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| <b>8.11</b>              | <b>FOOTPATH TRADING - PRINCE OF WALES</b>  |
| <b>LOCATION/ADDRESS:</b> | <b>29 FITZROY ST, ST KILDA</b>   |
| <b>GENERAL MANAGER:</b>  | <b>CLAIRE FERRES MILES, PLACE STRATEGY &amp; DEVELOPMENT</b>   |
| <b>PREPARED BY:</b>      | <b>SHONA SEKENE, FOOTPATH TRADING ADMINISTRATOR</b>  |
| <b>TRIM FILE NO:</b>     | <b>13/01/20</b>  |
| <b>ATTACHMENTS:</b>      | <b>1. Fact Sheet Footpath Trading Zones and Definitions<br/>2. The Prince of Wales and The Bandroom Current Footpath Trading Operations<br/>3. Professional Opinion Report - Footpath Trading and Queuing at Prince of Wales Hotel June 2016<br/>4. Prince of Wales Footpath Trading Options Reviewed<br/>5. The Prince of Wales and The Bandroom - Night Management Plan<br/>6. The Prince of Wales and The Bandroom Recommended Trading and Queuing Plan</b> |

### **PURPOSE**

To determine a Footpath Trading application by the Prince of Wales Hotel to vary Council's Footpath Trading Guidelines (2013) to allow the retention of footpath trading adjacent to the building.

### **I. RECOMMENDATION**

That Council:

- 1.1 Varies the Footpath Trading Guidelines to:
  - a) Allow the retention of the existing 2.0m wide footpath trading area at The Prince of Wales Hotel and The Bandroom, at 29 Fitzroy Street, St Kilda,
  - b) Provide for queuing arrangements for The Bandroom and a modified footpath trading area at times when they are simultaneously operating, generally in accordance with The Trading & Queuing Plan in Attachment 6.
- 1.2 Resolves that the Footpath Trading Permit issued under 1.1 must include the following conditions:-
  - a) By 17 July 2017, the permit-holder must submit for approval amended furniture and barrier details that are easily removable to achieve a combined trading zone for The Prince of Wales Hotel and designated queuing area to The Bandroom.



- b) Prior to a queue forming to The Bandroom, queuing barriers with in-ground sockets must be installed to separate the patrons in the footpath trading area of The Prince of Wales from The Bandroom patrons generally in accordance with The Trading & Queuing Plan.
- c) At all times when the footpath and queuing areas approved under this permit operate simultaneously, the footpath and queuing areas must be managed in accordance with the approved Prince of Wales and The Bandroom Night Management Plan.

## 2. BACKGROUND

- 2.1 The intent of Local Law No. 1 (Community Amenity) 2013, Clause 10 – Footpath Activities and the Disability Discrimination Act 1993 (DDA) is to ensure that a safe and unobstructed access to the footpath area is available. The continuous accessible path of travel should extend from the building line with no obstructions or projections in order to provide the best possible guidance line for all users including people with vision impairment.
- 2.2 Section 1.4 of the Footpath Trading Guidelines details Council’s responsibility to manage activities which may interfere with the safety and convenience of people traveling on or using roads or land and impede free and safe access for people, in particular those with sight and movement impairment or disabilities.
- 2.3 The Prince of Wales is an established licenced music venue that has held a footpath trading permit for the current trading area since 1997. The current trading area supports furniture and screens to accommodate 69 patrons.
- 2.4 The Footpath Trading Guidelines also requires Council to ensure queuing arrangements do not impede the pedestrian zone at licenced venues such as The Bandroom. Currently queuing occurs beyond the trading area and impedes the pedestrian zone.
- 2.5 This footpath at the front of this property measures approximately 6.5 metres, increasing to approximately 7.4 metres (including a strip of private land measuring approximately 0.9m at the front of this site) and is maintained by Council.
- 2.6 The term ‘trading area’ is used through this report instead of ‘trading zone’ as referred to in the Guidelines as it is considered a more accurate description of the combined area in this instance. The Footpath Trading Guidelines describes a ‘trading zone’ as “that area left between the pedestrian zone and the kerb zone after these clearances are taken out”. Refer Attachment 1.
- 2.7 The Prince of Wales Public Bar and The Bandroom has a long history as a live music venue and is one of the few that remains operational within the City of Port Phillip.
- 2.8 A variation to the previous Footpath Trading Guidelines was initially provided by the Footpath Trading Panel on 9<sup>th</sup> August 2004. This variation has allowed the business to operate in a trading area that is 2.0m wide and incorporates a strip of private land measuring up to 0.9 metres in width along the frontage of the Hotel.
- 2.9 In January 2008, approval was given to include screens to separate patrons from pedestrians.



