

## COUNCIL POLICY

Reference Number	743127
Responsible Business Unit	City Assets
Responsible Officer	General Manager Assets & Infrastructure
Legislation	Development Act 1993 Local Government Act 1999 Disability Discrimination Act 1992 Public Health Act 2011 Food Act 2001 Retail & Commercial Leases Act 1995 Liquor Licensing Act 1997
Relevant Delegations	Chief Executive Officer General Manager Assets & Infrastructure
Related Policies Management Guidelines Frameworks	Outdoor Dining Guideline
Link to Strategic Plan	Objective 2.3 - Recreational and Cultural Pursuits
Council resolution	11.1
Date Adopted	29 January 2019
Review Date	June 2023
Previous Revisions	July 2018

## POLICY STATEMENT

The Rural City of Murray Bridge encourages outdoor dining as a way of enlivening and activating our public spaces and will support entrepreneurs in their intent to help Council deliver this, consistent with managing public safety.

The climate in the Rural City of Murray Bridge makes it an ideal place for outdoor activity and with appropriate designs and infrastructure, outdoor dining can be a year round valued addition to our public spaces. Outdoor dining is enjoyed by locals and tourists alike and provides a valuable contribution to a vibrant and interesting place and can give places a unique identity.

The Council promotes and encourages outdoor dining, allowing restaurants, cafés, delicatessens and licenced venues to use part of the footpath space directly outside their premises. Council also has a focus on maintaining the safety, accessibility, convenience and appearance of its footpaths and has a commitment to balancing the needs of all users.

This Policy should be read in conjunction with the *Rural City of Murray Bridge Outdoor Dining Guideline*, published separately.

## OBJECTIVES

The purpose of this policy is to encourage the establishment of outdoor dining wherever feasible and appropriate and with minimum effort from businesses.

This Policy and associated Guideline have been developed to make it easier for businesses to obtain an Outdoor Dining Permit; highlighting key considerations including safety, accessibility and amenity. They are intended to help streamline the application process by providing applicants with the necessary information before an application is made.

The Rural City of Murray Bridge is also committed to activation of the council area and supports the individual expression of each business to help develop a sense of place. As such, each Outdoor Dining Permit application will be considered with reference to its context, taking into consideration the district and street the business is located in, vehicle traffic, pedestrian flow and other relevant factors.

For each context there will be negotiable and non-negotiable factors. The negotiable factors will be considered on a case by case basis.

## SCOPE

The Outdoor Dining Policy applies to the use of all footpaths, parking spaces and other Council land in the Rural City of Murray Bridge for commercial purposes, by an organisation or business.

## PRINCIPLES

The Rural City of Murray Bridge seeks to promote, through this Policy, the outdoor dining experience is a desirable part of our lifestyle, and such facilities add significantly to the character, liveliness and style of a street, park or shopping precinct.

As public land is often utilised for outdoor dining, the Council seeks to encourage business operators and community organisations to develop outdoor dining facilities in a responsible, safe and appropriate manner to protect the public interest in the land.

### **Create a public realm that is welcoming and user friendly**

- Outdoor dining should support the Rural City of Murray Bridge's ability to maintain clean public places and streets.
- Outdoor dining areas must be designed with safety in mind.
- Streets are to remain welcoming and accessible for users of all abilities, without obstacles or hazards for pedestrians.
- Outdoor Dining Permit holders must maintain their outdoor dining area to a high standard and comply with conditions of outdoor dining management set by the Rural City of Murray Bridge.
- Unnecessary noise and nuisance should be minimised.

### **Cultivate a positive relationship between the private and public realms**

- Outdoor dining is intended to be outdoors, and should look and feel as such. Environmental and weather conditions should be accommodated without the addition of fixed infrastructure that permanently encloses the space. Outdoor dining infrastructure should be temporary, so that the area may be reinstated as public space in both appearance and function.
- Outdoor dining is a temporary use of public space, which should provide flexibility for other uses outside trading hours.
- Permits are issued with the intent of balancing the needs of all footpath users. Operators and customers are able to make use of the footpath space but do not have exclusive rights over the occupancy of the area.
- Outdoor dining is supplementary to the business' internal trade and seating. Businesses should not be reliant on outdoor dining.

### **Strengthen the character and identity of our regional centre**

- Outdoor dining should enhance the appearance and character of its location.
- Outdoor dining should be considered as part of street design, and incorporate and enhance existing features such as trees and verandahs.
- Outdoor dining approaches and furniture should be of high quality and design, and make a positive contribution to the street experience. Interesting and innovative approaches are encouraged.

