
NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 14 APRIL 2021
REPORTS TO COUNCIL – GENERAL MANAGER

1. REMOTE ATTENDANCE BY COUNCILLORS AT COUNCIL MEETINGS – CONSULTATION PAPER

Author	Director Governance
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 4.3.1 Operate and manage Council in a financially sustainable manner that meets all statutory and regulatory compliance and Council policies

Executive Summary

This report is presented to Council to consider the Consultation Paper recently released by the Office of Local Government regarding Remote Attendance by Councillors at Council Meetings.

Report

Temporary amendments were made to the *Local Government Act 1993* (the Act) in March 2020 in response to the COVID-19 pandemic allowing Councillors to participate in meetings remotely by audio-visual link. The amendments allowing remote attendance are time limited and will automatically expire on 25 March 2021.

The OLG are now proposing to amend the Model Code of Meeting Practice for Local Councils in NSW (Model Meeting Code) to include non-mandatory provisions that allow Councils to permit Councillors to attend Council and Committee meetings remotely by audio-visual link in some circumstances.

As an interim measure however, the *Local Government (General) Regulation 2005* will be amended to allow Councils to permit individual (but not all) Councillors to attend meetings remotely until 31 December 2021 pending changes to the Model Meeting Code.

Under the proposed new provisions, Councils will only be able to give approval for individual Councillors to attend a meeting remotely by audio-visual link where the Councillor is prevented from attending the meeting because of ill health, disability, carer responsibilities, natural disaster, or on a limited number of occasions in each year, because they are absent from the local area due to a prior work commitment.

The OLG recognises that remote attendance may not be supported by all Councils and may pose logistical and technical challenges for some Councils, and is therefore proposing the new provisions will not be made mandatory, and Council can choose whether to include them in their Model Meeting Code.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 14 APRIL 2021
REPORTS TO COUNCIL – GENERAL MANAGER

1. REMOTE ATTENDANCE BY COUNCILLORS AT COUNCIL MEETINGS – CONSULTATION PAPER (Cont'd)

The proposals include: -

- Councillors will be permitted to attend a meeting remotely with the prior approval of the Council where they are prevented from attending the meeting in person due to ill health, disability, carer responsibilities or a natural disaster.
- Councillors will be able to attend a meeting remotely with the prior approval of Council where they are prevented from attending the meeting because they are absent from the local area due to a prior work commitment, however will not be able to attend meetings remotely in these grounds more than 3 times in one year (including Extraordinary Council Meetings).
- Where attending a meeting remotely, Councillors will be required to do so from within NSW, or within 100km of the NSW border.
- Councillors are to give the General Manager at least 5 working days' notice seeking Council's approval to attend a meeting remotely.
- Meeting rules still to apply in the same way as if attending the meeting in person.
- Disclosures and conflicts of interest are still to be disclosed and managed appropriately.
- Councillors attending a meeting remotely are to ensure that no person is within sight or hearing of the meeting at any time the meeting is closed to the public.
- The Chair will be able to mute or terminate the Councillors audio-visual link to enforce compliance.

A copy of the Consultation Paper is attached for further information (**See Attachment No. 1**).

The OLG are inviting written submissions on the Consultation Paper by close of business 3 May 2021. Submissions must consider: -

- Do you support the proposed changes to the Model Meeting Code to allow Councillors to attend meetings remotely by audio-visual link?
- Do you have any concerns about the proposed changes? What are your concerns?
- Do you have any suggestions for how the proposed new provisions could be improved?

Financial Implications

Nil

Legal and Regulatory Compliance

Local Government Act 1993

Local Government (General) Regulation 2005

Model Code of Meeting Practice for Councils in NSW

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 14 APRIL 2021
REPORTS TO COUNCIL – GENERAL MANAGER**

**1. REMOTE ATTENDANCE BY COUNCILLORS AT COUNCIL MEETINGS –
CONSULTATION PAPER (Cont'd)**

Risk Management Issues

The OLG believes that to be effective local elected representatives (Councillors) need to live or work in the area and should exercise their duties diligently. Councillors should not, for example, be permitted to move interstate or overseas and attend every third meeting remotely to collect their fees. Councillors should also not be permitted to attend meetings while at work where their attention may be focussed on matters other than Council business.

