District Council of
Loxton Waikerie

OUTDOOR DINING ADJACENT TO EXISTING BUSINESS POLICY

Responsible Officer/s	Director Commercial and Community Services Manager Environmental Services Director Infrastructure Services General Inspector Compliance Officer Development Officer – Planning
Relevant Legislation / Documents	Local Government Act 1999 (s222) Planning, Development and Infrastructure Act 2016
Adopted	17 June 2016
Reviewed	November 2024
Next Review	November 2028

A. Purpose

Outdoor dining is a popular activity that provides a link between businesses and pedestrians while also encouraging active street life. This adds to the amenity of our district and can encourage activities outside of normal business hours which can assist local business success.

The location of outdoor dining facilities needs to be carefully considered to allow for the facilitation of business opportunities while not diminishing the amenity of a locality nor compromising patron, pedestrian or vehicular safety. This consideration becomes even more important as we make future planned investment in redesigning and developing our main streets.

Section 222 of the *Local Government Act 1999* prescribes that a permit is required from Council for the operation of a business of a public road. For this policy, "public road" has the same definition as that described under Section 208 of the Act and includes footpaths, road reserve, alley ways and thoroughfares. The aim of this policy is to provide a framework against which permits can be assessed for outdoor dining whilst ensuring that due consideration is given to managing risks effectively.

B. Scope

This policy covers all applications made to Council for the use of public roads/footpaths for the purpose of outdoor dining.

C. Policy

1. Strategic reference

Economic activity: strategy 2.1.1: support and encourage development and diversification of our local small business sector.

2. Principles

2.1. Planning, Development and Infrastructure Act 2016

Unless previously considered Development Approval for the expansion of a business onto the public road will be required under the *Planning, Development and Infrastructure Act 2016*. Further, the use of blinds, canopies and other structures may also constitute building works which require approval. The issuing of a permit under this policy does not negate the need for a business to ensure that appropriate approvals are in place under the *Planning, Development and Infrastructure Act 2016*.

2.2. Food Act 2001

Council is the relevant authority for administration of the *Food Act 2001*. The Act sets our standards for safe food handling, including in outdoor dining areas. Prior to operation a business must ensure that they are compliant with the relevant standards. Information can be obtained from Council's Environmental Health Officer on this matter.

3. Information to be submitted with the application

The following information is required as a minimum with each permit application:

- Plan showing location of existing business and dining area
- Details of furniture to be used
- Location of any fixtures and fittings
- Hours of operation of the business
- Details of management (use for dining/ entertainment purposes, smoking compliance etc.) and
- Administrative details (appropriate fees, copies of insurances)

4. Physical layout

An outdoor dining area must not compromise safety for patrons, pedestrians or vehicular traffic. To accommodate this each outdoor area is divided into 3 zones:

- Safety zone
- Pedestrian zone; and
- Dining zone

The safety zone is to ensure suitable clearance from vehicular traffic and will extend for an area 900mm from the back of the kerb. No chairs or tables are to be located within this safety zone. Planter boxes, bollards, fences, screen or blinds cannot be located closer than 300mm from the back of the kerb. Greater setbacks may be required if the dining area is adjacent parallel or angle in street car parks.

To ensure that suitable pedestrian access is available along the footpath, a minimum aisle width of 1.5 metres must be maintained. No structures can be erected within the pedestrian zone at any time, and chairs, tables and other items associated with outdoor dining must not impinge upon the pedestrian zone whilst in use. At the end of each dining permit area a minimum width of 850mm must be maintained to allow for pedestrian access to the road. The location of outdoor dining areas must not compromise disabled access from the road or footpath.

Dining zones must not be located in areas where they can impact line of sight for vehicles. Sight lines shall be assessed at the discretion of the relevant council staff. Dining zones cannot accommodate more than one chair per square metre of area provided.

5. Design

The furniture and fittings of all outdoor dining areas shall be of a standard that is suitable to the satisfaction of council. Furniture and fittings that detract from the amenity of the locality shall not be approved and will warrant removal under the permit if erected. No furniture or fixtures shall encroach past the safety zone without the prior consent of council.

Bollards or other safety devices may be required at the discretion of council when outdoor dining areas are located adjacent to high traffic areas in order to ensure the safety for patrons.

Where operating at night the business must provide adequate lighting to ensure safety for pedestrians and patrons.

Reinstatement of the footpath to the satisfaction of council shall be undertaken by the business owner should any fixtures be removed or the business ceases to operate the outdoor dining area.

The application must describe if the furniture is to be fixed or moveable within the dining area. Furniture and fixtures shall be placed to avoid forming trip or other hazards. All furniture and fittings are the responsibility of the business and must not be operated by members of the public.

Advertising signs must be approved either under the *Planning, Development and Infrastructure Act 2016* or the *Local Government Act 1999* where necessary.

6. Management

The operator shall always maintain the site in a clean manner to the satisfaction of council.

The owner must display their outdoor dining permit issued by council at all times. The permit shall include details of the hours of operation and the number of seats allowed. No amplified music shall be permitted within an outdoor dining area.

Appropriate liquor licences are required for the service of liquor.

7. Monitoring and enforcement

Council can issue a permit under this policy for a maximum of 5 years. The time frame awarded to each permit is at the sole discretion of council. For a business to continue to operate an outdoor dining area after this time frame an application must be lodged with council no later than 3 months prior to the lapsing of the previous permit. Authorised officers of council can enter a business at any time. Operators must adhere to all directions given by Authorised Officers. Failure to adhere to the relevant conditions of the permit and directions of Authorised Officers will result in the following course of action:

- First breach – verbal warning issued (noted on file) compliance to be achieved within 28 days
- Second breach – written notice compliance to be achieved within 28 days,
- Third breach – cancellation of the permit and / or authorisation in accordance with permit and/ or authorisation.

8. Public liability

Business operators must hold appropriate levels of public liability that notes council as a specific person. This value shall be at a minimum of $20,000,000.00.

9. Permit fee

The permit fee will be as determined in council's fees and charges register and is payable upon application for the issue of a permit for a 5-year period. Where an applicant can demonstrate economic benefit or contribution to the amenity of the location from this activity Council will consider an application for the permit fee to be waived. The Chief Executive Officer has delegated authority to waive this fee.

10. Roles and responsibilities

Delegation to consider applications for outdoor dining in accordance with this policy is provided to the Chief Executive Officer, who may in turn sub-delegate to staff.

D. Availability

This Policy will be available for inspection at the Council Offices at Loxton or Waikerie during ordinary business hours at no charge. Copies of this Policy will also be available from Councils website: www.loxtonwaikerie.sa.gov.au or postal copies may be obtained from the Council Office free of charge.

E. Document history and version control

Date	Version	Authorisation	Amendment Details
17/06/16	1.0	Council	First version
07/16	1.1	Chief Executive Officer	Noted sub- delegations as issued by the Chief Executive Officer for the approval of an outdoor dining permit
15/09/17	2.0	Council meeting of 15 September 2017	Title change to that of ***"Outdoor Dining Adjacent to Existing Business Policy"*** as per the direction of Council at the meeting of 15 September 2017. Provides an opportunity to waive the permit fee if economic or social benefit can be demonstrated.
19/6/2020	3.0	Council meeting 19 May 2020	Review of role titles. New sub delegations statement included. Increased width of access to each side of the outdoor dining area. Removal of fee payable. General review of form and layout of outdoor dining area Review period changed
20/11/2024	4.0	Council meeting	Provision Transfer to new template Update review dates Change of Development Act 1993 to Planning, Development and Infrastructure Act 2016