



Enforcement Policy Outdoor Dining Areas

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1. Scope

If premises fail to comply with the conditions of licences consents or approvals enforcement action will be taken.

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

This policy applies to all council staff, individuals and entities, the subject of an outdoor dining area enforcement issue.

2. Purpose

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 on public land.

The policy provides a legal and administrative framework for making decisions on the application of Council's enforcement functions for outdoor dining activities.

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

3. Policy

3.1 General

City of Parramatta 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

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CITY OF PARRAMATTA

Parramatta CBD and key shopping precincts throughout the Parramatta local government area.

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

Council will regulate outdoor dining activities in accordance with this policy.

Operators are encouraged to 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.

3.2 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 or approval granted under the Roads Act or Local Government Act.
- Operating with an expired approval or licence.
- Operating without consent or without an approval.

3.3 Protocol actions for non-compliance

3.3.1 The method to be followed in the enforcement of any breach or non-compliance with the conditions of a development consent, conditions of approve granted under the Roads Act or Local Government Act or a dining license in respect of outdoor dining areas shall be determined in accordance with the City of Parramatta Council Regulatory Service Enforcement Policy and the general guidelines for enforcement actions associated with non-compliance stated in this policy.

3.3.2 Council has discretion in accordance with the Regulatory Services Enforcement Policy and the Outdoor Dining Policy to vary enforcement actions depending on individual circumstances, the nature, extent and frequency of non-compliance issues.

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3.3.3. Council may suspend a dining approval for a period of up to 3 months in accordance with clause 5.15 of the Outdoor Dining Policy. These protocols are aimed at achieving responsible and appropriate solutions to issues arising in respect of outdoor dining areas.

3.4 Breaches of development consent or approval granted under the Roads Act or the Local Government Act

In relation to a breach of a development consent condition(s) or conditions of approval granted under the Roads Act or Local Government Act, for an outdoor dining activity Council will:

- i. provide written and verbal notice to the operator requesting compliance and advise Strategic Asset Management of the non-compliance for inclusion on any register maintained for recording non compliances.
- ii. Serve an infringement notice if there is a failure to act after notice to comply and advise Strategic Asset Management of the non-compliance for inclusion on any register maintained for recording non compliances.
- iii. If non-compliance continues Council may take action to suspend the approval for up to 3 months.

3.5 Operating with an expired approval or licence

In relation to a facility operating with an expired approval or lease, Council will:

- i. Issue an application form to the operator and advised in writing and verbally that work / operation should cease until approval is renewed.
- ii. Serve an infringement notice if there is any failure to act after notice to comply is given.
- iii. Should non-compliance continue, this may result in further action being undertaken including legal proceedings in the Courts.

3.6 Operating without consent or without an approval

In relation to an outdoor dining facility on public land operating without consent or approval, Council will:

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- i. Issue an application form to the operator together with written and verbal communication advising that operations must cease until approval and consent is obtained.
- ii. Issue an infringement notice if the operator fails to act after notice to comply is given.
- iii. If non-compliance continues, this may result in further action being undertaken including legal proceedings in the Courts.

4. Related Policies, Legislation & Associated Documents

This policy shall be read in conjunction with Council's Outdoor Dining Policy.

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

Associated documents - Outdoor Dining Policy - 236

History

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

Version	Date Adopted	Date Superseded

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