- 2.10 Current queuing arrangements to The Bandroom results in the queue forming in front of The Prince of Wales trading area. This creates a bottleneck and conflicts with pedestrian movements. This queuing arrangement has never been formalised and this reassessment provides an opportunity to address this matter and deal with any relevant concerns.
- 2.11 Officers have worked closely with owners and management of the Prince of Wales reviewing a number of schemes in order to address the DDA issues resulting from the current footpath trading and queuing arrangements. In that time, ownership and management of the Prince of Wales has changed and further schemes were considered, thereby delaying the reassessment of the trading and queuing areas under the current Guidelines. The current owners support the recommendation of the Footpath Trading Panel and hence the recommendations outlined in this report.
- 2.12 Officers also sought an expert opinion from Accredited Access Consultant, Ms Joe Manton of Access Audits Australia. The advice included options as to how trading against this building line could achieve an appropriate level of access while taking into account queuing requirements for The Bandroom. Refer Attachment 3.
- 2.13 With the volume of patrons frequenting the multiple access points combined with queuing, it is important to provide a solution that satisfies the objectives of Council's footpath trading priorities identified in the Guidelines, while ensuring easily workable arrangements for The Prince of Wales.
- 2.14 Officer's recommendation is to vary the Footpath Trading Guidelines to allow the retention of the existing footpath trading area at The Prince of Wales Hotel and approve the queuing arrangements to The Bandroom to be contained within the existing footpath trading area along the frontage at The Prince of Wales Hotel in accordance with the recommended Trading and Queuing Plan. Refer Attachment 6.
- 2.15 The recommendation was submitted to the Footpath Trading Panel who concurred with this recommendation, subject to further consultation with the permit-holder and the provision of a detailed Night Patron Management Plan.
- 2.16 Upon receipt of the Night Patron Management Plan (Refer Attachment 5) the Footpath Trading Panel recommended support to vary the Footpath Trading Guidelines to continue trading in the existing area.
- 2.17 Similar approvals have previously been provided by Council for the Espy Hotel and the Wall 280 café in Balaclava.

### 3. KEY INFORMATION

- 3.1 Footpath trading zones within Fitzroy Street and across the municipality are adjacent to the kerb zone and provide for clear building lines.
- 3.2 The footpath in this location is heavily utilised by pedestrians accessing the variety of St Kilda venues and tourist destinations.
- 3.3 The Footpath Trading Guidelines requires a minimum pedestrian zone width of 2.5 metres in this location.



