



Guidelines
for
Business Use of Public Footpath
Policy A5.09

Last Updated May 2009



ACKNOWLEDGEMENTS

In addition to information obtained from various Gosford City Council documents, technical information used in this specification has also been sourced from:

- City of Canada Bay Council "Business Use of the Public Footpath", adopted by Council 15 November 2005.
- City of Sydney "Outdoor Café Policy" adopted by Council 12 November 2001.
- Wyong Council "Outdoor Eating Areas" Policy
- Pittwater Council "Use of Public Areas", June 2000, last amended September 2002.
- Manly Council "Application for Outdoor Eating Area Approval"
- AS 1428:2001 "Design for Access and Mobility"

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1 INTRODUCTION

1.1 Objective

- To encourage establishment of appropriate outdoor dining areas throughout Gosford Local Government Area, which promote a safe, attractive and vibrant environment for local residents and visitors to the area.
- To permit limited business use of public footpath for street vending purposes, directly outside suitable businesses, throughout Gosford Local Government area, to help retailers with promotion of their businesses in an ever increasing competitive field.
- To minimise disruption to neighbouring businesses and surrounding environment by regulating and monitoring approved business activities on public footpath.
- To ensure suitable pedestrian thoroughfare zone is available along the footpath for all road users.
- To improve the amenity and character of Business Districts throughout the Gosford Local Government Area.

1.2 Purpose

This document clarifies Council's position with regards to dealing with applications for business use on public footpath. It provides clear guidelines for approving, or not, of activities such as; outdoor footway dining, street vending, commercial advertising, and placement of removable and fixed weather protection structures.

1.3 Background

Three previous Council Policies have been consolidated to create a new "Business Use of Public Footpath Policy". This document is the technical guidelines referred to in the new policy.

Council's previous Policies are listed below, and are now redundant:

- A5.04 Footway/Outdoor Dining Policy
- A5.07 Footpath Occupation (Goods) Policy
- D6.18 Awnings Constructed over Council's Footpath on Terrigal Business District

1.4 Legislative Provisions

Section 125 of the Roads Act, 1993 allows Council to conditionally approve use of public footway for restaurant purposes.

Part 6(d) in Schedule 10 "Exempt Development" of the Gosford Planning Scheme Ordinance permits the erection of parks and street furniture including seats, bins, picnic tables and minor shelters in the road reserve, which are constructed by or for the Council, without the necessity of a development consent.

Section 138 of the Roads Act 1993 prohibits a person from erecting a structure or carrying out a work in, on or over a public road, without consent from the appropriate roads authority. *Section 126 of the Roads Act, 1993*, allows Council to authorise the holder of an approval to erect and maintain a structure over any part of a footway.

Sections 137A, 139A, 139C, 139D and 139E of the Roads Act, 1993 relate to Street vending consents.

Sections 127 and 141 of the Roads Act 1993, provide that while an approval is in force for the use of public footpath for restaurant (or street vending) purposes, those activities do not constitute a public nuisance and does not give rise to an offence against the Roads Act or any other relevant legislation.



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Section 68 Part E of the Local Government Act 1993 allows Council to permit articles to be exposed, for sale or otherwise, on any part of the road or outside a shop window or doorway abutting the road.

2 LICENCE AGREEMENTS

2.1 Relevant Licence or Approval

All business uses of public footpath areas must be covered by an appropriate Licence Agreement.

There are three main licence agreements, and one non-licence approval for various activities associated with business use on public footpath in Gosford Local Government Area:

- i. Outdoor Dining on Public Footpath Licence
- ii. Street Vending on Public Footpath Licence
- iii. Approval to Place Removable structures on Public Footpath
- iv. Approval to Construct Fixed structures on Public Footpath

2.2 Public Liability Insurance

The licensee must indemnify Gosford City Council against all claims that may arise due to the presence on the footpath of outdoor furniture and facilities, or their installation and/or removal, or the conduct of the business of an outdoor dining area or street vending activity, and will be required to take out and maintain a public liability insurance policy in the sum of not less than \$20,000,000. If the Licence is approved, the policy will require endorsement noting Gosford City Council's respective rights and interests and indemnifying Gosford City Council for the licensed area. A copy of the revised public liability policy is to be attached to the Licence Agreement upon execution.

Each year, the licensee must forward a Certificate of Currency for their Public Liability to Gosford City Council's Property Services Unit, which shall be attached to the Licence Agreement.

2.3 Workers Compensation Insurance

WorkCover and Occupational Health and Safety Act, 2000 require that employers maintain a safe working environment for their employees and the general public. The Business owner must therefore supply a copy of their **Workers Compensation** insurance for the number of staff they employ.

2.3.1 Outdoor Dining on Public Footpath Licence

Applications for an "Outdoor Dining on Public Footpath" licence shall be lodged by the Business owner, or an authorised representative of the Business. The licence agreement, when signed by the Applicant, is between the Business owner and Council, and includes the provision for an annual rental fee based on the surface area used. An Application fee is also to be paid by the Applicant.

The licence term for outdoor dining is 3 years, during which time the licence agreement must be renewed. The Application fee and annual licence fee payable may change from year to year in accordance with Council's annually reviewed Schedule of Fees and Charges. Before commencement of the licence, the applicant is required to pay the first year's fees in advance, based on the fee rate at time of application.

Note that an "Outdoor Dining on Public Footpath" licence permits a Business owner to provide a suitable number of approved tables and chairs in the agreed area. Shade structures and pot plants require an additional licence and approval - refer to "Removable Structures on Public Footpath" and "Fixed Structures on Public Footpath" licences.

2.3.2 Street Vending on Public Footpath Licence

Applications for a "Street Vending on Public Footpath" licence shall be lodged by the Business owner, or an authorised representative of the Business. This licence allows a business owner to erect an approved display (stand/rack) in the footpath area directly outside their shop, and sell the approved goods within the agreed licensed area. Examples of this licence would include; Florists, green grocers and clothing



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shops. Unsuitable items placed within the footpath area would include, but not be limited to; whitegoods, boxes, crates, electrical and/or other large goods.

Note that this licence agreement is not to be confused with an approval by Council under its Policy for "Conduct of Street Stalls and Raffles on Public Property T5.02", which permits accredited organisations to operate street stalls and sell raffle tickets on public property up to five (5) times per year.

The "Street Vending on Public Footpath" licence agreement, when signed by the Applicant, is between the Business owner and Council, and includes provision for an annual rental fee based on the surface area used. An Application fee is also to be paid the by the Applicant.

The licence term for street vending is 3 years, during which time the licence agreement must be renewed. The Application fee and annual licence fee payable may change from year to year in accordance with Council's annually reviewed Schedule of Fees and Charges. Before commencement of the licence, the applicant is required to pay the first year's fees in advance, based on the fee rate at time of application.

2.3.3 Removable Structures on Public Footpath Licence

Applications for a "Removable Structures on Public Footpath" licence shall be lodged by the Business owner, or an authorised representative of the Business. This licence would include removable structures such as umbrellas, heaters and pot plants, which are removed from the footpath at close of business each day.

A "Removable Structures on Public Footpath" licence agreement, is between the Business owner and Council, and includes provision for an annual fee based on the number of removable structures used, in accordance with Council's Schedule of Fees and Charges. An Application fee is also to be paid the by the Applicant, in accordance with Council's Schedule of Fees and Charges.

