

Policy

USE OF FOOTPATH FOR ALFRESCO DINING

TEAM:	Service Delivery
RESPONSIBILITY:	Roading Manager
ADOPTED:	18 May 2017
REVIEW:	5 years or as required
CONSULTATION:	Consultation undertaken as per s82, Local Government Act 2002
RELATED DOCUMENTS:	Building Act 2004, Ashburton District Council District Plan, Sale and Supply of Alcohol Act 2012, Ashburton District Council Local Alcohol Policy, Ashburton District Council Public Places Bylaw.

Policy Objective

This policy sets out the conditions that are to be met when a business within the Ashburton District wishes to make use of the footpath area in front of their premises to allow patrons to dine with or without alcohol.

This policy aims to ensure pedestrian and motorist safety, as well as providing a pleasant environment for businesses and the community.

Definitions

Council: means Ashburton District Council.

Licence to Occupy (the footpath): means a formal approval document that details terms and conditions under which a business is authorised to occupy an area of the footpath.

Occupied area: means the area approved for alfresco dining and identified on the Licence to Occupy the footpath.

PS1 Certificate: means a producer statement prepared by a Chartered Professional Engineer covering the design of a structure.

Policy Statement

1. Introduction

1.1 Council recognises the benefits of alfresco dining such as increased business opportunities, and a more vibrant commercial sector.

1.2 Council aims to provide a safe environment for people who move through the community by

providing a clear path free from obstruction.

1.3 This policy applies to the entire Ashburton District.

2. Licence to occupy the footpath

- 2.1 Businesses owners seeking a licence to occupy the footpath must apply to Council.
- 2.2 The area applied for can only be the area fronting the applicant's premises.
- 2.3 **Additional consents** (such as resource consents) may be required, depending on the location of the footpath. It is the responsibility of the applicant to contact Council to determine if additional consents are required (note: within the central business area of Ashburton, roads that are zoned for business allow for commercial activity (e.g. outdoor dining associated with a restaurant and bar) on the footpath as a permitted activity)).
- 2.4 Applications will not be approved until the applicant has determined that no additional consents are required.
- 2.5 Applications shall include all relevant information on the nature of the proposal, including intended use, hours of operations, and table layout.
- 2.6 A licence to occupy the footpath will initially be issued for a one year period. Following this period, the licence to occupy the footpath may be extended at Council's discretion.
- 2.7 It is the responsibility of the licence holder to apply for an extension for a licence to occupy the footpath.
- 2.8 A licence to occupy the footpath is non-transferable between business owners.
- 2.9 A licence to occupy the footpath will terminate with the sale of a business.
- 2.10 Where the licence to occupy has ended, the holder of the licence shall be solely responsible for all costs associated with reinstatement of the area to its original form.
- 2.11 Repair of any damage to persons of property (both private and public) arising from the licence to occupy the footpath shall be the responsibility of the licence holder.

3. Smoking in alfresco dining areas

- 3.1 Smoking is not permitted at any time in the area used for alfresco dining.
- 3.2 Signage requirements will be discussed with the licence holder and Council officers.
- 3.3 No ash trays, or other objects used for the collection of cigarettes, shall be displayed in alfresco dining areas.
- 3.4 Council acknowledges that policy 3.1 is 'self-policing'. This means that no regulatory enforcement will be provided by Council, or any other agency.
- 3.5 There will be no active enforcement of policy 3.1, but it is up to the licence to occupy the footpath holder to abide by the conditions as per the licence agreement.

4. Revocation of licence to occupy the footpath

- 4.1 Council may revoke a licence to occupy the footpath where:
 - 4.1.1 The licensee continually breaches the conditions of the licence;
 - 4.1.2 There is a public safety concern; or
 - 4.1.3 The use of the footpath becomes inappropriate for the location.
- 4.2 In such cases, a notice will be issued to the licence holder. The notice will include the reasons for revocation and timeframe for vacating the area.
- 4.3 The licence holder will have the right to request a review of the decision to revoke a licence to occupy the footpath. Requests must be made within 7 calendar days of the date the revocation notice is issued. The notice will be suspended until the review request is considered by Council, or an appropriate delegated committee.

5. Minimum site requirements

- 5.1 A clear passage of two metres wide in a generally straight alignment must be available to allow movement of pedestrians:
- From the edge of the existing building to the proposed occupied area, or
 - From the edge of the proposed occupied area to the kerb, or
 - Between two occupied areas.
- 5.2 A **wind/safety barrier** is required where an occupied area is situated adjacent to the carriageway or kerb. The form and construction must be suitable for functional requirements, including prevailing weather conditions. Barrier design should normally include provision of a PS1 certificate for the design of the structure. Barrier screens:
- Must be associated with the use of the footpath for an outdoor eating facility;
 - May only be placed in the alfresco dining zone;
 - Must be installed by an approved contractor;
 - Must be approved by Council prior to installation;
 - Must be transparent and of an appropriate type of material;
 - Must not obstruct driver or pedestrian visibility of roading systems;
 - May only be in place during normal trading hours, unless approved by Council;
 - Must be positioned to allow for pedestrian access;
 - Should not exceed the width of the alfresco dining zone.
- 5.3 Any **outdoor heater** used in alfresco dining zones:
- May only be placed in the alfresco dining zone
 - Must comply with all relevant safety standards
 - May not be placed beneath umbrellas.
- 5.4 Any **umbrellas** used in alfresco dining areas:
- Must be made of high quality material such as canvas
 - May only be placed in the alfresco dining zone.
- 5.5 The use of **car parks** directly in front of the applicant's business, for the use of alfresco dining, will be considered by Council on the location and merit of each proposal.

6. Site operation

- 6.1 The use of the occupied area shall be on the basis that a clear passage is maintained at all times in accordance with the minimum site requirements specified in policy 5.1-5.3.
- 6.2 If the occupied area is to be used to consume alcohol, the applicant must comply with the Ashburton District Council Local Alcohol Policy and the Sale and Supply of Alcohol Act 2012.
- 6.3 The occupied area will require to be licensed and an application to extend the licensed area should be made to the Secretary of the Ashburton District Licensing Committee.
- 6.4 The occupied area is to be used in accordance with the liquor licence for the premises.