

7.4. FOOTPATHS – USE OF PUBLIC FOOTPATHS FOR RESTAURANT AND OUTDOOR SEATING

OBJECTIVE: To encourage the establishment of outdoor seating areas in accordance with clearly documented guidelines.

POLICY:

That Council under the authority of the Public Roads Act 1993, Section 125 and the Delegated Function to the Director Regional Services permit the use of public footpaths for restaurant seating in association with adjoining restaurant or other food premises:

Management Guidelines:

1 General

- (i) Persons wishing to install and operate facilities for outdoor eating on public footpaths shall be required to hold a Public Liability Policy of at least \$20,000,000 with the interest of Council in this regard noted on the Certificate of Currency.
- (ii) The maximum licence period will be three years only.
- (iii) A licence agreement shall be entered into between the Proprietor of the relevant business and Council to embody the conditions which may be imposed pursuant to the Roads Act 1993, this Policy and any other requirements.. The licence is to contain provisions indemnifying Council against any claims resulting from placement or use of the outdoor furniture.
- (iv) The number and type of items to be placed in the footpath shall be specified in the licence, together with the area of the footpath within which the items are to be placed. For the period of the agreement, the fees will be charged at the rate as determined in the Fees and Charges component of Council's Annual Operational Plan.
- (v) There will be an application fee payable upon the establishment of a licence, and this fee shall be set out in the Fees and Charges component of Council's Annual Operational Plan..
- (vi) The proprietor will be responsible for all legal costs associated with the agreement.
- (vii) Placement of outdoor eating furniture on major pedestrian thoroughfares shall retain a minimum clearance for pedestrian traffic of 2.5 metres.
- (viii) All other pedestrian thoroughfares shall retain a minimum clearance for pedestrian traffic of 1.5 metres.
- (ix) All footpath eating areas adjacent to streets shall retain a minimum clearance to the kerb of 600mm.
- (x) The proprietor shall be responsible for disposal of litter and cleaning of the footpath occupied by the outdoor eating area.
- (xi) Applicants should be aware that Council can revoke, suspend or amend an approval for outdoor dining made under this Policy if:
 - a. the conditions of the licence or this Policy or any other applicable policy of Council is breached;

- b. the use of the footpath is causing public safety or public access to be compromised;
- c. the footpath is needed for public works;
- d. the footpath is needed for a special event; or
- e. the footpath is needed to manage an increase in pedestrian traffic; or

Where Council needs to revoke, suspend or amend an approval for outdoor dining the licence holder will be given notice of Council's intention.

- (xii) Any licence granted hereunder is non-transferable. Any licence granted to the operator of the business, and not to the business or the property. In the event that the operator changes, the licence ceases immediately and a new operator must apply for a new licence.
- (xiii) The outdoor dining area and furniture associated with the use of the footpath for outdoor dining are to be:
 - a. kept clean and maintained in good order suitable for their purpose;
 - b. positioned and used as required when in use;
 - c. not to be permanently fixed; and
 - d. removed and stored away from public areas when the area is not in use.
- (xiv) Waste and litter is to be managed by:
 - a. removing waste promptly from the area;
 - b. disposing of any waste appropriately; and
 - c. making sure the area is regularly cleaned and tidied.
- (xv) The licence is to be kept on the premises together with the place attached and shall be produced on request to Council officers.
- (xvi) Council reserves the right to approve all outdoor furniture, and any decision of Council in that regard is final. Any furniture that Council deems unsuitable shall be immediately removed by the proprietor.

2 Peel Street and Fitzroy Street, Tamworth

- (i) In addition to the previous clauses, the following shall apply to premises in Peel Street and Fitzroy Street, Tamworth.
- (ii) Placement of chairs and tables shall be confined to the area of footpath adjacent to the restaurant premises. Before consideration would be given to areas not adjacent to the restaurant, the written consent of the adjoining owner and tenant must be obtained by the Proprietor (to use the adjoining footpath frontage).
- (iii) No advertisements will be permitted to be placed within the agreed outdoor eating area or in the adjoining footpath area unless the written prior approval of the Director has been obtained.
- (iv) The outdoor eating area shall be located so as to retain a 3.0 metre wide pedestrian corridor under the existing shop awnings.
- (v) Outdoor eating furniture shall not restrict the access to public seating facilities. The Director may in certain circumstances agree to the relocation of such facilities at the expense of the proprietor. No interference or use of the facilities will be permitted without the approval of the Director.

- (vi) The proprietor shall be responsible for removal of chairs, tables, umbrellas, etc from the footpath at the close of daily trading.

3 Alcohol Consumption at Outdoor Dining Premises in the Tamworth CBD Alcohol Free Zone

Alcohol consumption is only permitted where the proprietor has a suitable liquor licence, and has satisfied all the requirements of the relevant licensing authority.

The consumption of alcohol at outdoor footpath dining facilities, within the Tamworth CBD alcohol free zone will be permitted where staff of the premises have Responsible Service of Alcohol Certification and is subject to compliance with the following conditions:

- the proprietor must hold a valid outdoor dining licence. Such approval must be valid and all associated fees and indemnities in place;
- the areas must be barricaded off from the remainder of the street so as to delineate the area;
- alcohol must be served by the proprietor of the restaurant. Under no circumstances must alcohol be stored under or near the tables at BYO restaurants;
- alcohol must only be served where a meal is provided by the restaurant to the patrons seated in the outdoor dining area;
- all conditions pertaining to the outdoor dining facility must be adhered to as set out in both this Policy and the licence, together with any relevant legislation;
- consumption of alcohol at outdoor dining facilities is not permitted during the Annual Tamworth Country Music Festival; and
- Furniture, umbrellas or barriers advertising alcoholic beverages are not permitted.
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♦ **HISTORY –** Reviewed July 2020– Updated – Ordinary Council Meeting – Min No
 Adopted Ordinary Council 27 September 2016 Min No: 272/16
 Reviewed by DC&G October 2012 – Updated – Ordinary Council Meeting 15/01/2013 – Min No: 9/13
 Adopted as TRC Policy at Ordinary Meeting 27 September 2005 Min No 229/05
 Former TCC Policy
 ESD Report No 95/14 to P & R 22/3/95. To Council 28 March, 1995 - CR 161 to be reviewed by ESD March, 1996. CR 175 Ord Meet of Council 26/3/96 Min No 97 - ESD to review in June 1997. (Revoked 28 May 1996 and replaced). ESD Report No 96/25 to P & R 22/5/96. Adopted Ord Meeting 28/5/96 CR328 Min No179. To be reviewed June 1997
 Reviewed 15/12/98 SMT.
 Reviewed 1/10/02
