



POLICY NO.	CPPH2
POLICY TITLE	Local Approvals Policy – Outdoor Dining and Mobile Food Vending
STATUS	Council
SERVICE	Public Health and Safety
DOCUMENT ID	205026

PURPOSE

The purpose of this Policy is to supplement the provisions of the *Local Government Act 1993* and the *Local Government (General) Regulation 2021* by:

- a. Specifying the circumstances in which a person would be exempt from the requirement to obtain a particular approval of Council, and
- b. Specifying the criteria which Council must take into consideration in determining whether to give or refuse an approval, and
- c. Specifying other matters relating to approvals.

SCOPE

The Policy applies to Council representatives, employees, and members of the public.

The Policy relates to all land within the Hunter's Hill Local Government Area.

DEFINITIONS

Council-owned land	Land that is owned by Council, or Crown land under the care, control and management of Council, and land that is being leased by Council.
Mobile Food Vending Vehicle	Any means of transport, whether self-propelled or not, or designed to be movable from place to place, and which is used for selling food whether on land, sea or air.
Outdoor Dining Area	The area associated with an approved food and drink premises located on land owned by the Council or under Council's care, control and management where Council has issued a permit for the purpose of outdoor dining.
Outdoor Dining Area Approval	The license/ permit given by Council to operate an Outdoor Dining Area under the <i>Local Government Act 1993</i> and <i>Roads Act 1993</i> .

POLICY STATEMENT

This Policy is called the Hunter’s Hill Local Approvals Policy – Outdoor Dining and Mobile Food Vending (“Policy”).

In the event of an inconsistency between this Policy and the *Local Government Act 1993* or associated Regulations, the *Local Government Act 1993* or Regulations shall prevail to the extent of the inconsistency.

The prior approval of Council is required to carry out certain activities under Section 68 of the *Local Government Act 1993*, including to use a standing vehicle or any article for the purpose of selling any article in a public place and to engage in trade or business on community land.

Part 1 - Exemptions

The following circumstances are specified as to when a person would be exempt from the necessity to obtain a particular approval of the council.

Activities	Exemptions
Use a standing vehicle or any article for the purpose of selling any article in a public place	Appendix 1 - Mobile Food Vending Vehicles – Section 1
Engage in trade or business	Appendix 2 - Outdoor Dining Areas – Section 1

Part 2 - Considerations

The following criteria will be taken into consideration in determining whether to give or refuse an approval of a particular kind.

Activities	Criteria
Use a standing vehicle or any article for the purpose of selling any article in a public place	Appendix 1 - Mobile Food Vending Vehicles – Section 2
Engage in trade or business	Appendix 2 - Outdoor Dining Areas – Section 2

Part 3 - Other matters relating to approvals

3.1 Application for other activities

Applications for all other activities (as described in Section 68 of the *Local Government Act 1993* that are not listed in this Policy are to be on the approved form available on Council’s website.

All applications will be assessed in accordance with Section 89 of the *Local Government Act 1993*.

3.2 Lodgement of an application

Applications for activities specified in this Policy must be made on the approved form that is available on Council’s website and be accompanied by all information required on the form. Any application that is unclear or illegible may be returned.

All relevant fees, charges and security deposits listed in Council’s Schedule of Fees and Charges must be paid at the time of lodgement or as specified in the Schedule of Fees and Charges.

3.3 Refund of fees

If an application is withdrawn by an applicant prior to determination, 50% of the application fees will be refunded. No refund will be provided once an application has been determined.

3.4 Variations to criteria

In determining an application, Council's Director – Town Planning or Director - Infrastructure & Environmental Sustainability may choose to vary any criteria referred to in this Policy on a case-by-case basis. Any variations must have regard to the merit of the individual circumstances, the purpose of the Policy and the legislation.

3.5 Determination

When an application is determined, a notice will be issued to the applicant advising whether the application has been refused, approved or approved with conditions.

3.6 Review of determination

A determination can be reviewed under Section 100 of the *Local Government Act 1993*. A request for a review must be made within 28 days after the date of the determination. A determination of a review may not be further reviewed.

3.7 Record of approvals

A record of all approvals is required to be kept in accordance with Section 113 of the *Local Government Act 1993*. The record of approvals may be viewed at Council's office.

