



Enforcement Policy Outdoor Dining Areas

Policy Number 314

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1. Introduction

Parramatta City Council (*Council*) is responsible to the community for the management of roadside areas and the activities conducted within them including outdoor dining activities. Outdoor dining areas potentially have a positive impact upon the vitality of the Parramatta CBD and key shopping precincts throughout the Parramatta local government area.

Council supports such outdoor dining activities that comply with the conditions of all applicable consents and approvals that authorise such activities.

Council intends to regulate outdoor dining activities in accordance with this policy.

Operators are encouraged to always maintain good record keeping and conduct outdoor dining activities in accordance with the conditions of all applicable consents and approvals together with any approved management plans.

2. Objective

The aim of this policy is to establish fair, impartial and equitable guidelines for the exercise of discretion that Council (and Council staff) must use in dealing with outdoor dining activities.

The policy provides a legal and administrative framework to assist Council in making decisions in its enforcement functions in a timely and efficient manner.

The policy also provides information to the public about the Council's role and policy on enforcement.

3. Scope

This policy applies to the enforcement of identified unlawful use or failure to comply with the conditions of licences consents or approvals that authorise use of outdoor dining areas for dining activities ("dining approval").

Council will always seek to encourage a professional relationship in its liaison with operators of footpath dining areas.

4. Related Policies & Legislation

This policy shall be read in conjunction with the Outdoor Dining Policy adopted by Council from time to time.

Legislation that is relevant to the preparation and implementation of this policy includes (without limitation):

- Local Government Act 1993 and related regulations.
- Environmental Planning & Assessment Act 1979 and related regulations.
- Public Health Act 1991 and related regulations.
- Food Act 2003 and related regulations.
- Roads Act 1993 and related regulations

5. Areas of Possible non-compliance

In relation to outdoor dining activities there are three (3) potential areas of non-compliance which may require Council to take appropriate enforcement actions. These are:

- Breaches of development consent.
- Operating with an expired approval or licence.
- Operating without consent or without an approval.

6. Protocol actions for non-compliance

The method to be followed in the enforcement of any breach or non compliance with the conditions of a development consent or a dining licence in respect of outdoor dining areas shall be determined in accordance with the Parramatta City Council Enforcement Policy and the general guidelines for enforcement actions associated with non-compliance stated in this policy.

Council has discretion in accordance with the Enforcement Policy and Outdoor Dining Policy to vary these protocols depending on individual circumstances, the nature extended on compliance or prior non-compliance. Council may suspend a dining approval for a period of up to 3 months in accordance with clause 2.30 of the Outdoor Dining Policy. These protocols are aimed at achieving responsible and appropriate solutions to issues arising in respect of outdoor dining areas.

Breaches of development consent

Step 1 – Written and verbal notice to operator requesting compliance.

Advise Strategic Asset Management of the non compliance for inclusion on any register maintained for recording non compliances.

- Step 2 – Infringement Notice will be served if there is a failure to act after notice to comply.
Advise Strategic Asset Management of the non compliance for inclusion on any register maintained for recording non compliances.
- Step 3 – If non-compliance continues action may be taken by Council (Strategic Asset Management Unit) to suspend the approval for up to 3 months.

Operating with an expired approval or licence

- Step 1 – Application form is issued to operator and advised in writing and verbally that work / operation should cease until approval is renewed.
- Step 2 – Infringement notice served if there is any failure to act after notice to comply is given.
- Step 3 – Continued non-compliance may result in further action being undertaken including legal proceedings in the Courts.

Operating without consent or without an approval

- Step 1 – Application form is issued to the operator together with written and verbal communication advising that operations must cease until approval and consent is obtained.
- Step 2 – Infringement notice issued if failure to act after notice to comply is given.
- Step 3 – Continued non-compliance may result in further action being undertaken including legal proceedings in the Courts.

7. Review

This policy shall be reviewed within three (3) years of its adoption by the Council.

Version	Date Adopted	Date Superseded
1	27 September 2010 Minute # 11790	

Owner
Manager Regulatory Services