The licence term for removable structures is 3 years, during which time the licence agreement must be renewed. The annual licence fee payable may change from year to year in accordance with Council's annually reviewed Schedule of Fees and Charges. Before commencement of the licence, the applicant is required to pay the first year's fees in advance, based on the fee rate at time of application.

"Removable Structures on Public Footpath" licences shall typically only be granted where there is already an existing outdoor dining or street vending licence over the subject site, and only with the same licensee. Such approval is dependent on a suitable area being available outside the subject business, in accordance with Section 4.24 of this document.

2.3.4 Fixed Structures on Public Footpath Approval

Applications to construct "Fixed Structures on Public Footpath" shall be lodged by the business owner, or an authorised representative of the Business. Such applications are assessed and approved under the Roads Act, 1993, and once approved do not require an ongoing licence agreement. A fixed structure application shall only be assessed where there is an existing outdoor dining or street vending licence over the subject site, and only with the same licensee. This approval would include fixed structures such as: umbrellas, awnings, pavilions, landscaping and planter boxes.

It should be noted that any proposed fixed structures that would attach to buildings on private property may require Development Consent under the Environmental Planning and Assessment Act, 1979 and the Gosford Council Planning Ordinance. Where a Development Application is required, then Development Consent must be granted prior to consideration and approval under the Roads Act, 1993. The Applicant is to check with Council's Environment and Planning Directorate, whether Development Consent is required.

The business owner who constructs and pays for a fixed weather protection structure shall not be required to pay a lease for the structure for the duration of their business operations.



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2.3.5 Temporary Business Use of Public Footpath Approval

Temporary business use of public footpath areas for one-off events, such as promotions, sample hand-outs, etc. may be approved by Council for a period up to 24 hours per application.

Such applications shall only be assessed after payment of the appropriate Application Fee, in accordance with Council's Scheduled Fees and Charges. The conditions of approval for temporary use of public footpath areas are the same as those for Outdoor Dining and/or Street Vending licences, in terms of location on the footpath and public safety.

3 APPROVAL PROCESS

3.1 Application Process for Licence

1. Complete appropriate Application form. An Application form is provided in APPENDIX B: Application form for Business Use of Public Footpath of this document, and/or is available from Council's One Stop Shop located on the Ground Floor of Council's Administration Building at 49 Mann Street, Gosford, or by telephoning Council's Property Services Unit on (02) 4325 8222;
2. Supply an accurately detailed map to scale (min 1:50) showing all relevant street and property boundaries of the existing business, including those property boundaries on either side of the dining area, and existing and planned fixtures (Section 4.4 of this document illustrates a typical plan);
3. Provide colour photograph or brochure showing proposed outdoor furniture;
4. Provide Certificate of Currency for Public Liability insurance in the sum of not less than \$20,000,000. If the Licence is approved, the policy will require endorsement noting Gosford City Council's respective rights and interests and indemnifying Gosford City Council for the licensed area. A copy of the revised Public Liability policy is to be attached to the Licence Agreement upon execution. On renewal of the policy each year, a copy is to be forwarded to Gosford City Council and attached to the Licence Agreement;
5. Pay required Application and Licence fee in accordance with Council's current Schedule of Fees and Charges (The fees will be refunded if the application is not approved).

Note: Businesses proposing to serve alcohol in outdoor dining areas require a separate additional licence under the Liquor Act, 1982.

When an application for business use on a public footpath is received, Council's Property Services Staff will initially inspect the area to ensure the proposed area is suitable for the proposed activity. Where Property Services staff cannot immediately approve a proposal, the application may be referred to Council's City Services Directorate for further assessment.

3.2 Termination of Licence Agreement

Council reserves the right to cancel the Licence, at any time, if the licensee fails to comply with any condition of the Licence Agreement or policy, or where Council's General Manager considers that an unacceptable public risk or inconvenience exists, or the area is required for any other purpose by Council. Notice of cancellation shall be given in writing to the licensee and will take effect immediately. The licensee will not be entitled to any damages or compensation with respect to loss of business, or rental payments in respect of the unexpired portion of the Licence Agreement.

Grounds for cancellation of the licence also include illegal consumption of alcohol in designated Alcohol Free Zones (AFZ's) during café or restaurant business hours. It is the responsibility of the licensee of the outdoor dining or street vending area to ensure patrons do not illegally consume alcohol within their designated footpath area.

4 GENERAL REQUIREMENTS

4.1 Street Character

Desired character statements for all areas throughout Gosford Local Government Area are indicated in Council's Development Control Plan (DCP) No. 159 "Character Statement" document. That DCP should be referred to when deciding on outdoor furniture style, colours, orientation and general appearance, however it should be noted that descriptions are quite general.

Some local Chambers of Commerce are working with Council to establish a range of suitable styles and colours for particular areas. It is therefore advisable to also contact the local Chamber of Commerce with regards to desirable appearance for the area. Where there is minimal guidance to desired street character, then, whenever possible, an outdoor dining area should visually relate to and be physically aligned with existing features and permanent elements of the streetscape or landscape, such as trees, pedestrian lights, bollards, heritage restoration of building facades, etc.

As specific requirements for certain areas or "Precincts" become agreed, they shall be progressively added to this document in APPENDIX A: Specific Precinct Requirements. These specific requirements shall typically be additional or more prescriptive requirements to supplement the "General Requirements" for business use of footpaths.

The Applicant should check this is Council's current version of the "Guidelines for Business Use of Public Footpaths", by either telephoning Council's Property Services Unit on 4325 8222 or by visiting Council's website at www.gosford.nsw.gov.au.

4.2 Hours of Operation

The hours of operation for the business use of the designated public footpath area shall be determined by Council as part of the licence agreement. The hours of operation for any business use of public footpath area must be the same, or less than the hours of operation of the associated business.

The hours of operation for the business use of public footpath areas may be limited if it is considered that the amenity of the surrounding area or the safety of pedestrians or footpath diners may be adversely affected.

4.3 Outdoor Furniture and Street Character (General Appearance)

The most important issues to be considered in locating outdoor dining and street vending areas are:

- Pedestrian and vehicular circulation;
- Convenience and safety of patrons and the general public;
- Existing streetscape elements, and;
- In residential areas, residential amenity.

The ground surface must be sufficiently level to support appropriate layout and safe use of the required furniture.

Outdoor furniture should make a positive contribution to the street environment, improving or fitting into existing structures and themes. Outdoor furniture includes; tables, chairs, weather protection structures, barriers, heaters, display racks/stands for street vendors, and pot plants.

