

WHYALLA CITY COUNCIL

Outdoor Dining Policy for Roads	
Type	Governance
GDS Category	Governance – Public
Responsible Officer	Manager Governance
Policy Adopted	November 2021
Review Period	4 years
Last Reviewed	2016
Next Review Date	November 2025
Policy Version Number	3
Applicable Legislation	
Related Documents	
Public Consultation Required	No
Purpose	

1. POLICY OBJECTIVE

Outdoor dining contributes positively to the increased social and cultural life within the city. It enhances a sense of amenity, vibrancy and liveability, and is important for the economic success of dining establishments within the City.

The Outdoor Dining Policy is to enable Whyalla City Council (Council) to safely manage the competing needs and interests of pedestrians, road users and business owners by fairly assessing and permitting outdoor dining in a manner that improves the usage, quality and appearance of the city's public realm.

2. SCOPE

This policy applies to guide the determination of all applications by business owners seeking to establish and operate outdoor dining facilities adjacent their business on a Public Footpath in the Council area.

3. RISK MANAGEMENT

Risk Management is an important obligation the Council takes very seriously and pro-actively manages.

In the receipt and determination of an outdoor dining application, the Council is very aware that there may be risks that outdoor dining users, pedestrians, road users and business owners and Council may be exposed to.

The Council has a Risk Management Policy and a number of current procedures as well as a Risk Management Framework all of which are available for viewing.

Council also requires a Certificate of Currency from the Applicant's public liability insurer showing that there is a current public risk and liability cover for at least twenty (20) million dollars and showing the name of the Corporation of the City of Whyalla as a principle party. The Council should be identified in the Policy in respect to public liability.

In the determination of issuing an outdoor dining permit council employees and business owners are encouraged to consider applicable perceived risks and, if necessary, communicate these through the appropriate avenues prior to the issuance of the permit and the commencement of outdoor dining activity.

4. DEFINITIONS

For the purposes of this policy:

"Outdoor dining" means the use of the public footpath for the purpose of extending the services of premises whose main function is the provision of food and beverages to the public. Such premises include restaurants, cafes, bars, delicatessens and other food outlets. Outdoor dining should be directly associated with the business that holds the outdoor dining permit and should only operate when those associated premises are open for business. Outdoor dining should contribute to the vibrancy and conviviality of street life.

"Clear Access" has the same meaning as in the Disability Discrimination Act 1992

"Public Footpath" has the same meaning as 'public road' under the Local Government Act 1999 and includes road reserves, thoroughfares, alleyways and public place.

"Energy Absorbing Bollards" means bollards designed to perform under load in accordance with the requirements specified in the Roadside Dining Protection Guidelines, published by the Department for Transport.

5. POLICY STATEMENT

Outdoor dining has become increasingly popular as it provides additional social and cultural dining experiences creating a cosmopolitan ambience and enhances street life.

5.1 Access and Public Place

Council supports the appropriate use of public spaces for outdoor dining but in assessing any application for outdoor dining, must also consider and ensure that a balance is maintained between the competing needs for use of the footpath by other user groups and the allocation of outdoor dining areas.

For the purpose of Outdoor Dining, the following Footpath Zones apply:

Footpath zones

Walkways must extend out from the building line and provide a safe, clear and consistent pathway to meet the needs of a range of users, including parents with prams, pet owners and people of all ages and abilities. In order to achieve this, any street furniture, signs, trader's activities or displays should be placed towards the kerbside, not along the property line.

To provide a clear and suitably unobstructed footway for pedestrian access, there are three main functions of each footpath:

- Walkway zone
- Trading activity zone
- Kerbside zone.

The size of these zones will vary depending on the width of the footpath.

Walkway zone

There is no statutory requirement about the location of the walkway zone. Council relies on the guidance from the Australian Human Rights Commission that the continuous accessible path of travel should extend from the property line with no obstructions or projections, in order to provide the best possible guidance line for all users, including people with a vision impairment. The walkway zone extends from the property line to allow suitable passage by footpath users. This area of the footpath must be kept free from any items or structures at all times.

Trading activity zone

This is the preferred area of the footpath where the placement of café furniture for outdoor dining and ancillary items may be authorised.

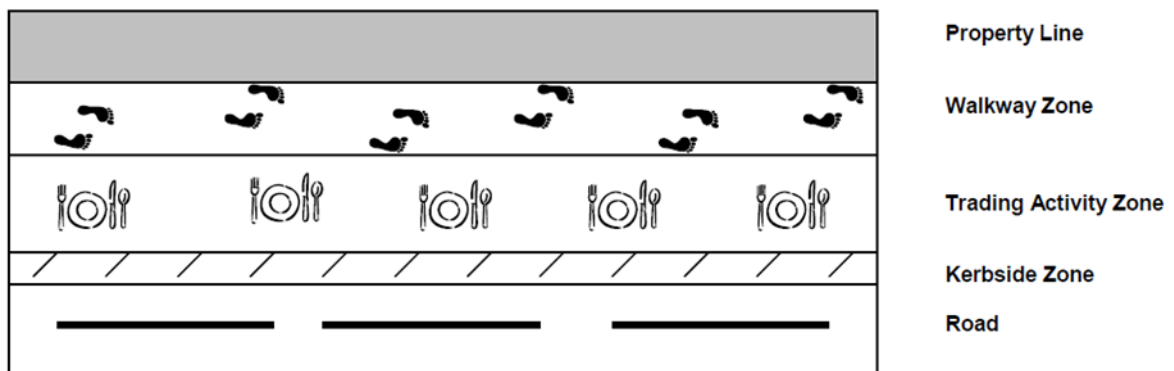
Kerbside zone

A minimum buffer of clear footpath must be provided from the kerb to allow for access to and from parked vehicles, including loading zones. Where there is a disabled parking bay, the setback from the kerb will need to be greater. This area of the footpath must be kept free from any items or structures at all times.

