

# RICHMOND VALLEY COUNCIL POLICY REGISTER

**Policy No:** 2.7.10

**Reference:** Land Use and Planning - Policy; Council Properties - Policy, Procedure

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<b>POLICY:</b>	<b>KERBSIDE DINING</b>
<b>FUNCTION:</b>	Development Assessment
<b>OBJECTIVE:</b>	To facilitate Kerbside Dining in a controlled and safe manner through the Development Assessment Process
<b>DIRECTORATE:</b>	<b>ENVIRONMENTAL DEVELOPMENT SERVICES</b>

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## POLICY

### Aim of Policy

The aim of this policy is to outline Council's requirements for kerbside dining areas in the Richmond Valley Local Government Area and facilitate this form of trading in a safe and aesthetic environment.

### Objectives

1. To reinforce the established character of the area or in the case of any streetscape plans the intent of those plans.
2. To provide open, social meeting places where people can comfortably and safely dine in an outside area.
3. To allow for the operation of kerbside dining areas in public places (i.e. footpaths or road reserves) in such a manner that they do not conflict with vehicular or pedestrian movement, particularly those pedestrians that are visually impaired, disabled or elderly.
4. To ensure no adverse impacts on the overall provision of car parking.
5. To appropriately locate kerbside dining so as to ensure the safety of diners and minimise potential conflict between vehicles, diners and pedestrians.

### Approvals required

- Development Consent
- Construction Certificate (where necessary)
- Approvals pursuant to the Roads Act
- Licence Agreement with Council

### Matters for Consideration Prior to Lodgement of a Development Application

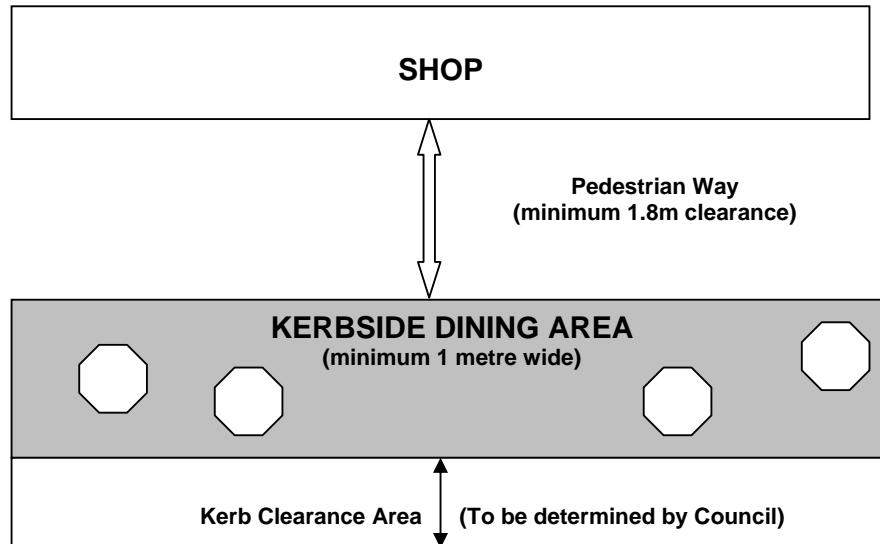
Prior to the lodgement of a development application, discussions are to be held with Council regarding the overall design and size of the alfresco dining area. It will be a requirement that any alfresco dining area shall be designed and configured in a way which will have a positive contribution to the overall streetscape.

- **Location and Dimensions**

A kerbside dining area shall only be established as an integral part of a development proposal for a new eating establishment within an adjacent building or as an extension to a previously approved existing establishment operating within an adjacent building.

The area shall be designed in such a way as to permit unobstructed pedestrian movement. A minimum clear footpath width of 1.8 metres shall be maintained in all cases. Pedestrians should be able to make normal use of the footpath without being obliged to step into the road at any point, or make other unwarranted detours.

The following figure shows location and dimensional requirements.