## Follow the Principles of the Outdoor Dining Guideline & Public Realm Style Guide

- Basic principles underpinning the use of the public realm for outdoor dining are set out in the Rural City of Murray Bridge Outdoor Dining Guideline.
- The Council updated its Public Realm Style Guide in 2018, so that it is contemporary with a modern approach to the management of our public realm and the materials and street furniture used and expected in the Rural City of Murray Bridge.

## IMPLEMENTATION

The following are the key matters relating to Outdoor Dining Permits in the Rural City of Murray Bridge. Further guidance can be found in the *Rural City of Murray Bridge Outdoor Dining Guideline*.

### 1. Application

Outdoor dining requires an operating permit and may, in some cases, require Development Approval. Outdoor dining permits will not be granted unless they satisfy all criteria as detailed in Council's Outdoor Dining Policy.

For an outdoor dining area to serve alcohol, a further application must be made to the Council, and subsequently to the Office of the Liquor Licensing Commission.

### 2. Documentation to be Provided

An application for an outdoor dining permit consists of:

- a fully completed Application Form;
- a Certificate of Currency for public liability insurance (at least \$20 million) and product / service liability (at least \$5 million);
- photographs / photocopies of the proposed furniture;
- a scaled (1:100 minimum) dimensioned plan showing the proposed location of the tables and chairs. Two copies are required;
- fees in accordance with the Council's Schedule of Fees and Charges, where relevant.

### 3. Permit Fee

The use of a public footpath as an outdoor dining area attracts an annual permit fee calculated on a setting, as defined as one table, four chairs and one umbrella.

If the permit fee is not paid within four (4) weeks of expiry then the removal of the furniture from the footpath may be undertaken by Council Officers. The furniture will be impounded at the nearest Council Depot, and can be collected upon payment of the appropriate permit fee.

Fees are made in relation to licenced premises and do not apply to unlicenced premises.

### 4. Transfer of Permit

A permit can only be transferred to a new business operator by way of a new Application. Council is unlikely to oppose the transfer of an existing permit that has been previously approved and satisfactorily operated.

### 5. Period of Permit

A licence is granted for a period of 12 months from the date of approval, unless otherwise agreed to by Council.

## 6. The Permit

The permit will not commence to operate, and no table, chair or other outdoor dining furniture is to be placed in the defined area, until payment of the application/permit fee and Council approves the Application. The permit issued by Council may include a number of conditions that need to be complied with at all times.

The Licensee shall not commence any activity associated with the permit until a Public Liability Insurance Certificate is returned to the Council endorsed by the Licensee's Insurer.

## 7. Cancellation or Amendment of Permit

A permit can be cancelled or amended if:

1. The proprietor fails to comply with the conditions of the permit and Council's Outdoor Dining Policy, or there are changed conditions affecting the outdoor dining area in its particular location, such as increased risk to health or safety;
2. The Council wishes to alter the public infrastructure. In such instances, a minimum of three calendar months notice will be given;
3. Council or Service Authorities require accessing the area for the purpose of installing and/or maintaining infrastructure; or
4. The proprietor sells the business.

## 8. Renewal of Permit

A permit will only be renewed after a review by the Council of the operations, health and safety conditions relating to the outdoor dining area. The permit will not be renewed if the review is unsatisfactory.

The review will be undertaken by relevant officers, which may include Development and Regulation and City Assets staff.

It should be noted that Council Officers may review/inspect the outdoor dining area at various times during the year.

## 9. Insurance

Those with permits are required to hold public liability insurance with a minimum cover of \$20 million for the area sought to be covered by the permit and product / service liability of at least \$5 million. Policies must note the Council as a "specified person" for the purposes of Section 48 (1) of the Insurance Contracts Act 1984. A Certificate of Currency for the policy must accompany the application for, and renewal of, an outdoor dining licence.

## 10. Public Use

Outdoor dining areas remain public spaces. Outdoor dining operators and their patrons do not have exclusive use of the area.

## DEFINITION

**"Enclosed"** means an enclosed area or place that is, except for doorways, passageways and internal wall openings, completely or substantially enclosed by a solid permanent ceiling or roof and solid permanent walls or windows, plastic awnings, whether the ceiling, roof, walls or windows awnings are fixed or movable and open or closed.

**"Operator"** means a person holding a Permit.

**"Outdoor dining"** means tables and chairs placed on Council's land for the purpose of increasing the capacity of a hotel, café, delicatessen, restaurant, dining or similar option for the use by the Operator and customers.

**"Permit"** means an authority from Council entitling a person to establish and use an outdoor dining area upon Council's land. Where a road is to be used, it means a permit under *Local Government Act 1999* section 222; where community land is to be used, it means a lease or licence to occupy under *Local Government Act 1999* section 202.

**"Road"** is defined in the *Local Government Act 1999*.