

▶ OUTDOOR DINING AND TRADING POLICY 19 (C)

POLICY NUMBER:	19 (C)
NAME OF POLICY:	OUTDOOR DINING AND TRADING POLICY
DATE OF NEXT REVIEW:	May 2024
DATE APPROVED:	20 June 2023 (Effective 1 July 2023)
RESPONSIBLE OFFICER:	Coordinator Health and Community Safety
REFERENCES:	General Local Law No 2 of 2019 – Community Amenity and Municipal Places Disability Discrimination Act 1992

**Service Performance Principles as defined in section 106 of the Local Government Act 2020**

Service performance principles

(1) A Council must plan and deliver services to the municipal community in accordance with the service performance principles.

(2) The following are the service performance principles—

(a) services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community;

(b) services should be accessible to the members of the municipal community for whom the services are intended;

(c) quality and costs standards for services set by the Council should provide good value to the municipal community;

(d) a Council should seek to continuously improve service delivery to the municipal community in response to performance monitoring;

(e) service delivery must include a fair and effective process for considering and responding to complaints about service provision.

## INTRODUCTION

Hepburn Shire Council understands and values the positive social and economic impacts that outdoor dining and trading brings to its communities and visitors.

The *Outdoor Dining and Trading Policy 19 (C)* has been developed to provide a comprehensive framework to support local business operators within Hepburn Shire that are seeking to establish and operate outdoors on or in open spaces and footpaths managed by Council.

It incorporates feedback received from the local community, businesses and visitors and acknowledges the increased emergence of outdoor dining and trading following the impacts of Covid-19.

This policy has been adopted in conjunction Council's *Health and Community Safety Enforcement Policy* and applies the same enforcement principles and approaches.

## SCOPE

This policy, and supporting guidelines, complement *General Local Law No 2 of 2019 – Community Amenity and Municipal Places* with the aim to:

- a. Regulate the:
  - i. temporary or fixed placement of furniture, signs, displays or other approved items on land within Hepburn Shire that are managed by Council
  - ii. commercial activities undertaken in or on open spaces and footpaths within Hepburn Shire that are managed by Council
  - iii. operation of itinerant traders within Hepburn Shire
- b. Safely establish exciting and vibrant streetscapes through the multi-use and activation of public space
- c. Enhance the shopping, dining or observers experience for the local community and visitors

It applies to open spaces, footpaths and roads within Hepburn Shire that are managed by Council and replaces the previous *Placement of Fixed and Temporary Furniture, Signs and Outdoor Dining Facilities on Road Reserves Policy 19 (C)*.

It does not apply to:

- roadside signage (i.e. town entry, road safety signage) as these are approved and placed in accordance with the *Road Management Act 2004*
- a. Commercial activities undertaken on private property.

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The use of on-street parking spaces for retail, signage, and dining (parklets) is not permitted.

Any commercial activities that are part of an event, market, fete or similar may need to be approved under Council's *Event Policy 31 (C)*.

## POLICY

### 1. Application

- 1.1. Subject to this policy and *General Local Law No 2 of 2019*, a permit to place or use any furniture, signs, displays or other approved items on or in open spaces and footpaths managed by Council is required by all, other than Council.
- 1.2. Permits issued under the *General Local Law No 2 of 2019* do not grant rights of exclusive occupation on or in open spaces or roads managed by Council.

### 2. Guiding Priorities

When assessing applications for outdoor dining and trading, Council will be guided by the following priorities:

- Accessibility
- Impact on foot and vehicle traffic
- Public safety and amenity
- Visual amenity
- Size or footprint of dining or trading area
- Available open space
- Support of other traders or the community
- Impact on other traders or the community
- Maintenance of permit area and elements
- Impact on other Council services and existing infrastructure
- Overall benefit to the community

### 3. Management

3.1. All business operators must:

- 3.1.1. Ensure that any furniture, signs, displays or other approved items as per their permit conditions are not moved outside the Trading Zone, outlined in the *Outdoor Dining and Trading Guidelines*.
- 3.1.2. Ensure that any Pedestrian Zone, Kerb Zone and Clear Zone outlined in the *Outdoor Dining and Trading Guidelines*, remains clear of customer

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items and personal belongings that may reduce accessibility such as prams, pets and bags.

