

Footpath Barbecue Policy

1.0 Purpose

The Footpath Barbecue Policy (Policy) outlines Canterbury-Bankstown Council's (Council) management principles for the licensing of defined areas outside of existing approved food preparation and sale premises allowing the commercial use of footways for the purposes of preparation of barbecued food under the care and control of Council.

This Policy aims to achieve a balance between public and commercial uses through the provision of specifications that promote an integrated approach to design, positioning and layout of the street environment and the commercial uses allowed within.

2.0 Scope

This Policy applies to the management and licencing of the commercial use of footways on land under the care and control of Council only. It is to be read in conjunction with the Commercial Use of Footways Policy and Guidelines. It does not apply to footpaths which are not under the care and control of the Council.

Note:

1. Any proposal for the modification, relocation or removal of existing infrastructure must submit a Work Permit Application for assessment prior to the licensing process and, if approved, would be carried out at the applicant's expense
2. Applications to install permanent infrastructure within the public space cannot be made as part of a Commercial Use of Footways licence application. The installation of permanent infrastructure within the public space by the applicant may only include awnings and signage attached to the existing building above the existing ground level. For this infrastructure the applicant must submit a Development Application for assessment separate to the licensing process. All other permanent infrastructure within the public space shall be planned and managed by Council.

3.0 Terms and Definitions

In this Policy the terms below have the following meanings.

Term	Definition
Applicant	The person who applies for the licence agreement and must be the owner of the associated premises with an existing approval for food sales.
Commercial Use of Footways	Commercial use of footways includes but is not limited to activities such as outdoor dining, advertising through the use of freestanding and moveable furniture only which is managed by licence agreement under the <i>Roads Act 1993</i> .
Development Application	An application for consent under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> to carry out development but does not include an application for a complying development certificate.
Development Consent	Consent under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> to carry out development.

Footpath Barbecue Policy

<i>Licence Agreement</i>	Permission to use Council property for a particular purpose, or conduct business or occupation under a particular agreement with Council.
<i>Licence</i>	Certificate that proves such granted authority under governmental licence has been given.
<i>Licensee</i>	The holder of a licence from Council.
<i>Outdoor Trading</i>	Overarching term used to describe the commercial use of footways.
<i>Outdoor Dining</i>	The arrangement of tables, chairs and related furniture and fittings for an outdoor café, restaurant or dining purposes placed on Council owned or controlled land.
<i>Permanent Infrastructure</i>	Any built or fixed element that that has been approved through the appropriate government processes such as cooking facilities, awnings, retractable awnings, blinds, screens and signage.
<i>Premises</i>	The property at which the commercial business which holds or seeks to hold the Footpath Barbecue licence is approved to operate.
<i>Semi-permanent infrastructure</i>	Any moveable element that remains in place outside the approved hours of operation of the commercial use of footways licence such as planter boxes.

4.0 Policy Statement

Council is committed to providing residents, businesses and visitors with an inclusive, engaging and vibrant city in a manner that responsibly manages the shared use of its public spaces.

This Policy is aligned to the *Safe and Strong* destination of the *CBCity 2036* Community Strategic Plan.

5.0 Policy Criteria

5.1 Principles

Council will manage the commercial use of footways in order to:

- Maintain public safety
- Ensure equitable access
- Develop vibrant, open and multifaceted street life
- Provide an attractive city in keeping with the local character
- Maintain and improve amenity
- Support economic vitality and local commercial development
- Balance the use of the public space
- Maintain effective footways management
- Ensure the protection of Permanent Infrastructure

Footpath Barbecue Policy

5.2 Footpath Barbecue Licence Agreement conditions

All use of Council owned outdoor space, whether for commercial purposes or otherwise, requires approval. In the case of a barbecue outside an existing approved restaurant, café, or other food premises approval is granted through a “Footpath Barbecue licence”. Council will consider licence applications and renewals on an individual case-by-case basis.

These applications are processed as licence applications over Council owned property and must comply with the provisions of this Policy, the associated Guidelines and documents, and relevant legislation, including the *Liquor Act 2007* (NSW) and *Smoke Free Environment Act 2000* (NSW) and the *Food Act 2003* (NSW).

5.2.1 Footpath Barbecue licence application requirements

Applications for a Footpath Barbecue licence must be submitted by the holder of a consent for an approved food business owner, or by a person with written authority of that consent holder (referred to as the applicant). The licence can only be for the Council footpath immediately adjacent to the Premises. The Licensee may only be the person who holds the consent for the adjacent Premises.

The applicant is responsible for providing the required information to Council as set out in the Commercial Use of Footways Guidelines and this Policy to allow for the reasonable assessment of the proposed use. Council will only enter into a Footpath Barbecue Licence Agreement where the commercial business (to which the licence relates) is operating in accordance with the terms of any development consent or similar approval that regulates the use of the Premises.

