



KIAMA MUNICIPAL COUNCIL
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Footpath Dining Policy



RESPECT



INNOVATION



INTEGRITY



TEAMWORK



EXCELLENCE

Date adopted	15 December 2020
Council Resolution No	20/391OC
Previous adoption dates	14 December 2004 20 May 2008 15 April 2014 20 March 2019
Next review date	1 December 2022
Department	Corporate and Commercial Services
Author	Manager Commercial Services
TRIM reference	21/10042
Supporting documents	N/A

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Footpath Dining Policy

1.0 Purpose

To provide guidelines to enable the establishment of footpath dining on public road reserves in the business/commercial areas of Kiama Municipality.

2.0 Objectives

The objectives of this policy are to:

- encourage the establishment of footpath dining directly related to the operation of an adjoining food business
- ensure that footpath dining areas do not disrupt traffic and pedestrian flow or compromise safety.

3.0 Scope

Applies to all public road reserves in the Kiama Municipality in commercial or business areas under the care, control and management of Council.

4.0 References

- Roads Act 1993
- State Environmental Planning Policy – Exempt and Complying Development
- NSW Smoke Free Environment Act 2000
- Local Government Act 1993

5.0 Specific requirements for footpath dining

5.1 Minimum footpath pedestrian access width (footpath pedestrian zone)

The *footpath pedestrian zone* is for general pedestrian use with footpath dining excluded. The footpath pedestrian zone is a minimum two metres as measured from the front boundary of the shop premises except; that section of Terralong Street between Railway Parade and Collins Street where it is three metres; and Fern Street Gerringong where it is two and one half metres corresponding with footpath awning support structures along the footpath.

In some cases, footpath dining areas in association with the adjoining food premises is more appropriately located directly next to the shopfront taking into account pedestrian movement and crossing points at adjoining roads. These locations will be assessed on merit as part of the footpath dining application process.

5.2 Footpath dining area

The conditions of use for the footpath dining area are:

- the footpath area able to be considered in conjunction with the adjoining food premises corresponds with the actual shop frontage width and clear of the footpath pedestrian zone referred to in 5.1 above. In addition, an 800mm exclusion zone exists from the roadside kerb to allow access to/from vehicles parked on the street.
- at all times a 1.5 metre exclusion zone must be maintained to all public infrastructure such as bins and public street furniture that are located within the footpath dining area.

- footpath dining directly in front of an adjoining shop will only be considered with the written consent of the shop owner. The adjoining owner can retract consent at any time.
- footpath dining can only be considered where the pavement grade or cross fall can safely support chairs and tables.
- screens, barriers and the like in conjunction with footpath dining are allowed to separate dining areas from the footpath pedestrian zone and the road. Screens and barriers need to be designed and secured and not be a hazard to users of the footpath.
- footpath dining furniture needs to consider the presentation of the footpath areas to the general public that positively contributes to the street environment.
- all furniture is to be removed from the footpath after each trading day.
- furniture needs to withstand weather conditions and be safe for use. Umbrellas must be firmly anchored.
- umbrellas cannot span outside designated approved footpath dining areas and need to maintain a vertical clearance from the ground surface of two metres.
- ancillary structures such as supplementary menus or specials boards must not interfere with patron movement and safety or be positioned in footpath pedestrian zones or exclusion zones.

5.3 Unsuitable locations

Footpath dining may not be supported where there is concentrated pedestrian traffic movement or vehicle traffic concerns such as near public transport stops or pedestrian crossing points.

Where there is an awning extending over the public footpath and no evidence has been provided to Council for structural certification of the awning for the proposed period of the footpath dining consent, footpath dining will not be supported.

5.4 Waste disposal

Street rubbish bins cannot be used for the disposal of waste associated with footpath dining.

5.5 Smoke free areas

Footpath dining areas are smoke-free in accordance with the *Smoke Free Environment Act 2000*. Signage and control of smoke-free footpath dining is the responsibility of the footpath dining consent holder.

5.6 Insurance

The consent holder must indemnify Council in respect of any claim which may arise from use/occupation of the footpath area and all actions, sums of money, costs, claims, demands and other liabilities which may be sustained or suffered or recovered or made against Council by any person during the term of a consent to operate.

The public liability insurance extended to indemnify Council is \$20,000,000 or a greater sum if notified by its insurers.

5.7 Liquor licence and alcohol free zones

Council has established alcohol free zones under section 644 of the *Local Government Act 1993* prohibiting alcohol consumption over designated public roads and footpaths in the Kiama Municipality. Any footpath dining operation intending to serve alcohol requires licensing from the NSW Liquor and Gaming Authority in the first instance.

5.8 Footpath dining occupation (rental) fees

The rental fee payable to Council for the use of the footpath for outdoor dining is based on a rate/m² for the total footpath dining area available plus GST and is invoiced monthly. Council's Fees and Charges are reviewed annually. New and renewed footpath dining consents require payment of the application fee expressed in Council's Fees and Charges.

5.9 Term of consent

Consent for footpath dining will be granted for up to three years after which time a new consent will need to be obtained for continued use.

6.0 Application procedure

Application for consent needs to be made to Council using the accompanying Application for Footpath Dining form with the application fee.

7.0 Review history

7.1 This Protocol was originally adopted on 4 December 2004.


7.2 Further reviews and amendments are dated: 14 December 2004, 20 May 2008, 15 April 2014 and 20 March 2019

7.2 This protocol will be reviewed every 2 years however Council reserves the right to review or vary this protocol and associated processes at any time if required.

8.0 Document control

Date reviewed	Date adopted	Amendment
October 2020	15 December 2020	<ol style="list-style-type: none">1. Rental fee restructure from fee per chair to fee per square metre.2. Addition to unsuitable locations: under an awning extending over the footpath where no evidence of the structural integrity of that awning has been provided to Council.
	20 March 2019	<ol style="list-style-type: none">1. Document re-formatting2. Correcting an anomaly and clarifying a three meter footpath pedestrian zone in Terralong Street between Railway Parade and Collins Street.
	15 April 2014	-
	20 May 2008	-
	14 December 2004	New Policy

9.0 Signature

Name: Kerry McMurray General Manager	Date: 15 December 2020
<p>Signature: </p>	

How to contact Council

Post

General Manager
Kiama Municipal Council
PO Box 75
Kiama NSW 2533

Telephone

+61 (02) 4232 0444

Facsimile

+61 (02) 4232 0555

Online

Email: council@kiama.nsw.gov.au
Website: www.kiama.nsw.gov.au

Office hours

Our Administration Building located at
11 Manning Street Kiama is open 8.45 am to 4.15 pm
Monday to Friday (excluding public holidays)



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