Kerbside dining areas should take into account the multi use of the public space they occupy and must provide for clear sight lines for vehicles and/or pedestrians, both at road junctions, vehicle access crossovers and/or pedestrian crossings. Also these areas are not to create conflict with, or inconvenience other retail and commercial activities, or unreasonably obstruct the views of, or access to adjacent properties. This issue is to be considered, where relevant, in accordance with the design/landscaping section of this policy.

- **Safety/Crash Protection**

A footpath dining area is not permitted in a position which, in the opinion of Council, compromises the safety of any users of the kerbside area or will create conflict between pedestrians, vehicles and diners.

Crash protection barriers and/or clearance areas from the kerb must be provided when additional protection for diners is required. These requirements will be determined by Council depending upon the type of road which the proposal fronts, existing car parking arrangements, location of existing services, the condition of the existing footpath and the like.

In the event a crash protection barrier is required by Council, certification from a suitably qualified professional shall be submitted demonstrating the barrier has been designed and constructed so as to maximise safety of diners and vehicle occupants.

- **Structures**

All street furniture associated with kerbside dining areas such as umbrellas, pots and so forth, are to be temporary in design to enable removal, upon initiation of planned footpath widening, or a lease is terminated. All structures/furniture shall be shown and approved upon the development consent plans.

- **Design/Landscaping**

Prior to lodgement of a development application, discussions are to be held with Council's Development Assessment Group regarding the design and landscaping of the proposed kerbside dining area under consideration.

Any design or landscaping incorporated into the development should:

1. Permit social interaction between pedestrians and dining patrons;
2. Provide positive contribution to the streetscape by:
  - a) permitting the visual continuity of the streetscape;
  - b) not unreasonably obstruct the existing vista;
  - c) where necessary, encouraging the use of appropriate low barriers and bollards;
  - d) associated plantings should not be used as a screening element but as a landscape technique to soften the hard surface elements of the streetscape.
  - e) the design of the kerbside dining area shall maintain the visual integrity of adjoining development;
  - f) in certain circumstances the design of the kerbside dining area may need to address or incorporate elements for the visually impaired, disabled or elderly.

### **Development Application Requirements**

As is the case with any restaurant/café operation, a development application must be submitted to Council for approval. A development application is to contain;

1. a completed Development Application form accompanied by the relevant fee as per Council's Revenue Policy;
2. consent of owner (Council) for the making of the development application and the owner of premises to which the application relates (if not the applicant).
3. site plans identifying the relevant areas in relationship to the applicant's premises;

4. plans of the proposed kerbside dining area, whether it be for a permanent structure or a moveable area including the location of all structures, street furniture, bollards, walls and the like;
5. a plan identifying any proposed landscaping;
6. consideration of the condition and grade of the footpath and whether any improvements to the footpath are required;
7. for larger scale developments, artist impressions, sketches and elevations of the proposed dining area may be required;
8. an assessment regarding the impact that the dining area will have upon vehicular movements and pedestrian movements, particularly for the visually impaired, disabled and elderly;
9. details of the premises seeking approval for kerbside dining such as hours of operation, service of alcohol etc.
10. where necessary, an assessment of the proposed development in accordance with the principles of Crime Prevention Through Environmental Design.

All plans accompanying the application must be drawn to scale clearly indicating all structures, furniture and clearance areas and their relation to the building in which the eating house is located.

In granting approval, the Council may impose conditions requiring the dining facilities be of a moveable nature, and/or that the facility may only operate at certain specified times. Furthermore, a Licence Agreement between the applicant and Council will be required prior to the kerbside dining commencing.

- **Development Application Fee**

The application fee for the proposed kerbside dining area will be as per Council's Revenue Policy for development.

- **Public Advertising/Consultation**

All applications will be publicly advertised for a period of fourteen (14) days.

All Development Applications for kerbside dining will be referred to the servicing officer of the Access Committee for comment prior to approval and any adjoining business owners.

### **General Development Standards**

1. A clear footway with a minimum dimension of 1.8 metres must be maintained at all times. A larger minimum dimension may be required where pedestrian traffic density is assessed by Council as requiring increased clear footway.
2. A clearance of 1.0 metre is required from public infrastructure at all times. This includes litter bins, public seats, payphones, bike stands, fire hydrants and the like.
3. A kerbside dining reserve must be no narrower than 1 metre.