Councillors will be required to be appropriately dressed when attending meetings remotely and must ensure that no items are within sight of the meeting that are inconsistent with the maintenance of order at the meeting or that are likely to bring the Council into disrepute.

Internal/External Consultation

Council now has an opportunity to provide a written submission on Remote Attendance by Councillors at Council Meeting.

Attachments

- Consultation Paper

RECOMMENDATION

That Council provide a written submission supporting the proposed changes to the Model Meeting Code.

2. USE OF PUBLIC FOOTPATH – OUTDOOR DINING POLICY

Author	Director Governance
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 4.3.1 Operate and manage Council in a financially sustainable manner that meets all statutory and regulatory compliance and Council policies

Executive Summary

This report is presented to Council to consider the revised Use of Public Footpath – Outdoor Dining Policy

2. USE OF PUBLIC FOOTPATH – OUTDOOR DINING POLICY (Cont'd)

Report

Council adopted the Use of Footpath – Outdoor Dining Policy on 18 September 2012, which was subsequently revised 18 July 2018.

The policy aims to permit the establishment of business opportunities and to create a more vibrant and cosmopolitan atmosphere in the commercial centres of Narromine Shire. It allows the approval of business use of footpath areas within the Shire adjacent to businesses where there is adequate footpath width for pedestrian circulation.

The policy is now due for further revision. Suggested amendments have been marked in red for ease of reference.

Financial Implications

Approved fees as per Council's adopted fees and charges

Legal and Regulatory Compliance

Section 68 Approvals – Approval is required under section 68 of the Local Government Act 1993 to expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road, as well as use a standing vehicle or any article for the purpose of selling any article in a public place.

Section 125 of the Roads Act 1993 – a roads authority may grant an approval that allows a person who operates food or drink premises adjacent to a public road to use part of the public road for the purposes of the food or drink premises.

Risk Management Issues

Approval requirements consider location/site suitability; public safety; amenity; function; and legal and compliance (noise, waste, operational conditions, Council inspections, Insurance etc).

Internal/External Consultation

It is recommended that the revised policy be placed on public exhibition for a period of 28 days inviting written public submissions.

Attachments

- Draft revised policy (**see Attachment No. 2**)

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 14 APRIL 2021
REPORTS TO COUNCIL – GENERAL MANAGER**

2. USE OF PUBLIC FOOTPATH – OUTDOOR DINING POLICY (Cont'd)

RECOMMENDATION

That the revised Use of Public Footpath – Outdoor Dining Policy be placed on public exhibition for a period of 28 days.

3. LEASE OF UNUSED ROADWAY

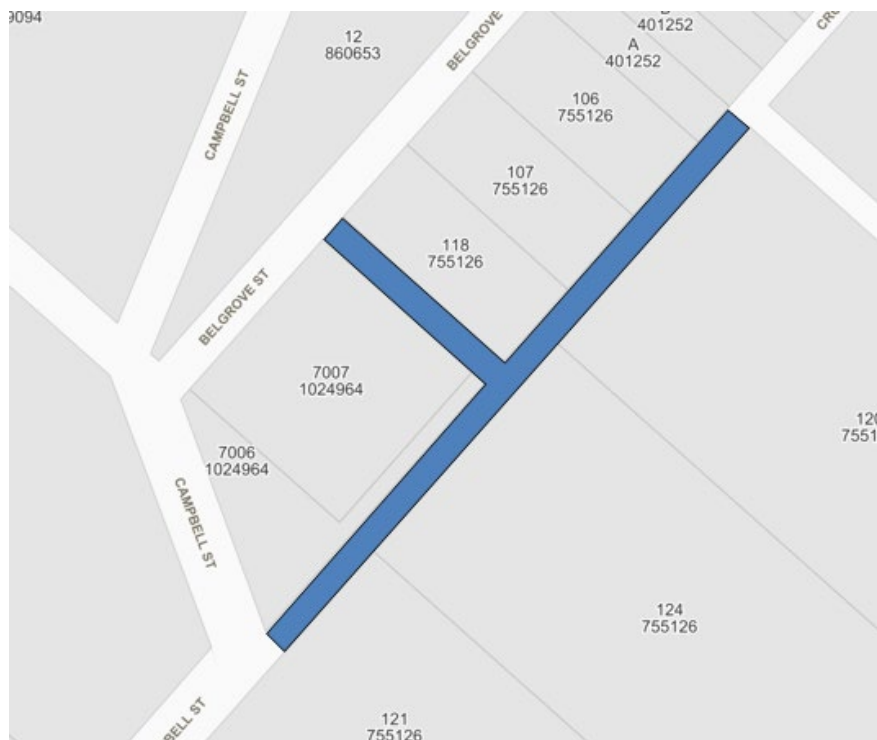
Author	Director Governance
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 3.4.4 Ensure Council's property assets are monitored and well managed

