



FACT SHEET: OUTDOOR (FOOTPATH) DINING

New Permit Applications

If you operate a food business and would like to use the footpath as an outdoor dining area for your patrons, you must apply for a Council issued footpath dining permit.

Your permit application must include:

1. A completed footpath dining permit application form that is signed by an appropriate representative.
2. Evidence of Public Liability Insurance to the value of \$20million noting Cloncurry Shire Council as an interested party.
3. Evidence of other licenses and/or permits issued by another department, agency or body pursuant to another law (for example, the *Liquor Act 1992* or the *Food Act 2006*).
4. Registered business information showing the company officers, registered name and business address and ACN/ABN (e.g. A copy of an Australian Securities and Investments Commission (ASIC) extract).
5. Additional supporting documentation including:
 - (a) A plan of the layout to a suitable scale (e.g. 1:100) showing intended location of:
 - tables
 - chairs
 - all equipment (including heaters, fans, barriers, signs, planter boxes, benches and storage cupboards).
 - (b) Your plan must include:
 - a clear pedestrian thoroughfare
 - site boundaries, outlines of buildings and the use of the adjoining properties
 - an outline of the area intended to be used (including its size)
 - the position of screens, permanent fixtures (such as umbrellas and awnings), and any other fixtures
 - the access and exit points of the building near the intended footpath dining area
 - details of any loading zones, bus zones, trees, planter boxes, fire hydrants, transformers, telephone booths, mail boxes, bus seats and shelters, rubbish bins, pillars, posts and other obstructions
 - (c) Colour photograph/s of the site frontage of the area.

Payment of the footpath dining permit application fee.

To assist Council with processing of your application, please check you have completed all of the above prior to submitting your documentation. Once your application is approved, Council will issue you a footpath dining permit.



Requirement of footpath dining area

Barriers must be used in outdoor dining areas to contain furniture within the approved area. To preserve the general appearance and openness of the streetscape, the maximum height of removable barriers is 0.9m.

Clearance of a minimum of 1.0m from essential public infrastructure is required at all times.

Menu displays are only to be located in the outdoor dining area.

Pedestrian zone must provide continuous and accessible path of travel of a minimum of 1.0m and must also meet the access needs of people with mobility aids and prams.

Planter boxes can be used to improve the look and feel of an outdoor dining area. A footpath approval must be obtained for the use of planter boxes or planters as barriers.

Structures that are permanent will require building/town planning approval.

Tables and chairs must, at all times, be confined within the approved outdoor dining area. All outdoor dining furniture must be removed at the end of the trading day and all tables and chairs in the trading zone must not be used for public seating purposes.

Umbrellas should only be used where existing shelter, such as verandas, canopies, trees and awnings, does not provide sufficient sun protection. The use of umbrellas under existing awnings and verandas is not permitted.

Waste generated from the business must not be placed in public street bins and litter must always be cleared from the footpath by the permit holder.

Conditions of approval

Schedule A

Standard Conditions

- (a) the proposed area is adjacent to appropriately zoned land under the planning scheme; and
 - (i) there is sufficient capacity on the road to accommodate the establishment of the outdoor dining area; and
 - (ii) the operation of the outdoor dining area will not unduly interfere with the proper use of the road, in the preferred location; and
- (b) subject to sub-section (a), the local government may, in its discretion, allow one or more on-street car parking spaces to be used as an outdoor dining area where, in the opinion of an authorised person and having regard to the availability of car parking facilities and car parking demand in the immediate and general vicinity of the proposed outdoor dining area, there are sound grounds for granting the approval in a particular case; and
- (c) the proposed outdoor dining area is a component of an existing or proposed food business located in an adjacent building; and
- (d) the proposed outdoor dining area does not encroach beyond the side boundaries of the subject property notionally extended out to the road reserve without the prior written approval of both the owner and occupier of the adjoining properties; and
- (e) the proposed outdoor dining area provides unobstructed pedestrian movement along the relevant footpath and a minimum clear pedestrian way width of 1.0 metre; and
- (f) the layout of the outdoor dining area including the seating, landscaping, and any structures associated with the outdoor dining area does not obstruct the vision of drivers, or pedestrian crossings; and
- (g) the outdoor dining area is designed so that pedestrians, when using the relevant footpath, are not required to move out from under any shelter that existed prior to the establishment of the outdoor dining area; and