4. Unless specifically approved, the kerbside dining area must not extend along the footpath beyond the frontage of the principal food premises.
5. Council may delineate the extent of the kerbside dining reserve on the footpath at the applicant's expense. Kerbside dining areas shall be clearly defined to give a sense of identity to the area and facilitate its policing to maintain unobstructed footpath passage.
6. A kerbside dining area is not permitted in a position which, in the opinion of Council, will create a traffic hazard or compromise the safety of diners or pedestrians.
7. Crash protection barriers must be provided when, in Council's opinion, additional protection of diners is required. Certification from a suitably qualified professional shall be submitted demonstrating the barrier has been designed and constructed so as to maximise safety of diners and vehicle occupants.
8. A kerbside clearance area may be required to minimise conflict between vehicles and diners and permit safe access from parked vehicles. These requirements will be determined by Council depending upon the type of road which the proposal fronts, existing car parking arrangements, location of existing services, the condition of the existing footpath and the like
9. An applicant must not carry out any work in respect of the establishment or conduct of a kerbside dining area until the applicant has entered into a Licence Agreement with Council.
10. The establishment and conduct of a kerbside dining area must be done in full compliance with the Licence Agreement.
11. The kerbside dining area must only operate during the business hours approved by Council for the specific premises.
12. Unless otherwise approved by Council, all tables and chairs and other items placed by the applicant on the footpath must be removed from the footpath when the principal food premise is not open for business.
13. The applicant must at all times ensure the cleanliness of the kerbside dining area, all infrastructure within that area, and its immediate surrounds. In particular, litter must not be discarded to the stormwater drainage system, including the kerb and gutter.
14. No advertisements, including sandwich boards, will be permitted on the footpath area.
15. Where Council has approved the use of shade umbrellas or other structures, a minimum vertical clearance of 2.2 metres above the footway is required.
16. If existing car parks are lost as a result of a kerbside dining development, carparking levies may apply in accordance with Council's Revenue Policy.
17. Depending on the scale and location of the application, approval may be limited in the first instance to a trial period. Upon the expiration of this period, Council will re-assess the operation in the context of its compatibility and/or functionality with the footpath system, the adjacent land uses and the streetscape generally.

18. In the event problems or conflicts are experienced with the kerbside dining area, they must be resolved to Council's satisfaction within a reasonable timeframe. Failure to do so will result in the consent being nullified after re-assessment and licences being cancelled.
19. Where there is a proliferation of kerbside dining areas in a particular location, resulting in a substantial loss of available footpath, Council may restrict the number of such areas permissible in the particular street or locality.

### **Licensing/Leasing**

All kerbside dining areas are to be licensed in accordance with Section 125 of the Roads Act. All costs for establishing a licence are to be borne by the applicant. Such a licence will be for a period of three (3) years, usually with an option for an additional three (3) years. Council's Governance Officer can be contacted to discuss the licence agreement. An annual lease fee will apply in accordance with Council's Revenue Policy.

Licensed kerb side dining areas will be clearly identified on the footpath, in a manner approved by Council. The method of identifying the licensed area will be conditioned on the Development Consent.

### **Concurrence**

Council cannot grant approval to kerbside dining areas on a footway on a classified road except with the concurrence of the Roads and Traffic Authority.

### **Exemptions**

Upon written application the General Manager may dispense with all or any of the conditions of this policy for special Council approved festive occasions such as Beef Week.

### **Indemnities and Responsibility**

The footpath shall be kept clean and tidy at all times. Council may direct the footpath to be steam cleaned from time to time at no cost to Council.

Any damage caused to Council's footpaths as a direct result of trading activities shall be the responsibility of the respective proprietor. All repair work shall be undertaken by Council at the owner's expense. Proprietors shall indemnify Council against all claims of public liability and shall maintain a public risk policy for a sum of not less than ten million dollars (\$10,000,000) at all times, with an insurance company approved by Council.

### **VARIATION**

Council reserves the right to review, vary and/or revoke this Policy from time to time.