Executive Summary

This report is presented to Council to consider setting a lease fee for an unused roadway in Trangie.

Report

Council has received a request from an adjoining landholder to lease an area of unused roadway in Trangie (see extract of map below).



3. LEASE OF UNUSED ROADWAY(Cont'd)

The roadway is not used and Council does not require use of it for the short term.

The lessee would be responsible for the upkeep of any fences; leaving the roadway in the same condition as at the commencement of the lease; allowing unobstructed access to the roads authority for repairing, maintaining or laying of water/sewerage mains as necessary; complying with noxious weeds notices etc; and further indemnifying the roads authority against claims or other liabilities.

Financial Implications

It is proposed that the commencing rental be \$557.70 per annum (including GST), with annual CPI increments applied thereafter.

Legal and Regulatory Compliance

Section 154 of the Roads Act 1993 states that before granting of a lease, the roads authority must publish in a local newspaper a notice of the proposed lease. The notice must also be served on the owner of each parcel of land adjoining the length of the public road concerned. Any person is entitled to make a submission to the road authority with respect to the proposed lease.

Risk Management Issues

The roadway is not required for Council purposes; therefore, a short-term lease is recommended. The lessee will be required to take adequate public liability coverage of the area leased, noting Narromine Shire Council as an interested party. The lessee is also responsible for ensuring the fencing is stock proof.

Internal/External Consultation

Adjoining landholder
Infrastructure and Engineering Services Department
Manager Planning

Attachments

Nil

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 14 APRIL 2021
REPORTS TO COUNCIL – GENERAL MANAGER

3. LEASE OF UNUSED ROADWAY(Cont'd)

RECOMMENDATION

1. That Council lease the unused roadway to the adjoining landholder for a 5-year period at a commencing rental of \$557.70 per annum (GST inclusive) with annual CPI increments to be applied thereafter.
2. That Council advertise in a local newspaper the notice of intention to enter into the lease and serve the notice on the owner of each parcel of land adjoining the length of the public road concerned.
3. That should no written submissions be received; the General Manager be delegated to enter into the lease agreement.

4. TOMINGLEY GOLD OPERATIONS (TGO) – COMMUNITY FUND PANEL

Author	Director Governance
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 4.4.4 Develop and build partnerships with State and Federal Governments, industry and community organisations to foster development and delivery of community services and emerging business sectors

Executive Summary

This report is presented to Council to approve the recommendations from the Tomingley Gold Operations (TGO) Community Fund Panel for distribution of the Voluntary Planning Agreement funds.

Report

The Voluntary Planning Agreement (VPA) with TGO is to provide Council with the following “community funds” as outlined in clause 4.1 of the Agreement –

\$53,750 per year until 31 December 2022 with 50% payable on 1st July and 50% payable on 1st January each year with a total of \$430,000 over the period.

