Appendix 29

Central Business District Outdoor Eating Policy

(Refer Chapter 9 Business Zone – Urban Living Area)
Appendix 29 Central Business District Outdoor Eating Policy

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Part A - Policy

29.1 Introduction

This chapter is divided into two sections which contains Part A “the policy” and Part B “the procedure”. This policy provides guidance to applicants seeking Council approval to the granting of a lease in respect of an area adjacent to a restaurant or proposed restaurant where the use of the footpath is directly related to the restaurant operation.

An application for an outdoor eating approval will only be issued to premises licensed or capable of being licensed as a restaurant as defined in the Roads Act 1993, ie. premises in which food is regularly supplied for sale to the public for consumption on the premises.

NB: Applicant should note that if the minimum requirements outlined in this policy cannot be met and the applicant can demonstrate that their proposal will satisfy the overall aims/objectives, then Council may consider granting a licence on a trial basis for a period of six (6) months. After this time Council will make a further assessment of the site taking into account the merits of the proposal.

29.1 Aims and Objectives

- to encourage, where appropriate, the establishment of outdoor eating areas in Business Zones;
- to facilitate the provision of active street frontages
- to ensure that adjoining premises are not adversely affected by any outdoor eating areas;
- to ensure that pedestrian traffic is not unduly impeded by the occupation of the footpath of an outdoor eating area; and
- to ensure that the leased area is kept in a clean manner and maintained on a regular basis.

29.3 Definitions

Lease: a legal document entered into between council and the proprietor of the outdoor eating area setting out the conditions of operation eg Public Liability Insurance, rental arrangements for area and furniture etc.
29.4 Relationship with other Policies and Plans

This policy is consistent with Wagga Wagga City Council Management Plan, Baylis Street Streetscape Plan and the Baylis Street Design Report (1997).

29.5 Land to which the Policy applies

This Plan applies to the roads coloured black as shown on: Map 1: Outdoor Eating Policy Baylis Street Precinct and Map 2: Outdoor Eating Policy Fitzmaurice Street Precinct.

Only premises with frontage to the subject roads will be eligible to lease land.

29.6 Operational details of the Policy

29.6.1 Licensing

An application for a licence may be granted if the application satisfies all the requirements of the Policy. If the application is approved the applicant will be required to enter into a lease with the Wagga Wagga City Council (Note the performance standards of this Policy are incorporated in the Agreement along with other Council requirements).

29.6.2 Period of Licence

The length of the licence will be a maximum of 3 years. At the end of the 2-year period an application may be made to renew the licence for another 2-year period.

If an Outdoor Eating licence has been granted where the proposal has not met the numeric site requirements of this policy, a 6-month trial period will apply.

After a successful trial, Council may grant a licence for 3 years.

29.6.3 Rental of Licensed Area

The licensed area will be subject to rent based on $30 per chair per annum.

29.6.4 Site Requirements
Approval for an Outdoor Eating Licence will only be given where the footpath adjacent to the premises concerned is of adequate width to allow for the unimpeded flow of pedestrian traffic.

In general, Council will not consider applications where footpaths are less than 3.6 metres in width or where a minimum of 2.5 metres cannot be maintained for the clear passage of pedestrian traffic.

In areas of low pedestrian flow Council may consider footpaths with a minimum width of 2.5 metres and where a minimum of 1.5 metres for clear passageway for pedestrian traffic is provided. This would be applicable in the Fitzmaurice Street area for example.

If the minimum site requirements cannot be met but the applicant can demonstrate to Council that pedestrian traffic will not be unduly impeded, Council may consider granting an Outdoor Eating Licence for a trial period of six (6) months. After this time Council will make a further assessment of the site taking into account issues such as the impact of the facility on pedestrian movement and any complaints received.

Trees, signs, light poles and any other structures, which limit the footpath width, will be deducted from the overall width of the footpath.

29.6.5 Cleanliness

The licensed area and its immediate surrounds are to be maintained and cleaned on a regular basis throughout the trading day and at the end of each trading day.

29.6.6 Liquor

The licensee is not to sell or serve or permit to be sold or served any alcoholic or intoxicating liquor in or from the licensed area except where Council has granted specific approval and an appropriate liquor licence is obtained from licensing authorities.

29.6.7 Conduct Of Business

All reasonable action should be taken to ensure that the conduct of employees and patrons associated with the leased area does not give rise to any nuisance or offensive noise.