3.8 Amendment of an approval

A person to whom an approval is granted or any other person entitled to act on an approval may apply to Council to amend the approval in accordance with Section 106 of the *Local Government Act 1993*.

3.9 Modification or revoking an approval

Council reserves the right to revoke any approval in accordance with Section 109 of the *Local Government Act 1993*. In particular, an approval may be revoked or modified in any of the following circumstances:

- a. If the approval was obtained by fraud, misrepresentation or concealment of facts, or
- b. For any cause arising after the granting of the approval which, had it arisen before the approval was granted, would have caused Council not to have granted the approval (or not to have granted it in the same terms), or
- c. For any failure to comply with a requirement made by or under the *Local Government Act 1993* relating to the subject of the approval, or
- d. For any failure to comply with a condition of the approval.

RELATED LEGISLATION

Companion Animals Act 1998
Disability Discrimination Act 1992
Environmental Planning and Assessment Act 1979
Food Act 2003
Local Government Act 1993
Protection of the Environment Operations Act 1997
Roads Act 1993
Smoke-free Environment Act 2000
Work Health and Safety Act 2011

POLICY AUTHORITY

Director – Town Planning

GETTING HELP

For interpretations, resolution of problems, and special situations please contact Council’s Health and Building Surveyor.

REVIEW

This policy is to be reviewed within the first 12 months of each term of Council or as required.

The next review date is: 2025

ADOPTED BY COUNCIL:

DATE: 24 July 2023
RESOLUTION NO: 140/23

VERSION CONTROL TABLE

DATE	VERSION	RES. NO.	KEY CHANGES	AUTHOR
08/07/2002	1.0	265/02	Adoption of Policy	S Kourepis
07/04/2014	1.1	96/14	Updates to Policy	W McGuirk
24/07/2023	1.2	140/23	Updates to Policy	J Davis

APPENDIX 1 – MOBILE FOOD VENDING VEHICLES

The purpose of the Mobile Food Vending Vehicle component of this Policy is to:

- a. Encourage Mobile Food Vending Vehicle business to operate in Hunter's Hill, whilst complying with the relevant legislation and Council policies.
- b. Ensure Mobile Food Vending Vehicles operate within approved off-street trading sites in public places.
- c. Ensure the Mobile Food Vending Vehicle complies with the NSW Food Authority's Guideline for Mobile Food Vending Vehicles and that all food sold is safe for human consumption.
- d. Provide guidance for people wishing to operate a Mobile Food Vending Vehicle within the LGA.
- e. Ensure safe operation of Mobile Food Vending Vehicles for staff, patrons and the public.
- f. Ensure the operation of Mobile Food Vending Vehicles do not negatively impact surrounding areas, sensitive land uses and all waste is disposed of appropriately.

1. Exempt Criteria

Exemptions under the Policy:

- a. The location and trading conditions specified in 2.4 do not apply to Council approved or operated events.

Note: If you are wishing to trade on land that is privately owned, please contact Council to discuss any specific requirements.

2. Assessment Criteria

In determining an application for a Mobile Food Vending Vehicle Approval, Council will consider the following criteria:

2.1 Types of mobile food vending vehicles

Category 1 - Food Vans

Menu Items – Food and drinks that do not require a kitchen or further preparation, the exception being the frothing of milk for coffee, the preparation of a milkshake or the serving of frozen dairy products. Food may be pre-packaged, or served directly from its package/ container and does not require re-heating (that is, potentially hazardous food that is already hot).

Examples of food types include tea, coffee, milkshakes, pre-packaged ice cream, soft serve ice cream, pre-heated and pre-packaged pies and sausage rolls, pre-made and pre-packaged sandwiches.

Category 2 – Food Trucks

There are no restrictions to the menu for an approved food truck. Potentially hazardous foods may be prepared, cooked and sold from the vehicle. The vehicle can be a mobile kitchen; however, the operator must have access to an approved fixed premises or commercial kitchen (for large scale food preparation and storage). Food types can include pasta, stir fries, sandwiches, burgers, fries, deserts, etc.

The Food Truck shall be no larger than 11 metres long or 2.5 metres wide.