The VPA also states in clause 4.3 “The Development Contributions paid pursuant to clause 4.1 may be pooled with other monies held by Council which have similar and relevant objectives, subject to the proponent (TGO) having the opportunity to lobby for certain expenditure of for the benefit of Tomingley residents and to object to expenditure which may not be in the proponent (TGO) view of community benefits”.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 14 APRIL 2021
REPORTS TO COUNCIL – GENERAL MANAGER

4. TOMINGLEY GOLD OPERATIONS (TGO) – COMMUNITY FUND PANEL (Cont'd)

The objective of the Community Fund is to satisfy the four elements of:

- Economic Development – directly contribute to the resilience and/or long-term economic growth of the community;
- Community Connectivity – promote community togetherness in a positive family focussed way;
- Education and Training – foster the education and up-skilling of members of the community;
- Community Infrastructure.

The TGO Community Fund award funds twice per year with applications due in March and August, and the Panel conferring in April and September to review the applications. The Panel recommends to Council that the following project receives funding from the Community Fund Round 1:

- Narromine Clay Target Club Inc – Upgrade target release system to wireless units - \$2,085.
- Narromine Soccer Club – Increase presence and awareness of soccer club – \$1,000.
- Narromine Agricultural (Show) Society Inc – Sponsorship - \$3,000.
- Narromine Lions Club – Licola Camp – Any financial assistance to enable local participants attend Camp Licola in Victoria – Overall budget for supporting Camp Licola supplied by Lions Club - \$1,000.
- Narromine CWA – Assistance with running Schools Public Speaking Competition 2021 - \$300.
- Tomingley Picnic Race Club Inc - \$5,000 – Tomingley Cup prize money, \$10,000 - Fencing, \$5,000 - Shade Structure – Total \$20,000

Recommended projects are determined in accordance with the objectives and assessment criteria for the distribution of the Community Funds agreed to by Council and TGO.

Acknowledgement of the successful applicant will be in a joint letter from Council (signed by the Mayor) and the TGO (signed by the Mining Manager).

Financial Implications

VPA Funds of \$53,750 per annum are available, with at least \$26,875 for each half year distribution. There were 7 application received comprising a total value of \$57,385.

Recommended financial contribution is \$27,385.

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 14 APRIL 2021
REPORTS TO COUNCIL – GENERAL MANAGER**

4. TOMINGLEY GOLD OPERATIONS (TGO) – COMMUNITY FUND PANEL (Cont'd)

Legal and Regulatory Compliance

In accordance with section 377 of the Local Government Act 1993, Council must resolve to approve the allocation of funds for a donation.

Guidelines adopted by Council on 9 October 2013 for distribution of funds for Tomingley Gold Operations – Community Fund in accordance with the Voluntary Planning Agreement.

Risk Management Issues

Nil

Internal/External Consultation

TGO Community Fund Panel

Attachments

Nil

RECOMMENDATION

That Council approves the allocation of funds from the TGO Community Fund as follows:

- Narromine Clay Target Club Inc – Upgrade target release system to wireless units - \$2,085.
- Narromine Soccer Club – Increase presence and awareness of soccer club – \$1,000.
- Narromine Agricultural (Show) Society Inc – Sponsorship - \$3,000.
- Narromine Lions Club – Licola Camp - \$1,000
- Narromine CWA – Assistance with running Schools Public Speaking Competition 2021 - \$300.
- Tomingley Picnic Race Club Inc - \$5,000 – Tomingley Cup prize money, \$10,000 - Fencing, \$5,000 - Shade Structure – Total \$20,000

Jane Redden
General Manager

Remote Attendance by Councillors at Council Meetings

March
2021

Consultation Paper



Office of Local Government, Department of Planning, Industry and Environment
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Overview

Temporary amendments were made to the *Local Government Act 1993* (the Act) in March 2020 in response to the COVID-19 pandemic allowing councillors to participate in meetings remotely by audio-visual link. The amendments allowing remote attendance are time limited and will automatically expire on 25 March 2021.

Most councils have successfully implemented remote attendance by councillors at meetings by audio-visual link during the pandemic. Some councils have called for the option of remote attendance to be made available to them on an ongoing basis to encourage greater diversity of representation.

The Government agrees that allowing remote attendance by councillors at meetings may serve to remove some of the impediments that currently prevent underrepresented groups from serving on their local councils.

The Government is therefore proposing to amend the *Model Code of Meeting Practice for Local Councils in NSW* (Model Meeting Code) to include non-mandatory provisions that allow councils to permit councillors to attend council and committee meetings remotely by audio-visual link in certain circumstances.