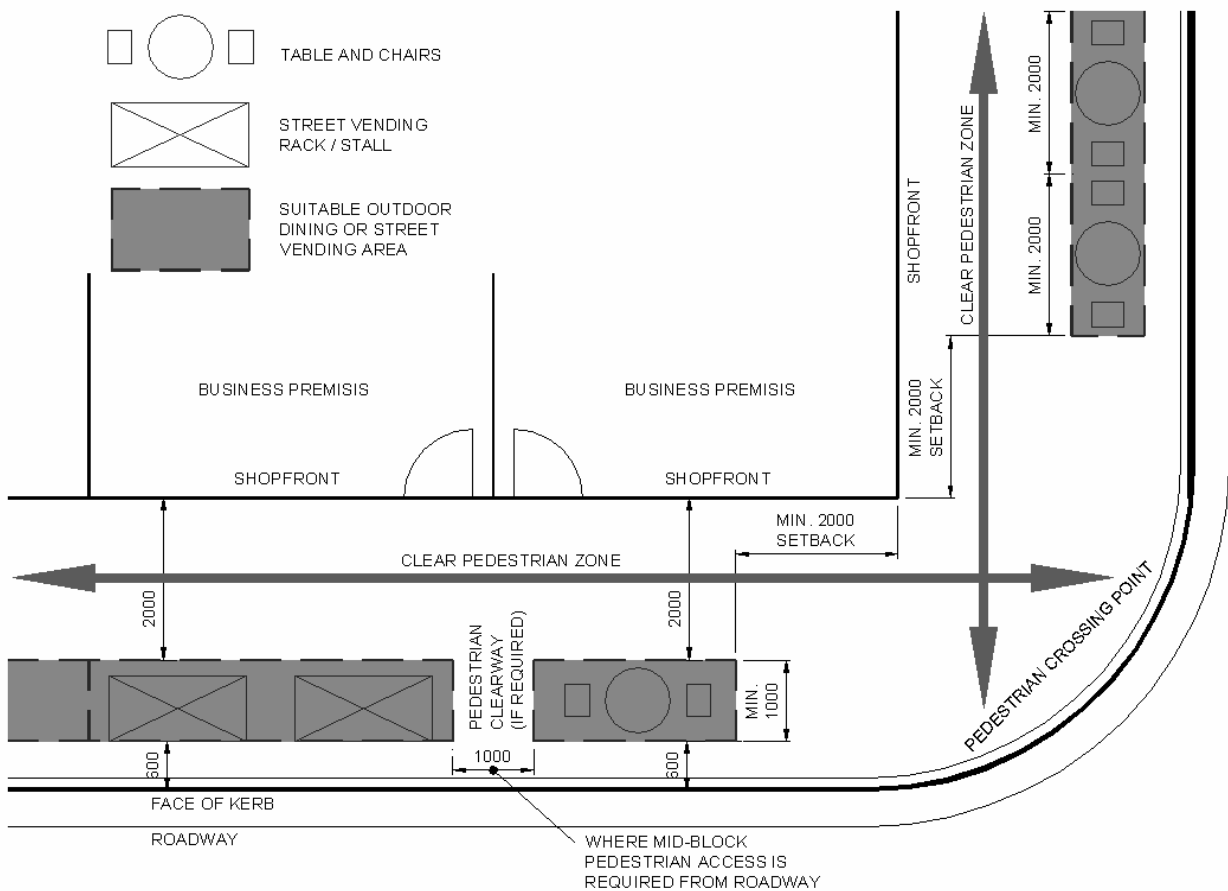
The furniture should be strong, durable, waterproof and weather resistant, designed for commercial outdoor use. The design must not contain parts that may cause damage to the pavement.

Public safety and comfort must also be considered. Particular care should be taken with any sharp edges and hinges or other moving parts to ensure that they do not present a potential hazard to their users. Any umbrellas must have mechanisms to ensure that they are at all times securely fixed to withstand wind and they must be removed or closed in extremely windy conditions.

Outdoor dining and other business use of public areas are typically not permitted in the following locations:

- Parks and open spaces;
- Beachfronts and where the proposed licensed area is dislocated from the business house;
- Areas where high to very high pedestrian use exists;
- Specific public places, such as bus stops, taxi ranks, loading zones, directly outside a fire escape or fire hydrant and taxi rank area;
- In potentially hazardous places such as the corners of street intersections or unprotected elevated locations.

4.4 Pedestrian Movements along Public Footway



Suitable Outdoor Dining and Street Vending Licence areas

The available depth of an outdoor dining area depends on the overall width of the footpath. The minimum depth for an outdoor dining or street vending area is 1 metre and Applicants are required to meet their obligations to provide suitable pedestrian access, as required under the Disability Discrimination Act 1993 and AS1428.2 "Design for Access and Mobility".

To ensure adequate pedestrian movement along public footpath, an appropriate clear pedestrian zone must be maintained at all times between the property line (shop frontage) and outdoor dining or street vending area.

Clear Pedestrian Zones

In **Central Business District (CBD)** areas, Council has adopted a pedestrian zone width of **2.0 metres**. This pedestrian zones width may be reduced to minimum 1.8 metres, where the Applicant suitably demonstrates the width reduction is appropriate. Each application is assessed on its individual merit. (Council has adopted a minimum pedestrian zone width of **1.8 metres** based on AS1428.2, which indicates that 1.8 metres clear width is required for two wheelchairs to pass comfortably.).

In **low pedestrian non-CBD areas**, Council has adopted a pedestrian zone width of **2.0 metres**. This pedestrian zones width may be reduced to minimum 1.5 metres, where the Applicant suitably demonstrates the width reduction is appropriate. Each application is assessed on its individual merit. (Council has adopted a minimum pedestrian zone width of **1.5 metres** based on AS1428.2, which indicates that 1.5 metres clear width is required for a wheelchair and a pram to pass).

Proposed pedestrian zone width's **less than 2.0 metres** require concurrence from:

- A representative of Council's Property Services Section
- Council's Disability Services Officer
- Chairman of Council's Disability Access Committee
- A representative of Council's Transport Services Section
- A member of the Chamber of Commerce for the relevant area

Any Application to reduce the clear footpath zone width to less than 1.5 metres will not be approved.

The footpath area designated for Business use shall also be setback minimum **0.6 metres** from the kerb face of the road (see 'Barriers' requirements).

Priority of Pedestrian Movements

Business use of public footpath area must not in any way reduce the safe egress of people from the business premises.

To minimise the likelihood of collision between café staff and passing pedestrians, it shall be the responsibility of business operators to inform and train their staff to give priority to passing pedestrians, when traversing between the licensed footpath area and the shop.

Pedestrian Malls

Where a section of road has been converted to **pedestrian mall**, a suitable pedestrian zone, usually **2 metres** wide, must be provided along a shop front. Generally, an outdoor dining or street vending area may extend to the centre of the road reserve area. However, Council may insist on a clear access area for emergency vehicles, depending on the length of a particular mall, and accessibility conditions at each end. Each pedestrian mall shall be assessed on its own merits.

4.5 Length of Outdoor Dining or Street Vending Area on Public Footpath

The maximum length of an outdoor dining or street vending area on public footpath is restricted to the length of the shop frontage.

However, where Council determines pedestrian access is required **mid-block** between the roadway and clear pedestrian zone, the length of the outdoor dining or street vending area shall be shortened by **0.5 metres** at one or both ends of the licence area.

The length of approved use of public footpath may be reduced further to ensure road user safety, in situations where the proposed business activity would be adjacent to a road intersection, a bus stop, a pedestrian crossing, etc. At **street intersections**, a setback of at least **2 metres** from the projected building corner applies.

Council will not consider Applications for business use of public footpaths outside neighbouring properties. Vacant footpath areas outside neighbouring business that do not usually utilise footpath area



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for commercial purposes, such as Banking Institutions, newsagents, etc. shall remain available to the general public.

4.6 Provision for Disabled

Access along public footpath and into outdoor dining and street vending areas must be in accordance with AS1428 "Design for Access and Mobility", which accommodates people with disabilities.

Business use of the public footpath will not be permitted immediately adjacent to a disabled parking space.

4.7 Tables and Chairs

Tables and chairs should be made from high quality, strong and durable materials that enhance the character of the street, and be of a style and colour consistent with Council's adopted Character Statement (DCP No.159) for the particular area.

