehicle, stall or structure unless otherwise approved by Council.
- Arrangements must be made by the applicant for the prevention of pollution and management of waste relating to the activity.
- Vendors intending to operate in vehicle rest areas, must also obtain approval from the Roads and Maritime Services (RMS and evidence of this approval must to be presented to Council before approval can be granted. Consult the RMS Corporate Policy for *Mobile Vending in Rest Areas* for more information.

3.9.5. Where a vendor intends to sell or distribute food or beverages the following additional requirement apply:

- All temporary food stalls or mobile food vehicles are to obtain a current Temporary Food Premises – Food Permit to sell food within Georges River Council.
- Where the food for sale from a temporary stall or stationary vending vehicle is stored or prepared at separate premises, Development Consent must be obtained from the relevant Council and a copy provided to Council in accordance with the Environmental Planning and Assessment Act 1979 and
- In accordance with the Food Act 2003, Council may conduct inspections of food businesses at any time during operation.

Note: The relevant council refers to the local government area in which the handling or storage of food is based or where the mobile vending vehicle resides.

Mobile Food Vending Vehicles

3.9.6. Assessment criteria – applications for mobile food vending vehicles will be assessed with regard to:

- Local Government (General) Act 1993
- The Roads Act 1993
- The Food Act 2003
- The Food Regulation 2004

3.9.7. NSW Food Authority’s Guidelines for Mobile Food Vending Vehicles and the potential impacts of vending on the local area including: Issues of

public amenity Risks to public safety Maintaining pedestrian and vehicular accessibility and Proximity to existing businesses.

Food Standards Australia New Zealand – Food Standards Code

3.9.8. Approval conditions – approvals to operate as a mobile food vending vehicle are subject to compliance with the following conditions:

- Hours of vending will be limited to between 8:00am and 6:00pm, unless adequate street lighting or other forms of lighting is available to warn pedestrians and road users
- Any signage associated with the activity must be directly attached to the vehicle unless otherwise approved by Council
- Arrangements must be made by the applicant for the prevention of pollution and management of waste relating to the activity

3.9.9. Mobile vending is not permitted:

- In locations where the speed limit is greater than 50 kilometres per hour
- On a hill or a bend that limits sight distance
- In front of driveways or property entrances
- In two-way (one lane in each direction) streets, unless safe approach to the facility and safe departure from the facility is available or
- In kerbside lanes where an additional lane for moving traffic in that direction of travel is not available or where kerbside standing or parking restrictions apply
- Vending is only permitted for a period of 20 minutes in any one location and the vendor must drive a minimum of 100 meters before stopping again to vend
- Mobile food vending vehicles must have had a satisfactory food safety inspection carried out by the relevant council within the current financial year
- Where the food for sale from a mobile food vending vehicle is stored or prepared at separate premises, Development Consent must be obtained from the relevant Council and a copy provided to Council in accordance with the Environmental Planning and Assessment Act 1979

- In locations with insufficient parking for consumers or where parking/standing restrictions apply
- Must not cause a nuisance to adjoining properties in relation to emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products
- Where vendors intend to operate in vehicle rest areas, concurrent approval from the Roads and Maritime Services (RMS) is required and evidence of this approval must to be presented to Council before approval can be granted. Consult the RMS Corporate Policy for Mobile Vending in Rest Areas for more information.

Note: The relevant council refers to the local government area in which the handling or storage of food is based or where the mobile food vending vehicle resides.

4. PART 4 – Additional Information

4.1. Application process

Application Lodgment

- 4.1.1. Most activities or bookings have a specific form and/or guide designed to assist in the lodgment of the application.
- 4.1.2. Applications are to be submitted using the relevant form and are to be lodged to Council:
 - Prior to undertaking the activity in accordance with any timeframes specified on the form or
 - At least three months prior to the proposed activity if the activity requires multiple Council issued permits/approvals
 - With all supporting documentation or materials required as listed on the application form and
 - Payment of all applicable fees.
 - Applications that are not easily legible, incomplete or not accompanied by all required supporting material may be rejected.
 - Additional information and amendments
 - Council will contact the applicant if any additional information is needed to support an application.

- Applications can be amended by the applicant or at the request of Council prior to a determination provided that the variation is minor.
- Application determination
- Council will issue a notice to applicants advising them of the outcome of their application.