2.2 Fitout

The fitout of a Mobile Food Vending Vehicle is required to comply with the NSW Food Authority's Guidelines for Mobile Food Vending Vehicles (July 2020).

2.3 Food safety inspection

- a. The operation of any Mobile Food Vending Vehicle is subject to a satisfactory food safety inspection under the *Food Act 2003* from their home jurisdiction. The inspection must have been conducted within the 12 months prior to the application being made.
- b. If a food safety inspection has not been undertaken within the 12 months prior to the application being made or if the home jurisdiction is Hunter's Hill Council, an appointment must be made with Council staff for an inspection.
- c. Random inspections of Mobile Food Vending Vehicles may be conducted by Council staff during trading times. Any fees associated with these inspections will be charged to the business in accordance with Council's Schedule of Fees and Charges.
- d. Failure to facilitate an inspection or pay the associated fees within the specified time will result in immediate revocation of any approval.

2.4 Location and trading conditions

Mobile Food Vending Vehicles will be permitted to trade subject to the following criteria:

Category 1 – Food Vans (on-street vending)

- a. Food Vans can operate on streets throughout the LGA, except for the prohibited roads and precincts listed in 2.5.
- b. Food Vans may operate between 7:00 am to 7:00 pm daily.
- c. Food Vans must be parked legally and can trade for no more than 60 minutes in any one location per 24-hour period.
- d. Food Vans may trade onto the footpath area adjoining where they are parked.
- e. Food Vans must not park on the actual footpath or across driveways.
- f. Food Vans are not permitted to trade within 200 metres of a fixed and permanent food outlet.

Category 2 – Food Trucks (on-street vending)

- a. The proprietor of a food truck must nominate a space within the LGA that they propose to trade and this will be considered on its merits (i.e. on a case-by-case basis).
- b. Food Trucks may operate between 7:00 am to 7:00 pm daily.
- c. Food Trucks may only park in designated spots that are identified with corresponding signage.
- d. Food Trucks may trade onto the footpath area adjoining where they are parked.
- e. Food Trucks must not park on the actual footpath or across driveways.
- f. Food Trucks are not permitted to trade within 200m of a fixed and permanent food outlet.

Category 2 – Food Trucks (off-street vending)

- a. Food Trucks may trade in the following areas, subject to approval, Boronia Park, Weil Park, Buffalo Creek Reserve, Clarkes Point Reserve, and Gladesville Reserve.

- b. Food Trucks may trade on other Council-owned land, subject to application and consideration by Council's Director – Town Planning on a case-by-case basis.
- c. Food Trucks can operate in the approved location for up to 6 hours within any 24-hour period.
- d. When entering and exiting a site, the operator of the Food Truck must ensure there is at least one person guiding outside of the vehicle, to ensure a safe passage by warning pedestrians that the vehicle is moving in addition to warning the driver of any dangers.
- e. Food Trucks must only park within the confines of the approved location.
- f. Items such as seating, waste bins, signage and menus can be placed outside of the Food Truck within a 5 metre radius.

2.5 Prohibited roads and precincts

Mobile Food Vending Vehicles cannot operate on Victoria Road, Gladesville Road, Pittwater Road, Ryde Road or Burns Bay Road.

3 Other matters relating to approvals

3.1 Application process

- a. Each Mobile Food Vending Vehicle is required to have a separate application and approval under Section 68 of the *Local Government Act 1993*.
- b. The application must be made by completing the Mobile Food Vending Vehicle application form that is available on Council's website.
- c. The application must be accompanied by a copy of the latest food safety inspection report from their home jurisdiction (if the home jurisdiction is not Hunters' Hill Council).
- d. An application for a Category 2 – Food Truck must be accompanied by a Management Plan that details the food handling processes, noise controls, waste, ventilation and odour, water (both potable for use and disposal of waste water), cleaning of the vehicle (inside and outside), and pest control.
- e. If approved, Council will issue a Mobile Food Vending Vehicle Approval. The approval will summarise who it has been issued to, the category type of the vehicle, registration of the vehicle, expiry date and any conditions.