Tables and chairs made from aluminium shall have a powder coated (non-reflective) finish.

Tables and chairs made from plastic, resin and other lightweight materials will not be permitted.

Tables and chairs must be stackable, foldable or easily dismantled so they can be removed and securely stored in the shop when the business is closed.

The footpath is not to be used for storage of tables and chairs, or any other items associated with the business.

The approved location of any tables and chairs must be clearly indicated on the Display Notice, which must be attached to the shop front window.

4.8 Display Racks and Stands

Display racks and stands must be suitably weighted down to prevent overturning by customers or the wind, and must not be on wheels without secure locking mechanisms.

The approved location of any display racks and stands must be clearly indicated on the Display Notice, which must be attached to the shop front window.

4.9 Weather Protection Structures (Fixed and Removable)

All weather protection structures (including gutters) shall be located minimum 600 mm from the kerb of the footpath over which it is to be erected, and shall not extend outside of the agreed leased area. Where a proposed weather protection structures would significantly obstruct sight distance for pedestrians or motorists, then it shall not be approved. Clear sight lines allow pedestrians to view on-coming traffic and motorists to observe pedestrian movements.

Materials used in all weather protection structures shall be non-combustible.

Commercial advertising is not permitted on weather protection structures, other than the business name.

Fixed Structures

Unobstructed vertical clearance for fixed weather protection structures shall be minimum 2.4 metres above footpath level, unless an increased height is required by Council's City Services Directorate for proposed road works. Fixed umbrellas and other fixed weather protection structures and their supports shall be constructed in accordance with a design **certified by a practicing consulting structural engineer**. Council Approved Contractors shall carry out construction of approved fixed structures at the Applicants full cost. Work shall be supervised by Council and completed to Council's satisfaction.



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Rainwater from fixed weather protection structures shall be directed to the road drainage system or existing roadside garden, to the satisfaction of Council. Rainwater is not to be drained onto the footpath (clear pedestrian zone).

Removable Structures

Unobstructed vertical clearance for removable weather protection structures shall be minimum **2.2 metres** above footpath level. Removable umbrellas and other removable weather protection structures shall be of lightweight construction, and easily and quickly secured, folded or removed during times of extreme high wind conditions.

Removable umbrella canopies may slightly extend horizontally outside licensed outdoor dining or street vending area on the footpath side, providing there is minimum **2.2 metres** clear height from the ground to the underside of the canopy, and the structure does not cause an obstruction or hindrance to any road users, neighbours or other members of the public.

The approved location of any removable umbrellas must be clearly indicated on the Display Notice, which must be attached to the shop front window.

4.10 Ownership of Fixed Weather Protection Structures

Fixed weather protection structures shall remain the property of the Licensee, and the Licensee is responsible to satisfactorily remove the structure upon permanently ceasing trading.

A security bond / bank guarantee would be applicable prior to Council granting approval to construct a fixed weather protection structure over a licensed footpath area. The bond would be fully refundable providing the licensee satisfactorily removes the fixed structure and restores the footpath area immediately after they permanently cease business activities. Should a licensee fail to satisfactorily remove the fixed structure and restore the footpath, then Council would use the bond to undertake the work and recover costs.

The business operator is responsible for supply and maintenance of any approved drop down weather protection screens.

Council will not financially compensate a business operator who initiates and pays for installation of a fixed weather protection structure.

4.11 Barriers (Fixed and Removable)

Fixed Barriers

Council may approve suitably spaced bollards or physical barriers installed **0.6 metres** behind the kerb face. Bollards and concrete footings shall be installed in accordance with manufacturer's specifications and recommendations, and to Council's approval. Where approved by Council, the licensee is responsible for supply, installation and maintenance of bollards, at no cost to Council.

In some locations, Council may approve planter boxes (small trees or greenery in containers on the ground) to physically define the kerb side perimeters of an outdoor dining area. Planter boxes may be terracotta, concrete or reconstituted stone in natural, sandstone or terracotta colour, or powder coated, brushed stainless steel or timber. It should be noted, however, that planter boxes are generally not approved unless the Applicant can demonstrate that the proposed position of planter box will not potentially create a trip hazard for visually impaired pedestrians, during times when the business is open and closed.

Removable Barriers

Low-height framed fabric barriers (maximum 0.9 metres height) may be installed between adjoining businesses, subject to Council approval.



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Removable barriers must be removed from the footpath area outside trading hours.

Commercial advertising is not permitted on barriers.

The approved location of any barriers must be clearly indicated on the Display Notice, which must be attached to the shop front window.

4.12 Safety Issues (During Construction of Fixed Structures)

The applicant must arrange safe and convenient passage for vehicles and pedestrians during construction. Where necessary, temporary access to properties may be constructed at full cost to the applicant, however prior approval is required from Council. Temporary accesses are to be restored to the previous condition immediately following construction, also at the applicant's full cost.

Adequate fire safety measures are to be available on site, and shall be certified prior to operation.

Suitable construction containment fences must be erected around the construction zone and removed immediately following construction.

4.13 Health Requirements

Food must not be offered for sale or displayed within the designated footpath area.

Paper, foam or plastic plates, cups and cutlery must not be used for outdoor footpath eating areas.

An appropriate level of footpath service must be provided. Service includes; removal of dirty plates, cups, and cutlery. The area and its surrounds must be maintained in a clean, tidy and hygienic state.

4.14 Heating

Where heating devices are proposed, then the heater specifications and proposed location details are to be included with the appropriate Application to use the public footway for business use. Outdoor heaters must comply with relevant Australian Standards, and must switch off automatically if overturned to prevent injury to patrons and property.

The approved location of any heaters must be clearly indicated on the Display Notice, which must be attached to the shop front window.

4.15 Street Vending

Only approved stock shall be permitted to be displayed within the licensed area on the public footpath.

Examples of permitted street vending business would include, but not be limited to; Florists, green grocers and clothing shops. Unsuitable street vending activities would include, but not be limited to; selling of whitegoods, electrical items and/or other large goods.

Approved stock must be clean and presentable, and be positioned in such a way that the stock and/or shoppers inspecting the stock, do not obstruct pedestrian movements along the clear pedestrian zone.

4.16 Lighting

Businesses that operate outside daylight hours must provide adequate lighting over the footpath dining area, to the Council's satisfaction, to ensure the safety of patrons and the general public. Provision of adequate lighting must be included in the appropriate application to use public footpath for business use. The level of lighting must meet the requirements of relevant Australian Standards.

Connection to suitable electrical supply shall be made by a Council approved licensed electrician at the Applicants full cost.



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4.17 Noise

The Protection of the Environment Act 1997 governs the acceptable level of noise being emitted by the business use of the public footpath. The licensee is required to monitor and control the level of noise.

Amplified music is permitted in business use of public footpath areas, providing it is recorded music and played at not more than 5db(A) above background noise level, and the Business owner is not breaching Copyright laws by publicly playing the music.

4.18 Public Assets

Removal or relocation of any Council asset, such as rubbish bins, existing street furniture and planter boxes, is subject to Council approval and shall be at the applicant's full cost.

Public litterbins located within licensed footpath areas are not to be made unavailable to passing pedestrians.

Removal or relocation of any public utility or infrastructure, such as traffic control boxes, water and sewer mains, telephone boxes, gas mains, is subject to approval by the relevant Authority and is at the applicant's cost.

