

FOOTPATH DINING POLICY

LOCAL LAW POLICY



1 Scope

This policy applies to food businesses requesting to use the footpath or platform area on Rockhampton Regional Council controlled areas and roads for outdoor dining purposes.

2 Purpose

The purpose of this policy is to ensure:

- (a) The establishment of footpath dining activities are encouraged;
- (b) Footpath dining activities do not unreasonably disrupt traffic and pedestrian flow or compromise safety; and
- (c) There are no adverse impacts on adjoining/nearby properties.

3 Related Documents

3.1 Primary

Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011

3.2 Secondary

Liquor Act 1992

Local Government Act 2009

Local Government Regulation 2012

Local Law No. 1 (Administration) 2011

Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2019

Tobacco and Other Smoking Products Act 1998

Transport Operations (Road Use Management) Act 1995

Commercial Use of Roads Application Form – Footpath Dining

Commercial Use of Roads Renewal Form – Footpath Dining

Commercial Use of Roads Transfer Form - Footpath Dining

Pilot Dining Platform Expression of Interest Form

Platform Hire Agreement

Refund Exemption and Reduction of Fees and Charges Policy

LEGAL AND GOVERNANCE USE ONLY

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Version:	1	Section:	Planning and Regulatory Services
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4 Definitions

To assist in interpretation, the following definitions apply:

Authorised Person	A person who is appointed under a Local Government Act to ensure members of the public comply with the relevant Local Government Acts in relation to the local government and the Region.
Council	Rockhampton Regional Council
Controlled Areas	Land, facilities and other infrastructure owned, held in trust or otherwise controlled by the local government, other than a road.
Fees and Charges	Fees and charges contained within the schedule adopted annually by Council in accordance with the <i>Local Government Regulation 2012</i> .
Footpath	As defined in <i>Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011</i> , has the meaning given in the <i>Transport Operations (Road Use Management) Act 1995</i> .
Footpath Dining Activity	Prescribed activity regulated by <i>Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011</i> . Activities may be approved to be undertaken on a footpath or platform area.
Platform Area	Area of road approved by Council to house a dining platform structure. The use of the structure and platform area is detailed in an individual Dining Platform Hire Agreement.
Region	Rockhampton Regional Area defined by the Local Government Areas of Queensland.
Rockhampton CBD Area	As defined in <i>Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011</i> , the area within the Central Business District bounded by Quay Street, Bolsover Street, Fitzroy Street and Derby Street.
Road	As defined in <i>Local Law No. 1 (Administration) 2011</i> , has the meaning given in the <i>Local Government Act 2009</i> .

5 Policy Statement

Council is committed to the revitalisation of the Rockhampton CBD area and other areas within the Region. Footpath dining activities provide a lively and attractive place to meet and socialise.

5.1 Applications

Applications must be submitted on the Commercial Use of Roads Application Form – Footpath Dining.

5.1.1 Fees

Relevant application fees to be paid upon application are detailed in Council's Fees and Charges Schedule.

5.2 Specific Requirements

Approvals are subject to conditions outlined in schedule 1 of Council's *Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011*, and where relevant, within individual Platform Hire Agreements. The following specific requirements also apply.

5.2.1 Minimum Footpath Pedestrian Access Width

Footpath dining activities approved to be conducted on a footpath, must provide a clear unobstructed passageway of at least 1.5 metres wide for pedestrian traffic.

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5.2.2 Minimum Access Width

Footpath dining activities conducted on a footpath, must provide a clear unobstructed passageway of at least 1.0 metres wide, to allow access to the shop. Activities approved to be undertaken on a platform area must provide a clear unobstructed access between the platform and abutting footpath.

5.2.3 Delineation of Footpath Dining Area

Consideration can be given to the installation of temporary screens, barriers and the like in conjunction with footpath dining activities where it can be demonstrated that the fixture will assist with pedestrian access and safety at the location. Details of such are to be included in the site plan. Screens need to be of a weight and design that are safe.

5.2.4 Unsuitable Locations

Footpath dining activities may not be supported at public transport stops, near pedestrian crossings or where there are concentrated pedestrian traffic movement or vehicle traffic concerns. Footpath dining activities directly in front of adjoining land is only considered with the written consent of the owner and occupier of the land and subsequent owners and occupiers. The inability to maintain consent from the owner and occupier of the land will result in a suspension or cancellation of the approval.

5.2.5 Waste Disposal

Street rubbish bins are not for the disposal of waste generated by cafes and restaurants with or without footpath dining activities. Footpath dining approval holders must be serviced by Council's waste collection service or have an approved private waste collection provider agreement.

5.2.6 Insurance

The footpath dining approval holder must indemnify and keep indemnified Council from and against any actions, sums of money, costs, claims, demands and other liabilities which may be sustained or suffered or recovered or made against Council by any persons during the term of an approval to operate. Council will require a Certificate of Cover for Public Liability Insurance with a minimum of \$20 million and noting Council as an interested party.

5.2.7 Approval Terms, Renewal and Transfers

Approvals are granted until the 30 June. Before this date a renewal notice is issued, and a review of any changes is completed. The annual renewal fee is detailed in Council's Fees and Charges Schedule.

If the business is sold or leased to another person, the new owner may apply to Council for a transfer of the footpath dining approval. The new owner can do this by lodging a Commercial Use of Roads Transfer Form - Footpath Dining together with supporting documentation and paying the required fee. If any changes to the approval are proposed, a new application and supporting documents must be submitted together with the application fee.

5.2.8 Inspection

The footpath dining approval holder shall allow an authorised person to inspect the operation of the activity.

5.2.9 Liquor Licensing

Liquor consumption in a public place is regulated under the *Liquor Act 1992*. Approval is required by the Office of Liquor and Gaming Regulation.

5.2.10 Smoke Free Areas

Outdoor eating places are to be smoke-free in accordance with the *Tobacco and Other Smoking Products Act 1998*. Control is the responsibility of the footpath dining approval holder. Enforcement is conducted by Queensland Health.

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5.2.11 Advertising

A footpath dining approval alone does not give the holder of the approval any additional rights with respect to the erection of advertising devices within, or adjacent to the footpath dining area. Advertising devices used in conjunction with a footpath dining activity must comply with *Subordinate Local Law No. 1.4 (Installation of Advertising Devices) 2019*.

5.3 Footpath Dining in Non-Council Controlled Areas

Footpath dining approval is not required when trading on private land; however, a planning approval may be required. Footpath dining approval is not required from Council when trading on a State Government-controlled Road; however approval from the Department of Transport and Main Roads may be required.

6 Review Timelines

This policy is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by Council.

7 Document Management

Sponsor	Chief Executive Officer
Business Owner	General Manager Community Services
Policy Owner	Manager Planning and Regulatory Services
Policy Quality Control	Legal and Governance



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