In this regard
- no entertainment or amplified music will be permitted in the outdoor eating area; and

- any lighting to be erected must be approved by Council to minimise light spillage into neighbouring premises.

Food and drink must be served to patrons at the table. Food and drink must not be prepared in the area leased for Outdoor Eating.

### 29.6.8 Signage

Any proposed signage should be included within the initial Outdoor Eating Application.

Any signage proposed for the outdoor eating area must be co-ordinated with Council’s existing Urban Design requirements and situated within the leased area.

### 29.6.9 Furniture Style

All outdoor furniture items will be subject to Council's approval. The style and specification of the outdoor furniture proposed to be used should be submitted to Council for consideration with the initial application.

Outdoor furniture should be practical and make a positive contribution to the streetscape.

### 29.6.10 Markers

Council officers will mark the corner boundaries of the outdoor licensed area. The markers must remain in place for the duration of the licence. The licensed area as designated by Council establishes the curtilage within which an operator can provide for outdoor eating. The area cannot be altered nor can outdoor eating be conducted outside the curtilage without a new outdoor eating application being lodged with Council for determination.

### 29.6.11 Public Indemnity Insurance

The licensee is to effect a public risk policy to the minimum value of $10 million, with the policy noting the interest of Wagga Wagga City Council. The policy must include a goods sold/supplied extension, that is, the policy must include the additional outdoor area to the main premises.
29.6.12 Application Fee

The Application Fee will be charged according to council policy and includes the cost of providing the markers. This fee does not include the lease fee that will be based on the number of chairs permitted.
MAPS

Map 1: Outdoor eating policy Baylis Street Precinct

OUTDOOR EATING AREA POLICY
BAYLIS STREET PRECINCT
Map 2: Outdoor eating policy Fitzmaurice Street Precinct.

End of Policy
Part B - Procedure

Part B contains the procedure for the installation of outdoor eating furniture and associated structures

29.7 Aim

To provide clear and definite standards and actions relating to the provision of outdoor eating furniture and associated structures.

29.8 Where this document applies

This procedure document applies to all land covered by the Central Business District - Outdoor Eating Policy.

29.9 Who is Responsible for the Implementation of the Policy

The Council’s Rangers within the Department of Support Services will undertake the approval and supervision of the provision of outdoor eating furniture and associated structures.

When required, staff from the Development Services Division are available to provide additional advice on urban design issues and other associated matters.

Where the Outdoor Eating Policy does not provide a clear explanation of the requirements of Council, this procedure document shall apply.

29.10 Gaining Approval

- As stated within the Outdoor Eating Policy, all outdoor furniture items (e.g., umbrellas, barriers) require the approval of Council. Application is to be made on the appropriate form and be accompanied by a plan showing details of the proposal (See example plan below).

- A minimum of 2.5 metres clear space must be maintained for the clear passage of pedestrian traffic. No encroachment into this clear space is permitted. This figure varies in the instance of permanent barriers (see section 6.2.1) and in areas of low pedestrian flow.

- A 6-month probationary period as part of the two-year lease will apply to all approvals for outdoor eating furniture and associated structures.
This will enable Council to monitor the performance of the furniture and ensure it meets the objectives and intent of Council’s Outdoor Eating Policy.

- If the furniture is not installed or performing to Council’s requirements at the end of the 6-month probationary period and the applicant does not amend the furniture layout to Council’s satisfaction, the consent for outdoor eating furniture may be revoked.

- Council’s Rangers will be responsible for monitoring the outdoor eating furniture to ensure it is in accordance with the approval issued for that premises and is also being maintained to an acceptable standard to ensure public safety.

- If an applicant wishes to install additional furniture, another application must be made to Council.

**Proposed outdoor eating area - The Acme Restaurant**
29.11 Seating and Tables

- Council has recommended a table and chair style that is the benchmark for the provision of outdoor eating furniture.

- CHAIRS: Model No.: S0210
  Aluminium Polished Finish with arm rests
  Supplier - Barlow Casual Furniture

- TABLES: Model No.: GS30 with Melamine "Granite" Top
  Aluminium Polished Base, 5 star base pattern
  Supplier - Barlow Casual Furniture

However, Council will consider alternative styles/designs for seating and tables.

- Proposed seating and table styles that differ to that endorsed by Wagga Wagga City Council must:

  (a) be of a structural standard and durability equal or greater to that endorsed by Council. No furniture of an inferior design or construction will be permitted.
  (b) where possible, reflect the theme and type of business applying for the furniture. If the business has no theme, the base standard of Council endorsed furniture should always be met.
  (c) be compatible with the locality in which it is proposed eg Baylis Street Upgrade area, Conservation Area.