4.19 Road Works

Where a business owner wishes to undertake streetscape works to accommodate an outdoor dining area, then they are required to prepare and submit to Council for approval, engineering plans certified by a practicing consulting engineer. Such works may include footpath widening, paving, street tree planting, pedestrian lighting, etc. Upon approval of the plans, construction shall be undertaken by Council approved contractors, under Council's supervision, and at the applicants full cost.

4.20 Smoking

In the interests of providing a smoke-free environment, Council discourages smoking in all public places and Council controlled land, as a result smoking is **not** permitted in any Council controlled footway dining licence area.

4.21 Serving of Alcohol (and Alcohol Free Zones)

Serving of alcohol is prohibited in all areas under the *Liquor Act 1982*, unless the business owner holds an appropriate Liquor Licence, and obtains approval from Council to serve alcohol on the footpath area.

BYO alcohol arrangements (which do not require a Liquor Licence) for outdoor dining areas must also be approved by Council, and are subject to strict conditions listed below.

Application Process

Council may permit, upon separate application and payment of relevant fees, conditional serving and consumption of alcohol within designated outdoor dining areas, including outdoor dining areas located within Alcohol Free Zones (AFZ's). Approval shall only be granted after Council's Property Services and Engineering Services sections have assessed appropriateness of the application.

Council has the right to refuse any application to serve alcohol on public footpath, where deemed inappropriate. In such situations, the applicant shall be refunded their Application fee.

If permission is granted by Council to allow serving and consumption of alcohol within outdoor dining areas on the footpath, then the following conditions would be applicable for both Liquor Licensed and Non-Liquor Licensed (BYO) arrangements:



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Liquor Licensed Premise

- The business operator must hold a current Outdoor Dining Licence agreement with Council, that allows them to use a designated area of public footpath for outdoor dining purposes;
- The same business operator must also hold a current and appropriate Liquor Licence, in accordance with the Liquor Act 1982;
- It is the responsibility of the holder of the Outdoor Dining Licence agreement to obtain the appropriate Liquor Licence.
- Upon approval, the licensee of the café or restaurant must include their Liquor Licence details and trading hours on their Display Notice, which shall be placed on the shops front window;
- Consumption of alcohol within the outdoor dining area is only permitted during trading hours of the café or restaurant. The designated outdoor dining area reverts to an AFZ during non-trading hours;
- Alcohol is only permitted to be sold and consumed with a meal;
- Table service of alcohol is mandatory under the Liquor Act 1982, and staff serving alcohol are required to hold a *Responsible Service of Alcohol (RSA) Certificate*, or equivalent;
- The licensed area must be clearly delineated in accordance with the *Liquor Act 1982*;
- It is the responsibility of the licensee of the Outdoor Dining area to ensure that illegal consumption of alcohol does not occur within the outdoor dining area during their approved trading hours. Should the licensee fail with that responsibility, then Council may take action such as cancelling the Outdoor Dining Licence.

Non-Liquor Licensed "Bring Your Own" (BYO) Alcohol Premise

- The business operator must hold a current Outdoor Dining Licence agreement with Council, that allows them to use a designated area of public footpath for outdoor dining purposes;
- Only the Licensee of the Outdoor Dining area may apply for Council approval to trade with BYO alcohol arrangements;
- Upon approval, the licensee of the café or restaurant must include their selling of alcohol details and trading hours on their Display Notice, which shall be placed on the shops front window;
- Table service of alcohol is mandatory, and it is Licensees responsibility to ensure *Responsible Service of Alcohol* principles are maintained;
- Consumption of alcohol within the outdoor dining area is only permitted during trading hours of the café or restaurant. The designated outdoor dining area reverts to an AFZ during non-trading hours;
- Alcohol is only permitted to be consumed with a meal;
- The Outdoor Dining area must be clearly delineated;
- It is the responsibility of the licensee of the Outdoor Dining area to ensure that illegal consumption of alcohol does not occur within the outdoor dining area during their approved trading hours. Should the licensee fail with that responsibility, then Council may take action such as cancelling the Outdoor Dining Licence.

Further information may be obtained from the Liquor Administration Board <http://www.olgr.nsw.gov.au>



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4.22 Marking of Pavement

Council's current practice is to delineate the boundaries of outdoor dining and street vending areas in paint. In some cases, corner marks such as metal studs or stone inserts installed flush with the paved surface may suffice, however it is preferable to clearly mark along the boundary with paint or different coloured pavers.

Pavement markings must remain in place throughout the duration of the licence approval, and outdoor furniture must be kept within the boundaries of the approved area.

Costs associated with pavement marking

The full cost of marking the pavement and ongoing maintenance of the markings is the responsibility of the Licensee. The Licensee may either mark the pavement themselves, in accordance with Council's standards, or engage a contractor to undertake the work. Poor quality markings and/or poor workmanship shall not be tolerated by Council, and in such cases, the Licensee will be ordered to remove and replace the markings to Council's satisfaction, at their full cost. Non-compliance to the order would result in cancellation of the licence agreement for business use of the public footpath.

4.23 Toilet facilities

Toilet facilities are required to be available in the building occupied by an outdoor café or restaurant where alcohol is served, or if total seating provided (indoors and out doors) exceeds 19 seats.

Inclusion of outdoor seating increases the number of seats to a café, and such an increase may require the provision of toilet facilities. Toilet facilities are to be made available to patrons in accordance with the requirements of Part F2 of the Building Code of Australia.

4.24 Advertising and Signage

Advertising on Removable Umbrellas

Signage is permitted on removable umbrellas. One (1) sign is permitted per umbrella and signage must relate to the business. The Business owner may elect to include the business name, an associated corporate name, or a product name. Signage on each umbrella must be consistent with any other umbrellas in the licensed area.

Advertising on Fixed Weather Protection Structures

Commercial advertising is not permitted on fixed weather protection structures, other than the business name.

4.25 Environmental Issues

The Applicant is required to provide adequate information demonstrating that the proposed business use of the public footpath would not adversely impact the environment.

Filling out the appropriate Application Form will usually satisfy environmental requirements. However, where either Council or the Applicant anticipates adverse environmental impacts, the Applicant must then provide additional information to support their application. A "Review of Environmental Effects" (REF) should be prepared in accordance with Council's "Part 5 (EP&A Act, 1979) Assessment Manual".

4.26 Maintenance and Cleaning

The licensee is responsible to keep all outdoor furniture clean and in good condition.

The public footpath is to be kept clean and tidy at all times by the licensee. The licensee is responsible for appropriate disposal of litter and spillages associated with their business activities, and for sweeping and cleaning of their section of footpath area. The licensee is responsible to dispose of waste daily, and is not permitted to use public rubbish bins.



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Public litterbins located within licensed footpath areas are not to be made unavailable to passing pedestrians.

Maintenance and costs associated with fixed structures shall be the responsibility of whoever initiates construction of the Council approved structure. Cleaning and maintenance shall be to Council's satisfaction. If Council is not satisfied with the condition of the weather protection structure, then the Business operator will be ordered to rectify the situation within 14 days. If that Order is not complied with, then the Council may arrange for the required maintenance work to be carried out, and will seek costs for the works and administration from the Business owner.

The business operator must ensure that no litter, detergents or cleaning agents are washed down the stormwater system.

4.27 Disclaimer

Council accepts no responsibility or liability for any interruption to business caused by the need for Council or any other authority to carry out any type of maintenance works on the licensed footway area or any other interruption to business howsoever caused.