4.2. Review of Determination

4.2.1. Under section 100 of the Local Government Act 1993, a determination can be reviewed upon request of the applicant. A determination review request must be made in writing within 28 days of Council's determination and include justification for the review. Fees apply. The determination of a review is final.

4.3. Records of approvals

4.3.1. In accordance with section 113 of the Local Government Act 1993, Council will maintain a record of approvals granted under this Policy and make it available to the public.

4.4. Fees and charges

Fees payable

4.4.1. Under Section 608 of the Local Government Act 1993, Council can charge a fee for assessments, inspections and registrations relating to approvals processes.

4.4.2. Under Part 3, clause 14 of the Food Regulation 2015, Council can charge a fee for the inspection of any food stall, stationary food vending vehicle or mobile food vending vehicle. Fees are determined by Council each year and are outlined in Council's Schedule of Fees and Charges (latest version) as published on Council's website.

4.4.3. Application fees must be paid at the time of application lodgement, are non-refundable and non-transferrable regardless of the outcome of the assessment of the application.

4.4.4. Fees relating to inspections are payable at the time of booking, are non-refundable and non-transferrable regardless of the outcome of the inspection. Approval period

Term of approval

4.4.5. The period of approval varies depending on the type of activity proposed to be undertaken, as listed on the application form or approval

documentation. If the activity is not undertaken during the approval period, the approval will lapse.

4.4.6. Approvals expire at 5.00pm on the last day of the approval period as indicated on the approval documentation.

4.4.7. Applications for renewal must be submitted prior to the expiry date of the existing approval and will be approved at Council's discretion.

4.5. Insurance

Public Liability and Product Indemnity insurance

- All applicants must possess a current Public and Product Liability Policy where:
- The limit of indemnity of any single accident or event is not less than \$20 million
- The policy contains a clause or notation indemnifying Georges River Council against actions, suits, claims or demands of any kind arising from the applicant's use of the approved area and
- The policy has been issued by an insurer licensed by the Australian Prudential Regulatory Authority to write liability insurance business in Australia.
- The applicant shall pay all Council's legal costs and any other costs associated with the preparation of a license agreement.
- Council accepts no liability for any injury of damage associated with any exempt activity undertaken or purportedly undertaken under the provisions of this Policy.
- Evidence of the required insurance will be requested by Council at the time of submission via the application form.

4.6. Approval documentation

Evidence of approval

4.6.1. Approved applicants must keep approval documentation on their person when undertaking the activity for presentation to an authorised Council officer upon request.

Evidence of a current approval may consist of a display sticker, an executed agreement and relevant boundary markers.

RESPONSIBILITIES

Position	Responsibility
<i>Mayor and Councillors</i>	Refer any requests relating to the use public land to Customer Service or the website for application information.
<i>Directors, Managers and Coordinators</i>	Implementation of this policy to all staff, ensuring adherence to the policy by staff directly involved in assessment or enforcement of applications relating to this policy
<i>Application Assessors</i>	Assessing applications and granting/refusing approvals in accordance with this policy.
<i>Policy Owner</i>	Annual review of policy effectiveness and updating of policy documentation as required.
<i>Regulatory Services</i>	Enforcing compliance and regulatory actions in relation to this Policy.
<i>Staff (Authorised Officer/s)</i>	Participation in policy training and ongoing adherence to the policy as outlined. Refer any requests relating to the use public land to Customer Service or the website for application information

VERSION CONTROL AND CHANGE HISTORY

Version	Amendment Details	Policy Owner	Period Active
1.0	New Georges River Council Local Approvals Policy - Use of Public Land	Executive Manager, Premium Facilities and Property	29/10/2018

