



CUMBERLAND  
CITY COUNCIL

# Outdoor Dining Policy

## AUTHORISATION & VERSION CONTROL

<b>Policy Number</b>	POL-051
<b>Policy Owner</b>	Director Governance & Risk
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## INTRODUCTION

Council actively supports the creation of a vibrant café atmosphere within its commercial centres. In doing so, it is imperative that a balance between footpath space for outdoor dining and space for public use by all community members (including play spaces and public seating) is provided in each of Cumberland's commercial centres. The implementation of this policy is detailed in Council's *Outdoor Dining Guidelines*.

In determining the appropriateness of whether a location is suitable for outdoor dining, Council will assess each application against this Policy, and the criteria and requirements detailed in Council's *Outdoor Dining Guidelines*.

## PURPOSE

The purpose of this policy is to guide and regulate the establishment, design and safe operation of outdoor dining areas. The Policy provides a consistent approach for outdoor dining across the Cumberland Local Government area, and provides transitional provisions for approvals granted before implementation of this policy.

## SCOPE

The policy applies to all land within the Cumberland LGA affected by the Roads Act 1993 and/or is managed by Council. This includes public footpaths, plazas, public squares, and blisters which are within the public domain and are normally used for pedestrian circulation, and which are generally located immediately adjacent to restaurants and cafes.

## DEFINITIONS

**Activity Approval** - an approval issued under Section 68 of the Local Government Act 1993 (NSW)

**Council** - Cumberland City Council

**Footway Approval** - an approval issued under Section 125 of the Roads Act 1993 (NSW)

**Outdoor Dining Area** - premises that are the subject of an Activity Approval or Footway Approval or both

**LGA** - the Local Government Area of Cumberland City Council

**Policy** –this document, and any schedules or annexures to it

## POLICY STATEMENT

Council will apply this policy to ensure the appropriate establishment of outdoor dining areas in Cumberland's commercial centres, which comply with the relevant legislation, and make a positive contribution to these centres.

## PRINCIPLES

- Outdoor dining areas are only permitted in association with an approved food business, and the applicant is the owner/proprietor of that food business;

- Outdoor dining areas are only permitted in locations where sufficient space is available and where they will not obstruct the safe movement of pedestrians;
- Council’s approach is to achieve a balance between areas for privately leased outdoor dining associated with a restaurant/café, and areas of public domain which provide public outdoor seating whilst providing a high level of urban amenity in the Cumberland City Council centres; and
- Outdoor dining areas should not interfere with the safe and reasonable movement of pedestrians, nor should they obstruct line of sight to or from passing vehicles.

## REQUIREMENTS

- Location requirements:

Street/Centre	Outdoor dining locational requirements
<b>Auburn Town Centre</b>	Away from shopfront, adjacent to kerb. The Auburn Town Centre Public Domain Plan 2009 identifies areas of widened footpath within the town centre core where outdoor dining activities may occur subject to consent. These areas are clearly defined and separated from areas of public open space, to ensure a balance of activities along the street (refer to map at Annexure 1 of the Cumberland Outdoor Dining Policy)
<b>Granville Town Centre</b>	Away from shopfront, adjacent to kerb
<b>Guildford Town Centre</b>	Away from shopfront, adjacent to kerb
<b>Merrylands Town Centre</b>	Away from shopfront, adjacent to kerb
<b>Pendle Hill Town Centre</b>	Away from shopfront, adjacent to kerb
<b>Toongabbie Town Centre</b>	Away from shopfront, adjacent to kerb
<b>Wentworthville Town Centre</b>	Away from shopfront, adjacent to kerb
<b>All other locations</b>	Subject to approval, outdoor dining areas must be located adjacent to the shopfront. Where footpath width is insufficient to allow outdoor dining and sufficient pedestrian circulation space, outdoor dining will not be permitted.

- Outdoor dining will generally only be considered on footpaths that have a **minimum** width of 3.6m, with a minimum practical depth of 1.0m (1 table and 2 chairs). Where the footpath is less than 3.6m, consideration will be given on a case to case basis.

- A minimum unobstructed pedestrian corridor of 2.0m must be maintained to allow for a continuous accessible path of travel at all times. Where outdoor dining is permitted away from the shopfront and adjacent to the kerb, a minimum of 600mm setback from the kerb must be provided.
- Outdoor dining areas are not permitted directly on corner locations at street intersections. An application may be refused on safety concerns where an outdoor dining area obstructs the clear view line of pedestrians/motorists. Outdoor dining areas are limited to the extent of the shopfront of the food business.
- The footpath dining area used with the approval of Council under this policy is not included as “floor space” for the purposes of car parking or floor space calculations. The surface area of the footpath must be sufficiently level to support a functional and accessible outdoor dining area, and the safe use of furniture and associated structures.
- All outdoor dining furniture:
  - Is to be kept wholly in the approved boundaries at all times
  - Must comply with relevant Australian Standards
  - Must be made from high quality commercial materials
  - Must be capable of accommodating a wheelchair
  - Must not mis-match
  - All tables and chairs must be removed from the outdoor dining area and stored within the premise, outside business operation hours.
- Advertising of a single company or business must not cover more 30% of structures, and no liquor or tobacco advertising is permitted within an outdoor dining area. Hanging advertisements from shade structures is not permissible, and no private restaurant/café advertising is permitted on any Cumberland City Council street furniture, including planter boxes.
- No shelter for weather protection may be erected or installed in or around an outdoor dining area without Council’s prior written consent.
- All heating devices must comply with the laws and requirements relating to them, including but not limited to AS 4565-2004 Radiant Gas Heaters. Access to gas mains and use of electrical extension cords are not permitted.
- All fees and appropriate bonds will be charged in accordance with Council’s adopted fees and charges.
- All approved outdoor dining establishments shall be operated in accordance with all relevant legislation, including but not limited to the *Smoke Free Environment Act 2000*. Non-compliance with legislation may lead to enforcement action by Council which may include fines and/or termination of outdoor dining approvals.

## **RELATED LEGISLATION**

- Local Government Act 1993(NSW)
- Work Health and Safety Act 2011 Food Act 2003 (NSW)
- Smoke Free Environment Act 2000 (NSW)
- Auburn Local Environmental Plan 2010
- Holroyd Local Environmental Plan 2013
- Parramatta Local Environmental Plan 2011
- Environmental Planning & Assessment Act 1979 (NSW)
- Roads Act 1993 (NSW)

## **RELATED DOCUMENTS AND COUNCIL POLICY**

- Outdoor Dining Guidelines
- Auburn Development Control Plan 2010
- Holroyd Development Control Plan 2013
- Parramatta Development Control Plan 2011