Council may agree to a rental rebate if such interruption results from maintenance works carried out by Council and renders at least 30% of the outdoor dining area unusable. Such rebate will be considered on an individual case basis upon written application to Council's General Manager. A rebate will only be considered where the interruption is equal to or more than one week (7 days).

4.28 Security Issues

Security in public areas is generally a Police issue.

However, in some CBD areas, contract security may be provided by Council. The costs associated with engaging contract security are factored into the annually reviewed Schedule of Fees and Charges for the particular area.

Businesses operators may also make private arrangements with security companies should they elect to increase the presence of security guards near their businesses.

4.29 Enforcement and Compliance

Any activity within the licence area must not constitute a public nuisance and must not give rise to an offence against the Roads Act, 1993 or any other Act.

A Council Ranger will inspect the premises from time to time in order to ensure the conditions of the Licence Agreement are being complied with.

4.30 Display Notice

A "Display Notice" shall be supplied by Council upon approval of the licence agreement.

The Display Notice must be permanently displayed on the inside of the front window of the subject business, in a location suitable for Council's Compliance Officers to view from the footpath.

Below is a typical A4 size template for a Display Notice:



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Approval to use Public Footpath for Business Use

This "**Display Notice**" must be permanently displayed on the inside of the front window of the subject business, in a location suitable for Council's Compliance Officers to view from the footpath. Failure to display this "Display Notice" may result in termination of the Licence Agreement to use the public footpath for business activities.

| | |
|--|---|
| Licence Agreement with Council (circle): | Outdoor Dining / Street Vending / Removable Structure |
| Licence Valid to (date): | |
| Business Name: | |
| Licensee Name: | |
| Approved by Council to Serve Alcohol? (Circle) | Yes / No |
| Provide Liquor Licence Details, or BYO | |

Sketch Plan of Approved Area and Outdoor Furniture Arrangements

| | |
|--|--|
| Approved Business Use of Footpath Area (m ²): | |
| * Approved of tables and chairs (No.): | |
| * Approved Removable Umbrella's (No.): | |
| * Approved Removable Barriers (No.): | |
| * Approved Fixed Structure (Provide Description/Dimensions): | |

*** Items to be shown in Sketch Plan above.**

Should there be any queries or problems associated with the Business Use of Public Footpath at this location, please telephone Gosford City Council on 4325 8222.

APPENDIX A: Specific Precinct Requirements

Terrigal CBD

All requirements are per the "General Requirements" section of this document, except for the following:

| Specific Requirement for Precinct | |
|--|---|
| Desired Streetscape Appearance | Relevant DCP: No.159 Colour scheme: Terrigal Chamber of Commerce have requested Navy Blue, Light Blue and Cream colour scheme. |
| Chairs and Tables | Style: As per General Requirements, until further information becomes available Colour: As per General Requirements, until further information becomes available |
| Removable Weather Protection Structures | Style: Must be similar to fixed weather protection structures Colours: Blue, Light Blue and Cream shades Minimum height: 2.2m |
| Fixed Weather Protection Structures | Style: As per General Requirements, until further information becomes available Colours: Blue, Light Blue and Cream shades Minimum height: 2.4m Maximum height: As per General Requirements, until further information becomes available Security Bond: As per Council's Schedule of Fees and Charges |
| Security Arrangements | Contract security/cleaners are provided by Council in Terrigal CBD |



Artists Impression of Terrigal Esplanade



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APPENDIX B: Application form for Business Use of Public Footpath

PLEASE PRINT IN INK

| <p>Business Details:</p> <p>Business Name: _____ ABN: _____</p> <p>Business Type: _____</p> <p>Location:</p> <p>No.: _____ Lot: _____ DP: _____ Street: _____</p> <p>Suburb: _____ State: _____ Postcode: _____</p> <p>Hours of Operation: _____</p> <p>Is it Proposed to Serve Alcohol? YES / NO (circle) - If yes, an additional fee must be paid for Council to assess suitability.</p> <p>Liquor Licence or BYO Alcohol arrangements? (Provide details)</p> <p>_____</p> | <p>D.A. No: (If applicable): _____</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|-----------------|------------|-----------------|-----------|-----------------------|--|------------|------------|-----------------------|--|------------|------------|-----------------------|--|------------|------------|-----------------------|----------------------|------------|------------|-----------------------|--|------------|------------|-----------------|--|--|-------|
| <p>Application For: (Tick where applicable)</p> <p><input type="checkbox"/> Outdoor Dining Licence _____ m²</p> <p><input type="checkbox"/> Street Vending Licence _____ m²</p> <p><input type="checkbox"/> Approval for Removable Structure/s _____ No.</p> <p><input type="checkbox"/> Approval to construct Fixed Structure _____ No.</p> <p><input type="checkbox"/> Temporary (24-hour) Approval to occupy footpath for business activities _____ No.</p> | <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 30%;">Rate</th> <th style="text-align: left; width: 30%;">Fee</th> <th style="text-align: left; width: 20%;">Application Fee</th> <th style="text-align: left; width: 20%;">Sub-Total</th> </tr> </thead> <tbody> <tr> <td>X \$ _____ = \$ _____</td> <td></td> <td>+ \$ _____</td> <td>= \$ _____</td> </tr> <tr> <td>X \$ _____ = \$ _____</td> <td></td> <td>+ \$ _____</td> <td>= \$ _____</td> </tr> <tr> <td>X \$ _____ = \$ _____</td> <td></td> <td>+ \$ _____</td> <td>= \$ _____</td> </tr> <tr> <td>X \$ _____ = \$ _____</td> <td>+ \$ _____ (bond)</td> <td>+ \$ _____</td> <td>= \$ _____</td> </tr> <tr> <td>X \$ _____ = \$ _____</td> <td></td> <td>+ \$ _____</td> <td>= \$ _____</td> </tr> <tr> <td colspan="3" style="text-align: right;">Total \$</td> <td>_____</td> </tr> </tbody> </table> | Rate | Fee | Application Fee | Sub-Total | X \$ _____ = \$ _____ | | + \$ _____ | = \$ _____ | X \$ _____ = \$ _____ | | + \$ _____ | = \$ _____ | X \$ _____ = \$ _____ | | + \$ _____ | = \$ _____ | X \$ _____ = \$ _____ | + \$ _____ (bond) | + \$ _____ | = \$ _____ | X \$ _____ = \$ _____ | | + \$ _____ | = \$ _____ | Total \$ | | | _____ |
| Rate | Fee | Application Fee | Sub-Total | | | | | | | | | | | | | | | | | | | | | | | | | | |
| X \$ _____ = \$ _____ | | + \$ _____ | = \$ _____ | | | | | | | | | | | | | | | | | | | | | | | | | | |
| X \$ _____ = \$ _____ | | + \$ _____ | = \$ _____ | | | | | | | | | | | | | | | | | | | | | | | | | | |
| X \$ _____ = \$ _____ | | + \$ _____ | = \$ _____ | | | | | | | | | | | | | | | | | | | | | | | | | | |
| X \$ _____ = \$ _____ | + \$ _____ (bond) | + \$ _____ | = \$ _____ | | | | | | | | | | | | | | | | | | | | | | | | | | |
| X \$ _____ = \$ _____ | | + \$ _____ | = \$ _____ | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total \$ | | | _____ | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Applicant/Licensee Details</p> <p>Applicant's/Licensee Name: _____ Licence No: _____</p> <p>Business Name: _____</p> <p>Applicant's Postal Address: No.: _____ Lot: _____ Street: _____</p> <p>Suburb: _____ State: _____ Postcode: _____</p> | <p>Applicant's Phone</p> <p>(W): (____) _____</p> <p>(M): (____) _____</p> <p>(F): (____) _____</p> <p>Email: _____</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Attach Scaled Plan showing all proposed furniture and structures, and proposed arrangement.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |



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Environmental Checklist

I _____ (Applicant) confirm that I have considered the following potential environmental impacts associated with the proposed business use on public footpath (tick and circle where appropriate)

- Rainwater runoff
- Neighbouring business
- Noise levels
- Pedestrian access
- Air Quality
- Streetscape appearance / amenity
- I do not believe any of the **ticked** items above would be adversely affected during, or after construction. .
- I do believe the **circled** items above may be adversely affected during, or after construction. I will provide additional information in accordance with Council's "Part 5 (EP&A Act, 1979) Assessment Manual", to support this application.