3.2 Mobile Food Vending Vehicle Approval term

An approval will take effect from the date stated on the approval and shall remain current for a period of 12 months, or any other time as stated on the approval not greater than 12 months.

If an operator has ceased trading, or does not trade for a period longer than 6 months, Council reserves the right to revoke the approval.

3.3 Display of Mobile Food Vending Approval

A copy of the Mobile Food Vending Approval must be displayed in the vehicle and made available to Council staff upon request.

3.4 Transfer of Mobile Food Vending Vehicle Approval

- a. A Mobile Food Vending Vehicle Approval is not transferable.
- b. The new owner of a Mobile Food Vending Vehicle must lodge a new application with the associated paperwork specific to their business and pay the appropriate fee.
- c. Trade from the vehicle is prohibited until a new approval has been given.

3.5 Fees and charges

- a. An application for a Category 1 – Food Van must be accompanied by the fee in Council's Schedule of Fees and Charges.
- b. An application for a Category 2 – Food Truck must be accompanied by the fee in Council's Schedule of Fees and Charges.
- c. Any application for an amendment must be accompanied by the fee in Council's Schedule of Fees and Charges.
- d. The fees are payable to Council at the time the application is made. Applications not accompanied by the fee will not be processed and may be returned after five working days should payment not be made.

3.6 Parking

Mobile Food Vending Vehicles must comply with the Australian Road Rules and all parking restrictions. This includes not parking on a footpath or across driveways.

3.7 Deliveries

Deliveries are not permitted to be made to the Mobile Food Vending Vehicle whilst in position at a trading location. A Mobile Food Vending Vehicle must arrive at the trading location fully equipped to start service.

3.8 Smoking

In the event that a seated area is provided, the provisions of the *Smoke-free Environment Act 2000* are applicable. This means smoking is not permitted within 10 metres of the Mobile Food Vending Vehicle or within 4 metres of any seated dining area associated with vehicle.

APPENDIX 2 – OUTDOOR DINING AREAS

The purpose of the Outdoor Dining Areas component of this Policy is to:

- a. Encourage, develop and implement a consistent approach for Outdoor Dining Areas.
- b. Encourage Outdoor Dining Areas to be provided to existing and new premises that have development consent as a food and drink premises.
- c. Improve the vitality and atmosphere of areas within the LGA, particularly the small neighbourhood centres.
- d. Ensure Outdoor Dining Areas are safe, accessible and that appropriate safety barriers are installed.
- e. Ensure Outdoor Dining Areas do not negatively impact surrounding areas.

1. Exemptions

There are no exemptions under this Policy.

2. Assessment Criteria

In determining an application for an Outdoor Dining Area Approval, Council will consider the following criteria:

2.1 Layout

- a. The Outdoor Dining Area must be associated of an existing or new premise that has development consent as a food and drink premises.
- b. The Outdoor Dining Area should be level (slope of not more than 1:50), with an all-weather, non-slip surface that is suitable for tables, chairs and umbrellas.
- c. The Outdoor Dining Area should be located near the indoor part of the restaurant, so there is no conflict between waiting staff and pedestrians using the footpath.
- d. The location of tables, chairs and umbrellas should maintain an unobstructed clear width of at least 2 meters from the kerb to ensure the footpath can be used by pedestrians.
- e. The Outdoor Dining Area must be open, so that they add life on the street. Nuisances such as noise are not permitted to be dealt with by an enclosure or the like.
- f. The Outdoor Dining Area must not hinder the use of existing public transport facilities.
- g. The perimeter of the approved Outdoor Dining Area must be marked by perimeter markers (eg. tactile ground surface indicator or a similar material) approved by Council's Director - Infrastructure & Environmental Sustainability.
- h. Site layout examples for proposed Outdoor Dining Areas are located on the following page.