- (h) the establishment and use of an outdoor dining area neither conflicts with, or inconveniences, other business establishments in the immediate vicinity; and
- (i) any umbrella approved for use in an outdoor dining area has a minimum clearance above the walkway or floor area of 2.2 metres measured perpendicular from the lowest point of the extended arms (spokes) of the umbrella, and the umbrella is securely anchored; and
- (j) umbrellas and awnings over footpath dining areas do not direct rainwater onto pedestrian footpaths that would otherwise be protected from the rain; and
- (k) furniture to be used in an outdoor dining area is of sufficient weight and structure and does not create a public health or safety risk in adverse weather conditions and the furniture complies with relevant industry standards; and
- (l) all plantings proposed to enhance an outdoor dining area provide shade wherever possible, rather than being utilised primarily as a screening element, and such plantings are designed to unify the streetscape in the general vicinity; and
- (m) the application demonstrates ability to satisfy the design requirements of the relevant streetscape manuals; and
- (n) sanitary facilities accord with the provisions of the *Building Act 1975*, for the total seating capacity of the food business including the outdoor dining area, however, the local government may consider the availability of alternative sanitary facilities provided that –
 - (i) they are located within a reasonable distance (not more than 20 metres) from; and
 - (ii) they are adequate for the additional use created by the proposed outdoor dining area; and
- (o) if the approval holder, their employee or their agent damages the road, or any public infrastructure within the road, they must –
 - (i) take immediate steps to make the area safe and maintain the area in a safe condition until all necessary repairs are affected; and
 - (ii) promptly report all damage to the local government; and
 - (iii) provide payment to the local government to have all damage rectified or with the local government's prior approval carry out repairs at its own expense to the satisfaction of the local government; and
- (p) the outdoor dining area must be kept clean and tidy at all times; and
- (q) the approval holder or their employee must immediately clean the area following the spillage of food or drink; and
- (r) tables must be cleared of used eating and drinking utensils, and food immediately after the departure of customers so as not to attract birds or pests or to be blown from the table; and
- (s) appropriate refuse receptacles are to be provided for use by patrons, which are cleaned and emptied by the approval holder; and
- (t) all removable outdoor dining furniture, shade structures and other associated items should be removed from the footpath and stored in the premises outside trading hours; and removed in times of high winds or as directed by an authorised person; and
- (u) no alcohol is to be sold in the outdoor dining area unless the area is covered by the necessary licence or approval issued under the *Liquor Act 1992*; and
- (v) the approval holder must ensure that, at all times, the primary purpose of the outdoor dining area is for dining purposes only, and not used primarily for the consumption of alcohol; and
- (w) the approval holder must comply with the approved hours of operation in which the outdoor dining area may be used; and
- (x) the approval holder must ensure that at all times, no food, goods or materials are stored, prepared or displayed for sale within the outdoor dining area without prior written approval from the local government; and
- (y) all furniture and other ancillary equipment associated with the use of the outdoor dining area must be so placed as not to inhibit –
 - (i) the effectiveness of any traffic sign or other traffic control device; or
 - (ii) access to public utilities such as fire hydrants, access chambers, inspection chambers, kerb ramps, pedestrian crossings and bus stops; or



- (iii) the paths of travel to kerb ramps, pedestrian crossings, bus stops and adjacent parked vehicles; and
- (z) a copy of this approval must be held on the premises during the prescribed hours of operation under this licence and must be produced for viewing upon request by an authorised person under the local law; and
- (aa) the approval holder must acknowledge that –
 - (i) the use of the outdoor dining area is subject to any additional requirements that the local government may impose from time to time in the event of construction or other improvement works on the footpath or on adjacent or nearby roads; and
 - (ii) this may require commercial operations to cease for specified times; and
 - (iii) in the event that there is a requirement for trading to cease for those purposes, then no right of compensation arises, and the operator hereby waives any right to compensation; and
- (bb) in accordance with section 5(1)(d) the local government may allow the approval holder to carry out rectification works at their expense for damage caused to the road or any public infrastructure if this is appropriate in the circumstances.