While councils will be required to resume meeting in person from 26 March 2021, as an interim measure, the *Local Government (General) Regulation 2005* will be amended to allow councils to permit individual (but not all) councillors to attend meetings remotely until 31 December 2021 pending the changes to the Model Meeting Code.

While the Government strongly supports the objective of encouraging greater diversity of representation on councils, this should be counterbalanced by the need to ensure communities are effectively represented by

their elected councillors. The Government believes that to be effective local elected representatives, councillors need to live or work in the area and should exercise their duties diligently. Councillors should not, for example, be permitted to move interstate or overseas and attend every third meeting remotely to collect their fees. Councillors should also not be permitted to attend meetings while at work where their attention may be focussed on matters other than council business.

To ensure this does not occur, the grounds on which councillors will be permitted to attend meetings by audio-visual link will be limited. Under the proposed new provisions, councils will only be able to give approval for individual councillors to attend a meeting remotely by audio-visual link where the councillor is prevented from attending the meeting because of ill health, disability, carer responsibilities, natural disaster or, on a limited number of occasions in each year, because they are absent from the local area due to a prior work commitment.

The Government recognises that remote attendance by councillors at meetings by audio-visual link may not be supported by all councils or may pose insurmountable logistical and technological challenges for some councils. For this reason, the proposed new provisions will not be mandatory, and councils can choose whether to include them in their adopted codes of meeting practice.

What is being proposed?

➤ **The proposed amendments will allow councillors to attend meetings by audio-visual link with the approval of the council in certain circumstances.**

“Audio-visual” link will be defined as “a facility that enables audio and visual communication between persons at different places”.

Under the proposed amendments, a councillor will be permitted to attend a meeting of the council or a committee of the council by audio-visual link with the prior approval of the council or the committee, or approval granted by the council or committee at the meeting concerned, where they are prevented from attending the meeting in person because of ill health, disability, carer responsibilities or natural disaster.

A councillor will also be permitted to attend a meeting of the council or a committee of the council by audio-visual link with the prior approval of the council or committee, or approval granted by the council or committee at the meeting concerned, where they are prevented from attending the meeting because they are absent from the local area due to a prior work commitment. However, a councillor will not be permitted to attend an ordinary or extraordinary meeting of the council or a meeting of a committee of the council by audio-visual link on these grounds on any more than three occasions in each year (inclusive of all ordinary, extraordinary and committee meetings attended by the councillor by these means).

Where a councillor is proposing to seek the council’s or a committee’s approval to attend a meeting by audio-visual link at the meeting concerned, they must first give the general manager at least 5 working days’ notice that they will be seeking the council’s or committee’s approval, to allow sufficient time for the necessary arrangements to be made for them to attend the meeting remotely, should the council or committee give its approval.

Where attending a meeting by audio-visual link, councillors will be required to do so from a location within NSW or within 100km of the NSW border.

➤ **As with decisions to grant a leave of absence under the existing provisions of the Model Meeting Code, the decision to permit a councillor to attend a meeting by audio-visual link is one that will be at the council’s or committee’s discretion.**

The council or committee will be required to act reasonably when considering whether to grant a councillor’s request to attend a meeting by audio-visual link.

However, the council or committee will be permitted to refuse a councillor’s request to attend a meeting by audio-visual link, where the councillor has failed to appropriately declare and manage conflicts of interest, observe confidentiality or comply with the council’s code of meeting practice on one or more previous occasions when they have attended a meeting by audio-visual link.

✔ **When attending meetings by audio-visual link, meeting rules and standards will apply to councillors in the same way they would if the councillor was attending the meeting in person.**

The council's adopted code of meeting practice will apply to a councillor attending a meeting of the council or a committee of the council by audio-visual link in the same way it would if they attended the meeting in person.

Councillors will be required to give their full attention to the business and proceedings of the meeting when attending a meeting by audio-visual link.

Councillors will also be required to be appropriately dressed when attending meetings by audio-visual link and must ensure that no items are within sight of the meeting that are inconsistent with the maintenance of order at the meeting or that are likely to bring the council or the committee into disrepute.