Diagram 1

Footpath cafe adjacent to the respective indoor premises

- alignment and minimum clearance for pedestrian traffic
- nominal dimensions for furniture layout with 2 chairs per table

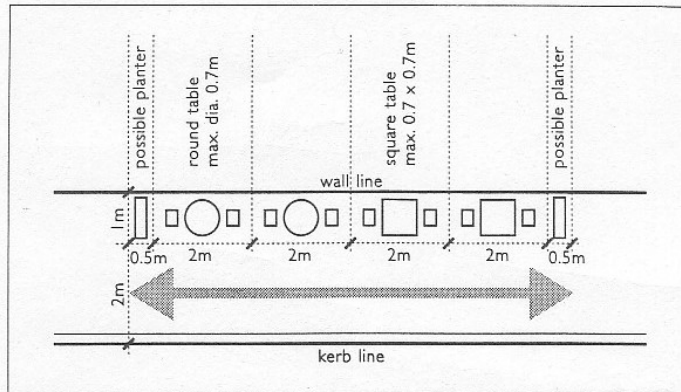


Diagram 2

Footpath cafe adjacent to the respective indoor premises (square table only) or freestanding (square or round table)

- alignment and minimum clearance for pedestrian traffic
- nominal dimensions for furniture layout with 3 chairs per table

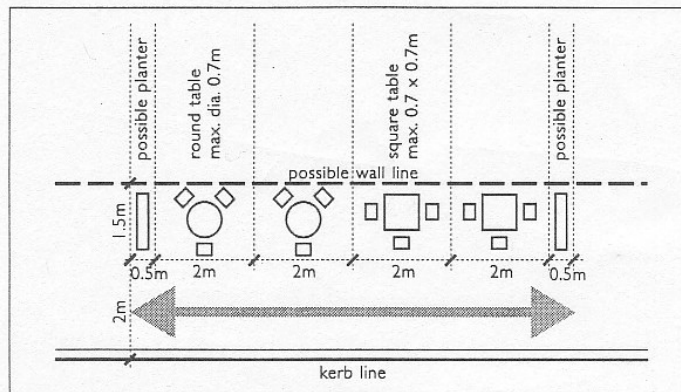
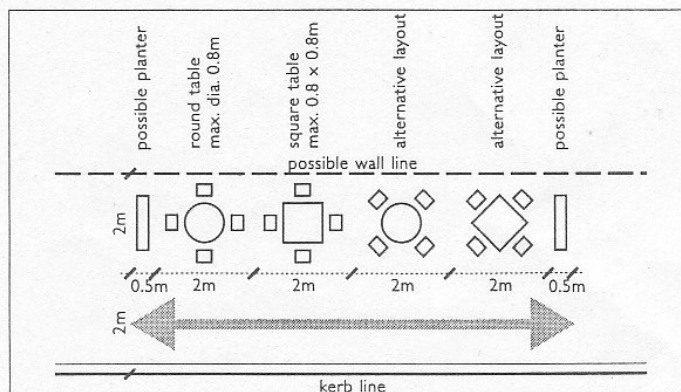


Diagram 3

Footpath cafe adjacent to the respective indoor premises or freestanding

- alignment and minimum clearance for pedestrian traffic
- nominal dimensions for furniture layout with 4 chairs per table



2.2 Design of Furniture

- a. The style of tables, chairs and umbrellas shall complement and not detract from the setting or give rise to conflicts with existing external colour schemes. Colours should be selected to fit in with the existing and adjoining colour schemes.
- b. Tables, chairs and umbrellas must not damage Council-owned land, or be fixed to the pavement, or cause a trip hazard to pedestrians. All furniture must be stowed away wholly within private property when not in use.
- c. The style, size and type of tables, chairs and umbrellas are subject to the approval of Council. In this regard, the items shall be of a high quality and acceptable design. The manufacturer's details and colour scheme, including drawings or photographs, shall be submitted with the Outdoor Dining Area application to ensure that visual qualities are maintained.