Applicant's Signature _____ **Date:** _____

Office Use Only

- Suitable Plan Submitted?
- Suitable Environmental Check provided?
- Is area Alcohol Free Zone? **YES / NO** (circle)
- Has Applicant paid separate Application Fee to Serve Alcohol on the Footpath area? **YES / NO** (circle)
- Approved (Alcohol permitted to be served within outdoor dining area)
- Approved (Alcohol NOT permitted to be served within outdoor dining area)
- Not Approved

Application No: _____

I.R. No: _____

Application Fee Receipt No: _____

Date Paid: _____

Environmental Assessment suitable?
YES / NO (circle)

Comments: _____

Signature of Approval Officer: _____

Date: _____

APPENDIX C: Standard Conditions of Approval for various Licences and Approvals

Following are standard conditions applicable to the various approvals for business use of the footpath:

Standard Conditions for Outdoor Dining on Public Footpath Licence

1. This approval is for the use of the public footpath adjacent to _____ for the purpose of **Outdoor Dining** and is for a term of three (3) years. The standard requirements, terms and conditions contained in the licence are to be the conditions of the approval. The term of approval may be extended yearly at Council's discretion.
2. This approval is subject to the Business owner entering into a licence agreement attached to this approval, which when executed by the Business owner and Council, will constitute a licence to occupy and use the approved footpath area for the purpose of outdoor dining. An "Outdoor Dining on Public Footpath" licence permits a Business owner to provide a suitable number of approved tables and chairs in the agreed area. Shade structures require an additional licence and approval - refer to "Removable Structures on Public Footpath" and "Fixed Structures on Public Footpath" licences.
3. A Display Notice indicating the agreed use, hours of operation and licensed area, and a plan of the approved furniture layout must be displayed in the front window of the business to which the Display Notice refers. Failure to exhibit the "Display Notice" may result in cancellation of the Licence. The Display Notice shall be issued by Council at time of issue of Licence.
4. The requirements, terms and conditions contained in the licence are conditions of this approval.
5. Approved tables, chairs, A-Frame sign, and weather protection structures are not to be placed outside the approved area under any circumstances.
6. Outdoor furniture shall not pose any potential safety hazard, especially with sharp edges or moving parts, to pedestrians, patrons, or employees. The furniture shall be firmly secured to avoid risk of moving and falling over in windy conditions or other circumstances. The furniture shall be removed in high wind conditions.
7. To minimise the likelihood of collision between café staff and passing pedestrians, it shall be the responsibility of business operators to inform and train their staff to give priority to passing pedestrians, when traversing between the licensed footpath area and the shop.
8. Tables and chairs must be stackable, foldable or easily dismantled so that they can be removed and stored away.
9. Furniture must be removed from the footpath and stored within the building outside business hours.
10. The licensee is responsible to keep all approved outdoor furniture clean and in good condition.
11. An appropriate level of table service shall be provided. Such service shall include removal of dirty plates, cups, and cutlery, to ensure the area is maintained in a clean, tidy and hygienic state.
12. Business use of footpath area and area between the shop premises shall be kept clean at all times and any spilt food, liquid or other material likely to cause injury shall be removed immediately by the Business operator. The licensee is responsible for appropriate disposal of litter and wastes, and is not permitted to use public rubbish bins. Sweeping of the leased section of footpath area is the responsibility of the licensee.
13. Paper, foam or plastic plates, cups and cutlery are not permitted for outdoor footpath eating areas.
14. Selling and consumption of alcoholic or intoxicating liquor is only permitted in the public footpath area if the licensee has obtained an appropriate liquor licence and/or approval from Council.
- 15.
16. No business or financial transactions shall be carried out on the public footpath, outside the Outdoor Dining licensed area. Such activities shall be carried out wholly within the confines of the premise.
17. No part of the public footpath shall be used for storage of any items, including the licensed area.
18. The licensee must provide and maintain access in accordance with AS 1428 "Design for Access and Mobility" to accommodate people with disabilities.
19. No advertising signs (including menu boards) are permitted on the footpath area without Council's consent - refer to "Removable Structures on Public Footpath" licence.
20. Any aluminium furniture shall have a powder coated (non-reflective) finish.
21. Food shall not be offered for sale or displayed within the footpath thoroughfare area between the licensed outdoor dining area and business premises.
22. The licensee is required to monitor and control the level of noise. Amplified music is permitted in business use of public footpath areas, providing it is recorded music and played at not more than 5db(a) above background noise level, and the Business owner is not breaching Copyright laws by publicly playing the music.
23. Smoking is not permitted in any area covered or substantially enclosed as per the NSW Smoke-free Environment Act, 2000. A designated smoking area associated with footpath dining must have at least 3 sides open. Suitably covered ashtrays that



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cannot be emptied by the wind causing annoyance or inconvenience to the general public or impacting on the environment shall be provided where smoking is permitted.

24. Any specific non-standard conditions (listed below): Nil
25. Non-compliance with any of the above conditions may result in cancellation of the Outdoor Dining Licence.