Where a councillor has attended a meeting by audio-visual link, the minutes of the meeting must record the fact that the councillor attended the meeting by audio-visual link.

✔ **Councillors attending meetings by audio-visual link will be required to disclose and appropriately manage conflicts of interest.**

Councillors attending a meeting by audio-visual link will be required to declare and manage any conflicts of interest they may have in matters being considered at the meeting in accordance with the council's code of conduct.

Where the councillor has declared a pecuniary or significant non-pecuniary conflict of interest in a matter being discussed at the meeting, the

councillor's audio-visual link to the meeting must be terminated and the councillor must not be in sight or hearing of the meeting at any time during which the matter is being considered or discussed by the council or committee, or at any time during which the council or committee is voting on the matter.

✔ **Councillors attending meetings by audio-visual link will be required to protect the confidentiality of information considered while the meeting is closed to members of the public.**

Councillors attending a meeting by audio-visual link will be required to ensure that no other person is within sight or hearing of the meeting at any time that the meeting has been closed to the public under section 10A of the Act.

✔ **The proposed amendments will contain provisions that allow the chair to enforce compliance with meeting rules by councillors attending meetings by audio-visual link.**

Where a councillor is attending a meeting by audio-visual link, the chairperson or a person authorised by the chairperson will be permitted to mute the councillor's audio link to the meeting for the purposes of enforcing compliance with the council's code of meeting practice.

If a councillor attending a meeting by audio-visual link is expelled from a meeting for an act of disorder, the chairperson of the meeting or a person authorised by the chairperson will be permitted terminate the councillor's audio-visual link to the meeting.

Have your say

We now want to hear from you.



Key questions to consider

Do you support the proposed changes to the Model Meeting Code to allow councillors to attend meetings remotely by audio-visual link?

Do you have any concerns about the proposed changes? What are your concerns?

Do you have any suggestions for how the proposed new provisions could be improved?

Submissions may be made in writing by **COB 3 May 2021** to the following addresses.

Further information

For more information, please contact Office of Local Government's Council Governance Team on **(02) 4428 4100** or via email at olg@olg.nsw.gov.au.

POST:

Locked Bag 3015
NOWRA NSW 2541



EMAIL:

olg@olg.nsw.gov.au

Submissions should be labelled 'Remote attendance at council and committee meetings' and marked to the attention of Office of Local Government's Council Governance Team.





USE OF PUBLIC FOOTPATH – OUTDOOR DINING POLICY

Adopted by Council 18 September 2012, Resolution No. 2012/358
Reviewed 13 June 2018. Adopted by Council 11 July 2018, Resolution No.
2018/152

POLICY STATEMENT

This Policy establishes Council's statements and principles dealing with applications for use of the public footpath for outdoor dining.

This Policy aims to permit the establishment of business opportunities and to create a more vibrant and cosmopolitan atmosphere in the commercial centres of the Narromine Shire. The policy will allow the approval of business use of footpath areas (which may include tables, chairs, shade structures, planter boxes and the like to be placed on footpaths) within the Shire adjacent to businesses where there is adequate footpath width for pedestrian circulation.

POLICY OBJECTIVES

The objectives of this Policy are as follows:

Access & Equity

- To ensure safety and convenient passage of all pedestrians when using public footpaths.
- To ensure the maintenance of clear view lines for both pedestrians and motorists, particularly near pedestrian crossings, street corners and key intersections.
- To ensure adjoining premises are not adversely affected by any business use of footpath areas.

Council & Community Protection

- To protect Council and the public interest while permitting effective use of public footpaths for business purposes.
- To effectively address risk management issues for Council.
- To ensure that business use of public footpaths will not cost the public purse.
- To ensure that public amenities will not be compromised by the provision of business use of footpath areas.

Economic

- To enhance the economic viability of our local business by offering consent to use public footpaths for business purposes.
- To encourage trading by providing a more vibrant atmosphere for shoppers.
- To provide an active and integrated street front.
- To maintain visibility and exposure of shop fronts.

