

# OCCUPATION OF FOOTWAY AGREEMENT - TERMS AND CONDITIONS

## Licensed Premises

The applicant is responsible for seeking a licence from the relevant authorities if alcohol is to be served in the occupied area. Council may oppose such an application in certain circumstances. The consumption of alcohol in the footway dining area must only take place ancillary, or incident to the provision of food.

The onus is on the applicant to determine if the approved area is within an alcohol free zone.

## Patrons

The applicant must ensure the good conduct of its patrons and that noise levels are kept to a minimum. The applicant is responsible for the orderly conduct of the Premises and Footway Dining area. The applicant is responsible for management of compliance with the approved items within the approved area.

## Pedestrian Safety

The applicant must ensure that the seating are maintained and operated safely and that pedestrians have free access to the remaining area of the footpath. If directed by Council, the applicant will immediately remove or make safe any seating. If the applicant does not comply with this direction, Council may issue a fine in accordance with the Roads Act or Local Government Act and/or immediately terminate the agreement.

## Ancillary Equipment

The applicant must obtain Council's consent prior to installation of ancillary equipment such as umbrellas, heaters, barriers, flags and the like.

## Environmental Protection Controls

The applicant is responsible for any environmental pollution resulting from the seating. Should pollution occur, the applicant is responsible, at their own cost, for returning the affected area to its condition prior to pollution having occurred. If the applicant does not comply with this condition, Council may carry out necessary work and the applicant will be required to reimburse Council for any associated costs.

## Maintenance of Occupied Area

The seating shall not interfere with or obstruct access to public or private utility access and drainage pits. Authorities and Service Providers must be given access to the site if required. The seating shall not obstruct the view of advisory and regulatory signs and traffic controls.

The applicant shall clean the occupied area daily, remove litter, motor oil, food scraps and so on, and prevent damage to any Council property. If the applicant does not comply with this condition, Council may carry out the necessary work and the applicant will be required to reimburse Council for any associated costs. No permanent structures are to be placed on or within the Footway Dining or Display of Goods area. Items must be removed from the footway outside the approved hours of operation.

No food preparation is to be carried out in the Footway dining area.

## Annual Occupation of Footway Fees

Footway dining fees are payable to Council's nominated Managing Agent. Fees and charges are reviewed each financial year. Fees are payable in advance. Payment of fees is the responsibility of the applicant. Fees for dishonoured charges are payable by the applicant. Non-receipt of tax invoices does not constitute reason for non-payment. Non-payment of fees is deemed as a breach of the essential terms of the agreement and instant termination will occur.

## Personal Rights & Interests

The Occupation of Footway agreement is personal to the applicant. The applicant may not encumber or assign the agreement (either directly or indirectly) or any of its rights or obligations under the agreement.

## Permit Display

The permit must be displayed in the front window or highly prominent position of the subject premises at a minimum height of 800mm and a maximum height of 1700mm from street level. This will allow Council Officers to check the permit without disturbing normal business. Permits must be returned to Council upon cancellation or termination of the Occupation of Footway Agreement.

**Vacating and Reinstatement**

Should the Occupation of Footway Agreement expire or the premises be vacated, the applicant must ensure the area is returned to its original condition. The applicant shall notify Council in writing prior to vacating the premises and provide contact details of prospective business purchaser (if relevant). Retrospective cancellation is not permissible.

**Cancellation**

Council reserves the right to revoke or renew the Occupation of Footway Agreement if the seating does not conform with the description provided in the Local Approval or the seating extends beyond the approved area or if Occupation of Footway Agreement and Footway Dining Approval and/or Development Consent conditions are not complied with. Council also reserves the right to revoke the Occupation of Footway Agreement should there be a change of Council policy on this issue or if it is in the interest of public safety.

**Maximum Term**

Approval to use the footway dining is valid for a maximum period of seven (7) years from the date of Footway Dining Approval being granted under the Roads Act. An Occupation of Footway Agreement will not extend beyond seven (7) years from the date of the Notice of Determination.