

Footpath Dining Policy

1.0 Purpose

This aim of this policy is to provide guidelines to facilitate the establishment of footpath dining in the Kiama Municipality.

2.0 Objectives

Objectives of this policy are;

- To encourage the establishment of footpath dining directly related to the operation of an adjoining food business;
- To ensure that footpath dining areas do not disrupt traffic and pedestrian flow or compromise safety;
- To ensure there are no adverse impacts on adjoining/nearby properties.

3.0 Land to which policy applies

This policy applies to all public road reserves in the Kiama Municipality under the care, control and management of Council.

4.0 References

- Roads Act 1993
- Kiama Local Environmental Plan 2011
- State Environmental Planning Policy – Exempt and Complying Development
- NSW Smoke Free Environment Act 2000
- Local Government Act 1993

5.0 Application procedure

- Application for consent under the Roads Act 1993*** – application needs to be made with Council detailing the number and location of proposed chairs, tables and any other furniture. The application form is to be accompanied by a detailed plan of the footpath area sought for use.
- Application fees*** – relevant fees are to be paid with the application in accordance with Council's Fees and Charges.

6.0 Specific requirements for footpath dining

- Minimum footpath pedestrian access width – footpath pedestrian zone***
Minimum 2 metres as measured from the front boundary of the shop premises except along Terralong Street (between Railway Parade and Collins Street) where it is 3 metres. The footpath pedestrian zone is for general pedestrian usage with footpath dining excluded.

In some cases the footpath pedestrian zone may be appropriately designated away from the shop frontage. In these cases footpath dining furniture can be located along the shopfront with Council's consent.

An 800mm exclusion zone exists from the kerb to allow pedestrian flow and access to/from vehicles parked on the street. Where the adjoining road is not available for the parking of vehicles a 500mm setback to the kerb is allowed.

A 1.5 metre exclusion zone must be maintained to all public infrastructure such as bins and benches.

ii. *Delineation of footpath dining area*

Consideration can be given to screens, barriers and the like in conjunction with footpath dining where it can be demonstrated that the fixture will assist with pedestrian access and safety at the location. Screens can be effective in separating dining areas from general footpath usage which benefits both user groups.

Screens need to be of a weight, design and stability that are safe.

iii. *Unsuitable locations*

Footpath dining may not be supported at public transport stops, near pedestrian crossings or where there is concentrated pedestrian traffic movement or vehicle traffic concerns.

Footpath dining directly in front of an adjoining shop will only be considered with the written consent of the shop owner. The adjoining owner can retract consent at any time.

Footpath dining can only be considered where the pavement grade or cross fall can safely support chairs and tables.

iv. *Furniture*

Furniture selection needs to consider the presentation of the footpath areas to the general public that positively contributes to the street environment with regard to style and colour.

All furniture is to be removed from the footpath after each trading day.

Furniture is adequate to withstand weather conditions and robust and safe for patron use. Umbrellas are vulnerable to wind and must be firmly anchored but need to be removed/closed in windy conditions.

Umbrellas cannot span outside designated approved footpath dining areas and need to keep a vertical clearance from the ground surface of 2 metres.

v. *Permit display*

A permit issued by Council with the footpath dining consent must be permanently displayed in a visible location near the front of the premises.

vi. *Advertising*

Advertising and signage in the footpath area in conjunction with footpath dining is not generally supported due to clutter and additional obstacles.

Signage attached to umbrellas or screens is reasonable and can refer to the establishment name or coffee brand.

Limited and low impact ancillary devices may be supported by Council such as supplementary menus or specials boards but these cannot interfere with patrons, their movement and safety, or be located in designated pedestrian or exclusion zones.

vii. *Waste disposal*

Street rubbish bins are not for the disposal of waste generated by cafes and restaurants. Approved footpath dining operators must have their own commercial waste collection agreements.

viii. *Smoke free areas*

Footpath dining areas are smoke-free in accordance with the Smoke Free Environment Act 2000. Signage and control of smoke-free footpath dining is the responsibility of the footpath dining consent holder.

ix. *Insurance*

The consent holder must indemnify Council in respect of any claim which may arise from use/occupation of the footpath area and hold harmless Council from and against all actions, sums of money, costs, claims, demands and other liabilities which may be sustained or suffered or recovered or made against Council by any person during the term of a consent to operate.

The public liability insurance extended to indemnify Council is \$20,000,000 or a greater sum if notified by its insurers.

x. *Liquor licence and alcohol free zones*

Council has established alcohol free zones under section 644 of the Local Government Act prohibiting alcohol consumption over designated public roads and footpaths in the Kiama Municipality. Any footpath dining operation intending to serve alcohol requires licensing from the NSW Liquor and Gaming Authority in the first instance.

xi. *Footpath dining occupation (rental) fees*

The rental fee payable to Council for the use of the footpath for outdoor dining is based on a per chair rate and payable fortnightly in advance. Council's Fees and Charges are reviewed annually.

xii. *Term of consent*

Consent for footpath dining will be granted up to three years period after which time a new consent will need to be obtained for continued use.

xiii. *Footpath dining on classified roads*

Where footpath dining is proposed on a footway where the road is a classified road, the concurrence of Roads and Maritime Services is required before Council can issue consent.

7.0 General

Footpath Dining Policy - adopted by Council on: 14 December 2004

Amendment No.1 adopted by Council on: 20 May 2008

Amendment No.2 adopted by Council on: 15 April 2014

Amendment No.3 adopted by Council on: 20 March 2019

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Document Manager - The Director of Corporate and Commercial Services is responsible for the review and update of this document