FOOTPATH-OUTDOOR DINING

Approval Requirements

A ~~Development Application~~ **Section 68 Application** needs to be lodged with Council seeking consent for any proposed footpath dining.

An approval is also required under Section 125 of the *Roads Act 1993*. The term of the approval ~~can either be for twelve months or three years~~ is for 1 year.

Note: The RMS will ~~be need to be~~ consulted in accordance with the provisions of the *Roads Act 1993*, if the footpath is on a classified road.

Application Requirements

Applications are lodged using the prescribed application form and payment of the appropriate application fees. The application shall include:

- Three copies of the proposed site plan;
- Photographs and manufacturing details of all items proposed to be placed on the footpath (i.e. tables, chairs, umbrellas, barricades etc);
- Details of proposed hours of use of the footpath; and
- Copy of the Public Liability Insurance Policy.

Assessment Criteria

Applications for footpath dining will need to demonstrate that the following approval criteria can be met:

~~(a)~~ (a) Must be related to the operation of existing food business and operates on the same basis as the existing food business.

~~(b)~~ (b) Applicant is the owner or proprietor of the business.

~~(c)~~ (c) Service of alcohol limited to business frontage only.

~~(d)~~ (d) A 1.8 metre wide unobstructed passage of footway is maintained at all times. This clearance shall be measured traverse to and between the property boundary alignment and the kerb.

~~(e)~~ (e) Tables, chairs, barriers, shade structures (including canopy) shall be positioned so as not to overhang or encroach beyond the side boundaries and shall be wholly contained within the frontage of the food business premises.

~~(f)~~ (f) Shade structures shall provide a minimum vertical clearance of two point one (2.1) metres above footway level.

~~(g)~~ (g) Shade structures, tables and barriers shall be securely supported and suitably anchored to withstand unexpected wind gusts and shall be monitored for sturdiness at all times.

~~(h)~~ (h) The designated footpath dining area shall be enclosed by means of portable metal framed barricade where there are three or more table settings proposed or is proposed to be located adjacent to the kerb. The barricade shall be set back a minimum of 600mm from the kerb line to permit pedestrian access to and from parked motor vehicles. Barricades shall be purpose designed for footpath dining and where they incorporate advertisement panels, advertisements shall be restricted to the advertising of products sold on the premises.

- ~~(e)~~(i) All footpath dining furniture shall be to an approved structural and aesthetic standard and of matching thematic design.
- ~~(f)~~(j) All portable footpath dining furniture shall be removed from the foot path whilst ever the food business is closed.
- ~~(g)~~(k) The footpath dining furniture shall not restrict access to, or incorporate usage of, existing street furniture provided for public use.
- ~~(h)~~(l) Compliance with conditions and regulations relating to the preparation, storage and serving of food in a public place complies with the *Food Act 2003*.
- ~~(i)~~(m) The designated footpath dining area shall be maintained in a clean and tidy condition at all times.
- ~~(j)~~(n) A right of access exists with all utility service authorities with infrastructure in the footpath for the purpose of repairs and maintenance. There will be no compensation payable for interruption to footpath dining due to infrastructure repair and maintenance.

Fees and Securities

The fees associated with the ~~Development Application~~Section 68 and Application under the ~~Roads Act~~Local Government Act are stated in Council's ~~Revenue~~ Fees & Charges ~~Policy~~ as current at the time of lodgement.

Conditions of Consent

Should the application be approved by Council, the conditions of consent as outlined in **Schedule A** will be applied.

PUBLIC LIABILITY

Approval for business use of the footpath will only be valid where adequate insurance cover is provided by the business. This compliance is required to ensure meeting the objective of the policy, i.e. protecting Council and the public interest while permitting effective use of the public footpath for business purposes. To ensure protection from claims that may arise as a result of business use of the footpath area the business operator must:

- Take out and maintain public liability insurance for a sum of not less than \$20,000,000 at all times during the term of the approval. This is to include a cross liability clause, in the sum of not less than \$20,000,000 or any higher amount specified by Council throughout the term of the approval on advice of Council's insurers. The insurance policy must specifically state that it is to indemnify Narromine Shire Council against any public liability claims within the area between the front property boundary of the premises and the kerb line for the full frontage of the premises or area approved.
- Provide a copy of this current policy to Council prior to occupation of the footpath and validation of the approval.
- Ensure that they maintain a current public liability insurance policy for the period of the approval issued.
- Proof of currency must be kept on the premises and produced on demand by any authorised Council Officer.
- Provide Council with a copy of the current public liability insurance policy each time the approval is renewed.