- 3.1.3.** Maintain any furniture, signs, displays or other approved items in good order and appearance.
- 3.1.4.** Ensure that their outdoor dining and trading areas are operated in a manner that contributes to creating a safe and clean outdoor space.
- 3.1.5.** Not cause damage to any Council infrastructure through any commercial activities or the placement of furniture, signs, displays or other approved items. Any damage caused is to be repaired or reinstated within the time frames, and the standard, determined by Council with all costs to be covered by the business operator.
- 3.1.6.** Hold current and appropriate Liquor Licences for the service and/or provision of alcohol, if applicable.

#### **4. Monitoring and Enforcement**

To monitor adherence to the *Outdoor Dining and Trading Policy 19 (C)*, and its supporting guidelines, regular compliance checks will be carried out by Council's authorised officers in accordance with the applicable permit conditions, *General Local Law No 2 of 2019 – Community Amenity and Municipal Places (Part 6)* and Council's enforcement processes.

#### **5. Insurance**

- 5.1.** Business operators must provide evidence (*Certificate of Currency* or full insurance policy) of *Public Liability Insurance* cover that indemnifies Council against any liability arising from any authorised activities including the placement or use of any furniture, signs, displays or other approved items on or in open spaces and footpaths managed by Council.
- 5.2.** The policy must be for a minimum amount of \$10,000,000 for any single event. This figure shall be reviewed as necessary by Council.

#### **6. Fees**

- 6.1.** The permit fees are contained in the *Schedule of Fees and Charges* as determined in *Council's Annual Budget*.
- 6.2.** All fees are due at the time of granting consent and permitted items shall not be placed on public land under Council's management until such fees have been paid and the permit issued.

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**6.3.** Any other costs associated with the implementation of the permit will be borne by the applicant.

## 7. Permits

A permit is required for all outdoor dining and trading on or in open spaces and footpaths managed by Council including the placing of:

- signs
- umbrellas
- outdoor heaters
- planter boxes
- barriers and screens
- dining furniture
- itinerant trading

**7.1.** Permits are issued annually and due for renewal in June each year.

**7.2.** Permits issued by Council must be on display at all times on the premises for which it has been issued.

**7.3.** Upon expiry of a permit, all furniture, signs, displays or other approved items must be removed unless a new permit has been issued.

**7.4.** Permit applications are assessed on a case-by-case basis with permit conditions reflecting the specific context of each application.

## 8. Other Considerations

**8.1.** An application outside the requirements of this policy may be considered for applicants that demonstrate special or exceptional circumstances. However, any request to reduce the minimum width of any zone or place or use any furniture, signs, displays or items against the building line will not be considered.

## IMPLEMENTATION

The *Outdoor Dining and Trading Policy 19 (C)* will be placed on Council's intranet and website as well as communicated to all new and existing employees.

It will also be made available to all business operators within Hepburn Shire that currently hold a permit to operate under this policy as well any new permit applicants.

## TRANSITIONAL ARRANGEMENTS

Business operators within Hepburn Shire must comply with the *Outdoor Dining and Trading Policy 19 (C)* within 41 days from the date of adoption.

## REVIEW

The *Outdoor Dining and Trading Policy 19 (C)* will be reviewed twelve (12) months from the date of adoption, then every four (4) years or sooner, if required by legislation or organisational changes.

The officer responsible for the review of this policy is the *Coordinator Health and Community Safety*.

## FURTHER INFORMATION

Any enquiries about the *Outdoor Dining and Trading Policy 19 (C)* should be directed to Council's *Coordinator Health and Community Safety*.

## DEFINITIONS

The following terms are referred to in the policy.

Term	Definition
Council	Hepburn Shire Council
Road	As defined in the Local Government Act 1989, and includes a footpath/footway
Footpath	Means any path that is provided for the use of pedestrians only or that is regularly used by pedestrians and not vehicles or that is a segregated footway or shared footway. It includes a footway as defined in the Road Safety (Traffic) Regulations 2009.
Open Space	Any publicly accessible natural or built space on land that is owned or managed by Council.
Parklet	The occupation of an area of road (i.e. parking bay) by a business for commercial activities (other than an itinerant trader) is not permitted.
Itinerant trading	Where businesses operators operate a temporary business providing goods and/or services from a vehicle, caravan, trailer, table, stall or other similar structure on or in open spaces, footpaths and roads (including parking bays) managed by Council.
Signs	Includes any board, A-frame, feather flag or other similar items used for the purpose of soliciting sales or services or notifying people of the presence of a property where goods or services may be obtained that may cause an obstruction.
Tree Protection Zone	A specific area above and below ground at a given distance from a tree trunk set aside for the protection of the tree's roots and crown and to provide for the viability and stability of a tree to be retained where it is potentially subject to damage by development.
Commercial	Involving or relating to the buying and selling of goods or services.