- 3.4 The title boundary of The Prince of Wales includes a strip of vacant private land adjacent to the building's Fitzroy Street façade and measures 0.9 metres wide.
- 3.5 The footpath measures approximately 6.5m in width in front of The Bandroom; increasing to approximately 7.4 metres (including private land) which has been maintained by Council as footpath.
- 3.6 The existing trading area provides for a maximum of 69 seated patrons.
- 3.7 Infrastructure within the adjacent footpath includes three street trees, traffic lights, fire hydrant, traffic light control box and bicycle racks. The adjacent road area is a No Standing Zone with taxi queuing point, limiting any opportunity to locate a trading zone adjacent to the kerb. Refer attachment 2.
- 3.8 There is limited opportunity to relocate the trading zone to the kerb side between the existing infrastructure. This would also raise challenges in terms of management of the area including serving of patrons, increase impact on the pedestrian zone by patron movements to and from the venue, raising patron management concerns and significantly reducing patron numbers from 69 to approximately 32.
- 3.9 In June 2017 a site meeting with officers and management of the Prince of Wales discussed the relocation of the bicycle racks and way-finding sign to achieve a wider trading zone. The permit-holder has chosen not to explore this option further.
- 3.10 Council Traffic Engineer's support the location of the existing trading area as it supports pedestrian movements in proximity of the two pedestrian crossings at the intersection of Acland and Fitzroy Streets.
- 3.11 The Divisional Licensing Unit of Victoria Police supports the continued trading and queuing against this building line as the most desirable way of managing patrons and maintaining an accessible footpath.
- 3.12 This arrangement is supported by Access Audits Australia subject to the inclusion of appropriate screens and is considered to suitably address Council's responsibilities under the Disability Discrimination Act 1993.
- 3.13 The recommendation of the Officer and the Footpath Trading Panel is to maintain the existing trading area, with furniture amended to improve the circulation of staff and patrons, and replacement screens.
- 3.14 On the occasions that queuing to The Bandroom is required to extend beyond the venues entrance, The Prince of Wales trading area would be reduced in width and outdoor patron numbers reduced from 69 to approximately 40 depending on furniture design. The installation of queuing barriers would be required to separate patrons of The Prince of Wales from The Bandroom queue and in-turn ensures an accessible footpath for pedestrians.



## FURTHER SUPPORTING INFORMATION

### 4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 4.1 The Footpath Trading Guidelines have been developed by Council in consultation with the community to provide a framework for the sustainable use and management of footpath trading areas. These are in line with Council's four strategic directions contained within the Council Plan 2013-17:
- Engaged – A well Governed City
  - A Healthy, Creative and Inclusive City
  - A Resilient City
  - A Vibrant City
- 4.2 The Council's Footpath Trading Guideline objectives are consistent with the purpose of Local Law No. 1 (Community Amenity). This purpose of this Local Law is to:
- Provide for the peace, order and good government of the Municipality and the administration of the Council's Functions and powers.
  - Promote a vibrant street life which balances the interests and needs of residents, rate payers and visitors to the Municipality.
  - Regulate and control the placement of objects on the footpaths to achieve fairness and consistency between traders in the use of footpaths.
  - Regulate and control the placement of objects on footpaths to ensure
    - Safe and unobstructed passage for pedestrians, in particular those who may be physically or vision impaired.
    - Safe and unobstructed vision for drivers of vehicles and cyclists, and
    - Limited impact on the residential amenity and streetscape that characterises the Municipality.
- 4.3 The order of priorities under Council's Footpath Trading Guidelines are clearly outlined in Section 1.06:





Diagram 1 - Council's footpath trading priorities

4.4 **Public Safety** – Streets are:

- Safe and have unobstructed passage for pedestrians, in particular those who may be physically or visually impaired, and
- Safe and unobstructed vision for drivers of vehicles and cyclists.

**Accessibility for all**

Streets are easily navigated by all pedestrians, allow appropriate pedestrian traffic flow and support public transport use.

**Balancing a prosperous local economy with residential amenity**

Supporting a prosperous local economy is balanced with ensuring that footpath trading does not cause any significant impacts on pedestrian safety, the amenity of surrounding residential areas, and parking.

**Vibrant street life**

Streets are vibrant and lively and contribute positively to an area's sense of place and character.

**Attractive streetscape**

Streets are attractive, clean and pleasant and any heritage significance is not diminished.

**Leisure opportunities**

Footpath trading supports local interaction, alfresco dining and drinking as enjoyable activities.