APPENDIX A – RELEVANT LEGISLATION AND REGULATORY FRAMEWORKS

National legislation, controls or standards	<ul style="list-style-type: none"> • Building Code of Australia • Food Standards Australia New Zealand Act 1991 • Disability Discrimination Act 1992
State (NSW) legislation, controls or standards	<ul style="list-style-type: none"> • Anti-Discrimination Act (Definition of Public Art) 1977 • Companion Animals Act 1988 • Environmental and Planning Assessment Act 1979 • Explosives Act 2003 • Explosives Regulation 2005 • Food Act 2003 • Food Handling Guidelines for Temporary Events 2006 Version 1/06 • Food Regulations 2015 • Guidelines for Mobile Food Vending Vehicles • Impounding Act 1993 • Liquor Act 2007 • Local Government (General) Regulations 1999 • Local Government Act 1993 • Local Government Filming Protocol 2003 • Local Government Filming Protocol 2003 • Local Government Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings Regulation 2005 • Occupational Health and Safety Regulation 2001 • Protections of the Environment Operations Act 1997 • RMS Guide for Traffic and Transport Management for Special Events 2006 • Road Rules 2014 • Road Transport (Safety and Traffic Management) Act 1999 • Road Transport (Vehicle Registration) Regulation 2007 • Roads Act 1993 • Smoke-free Environment Act 2000 • State Environmental Planning Policy (Advertising and Signage) 2009 • State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Temporary Structures) 2007 • Summary Offences Act (Public Assemblies) 1988
Georges River Council Local Controls	<ul style="list-style-type: none"> • Georges River Complaint Management Policy 2017 • Georges River Enforcement Policy 2017 • Georges River Events Strategy 2017 • Georges River Street Party Guidelines

	<ul style="list-style-type: none">• Hurstville Development Control Plan (DCP 1 & 2)• Hurstville Local Environment Plan 1994 & 2012• Kogarah Development Control Plan 2013• Kogarah Local Environment Plan (and Amendment No. 2) 2012
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APPENDIX B – REQUIREMENTS RELATING TO PERMITTED ARTICLES FOR FOOTWAY TRADING

Table 1: Requirements relating to permitted articles

Permissible articles	Requirements for permitted articles
Tables and chairs	<ul style="list-style-type: none"> • Must allow a minimum unencumbered residual footway width of 2m or 3m in high pedestrian areas • Must not be constructed of plastic materials and • Must not cause any nuisance to pedestrians by the serving of food to tables.
Umbrellas	<ul style="list-style-type: none"> • Must only be placed in association with a table in an approved outdoor dining area. • <i>Note: The struts and canopies of umbrellas may extend beyond the approved area provided they are positioned a minimum of 2.1m above the footway.</i>
Bollards, planters, rope, fence or like article used to delineate approved areas	<ul style="list-style-type: none"> • Must be located within the approved area and have a: • Minimum height of 750mm • Maximum height of 1100mm.
Goods for sale	<ul style="list-style-type: none"> • Must be displayed in an area which achieves a: • Minimum height of 750mm • Maximum height of 1100mm • An unencumbered residual footway width of 2m (or 3m in high pedestrian areas) • Minimum clearance equal to the width of the approved area from any door opening on the premises or adjoining premises.
Food for consumption	<ul style="list-style-type: none"> • Must only be served to tables of an approved outdoor dining area.
Food for sale	<ul style="list-style-type: none"> • Must be displayed in an area which achieves a: • Minimum height of 750mm • Maximum height of 1100mm • An unencumbered residual footway width of 2m (or 3m in high pedestrian areas) • Minimum clearance equal to the width of the approved area from any door opening on the premises or adjoining premises and • Must only display fruit and vegetables.

<p>Brochure/magazine display units, sweets and drink dispensing machines</p>	<ul style="list-style-type: none"> • Must be displayed in a unit which achieves a: • Minimum height of 750mm • Maximum height of 1100mm • Maximum width of 600mm and • Are limited to one display per 6m of shop frontage.
<p>Cut flowers and pot plants</p>	<ul style="list-style-type: none"> • Must be displayed in an area which achieves a: • Maximum width of 600mm • Minimum height of 750mm and • Maximum height of 1100mm. • <i>Note: A separate permit to sell living plants will need to be obtained from the Department of Agriculture.</i>
<p>Sun blinds</p>	<ul style="list-style-type: none"> • Must be securely fixed • Must be installed parallel to the kerb • Must allow a minimum clearance of 2.3m above the footway and • Must not protrude beyond the front edge of the awning.
<p>Advertising signage</p>	<ul style="list-style-type: none"> • Must be constructed of a sturdy material and be adequately braced • Must allow a minimum unencumbered residual footway width of 2m or 3m in high pedestrian areas and • Must be constructed to achieve a: • Maximum height of 1.1 metre and • Maximum width of 650mm • Must be fitted with a locking mechanism to ensure they can be fixed into an 'A' shape (If signage is to be used as A Frame) and • Are limited to one sign per premises.
<p>Heaters</p>	<ul style="list-style-type: none"> • Must be only used in areas with adequate ventilation • Must be positioned in an area so not to be considered a fire hazard i.e. next to combustible items such as an umbrella, shrubs, or trees • Must be designed with an automatic shut off functionality if overturned • Must be installed in accordance with Australian Standard A4565-2004 <i>Radiant gas heaters for outdoor and non-residential use</i> and • Must be easily relocatable and stored within the premises when not in use. <p><i>Note: All heaters will be subject to Council approval and must detail manufacturer's specifications, layout and proximity to fire safety equipment.</i></p>