Identifying the various zones

Total Footpath Width	Less than 3.0 metres wide	3.0m and wider
Walkway Zone	Minimum 1.2 m from the property line towards the kerb	Minimum 1.5 m from property line towards the kerb

Trading Activity Zone	Remaining area once walkway and kerbside zones are identified	Remaining area once walkway and kerbside zones are identified
Kerbside Zone	Minimum 0.6 m from the kerb of the road	Minimum 0.6 m from the kerb of the road
	Minimum 1.5 m if a disabled parking space adjoins the footpath	Minimum 1.5 m if a disabled parking space adjoins the footpath



Whilst there is an expectation that the placement of tables, chairs and ancillary structures within the footpath zone as indicated above, consideration may be given to other locations within the footpath zone, at time of assessment, where practical.

5.2 Design

Outdoor dining areas should be of high quality design and improve the appearance of the city's public realm. Areas of historic, social and architectural interest, which contribute to the significance, character and appearance of the streetscape, should be conserved.

Outdoor dining areas should be attractive, innovative and vibrant. The layout and clearances should be appropriate to the setting. Furniture should be carefully selected for its durability and style to ensure that it complements the streetscape area, be of a high standard and can be easily maintained in good condition. (Lightweight plastic type furniture is not acceptable).

In addition to routine furniture such as tables and chairs, outdoor dining areas can be enhanced via the provision of accessories such as planter boxes, lighting, heaters, and umbrellas.

The Applicant is responsible for the provision and maintenance of the outdoor dining furniture and accessories. For the purpose for this policy, outdoor furniture includes all structures, items and objects placed within the approved permit area by permit holder.

The outdoor dining area used must remain in good repair at all times and damaged furniture or items must be removed immediately.

5.3 Operation and Management

Outdoor dining areas should be operated in a manner that contributes to environmental sustainability, creates a safe and clean outdoor space, minimises unnecessary noise and nuisance, and maintains social amenity in this public space.

5.4 Education and Compliance

It is the responsibility of applicants and permit holders to make themselves aware of the responsibilities and compliance criteria of outdoor dining. Compliance is important to protect the public land, and failure to comply may result in a revocation of a permit.

The issuing of a permit for outdoor dining does not grant exclusive rights of the relevant public space.

5.5 Alterations/changes to the Council infrastructure

As part of the outdoor dining application and assessment process, Council may consider changes to existing infrastructure (e.g. widening footpath, relocating signs, parklets etc.) where possible.

This type of application must be considered in the context of an integrated design, as the extension of the kerb may impact on parking, storm water, other services underground and adjacent businesses and therefore cannot be considered in isolation.

Proposed outdoor dining locations will also be assessed in terms of safety and may require changes to existing infrastructure and/or the installation of additional infrastructure (e.g. energy absorbing bollards)

The construction of new footpath protuberances to facilitate outdoor dining areas will be at the discretion of the Council, taking into account traffic management and safety.

Assessment of such applications will be done on 'case by case' basis and at a sole discretion of the Council. In the event such application is approved, the costs associated with the infrastructure changes shall be borne by the applicant.

5.6 Fees and Charges

Council may determine a fee payable for considering an application made under relevant sections of the Local Government Act. This fee covers the administrative costs associated with processing the application. Where an application is made but a Permit is not granted the Application Fee will not be refunded.

Council may determine an annual permit fee to be paid by the applicant for use of the public footpath as an outdoor dining area, which will be calculated by the number of tables approved/provided for in the permit.

Permits for use of the public footpath as an outdoor dining area is issued for a period of one (1) year and renewable annually.

A schedule of current fees and charges is available for viewing at www.whyalla.sa.gov.au

5.7 Application Documentation

The Application to Council must include the following:

- A completed and signed Application Form including a plan depicting the boundaries and dimensions of the proposed outdoor dining area, including the number and the location of tables and chairs in relation to the building face and kerb other existing or proposed features within or near the proposed area.
- Payment of the application fee
- A Certificate of Currency for public liability insurance, to the value of twenty million dollars (\$20,000,000), specifically indemnifying Council (a cover note is acceptable at the Application Stage);
- Imagery depicting the style, construction and colour of the tables and chairs including dimensions of tables. (attach photographs or brochures).
- Any other information as required by Council.

6 DOCUMENTATION

Planning, Development and Infrastructure Act
Disability Discrimination Act 1992
Liquor Licencing Act 1997
Tobacco Products Regulations Act 1997
Local Government Act 1999
Food Act 2001
South Australian Public Health Act 2011
Outdoor Dining Application Form & Permit Conditions