- a. The applicant must provide evidence of Public Liability Insurance with an Australian-based insurance company for a minimum amount of \$20,000,000 and must indicate Canterbury-Bankstown Council as the interest party on the Certificate of Currency.
- b. The applicant must provide certification by a certified structural engineer that any existing structure attached to the associated building and located over the associated public space (such as awnings) is structurally adequate and complies with Section B of Volume 1 of the Building Code of Australia.
- c. The Footpath Barbecue Licence Agreement shall only be valid while the Public Liability Insurance referred to in a. above is in place.
- d. Footpath Barbecue Licences will be granted to only one food premise per block for any day of the week. To be clear, one food premises may receive a Licence to operate on Monday; another may be given approval to operate on Tuesday; such that in any one block only one licence will be operating on any day of the week.
- e. Footpath Barbecue Licences will only be granted for operation during daylight hours.
- f. This Policy is to operate on a trial basis for 12 months following its adoption by Council after which the viability and safety of the commercial use of footways for the preparation of barbecued food will be subject to Council review.

5.2.2 Footpath Barbecue Licence Agreement

- a. Once Council has entered into a Licence Agreement, the licensee (the associated business owner who has been granted permission) is responsible for complying with all conditions applicable to the licence agreement. A failure to comply with all conditions may result in Council taking action and may result in termination of a Licence Agreement. The expiry date for all approvals and licences is the 30th of June each year.
- b. Current licences will be automatically reviewed by Council for renewal at the end of each financial year and if approved, a request of licence renewal will be issued.

Footpath Barbecue Policy

- c. Failure to pay the licence fees or provide evidence of current Public Liability Insurance may result in the Licence Agreement being automatically rescinded by Council,
- d. A full list of the relevant fees is listed in Council's Schedule of Fees and Charges.

5.2.3 Other requirements

- a. A licence will cease upon change of use or change of business of the associated Premises or the lapse for any reason of the approval to use the Premises for the preparation and/or sale of food.
- b. For the Licence Agreement to be maintained, a change of owner of the associated Premises must be registered with council along with documentation of current valid insurances and the licence transferred to the new owner.
- c. Council reserves the right to revoke or vary the licence at any time, notwithstanding any associated development consent that applies. Council will provide reasonable notice however the business will bear the costs associated with the revocation or variation.
- d. Any outdoor dining area where it is intended to serve alcohol requires a separate licence under the *Liquor Act 2007* (NSW). Further information can be obtained from Liquor & Gaming NSW.
- e. Smoking (including water-pipes) is banned within all commercial outdoor dining areas under the *Smoke Free Environment Act 2000* (NSW). Owners and occupiers must ensure that adequate "No Smoking" signs are displayed. This is enforced by NSW Health Authorised Inspectors. Further information can be obtained from the NSW Health.
- f. The *Food Act 2003* (NSW) applies to the area the subject of the Footpath Barbecue Licence Agreement and the provisions of Appendix 9 of *Food Standards Australia New Zealand Safe Food Australia* (Standard) or any other standard mandated for outdoor or temporary food business by the NSW Food Authority or any equivalent NSW authority shall apply to the Licence Agreement. Failure to undertake the Footpath Barbecue Licence Agreement in accordance with the Standard are grounds for automatic revocation of the Licence at the Council's discretion.
- g. Any proposal for the modification, relocation or removal of existing infrastructure must submit a Work Permit Application for assessment prior to the licensing process and, if approved, would be carried out at the applicant's expense.
- h. Applications to install permanent infrastructure within the public space cannot be made as part of a Commercial Use of Footways licence application. The installation of permanent infrastructure within the public space by the applicant may only include awnings and signage attached to the existing building above the existing ground level. For this infrastructure, the applicant must submit a Development Application for assessment separate to this licensing process. All other permanent infrastructure within the public space shall be planned and managed by Council.

6.0 Approval and Review

6.1 Policy Owner

Manager Regulatory Services

6.2 Authorisation

Adopted by Canterbury-Bankstown Council on

6.3 Reviews and Modifications

The next review is due on

Footpath Barbecue Policy

7.0 Related Documents

7.1 Laws and Standards

- *Canterbury-Bankstown Development Control Plan 2023 (NSW)*
- *Canterbury-Bankstown Local Environmental Plan 2023 (NSW)*
- *Environmental Planning and Assessment Act 1979 (NSW)*
- *Food Act 2003 (NSW)*
- *Food Regulation 2015 (NSW)*
- *Liquor Act 2007 (NSW)*
- *Local Government Act 1993 (NSW)*
- *Local Government (General) Regulation 2021 (NSW)*
- *Protection of the Environment Operations Act 1997 (NSW)*
- *Public Health Act 2010 (NSW)*
- *Roads Act 1993 (NSW)*
- State Environmental Planning Policies, NSW Government
- *Smoke Free Environment Act 2000 (NSW)*
- *Work Health and Safety Act 2011 (NSW)*

7.2 Policies and Procedures

- Alcohol Free Zones and Alcohol Prohibited Areas Policy
- National Construction Code 2022, Commonwealth Government
- Commercial Use of Footways Application Forms
- Commercial Use of Footways Policy and Guidelines
- Council's Schedule of Fees and Charges

7.3 Food Standards Australia New Zealand

- Food Standards Code
- Standard 3.2.2 - Food Safety Practices and General Requirements- external site
- Standard 3.2.2A – Food Safety Management Tools
- Standard 3.2.3 - Food Premises and Equipment