5. **CONSULTATION AND STAKEHOLDERS**

- 5.1 The management of The Prince of Wales have been engaged by Officers over an extended period, resulting in the consideration of a number of proposals to address the re-assessment required by the Footpath Trading Guidelines. Site meetings and consultation undertaken by Officers has resulted in an outcome supported by The Prince of Wales Management, Council's DDA Consultant, the Police and Council's Safety & Amenity Unit, Traffic Engineers and Footpath Trading Panel.
- 5.2 Ms Joe Manton, Director, Access Audits Australia was engaged by Council to review the existing footpath trading to The Prince of Wales and queuing of The Bandroom and provide advice on how queuing arrangements could be safely combined and managed with outdoor dining. Refer Attachment 3.
- 5.3 Victoria Police, Sergeant Charles Ormiston, Unit Commander, Divisional Licensing Unit considered the preferred option, resulting in the following comments, *"from a patron management point of view having patrons queuing against the building allows for ease of control and ensures that patrons are not crossing public space and impeding into another licensed areas."*
- 5.4 Safety & Amenity, City of Port Phillip has provided comment on the preferred option, resulting in the following comments. *"Support is offered in theory, however concerns raised*



*around the practical application considering late-night activity and potential congestion, noting there has not been any recent compliance matters”.*

- 5.5 Transport Safety & Engineering, City of Port Phillip has provided comment on the preferred option, resulting in the following comments *“From a pedestrian accessibility point of view, the location of the trading area is not a hazard or inconvenience for pedestrians. The location of the existing signalised crossing on Acland Street means that the pedestrian desire line is at the centre of the footpath rather than along the building line.”*

## 6. LEGAL AND RISK IMPLICATIONS

- 6.1 The recommended option that contains patrons of both the Prince of Wales and The Bandroom within barriers reduces the risk of these activities obstructing the footpath and places the responsibility on the permit-holder to appropriately monitor patrons as part of their operational Night Management Plan. Refer Attachment 5.
- 6.2 The recommended option as per expert opinion of Accredited Access Consultant, Ms Joe Manton of Access Audits Australia is considered to address Council’s obligations under the Disability Discrimination Act 1993.

## 7. SUSTAINABILITY – Triple Bottom Line

### 7.1 ENVIRONMENTAL IMPLICATIONS

- The Footpath Trading Guidelines requires the use of windproof ashtrays be provided at all times, should this area be utilised as a ‘drinking area’ under the *Tobacco Act 1987*. This would reduce the impact of cigarette waste entering the stormwater network and in-turn Port Phillip Bay.

### 7.2 SOCIAL & CULTURAL IMPLICATIONS

- The continued footpath trading and improved queuing arrangement assists in the retention of this live music venue and reduces potential conflict points.
- Prince of Wales and The Bandroom are popular live music venues and recognized as part of the cultural fabric of St Kilda.
- Footpath trading contributes to a culturally vibrant community through the activation of public areas ancillary to businesses.

### 7.3 ECONOMIC IMPLICATIONS

- The retention of the existing trading area would continue to support the business models of The Prince of Wales and The Bandroom as entertainment venues, and would contribute to the vibrancy and resurgence of Fitzroy Street as a leisure and entertainment destination.
- There are no negative impacts on the City of Port Phillip businesses and Activity Centre function from this action.

### 7.4 FINANCIAL IMPLICATIONS

- There are no negative implications as part of this recommendation.



## 8. IMPLEMENTATION STRATEGY

### 8.1 TIMELINE

- A decision would be issued to the permit-holder within 2 business days should Council determine to support this recommendation.
- A transition timeframe would be negotiated with the permit-holder to meet permit conditions.
- The operation of the trading and queuing arrangements would be monitored by Council's Safety & Amenity officers including undertaking late night proactive inspections.

### 8.2 COMMUNICATION

- Officers would issue an amended permit with conditions, including a footpath trading plan detailing all requirements.
- Officers would meet with the permit-holder to ensure a clear understanding of the trading and queuing arrangements required and answer any questions.
- Local Laws Officers would be advised of the amended footpath trading arrangements.

## 9. OFFICER DIRECT OR INDIRECT INTEREST

- 9.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.