Schedule B Additional Conditions

- (a) advertising signage
 - (i) an approval alone does not give the holder of the approval any additional rights with respect to the erection of advertising signs within, or adjacent to the outdoor dining area; and
 - (ii) signage used in conjunction with an outdoor dining area shall comply with the provisions of the Cloncurry Shire Council Subordinate Local Law No 1 (Administration) 2011 – Schedule 9 - Installation of advertising devices; and
- (b) live entertainment
 - (i) or any part of an amplified music system associated with the operation of the outdoor eating area or its associated food handling premises is not permitted on or above the footpath area of the road and is not to be directed towards the footpath area unless otherwise approved by the local government; and
- (c) hygiene and cleanliness
 - (i) the local government may, from time to time, require the approval holder to steam clean the footpath within the outdoor dining area due to frequent use; and
 - (ii) upon receipt of a notice from the local government to steam-clean the site within a specified period, because of the operator's regular or frequent use of the site, the operator must comply with the notice; and
 - (iii) the food business must not use local government footpath waste receptacles in association with an outdoor dining area to dispose of waste generated by the food business; and
 - (iv) no liquid wastes are to be discharged onto the footpath or street drainage system; and
- (d) outdoor dining furniture
 - (i) the location of outdoor dining furniture and associated items must remain as approved and cannot be altered; and
 - (ii) all outdoor dining furniture (including plantings) must be maintained in a sound condition and kept clean and presentable at all times

Schedule C

Specific Conditions - additional conditions may be added after the application has been assessed

- (a) the approval holder must not undertake the approved activity in a way that contravenes a Public Health Direction given by the Chief Health Officer, under section 362B of the *Public Health Act 2005*, to assist in containing, or to respond to, the spread of COVID-19 in the community; and



- (b) the approval holder must provide evidence of a current Public Liability Insurance Policy to the value of \$20,000,000; and
- (c) fireworks are not permitted.

Permit Renewals

Footpath dining permits need to be renewed annually and are not transferable. Permit renewal application forms are issued to you by Council on 1 July each year.

To retain validity of your footpath dining permit, please ensure you return your signed permit renewal application form, together with payment of the associated permit and renewal fees, by 31 July.

Businesses that trade without a valid footpath dining permit are at risk of being fined and could have their outdoor dining furniture seized by Council.

Useful Information

Structural changes to accommodate outdoor dining	While development approval for use of the road reserve is not required for outdoor dining itself, any changes to the business's building structure or purpose are subject to council's usual planning and regulatory processes. The applicant must ensure that all relevant approvals have been obtained prior to submitting an Outdoor Dining Licence Application. Discuss any plans to build additional structures such as shade awnings with council prior to submitting an Outdoor Dining Licence Application.
Food licence	Information about obtaining a Food Licence is available at www.cloncurry.qld.gov.au
Advertising devices	For information about displays or placing items on the footpath - for example bollards, umbrellas, planter boxes, please contact Council
Located on state-controlled road	If the outdoor dining area is located or proposed to be located on a State-controlled Road, the applicant is to lodge an additional copy of all documentation for submission by council to the Department of Transport and Main Roads. Maps showing state-controlled roads are found on the Department of Transport and Main Roads website. www.tmr.qld.gov.au
Registering a new business name	Information about registering a new business name is available from Queensland Government Office of Fair Trading at www.fairtrading.qld.gov.au
Liquor	www.justice.qld.gov.au
Smoking restrictions	www.health.qld.gov.au
Animal restrictions	www.health.qld.gov.au

Further Information

Further Information can be obtained from Council:

By email: council@cloncurry.qld.gov.au
By post: Mail to Cloncurry Shire Council, PO Box 3, CLONCURRY QLD 4824
By fax: (07) 47 421 712
In person: At Cloncurry Shire Council Administration Centre,
38-46 Daintree Street, Cloncurry
Enquiries: (07) 4742 4100