2.3 Amenity Considerations

- a. Litter bins must be provided as required by Council's Director - Infrastructure & Environmental Sustainability.
- b. The Outdoor Dining Area must be kept clean and tidy at all times. It is the Outdoor Dining Area Approval holder's responsibility to keep Council-owned land clean at all times.
- c. If the Outdoor Dining Area is located close to residential housing, it must not unreasonably impact on properties so as to create a nuisance and/ or offensive noise under the *Protection of the Environment Operations Act 1997*. Council may require an applicant to provide an acoustic assessment report prepared by a qualified acoustic consultant to confirm the proposed Outdoor Dining Area will not create a nuisance and/or offensive noise.
- d. All outdoor lighting must comply with Australian Standard AS 4282-2019 – The Control of the Obtrusive Effects of Outdoor Lighting. Council may require an applicant to provide a report prepared by a qualified engineer to confirm compliance with the standard where outdoor lighting is used.
- e. At no time shall any advertising signage, including an "A-frame" signage be permitted on Council-owned land.
- f. Any heating devices shall be of an approved type and shall be positioned 1 m of any pathway or access route. Details and specifications of proposed heating devices must be submitted with the Outdoor Dining Area application.
- g. The opening hours of the Outdoor Dining Area must be appropriate and not contravene any relevant development consent.
- h. Council may restrict the hours of use for the Outdoor Dining Area to be less than that of any relevant development consent.
- i. The food and drink premises, including the Outdoor Dining Area must be provided with the number of sanitary facilities required to comply with F4D4 of the Building Code of Australia.

2.4 Safety Considerations

- a. Ensuring each Outdoor Dining Area is safe for pedestrians and patrons is an important objective of this Policy. The level of risk must be reduced as far as practically possible.
- b. The Outdoor Dining Area must be protected by a tested impact barrier system. Existing features (eg. trees, poles, walls etc) that are determined by Council's Director - Infrastructure

& Environmental Sustainability to be of equal or greater vehicle stopping capacity may be used to protect an Outdoor Dining Area.

- c. The impact barrier system must be set back from the kerb in order to minimise the possibility of a snag or obstruction hazard to cyclists and allow people to exit vehicles.
- d. The impact barrier system must not unduly impede pedestrian use of the footpath.
- e. The area immediately behind the impact barrier system should be free of seating so that any impact by a vehicle will not endanger patrons.
- f. Outdoor dining furniture shall not impede any line of sight that would create any situation where driver or pedestrian vision is unreasonably restricted.
- g. Council's Director Infrastructure & Environmental Sustainability will assess each situation given the site features, history of the locality, potential vehicle speed and obstructions. All proposals will be assessed against these objectives and relevant Australian Standards on a case-by-case basis.

3 Other matters relating to approvals

3.1 Approval process

The use of Council's footpath as an Outdoor Dining Area requires two separate applications and approvals under different legislation.

Development consent is required under the *Environmental Planning and Assessment Act 1979* and an Outdoor Dining Area Approval is required under Section 68 of the *Local Government Act 1993* and Section 125 of the *Roads Act 1993*.

Development consent

Development consent is required under Section 4.2 of the *Environmental Planning and Assessment Act 1979* to operate a food and drink premises and an associated outdoor dining area. This Policy does not address the development application process. Please contact Council staff to discuss the development application process.

Outdoor Dining Area Approval

An Outdoor Dining Area Approval is required under Section 125 of the *Roads Act 1993* and Section 68 of the *Local Government Act 1993* to use the Council-owned land. This application process is outlined in 3.2 of this Policy.

3.2 Application process

- a. Each Outdoor Dining Area requires an application and approval under Section 68 of the *Local Government Act 1993* and Section 125 of the *Roads Act 1993*.
- b. The application must be made by completing the Outdoor Dining Area application form that is available on Council's website. Development consent must have been obtained before an Outdoor Dining Area application is made. It is the applicant's responsibility to obtain development consent prior to lodging an Outdoor Dining Area application.
- c. If a temporary liquor license boundary change is required on a footpath or road, Council will notify Liquor and Gaming NSW and NSW Police upon lodgment of the Outdoor Dining Area application.

NSW Police will conduct compliance checks on the venue and advise Council and Liquor and Gaming of the outcome. Liquor and Gaming NSW will conduct compliance checks on the venue and advise Council and NSW Police of the outcome.

Prior to the Outdoor Dining Area Approval being issued, Council will notify Liquor and Gaming NSW to finalise the temporary liquor license boundary change.

- d. The Outdoor Dining Area application is assessed by Council staff against this Policy and once the Outdoor Dining Area has received in-principle agreement, all required traffic impact barrier systems are required to be installed at the applicant's expense.
- e. If approved, Council will issue an Outdoor Dining Area Approval and install the perimeter markers. The approval will summarise who it has been issued to, approved hours of operation, layout of furniture, the expiry date and any conditions.