APPENDIX C – DESIGNATED LOCATIONS FOR ACTIVITIES ON PUBLIC LAND

Hurstville City Centre	<ul style="list-style-type: none"> • Diment Way (corner of Forest Road) • Palm Court Car park (not for profit stationary vending vehicles only) • Central Plaza (construction to begin in 2017)
Lugarno Town Centre	<ul style="list-style-type: none"> • Chivers Hill shops
Kogarah City Centre	<ul style="list-style-type: none"> • Out front of Kogarah Library in Kogarah Town Square • Out front of Kogarah Civic Centre on the corner of Belgrave Street and Post Office Lane • Out front of Kogarah train station on Railway Parade
Mortdale Town Centre	<ul style="list-style-type: none"> • Corner of Morts Road and Pitt Street • Corner of Morts Road and Macquarie Place
Peakhurst Town Centre	<ul style="list-style-type: none"> • Bridge Street outside the IGA Supermarket
Penshurst Town Centre	<ul style="list-style-type: none"> • Bridge Street outside the IGA Supermarket
Riverwood Town Centre	<ul style="list-style-type: none"> • South side Belmore Road outside Riverwood Plaza • North side Belmore Road corner of Morotai Avenue
Oatley Town Centre	<ul style="list-style-type: none"> • Oatley Avenue outside the IGA Supermarket (buskers only)

Note: Map of designated locations located on page 52

For the purpose of this policy the Georges River Council LGA has been divided into various precincts for the assessment of business use of the footway reflecting local conditions, opportunities and constraints.

Any area not included within these precinct descriptions will be assessed individually depending on location and accessibility.

