



## Placement of Outdoor Eating Areas on Public Footpaths

Application	Local Business and Council Staff
Responsible Officer	Building and Regulatory Services Manager
File No	CM:POL:CWP
Authorised by	Council
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### Purpose

The purpose of this policy is to provide local food premises (cafes, restaurants) in Carrathool Shire Council area with the opportunity to establish safe outdoor eating areas on the public footpath.

### Definitions

- Council:** Carrathool Shire Council
- Applicant:** means all persons named in the application form for a permit, all of whom will be bound by the conditions of the permit. All references to persons include a corporation.
- Outdoor dining:** means the use of the public footpath for the purpose of extending the services of premises whose main function is the provision of food and beverages to the public. These premises include cafes, restaurants, delicatessens and other food premises.
- Approval:** means approval for the placement of outdoor dining furniture on the footpath within Carrathool Shire Council.
- Road:** extends from the property boundary to property boundary and includes the carriageway, footpaths and verges owned or under care and control of Council.

### Reference

This policy complements other legislation and where it is silent on matters referred to in the following legislation such matters must be followed in accordance with the legislation.

- Roads Act 1993 section 125
- Environmental Planning & Assessment Act 1979
- Local Government Act 1993 section 68

### Policy statements

Development Consent application is to be made to Council, in accordance with the *Environmental Planning & Assessment Act 1979*, and complying with Council's Guidelines for Sidewalk Cafes and Furniture and Section 125 of the *Roads Act 1993*.

Any such approval is subject to an Agreement and payment of fees based on one fee per establishment and written indemnification against action or claims against Council included in public liability insurances.

### Objectives

- To provide a safe and pleasant outdoor atmosphere for patrons, residents and visitors.
- To add colour and ambience to a village or town.
- To provide external business facilities for restaurants and take-away food outlets.
- To provide for an equitable method of control by licence.

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### Part A - Guidelines Apply To

1. Premises which have received development approval for a restaurant or similar.
2. Take-away food outlets.

### Part B- Guidelines

1. The public concern must always be public safety and access so that no obstruction or danger is created for pedestrian or vehicular traffic flow.
2. The area to be occupied should be parallel in length to the shop front. Any extensions on to the neighbouring shopfront of the same premises must have the property owner's written permission.
3. At least 2.6 metre wide clear area being provided to enable pedestrian movement. A greater distance may be assessed based on the proposal and the circumstances of the footpath use, eg. existing constraints.
4. Where parallel parking is adjacent a setback of one metre is required for the passage of people with disabilities to alight from their vehicles. A road safety barrier system with a 1 metre setback from the kerb that complies with AS/NZS 3845, 1999, may be required by Council.
5. Any approval for meal consumption would require appropriate signage stating that the furniture is only to be used by customers who are to consume a meal prepared or sold by the establishment. The wording is to be approved by Council's delegated officer.
6. No moveable furniture is to be left on the licensed area outside the hours the establishment is open for business.
7. Street Furniture must meet the following objectives:
  - a) The type, style and colour of street furniture must be approved by Council's delegated officer and have a minimum five (5) year guarantee. The applicant must provide details of furniture showing its suitability for commercial use.
  - b) A range of umbrella colours will be permitted provided there is consistent grouping of the theme of the umbrellas in colour and advertising.
  - c) Discrete advertising related to the restaurant premises will be permitted on the umbrellas.
  - d) Street furniture must be kept in good serviceable order and repair.
8. Paving materials if provided by applicant are to be approved by Council's delegated officer.
9. Planter boxes may be approved subject to specifications required by Council's delegated officer.
10. Any furniture or barriers that are damaged or otherwise unserviceable must be replaced or repaired immediately or Council will take action to rectify the situation and recover costs from the owner of the establishment.

### Part C - Applications

1. Written application is to be made in the form of a development application and application fee. Details of the footpath layout plan including street furniture type style and colour is to be submitted with the application.
2. Where conditional approval is granted the following will be required:
  - a) the following will be payable:
    - (i) an annual fee per establishment;
    - (ii) a bond;
    - (iii) a licence preparation fee.



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- b) Evidence of current public liability insurance cover (min \$10 million) is to be provided which must indemnify Council and include footpath trading.
  - c) Any extension of an existing Liquor Licensing Authority trading licence to incorporate the footpath area is to be completed, where applicable.
3. The approval will be limited to a maximum 36 months and be renewable. Approval will commence from 1 July annually.
  4. The fees payable under 2(a) above are adopted by Council and published in Council's Adopted Fees and Charges in the Operational Plan.

### Revision Table

Minute /Date	Amendment Summary (Reason or Reference)
0453 / 15.02.2005	
0614 / 18.03.2014	Amended and Reformatted
1056/20.08.2019	Reviewed
0654/19.09.2023	Reviewed - Minor Wording Changes

### Associated Documents

- Application for Local Activity Form 76

### Review

This policy may be amended from time to time and will be reviewed within four years of its adoption (or latest amendment) with reference to any relevant legislation and best practice guides.