FEES AND CHARGES

As per the [Council's](#) adopted Fees & Charges ~~Policy~~

COMPLIANCE

At least once per year Council will be undertaking an inspection of the area in question to determine compliance with the conditions of consent. This will include an audit of the businesses insurance requirements.

Failure to have a valid policy will result in this ~~development~~ [Section 68](#) consent being invalid and may result in Council issuing an on-the-spot penalty notice ~~of \$600.00~~ for the non-compliance with conditions of consent.

Appendices:

[Public](#) Footpath Dining Conditions

Authorisation:

Status	Committee	N/A	
	Manex	N/A	
Owner	General Manager		
Doc. ID			
Superseded Policy	Nil		
Date of Adoption/ Amendment	Revision Number	Minute Number	Review Date
18 September 2012			2012/358
13 June 2018	1		2018/152

SCHEDULE A – PUBLIC FOOTPATH DINING CONDITIONS

The following are standard conditions that are applied to approvals for use of the public footpath for dining:

1. This approval is for the use of the public footpath adjacent to (xxxxxxx) is for the term [twelve (12) months or three (3) years delete whichever is not applicable].
- ~~1.2.~~ A 1.8 metre wide unobstructed passage of footway is maintained at all times. This clearance shall be measured traverse to and between the property boundary alignment and the kerb. In addition, a 600 mm clear space is to be maintained from the kerb.
- ~~2.3.~~ Tables and chairs are not to be placed outside the approved area under any circumstances.
- ~~3.4.~~ The outdoor furniture shall not pose any potential safety hazard, especially with sharp edges or moving parts, to passers-by, patrons, or employees. The furniture shall be firmly secured to avoid risk of moving and falling over in windy conditions or other circumstances. The furniture shall be removed in high wind conditions.
- ~~4.5.~~ The outdoor furniture shall be stackable, foldable or easily dismantled so that it can be moved and stored away.
- ~~5.6.~~ Appropriate footpath service shall be provided which includes as a minimum the removal of any dirty plates, cups, cutlery, footpath staining and rubbish on a regular basis during each operating day. As such the area and its surrounds shall be maintained in a clean, tidy and hygienic state.
- ~~6.7.~~ No business or financial transactions shall be carried out on the footpath. Such activities shall be carried out wholly within the confines of the premises. This does not include the giving and taking of bills, and associated tips and change.
- ~~7.8.~~ No part of the footpath shall be used as a permanent storage place for any item/s.
- ~~8.9.~~ Where possible, the applicant must provide access in accordance with AS 1428.1 for people with disabilities to 20% of furniture used for outdoor seating.
- ~~9.10.~~ No advertising signs (including menu boards) are permitted on the footpath area without Council's consent.
- ~~10.11.~~ Any aluminium furniture shall have a powder coated or polished finish.
- ~~11.12.~~ The hours of operation for the footpath dining must be the same as or less than the hours of operation of the associated business. The hours of operation for the business use of footpath areas may be limited if it is considered that the amenity of the surrounding area or the safety of pedestrians or footpath diners may be adversely affected.
13. Furniture must be removed from the footpath and stored within the building outside business operating hours. Furniture is not permitted to extend past the area that has been approved by Council for the purpose of the business.
14. Service of alcohol limited to business frontage only.
15. Noise and music appropriately managed.
16. Waste management requirements met.

~~12.17.~~ Current public liability insurance is to be maintained throughout the term of approval. When a new insurance policy is issued during the term of the approval, a copy of the new policy is to be provided to Council.

Failure to have a valid policy will result in this ~~development consent~~ section 68 approval being invalid and may result in Council issuing an on-the-spot penalty notice of

~~\$600.00~~ for the non-compliance with conditions of consent.