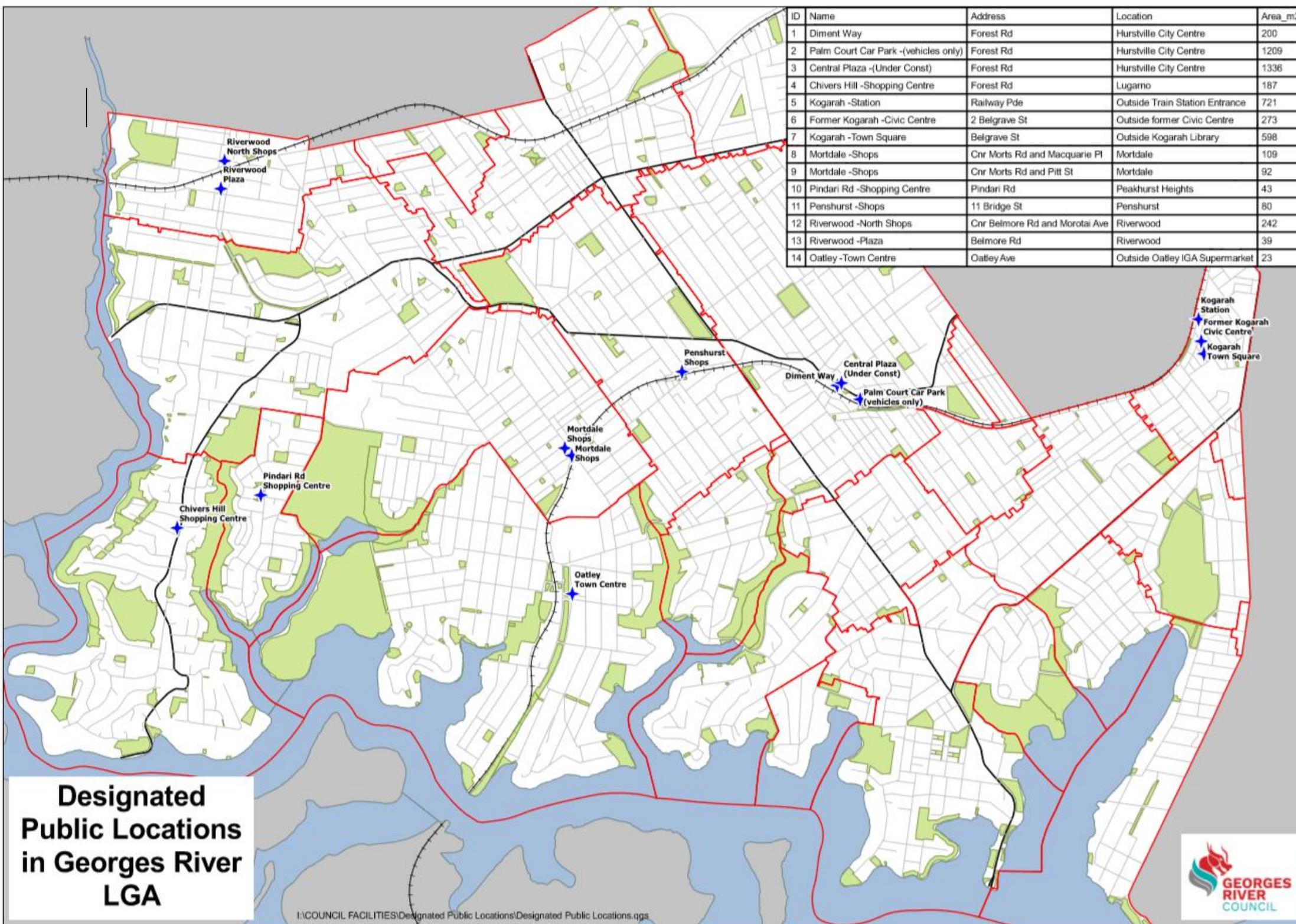
Please note that in certain locations throughout Georges River Council Business Use of Footway is not permitted.

Any person looking to lodge an application should consult with Council's Premium Facilities and Property team.

APPENDIX D – LIST OF CLASSIFIED ROADS IN THE LOCAL GOVERNMENT AREA

- Princes Highway
- Henry Lawson Drive
- Stoney Creek Road
- Queens Road
- Forest Road (between Queens Road and Henry Lawson Drive)
- Forest Road (north of Lily Street up to Croydon Road)
- King Georges Road
- Rocky Point Road
- Croydon Road (between Queens Road and Forest Road)

Note: Map of classified roads located on page 53



ID	Name	Address	Location	Area_m2
1	Diment Way	Forest Rd	Hurstville City Centre	200
2	Palm Court Car Park -(vehicles only)	Forest Rd	Hurstville City Centre	1209
3	Central Plaza -(Under Const)	Forest Rd	Hurstville City Centre	1336
4	Chivers Hill -Shopping Centre	Forest Rd	Lugarno	187
5	Kogarah -Station	Railway Pde	Outside Train Station Entrance	721
6	Former Kogarah -Civic Centre	2 Belgrave St	Outside former Civic Centre	273
7	Kogarah -Town Square	Belgrave St	Outside Kogarah Library	598
8	Mortdale -Shops	Cnr Morts Rd and Macquarie Pl	Mortdale	109
9	Mortdale -Shops	Cnr Morts Rd and Pitt St	Mortdale	92
10	Pindari Rd -Shopping Centre	Pindari Rd	Peakhurst Heights	43
11	Penshurst -Shops	11 Bridge St	Penshurst	80
12	Riverwood -North Shops	Cnr Belmore Rd and Morotai Ave	Riverwood	242
13	Riverwood -Plaza	Belmore Rd	Riverwood	39
14	Oatley -Town Centre	Oatley Ave	Outside Oatley IGA Supermarket	23

**Designated
Public Locations
in Georges River
LGA**





Legend

- State Road
- LGA

Georges River Council Local Government Authority State Roads

Disclaimer: This map has been produced with the most current information available to Kogarah City Council, including information supplied from external sources. Georges River Council is not responsible for errors or inaccuracies in the data provided. Information in this map is subject to copyright.