3.3 Trial period

The first twelve (12) months of the Outdoor Dining Area Approval are considered to be a trial period, after which the Outdoor Dining Area Approval may be revoked or amended if deemed necessary by Council's Director – Town Planning. The following criteria will be taken into consideration:

- a. if the operator repeatedly fails to comply with the conditions of Outdoor Dining Approval or development consent; or
- b. to account for any altered local environmental conditions.

3.4 Outdoor Dining Area Approval term

The Outdoor Dining Area Approval is valid for a period of five (5) years from the date of issue.

3.5 Display of Outdoor Dining Area Approval

A copy of the Outdoor Dining Area Approval must be displayed in the front window of the premises to which it relates at all times.

3.6 Transfer of an Outdoor Dining Area Approval

Development consent is issued to the property and "runs with the land" in the event the associated food and drink premises is sold or transferred. Further development consent is not required to be obtained if no modifications to the original consent are proposed by the new owners.

A current Outdoor Dining Area Approval can be transferred to the new owner of the associated food and drink premises if the business is sold or transferred.

The new business owner must notify the Council using the Outdoor Dining Area modification application form that is available on Council's website and pay the administration fee in Council's Schedule of Fees and Charges.

3.7 Fees and charges

- a. Any application for an Outdoor Dining Area application must be accompanied by the fee in Council's Schedule of Fees and Charges.
- b. The damage deposit in Council's Schedule of Fees and Charges is payable after the application has been assessed and in-principle agreement is provided by all parties, but prior to the Outdoor Dining Area Approval being approved.

The cost to repair any damage, as determined by Council's Director – Infrastructure & Environmental Sustainability to Council-owned land will be deducted from the damage deposit.

- c. The Outdoor Dining Area fee in Council's Schedule of Fees and Charges is payable every 12 months (in advance) after the Outdoor Dining Area Approval is issued.
- e. Any application for an amendment (including a request to change business owner's details) must be accompanied by the fee in Council's Schedule of Fees and Charges.
- f. Applications that are not accompanied by the fee will not be processed and may be returned after five working days if payment is not received.
- g. The cost of installing any required traffic impact barrier systems is required to be paid for by the applicant. Council acknowledges there is a community benefit to installing the traffic impact barrier systems and will waive payment of the first Outdoor Dining Area fee. The application fee is still payable.

3.8 Sale of liquor

An on-premises licence under the *Liquor Act 2007* is required to be obtained if alcohol is sold.

An on-premises licence for a restaurant only allows alcohol to be sold or supplied with or ancillary to the service of meals to the public.

A primary service authorisation can be obtained to allow alcohol to be sold without meals in a restaurant. This can be obtained as part of a licence application for a new restaurant or as an additional trading entitlement. Where a primary service authorisation allows alcohol to be sold without meals, meals must still be available at all times.

3.9 Animals

Animals, excluding assistance animals (as defined under the *Disability Discrimination Act 1992*), in Outdoor Dining Areas are subject to the provisions of the *Food Act 2003* and the *Companion Animal Act 1998*. This requirement relates to the responsibilities attached to food handling and it is the responsibility of the licensee to comply with the requirements of relevant legislation.

3.10 Smoking

The *Smoke-free Environment Act 2000* prohibits smoking in a seated dining area, within 4 metres of a seated dining area, on a licensed premise, restaurant or café, or within 10 metres of a food stall.

Agreements to lease Outdoor Dining Areas will contain smoke-free clauses. Appropriate non-smoking signage must be prominently displayed in Outdoor Dining Area. Outdoor Dining approval holders are responsible for enforcing the smoking restrictions and any non-compliance in the Outdoor Dining Area.

If there are continuous breaches, penalties may apply in accordance with Section 626(3) of the *Local Government Act 1993* and the Outdoor Dining Area Approval may not be renewed, or it may be revoked.

Note: The *Smoke-free Environment Act 2000* defines *smoke* to mean "use, consume, hold or otherwise have 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".

3.11 Public liability insurance

All businesses operating an Outdoor Dining Area must have current public liability insurance with a minimum coverage of \$20,000,000.