Standard Conditions for Street Vending on Public Footpath Licence

1. This approval is for the use of the public footpath adjacent to _____ for the purpose of **Street Vending** and is for a term of three (3) years. The standard requirements, terms and conditions contained in the licence are to be the conditions of the approval. The term of approval may be extended yearly at Council's discretion.
2. This approval is subject to the Business owner entering into a licence agreement attached to this approval, which when executed by the Business owner and Council, will constitute a licence to occupy and use the approved footpath area for the purpose of street vending approved goods only. A "Street Vending on Public Footpath" licence permits a Business owner to provide a suitable number of racks/stands to display approved goods in the agreed area. Shade structures require an additional licence and approval - refer to "Removable Structures on Public Footpath" and "Fixed Structures on Public Footpath" licences.
3. A Display Notice indicating the agreed use and goods to be displayed, hours of operation and licensed area, and a plan of the approved display layout must be displayed in the front window of the business to which the Display Notice refers. Failure to exhibit the "Display Notice" may result in cancellation of the Licence. The Display Notice shall be issued by Council at time of issue of Licence.
4. The requirements, terms and conditions contained in the licence are conditions of this approval.
5. Approved display racks/stands, A-Frame sign, and weather protection structures are not to be placed outside the approved area under any circumstances.
6. Approved display racks/stands shall not pose any potential safety hazard, especially with sharp edges or moving parts, to pedestrians, patrons, or employees. The displayed goods shall be firmly secured to avoid risk of moving and falling over in windy conditions or other circumstances. The displayed goods shall be removed in high wind conditions.
7. Approved display racks/stands must be stackable, foldable or easily dismantled so that they can be removed and stored within the building outside business hours.
8. The licensee is responsible to keep all approved display racks/stands clean and in good condition.
9. Business use of footpath area and area between the shop premises shall be kept clean at all times and any spilt food, liquid or other material likely to cause injury shall be removed immediately by the Business operator. The licensee is responsible for appropriate disposal of litter and wastes, and is not permitted to use public rubbish bins. Sweeping of the leased section of footpath area is the responsibility of the licensee.
10. No business or financial transactions shall be carried out on the public footpath, outside the Street Vending licensed area. Such activities shall be carried out wholly within the confines of the premise.
11. No part of the public footpath shall be used for storage of any items, including the licensed area.
12. The licensee must provide and maintain access in accordance with AS 1428 "Design for Access and Mobility" to accommodate people with disabilities.
13. No advertising signs (including display information boards) are permitted on the footpath area without Council's consent - refer to "Removable Structures on Public Footpath" licence.
14. Any approved aluminium display racks/stands shall have a powder coated (non-reflective) finish.
15. Food shall not be offered for sale or displayed within the designated footpath area.
16. The licensee is required to monitor and control the level of noise. Amplified music is permitted in business use of public footpath areas, providing it is recorded music and played at not more than 5db(A) above background noise level, and the Business owner is not breaching Copyright laws by publicly playing the music.
17. Any specific non-standard conditions (listed below): Nil
18. Non-compliance with any of the above conditions may result in cancellation of the Street Vending Licence.

Standard Conditions for Approval to Place Removable Structures on Public Footpath

1. This approval is for the use of the public footpath adjacent to _____ for the purpose of erecting **Removable Structures** and is for a term of three (3) years. The standard requirements, terms and conditions contained in the licence are to be the conditions of the approval. The term of approval may be extended yearly at Council's discretion.
2. This approval is an optional supplement to either the Outdoor Dining or Street Vending Licence. Approval to use removable structures such as; umbrellas, will not be granted unless an Outdoor Dining or Street Vending licence has already been, or is concurrently being approved.
3. This approval is subject to the Business owner entering into a licence agreement attached to this approval, which when executed by the Business owner and Council, will constitute a licence to occupy and use the approved footpath area.
4. A Display Notice indicating the agreed use, hours of operation and licensed area, and a plan of the approved furniture layout must be displayed in the front window of the business to which the Display Notice refers. Failure to exhibit the "Display Notice" will result in a fine. Note: the Display Notice associated with the approved Outdoor Dining or Street Vending licence is sufficient, providing the removable structures are shown on the plan.
5. The requirements, terms and conditions contained in the licence are conditions of this approval.
6. Unobstructed vertical clearance for removable weather protection structures shall be minimum 2.2 metres above footpath level. Removable umbrellas and other removable weather protection structures shall be of lightweight construction, suitably weighted or secured, and easily and quickly folded or removed during times of extreme high wind conditions.
7. Removable weather protection structures shall not be positioned outside the designated Licence area.
8. Removable structures shall not pose any potential safety hazard, especially with sharp edges or moving parts, to pedestrians, patrons, or employees.
9. Removable structures shall be firmly secured to avoid risk of moving and falling over in windy conditions or other circumstances and shall be removed in high wind conditions.
10. Removable structures must be stackable, foldable or easily dismantled so that they can be removed and stored away within the building outside business hours.
11. The licensee is responsible to keep all approved outdoor furniture and removable structures clean and in good condition.
12. Any aluminium removable structures shall have a powder coated (non-reflective) finish.
13. Any specific non-standard conditions (listed below): Nil
14. Non-compliance with any of the above conditions may result in cancellation of the Outdoor Dining or Street Vending Licence.

Standard Conditions for Approval to Construct Fixed Structures on Public Footpath

1. This approval is for the construction of a fixed structure on the public footpath adjacent to _____.
2. This approval is an optional supplement to either the Outdoor Dining or Street Vending Licence. Approval to construct a fixed structures such as; weather protection structures, will not be granted unless an Outdoor Dining or Street Vending licence has already been, or is concurrently being approved.
3. The approved structure is a _____ with dimensions _____ (L) _____ (W) _____ (H) _____.
4. Approval is subject to the design of the structure being certified by a **practicing consulting structural engineer** as being adequate in terms of strength and serviceability of its intended use. A copy of the certification must be provided to Council.
5. An indication of the approved fixed structure must be displayed on the Display Notice, as required with the Outdoor Dining or Street Vending licence. The Display Notice must be displayed in the front window of the business to which the Display Notice refers.
6. Fixed weather protection structures shall not extent outside the approved licence area specified in the associated outdoor dining or street vending licence.
- 7.
8. Unobstructed vertical clearance for fixed weather protection structures shall be minimum 2.4 metres above footpath level, unless Council's City Services or Environmental Planning Directorates specify an increased height.
9. Fixed weather protection structures shall not pose potential safety hazard, especially with sharp edges or moving parts, to pedestrians, patrons, or employees. The furniture shall be firmly secured to avoid risk of moving and falling over in windy conditions or other circumstances.
10. Rainwater from weather protection structures shall be directed to the road drainage system or suitable garden area, to the satisfaction of Council, and not to the clear pedestrian zone area.
11. Fixed weather protection structures and their supports shall be constructed in accordance with a detailed engineering design plan certified by a practicing consulting structural engineer. The design plan must confirm utility services are not affected by the proposal, or indicate what action is necessary.
12. Materials used in all fixed weather protection structures shall be non-combustible and have a non-reflective finish.
13. Council Approved Contractors with adequate Public Liability and Workers Compensation Insurance shall carry out construction of approved fixed structures at the Applicants full cost. Work shall be supervised by Council and completed to Council's satisfaction.
14. No Commercial advertising is permitted on fixed weather protection structures, other than the business name.
15. Fixed weather protection structures must not obstruct sight distance for pedestrians or motorists.
16. Maintenance and cleaning of fixed structures shall be the responsibility of Licensee. Cleaning and maintenance shall be to Council's satisfaction. Non compliance with regards to suitable maintenance and cleaning of the fixed structure may result in an Order to rectify the situation within 14 days, or an Order to remove the fixed structure and restore the surrounding area.
17. The business operator is responsible for supply and maintenance of any approved drop down weather protection screens.
18. Council will not financially compensate the business operator who initiated and paid for the fixed weather protection structure
19. The licensee is responsible to keep all approved outdoor furniture clean and in good condition.
20. Smoking is not permitted in any area covered or substantially enclosed as per the NSW Smoke-free Environment Act, 2000. A designated smoking area associated with footpath dining must have at least 3 sides open. Suitably covered ashtrays that cannot be emptied by the wind causing annoyance or inconvenience to the general public or impacting on the environment shall be provided where smoking is permitted.
21. Any specific non-standard conditions (listed below): Nil
22. The Licensee must remove the fixed structure and restore the pavement to the satisfaction of Council immediately following permanent ceasing of trading. Non-compliance shall result in Council withholding the security bond or bank guarantee.
23. Non-compliance with any of the above conditions may result in cancellation of the Outdoor Dining or Street Vending Licence.