

ADOPTED BY COUNCIL: 27 JUNE 2022

PURPOSE

This policy has been developed to encourage the establishment of Outdoor Dining wherever feasible and appropriate throughout the Local Government Area. The policy aims to provide a consistent Local Government Area wide framework that ensures quality, aesthetically pleasing, safe and practical Outdoor Dining opportunities whilst addressing the communities concerns of maintaining access, regulating smoking and the consumption of alcohol within licensed/consent areas.

The provision of Outdoor Dining opportunities encourages thriving commercial, social and cultural places which increase the amenity of public spaces, improve safety by providing casual surveillance, assist business growth and enriches the city's image and lifestyle.

POLICY INTENT

In recent times especially, the importance and benefits of utilising outdoor spaces for commercial activities such as Outdoor Dining have been widespread and as such this policy aims to provide a clear and transparent framework and efficient pathway to encourage businesses to seek approval and utilise these outdoor spaces as efficiently as possible.

The main objectives of this policy are to:

- 1 Enable the reasonable use of Council road reserve (footway), as well as Council owned and managed (Crown) land, for Outdoor Dining associated with adjoining businesses.
- 2 Implement a clear, accessible, and transparent process to encourage businesses to apply for Outdoor Dining approvals.
- 3 Support economic activity for businesses throughout the Local Government Area.
- 4 Maximise the positive and safe use of public spaces by the community.

WOLLONGONG 2028 OBJECTIVES

This policy supports our Community Goals outlined in Wollongong 2028, with interconnected objectives being:

- We value and protect our environment
- We have an innovative and sustainable economy
- We have a creative, vibrant city
- We are a connected and engaged community

This Policy contributes to Goal 5 - "We value and protect our environment", in particular, the Core Business of Property Services, in particular "Manage Council's commercial property portfolio including purchase, sale and leasing" as well as "Manage the statutory requirements of Council's property portfolio for Community Lands and management of Crown Lands held under trust".

This also contributes to Goal 2 - “We have an innovative and sustainable economy” including contributing to the Major Project “Deliver increased city centre marketing and activation initiatives to support local and regional economic recovery in response to COVID-19”.

POLICY

Council’s position is to permit and promote Outdoor Dining, where appropriate, on Council footpaths and Council owned and managed land subject to the following requirements:

- 1 Compliance with the relevant planning legislation, for example the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Wollongong Local Environmental Plan 2009, Wollongong Development Control Plan, and any other relevant legislative considerations as amended from time to time.
- 2 Must be associated with a lawfully approved food and drink premises
- 3 Must have all required approvals under the Liquor Act 2007 to serve alcohol.
- 4 Must obtain and hold an Outdoor Dining approval and pay any associated fees.

When assessing Outdoor Dining Sites, Council should consider the following:

- 1 **Location/site suitability:** facilitating the appropriate use of footpaths and public places for outdoor dining activities.
- 2 **Safety/Accessibility:** maintaining an equitable and safe thoroughfare around outdoor dining areas for all users.
- 3 **Amenity:** Facilitating improvement to the local character, street vitality, attractiveness, and economic viability.
- 4 **Function:** ensuring the design of space, furniture, fixtures and day-to-day requirements of the outdoor dining space reflect the local area and quality required.
- 5 **Legal and Compliance:** ensuring that the management of outdoor dining activities avoids nuisance, endangerment or inconvenience to neighbours and the general public. Addressing public liability, managing risks and ensuring compliance with state legislation.

Additional considerations

- Separate approval is required to erect permanent structures in a public space, including awnings, umbrellas or shade structures that are not defined as temporary. Depending on the nature of these structures a development application process and/or separate approvals process may be required.
- The term of a permit will be a maximum of seven years from the date of approval on road reserve or five years on other public lands.
- The permit is not transferable, they are given to the operator of a premises, not a business or location
- Compliance is undertaken by Council where the business is conducting outdoor dining activities without a permit or not in accordance with a permit.

LEGISLATIVE REQUIREMENTS

The following instruments of legislation must be considered and are applicable to this policy (as amended from time to time):

- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- Local Government Act 1993
- Crown Lands Management Act 2016
- Roads Act 1993
- Environmental Planning and Assessment Act 1979
- Wollongong Local Environmental Plan 2009
- Wollongong Development Control Plan 2009
- Disability Discrimination Act 1992
- Liquor Act 2007
- Smoke Free Environment Act 2000

If any legislation changes occur that are contrary or inconsistent with this management policy, the updated legislation will prevail.

REVIEW

This Policy will be reviewed every two years from the date of each adoption of the policy, or more frequently as required.

ROLES AND RESPONSIBILITIES

Property & Recreation is the Division responsible for the implementation of actions under this policy, in particular the Property Services Team who are responsible for assessing applications and ultimately providing the relevant approval.

Community Cultural and Economic Development are responsible for supporting Property & Recreation in the application of this Policy by liaising with businesses and assisting with possible activation or support opportunities.

Regulation & Enforcement is responsible for any compliance action if required.

RELATED PROCEDURES

Outdoor Restaurant on Footways Located on Public Roads Management Policy

Guideline for Outdoor Restaurants on Public Roads

APPROVAL AND REVIEW	
Responsible Division	Property & Recreation
Date/s adopted	<i>Council</i> 27 June 2022
Date/s of previous adoptions	13 October 2014 14 October 2013
Date of next review	June 2024