  \((d)\) (this clause deleted June 2002)

  (e) contain no advertising material.

29.12 Barriers

29.12.1 General Standards

- Where barriers are proposed in the Baylis Street area, the design and colour scheme must meet the objectives of the Baylis Street Design Report and Streetscape Plan. No incompatible furniture will be permitted.

- Barriers are to be set back a minimum 600mm from the kerb and are to be structurally stable.

- Must be in an appropriate location so as not to impede pedestrian traffic along the footpath and across footpath area.
• The location of barriers must take into consideration adjoining landuses.

29.12.2 Barrier Design

Two (2) types of barrier design will be permitted with the consent of Council:

29.12.2.1 Impact Safety Glass Construction (Permanent Structures)

These permanent barrier constructions will only be permitted in the Baylis Street precinct.

• A minimum of 2.5 metres is to be maintained for the clear passage of pedestrian traffic.

• Permanent barriers to be located no closer than 3.5 metres from the front property boundary.

• Maximum height of barriers permitted is 1800mm (1.8 metres).

• Of this 1800mm:
  - a maximum height of 1500mm of safety glass is permitted.
  - the remaining 300mm must be a wrought iron or compatible decorative feature in keeping with the design and theme of Baylis Street.
  - only clear safety glass is permitted to reduce the visual impact of the barrier. No tinting of glass will be approved.
  - If no decorative design is proposed, the maximum height of the barrier is to be 1500mm.
  - All support structures must be sympathetic to the Baylis Street Design Report and Streetscape Plan in relation to colour and design.
  - All outdoor eating furniture proposed must not protrude beyond the approved area of the barrier. This includes umbrellas and chairs when being utilised.

29.12.2.2 Low metal frames with a canvas fill (Movable Structures)

This barrier design is applicable to both Baylis and Fitzmaurice Streets

• Maximum height permitted for a movable barrier is 900mm.
• All materials must be non-reflective.

• The colour of the barrier panel(s) must be in accordance with the locality on which it is proposed.

• These barriers are not to be permanently secured to the pavement and must be removed from the outdoor leased area by midnight each day or the close of the business.

29.12.3 Barrier Advertising

• Council will permit 10% of the area of the individual barrier panel to contain signage.

• This signage must state only the name and logo of the business. No additional promotion or lettering will be permitted.

• The logo must not dominate the appearance of the barrier.

• Any signage proposed should be of a colour and design in keeping with the theme of the locality eg heritage.

• Where barrier signage is proposed, the application must include a scale drawing indicating lettering style, size and colouring in relation to the barrier panel.

• The lettering size should not cover more than 10% of the area of each barrier proposed (see diagram below). Where the signage is proposed on a Glass barrier, the signage backing (if adhesive) must be transparent.
29.13 Umbrellas

- Umbrella style is to be in accordance with that endorsed by Council.

**UMBRELLAS:** Tradewinds Parasol
Supplier - Barlow Casual Furniture

Alternative suppliers will be permitted provided the design and quality of construction is similar as follows:

- square canopy approximately 3 metres in diameter
- head clearance height of approximately 2 metres following installation
- total height of approximately 2.6 metres
- pole diameter no less than 58mm

- Council will permit 10% of the area of each individual panel to contain signage (see above diagram).

- This signage must state only the name and logo of the business. No additional promotion or lettering will be permitted.

- All umbrellas are to be either Black, Cream Beige, Terracotta Red, Navy or Heritage Green in colour.

- Umbrellas are to be securely installed in accordance with Council specifications. This involves the installation of an umbrella socket into the pavement and an extension insert to secure the umbrella in place. Further details on these specifications are available from the Department of Asset Services.

- Applicants are required to inform Council of the pole diameter of the proposed umbrella to ensure Council can provide a socket and extension to affix the umbrella into the pavement. Please contact Council regarding the socket and extension sizes available.

- Alternative (smaller) sized umbrellas will be permitted by Council. Signage and colour must remain as outlined above.

- If smaller umbrellas are used in outdoor eating areas metal plates of sufficient size and weight to safely secure them can be used, as an alternative to the method outlined above.

- The lessee is required to indemnify Council against any litigation brought as a result of the installation of umbrellas with metal plates (see clause
21.6.11). The lessee will have a contract in place which nominates Wagga Wagga City Council as an insured entity.