

WINGECARRIBEE SHIRE COUNCIL

DEVELOPMENT CONTROL PLAN NO 50

FOR

**Outdoor Eating Areas  
and Other  
Commercial Uses of Community Land**

Prepared by the Strategic Planning Branch  
Wingecarribee Shire Council

**Adopted: 29 January 2003**

**Effective: 5 February 2003**

**Amendment 1 Adopted: 12 April 2006**

**Amendment 1 Effective: 19 April 2006**

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## **SECTION ONE: INTRODUCTION**

### **1.1 Preamble**

Outdoor eating areas provide opportunities to integrate commercial activities with pedestrian areas. These areas can generate a cosmopolitan and relaxed atmosphere within a commercial area. This results in a people-orientated feel and, therefore, invites people to stay and shop longer. The eating areas also increase the exposure of local eating houses which gives the opportunity for increased business.

Council encourages outdoor eating areas in courtyards, arcades and footpaths adjacent to restaurants in commercial areas, which enhance the character and tourist orientation of the of the town centres.

This Plan also covers the private use of footpaths and other community land for other commercial purposes such as pavement located display of goods, temporary footpath mounted signage (sandwich boards), merchandise in bins and other structures.

Council approval is required for the use of outdoor eating areas and other commercial uses of community land. All approvals will include a provision for the applicant to hold a licence issued by the Council. Please refer to Section Three.

### **1.2 Citation**

This Plan shall be cited as *“Development Control Plan No. 50 for Outdoor Eating Areas and Other Commercial Uses of Community Land.”*

### **1.3 Land to Which This Plan Applies**

This Plan applies to all Council owned and maintained roadways, footpaths and Community Lands under the *Wingecarribee Local Environment Plan 1989*. It applies to all structures to be located on footpath areas or other similar public space in commercial areas under the control of Council in the town centres including footpath areas in the road reserve.

These structures include outdoor tables and chairs and associated moveable items of privately owned street furniture (including landscape tubs, bollards, umbrellas, sales bins, sandwich boards, etc).

### **1.4 Purpose of the Plan**

To set out Council’s requirements for the use of public outdoor spaces for specified commercial purposes for outdoor eating, footpath located signage (sandwich boards) and external display and merchandising of goods. It defines acceptable physical and operational requirements, design standards, and the approval process.

### **1.5 Associated Planning Instruments**

The development control plan should be read in conjunction with the following environmental planning instruments:

- Wingecarribee Local Environmental Plan (LEP 1989) –ie. The Town Plan.
- Illawarra Regional Environmental Plan No.1.
- Relevant State Environmental Planning Policies (refer to Appendix 1)

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This plan has been prepared in accordance with, and to satisfy the requirements of the Environmental Planning and Assessment Act 1979, and the Environmental Planning and Assessment Amendment Regulation 1998.

### **1.6 Other Relevant Planning Documents**

Other Council documents that should be referred to in conjunction with this plan are:

- DCP No 46 for Bowral Town Centre. Urban Design and Development Guidelines.

### **1.7 Relevant Legislation**

Legislation relevant to the implementation of this DCP:

- Environmental Planning and Assessment Act 1979
- Roads Act 1993
- Local Government Act 1993
- Disability Discrimination Act 1992

### **1.8 Aims and Objectives of the Plan**

The aim of this Plan is to ensure the safe and equitable use of community owned and maintained land in respect of commercial opportunities for outdoor eating, sandwich boards and external display of goods.

Objectives of the Plan are to:

- encourage, where appropriate, and control the establishment of outdoor eating areas in commercial areas;
- provide guidelines for the establishment of outdoor eating areas;
- ensure that outdoor eating areas or other commercial uses of public space do not cause inconvenience or disrupt pedestrian or vehicular traffic or to adjoining businesses,
- ensure that the furniture used in the outdoor eating area is of high quality and complements the existing streetscape;
- ensure that sandwich boards where they are permitted to be used, are of an acceptable quality,
- ensure that Council is indemnified from public liability, through businesses who use public lands for outdoor eating and other commercial purposes being appropriately insured with public liability insurance.
- ensure that an equitable licence fee and rental is charged throughout the Shire for the use of public lands.
- ensure that the area being used is kept in a clean manner and maintained on a regular basis.

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- ensure that access issues for all members of the community are taken into account in relation to public streets, footpath areas and associated spaces.

## **SECTION TWO: PHYSICAL AND OPERATIONAL REQUIREMENTS**

***Refer ATTACHMENT 1 for a visual summary of dimensional requirements.***

### **2.1 Site Requirements**

To enhance pedestrian amenity and provide opportunities for outdoor eating, outdoor eating areas and merchandising bins can be located in the following places:

- Outdoor eating areas, sandwich boards or merchandising bins may be located on footpaths, plazas or reserves in a Business zone where the proposed site has a minimum footpath width of 3 metres and is directly outside the food premises or premises to which they relate.
  - Where a standard footpath width is utilised outdoor chairs and tables or any other commercial structure including sandwich boards and display/merchandising bins must not be placed within a minimum 1800 mm from the shop frontage to which they relate and no less than 600 mm from the kerb edge. This zone has been created to provide a consistent street presentation and predictable and safe clearances for pedestrians. Please refer to Diagram A.
  - Despite the above requirement, a business may locate outdoor eating areas, merchandising displays, advertising boards and the like against the shop front provided that the area projects no more than 800 mm from the front of the shop and tactile ground surface indicators in accordance with the Australian and New Zealand Standard 1428.4:2002 are installed to totally surround the designed area as approved by and at no cost to Council. Please refer to Diagram B.
- § Only outdoor eating areas are permitted on street blister areas. Sandwich boards and bins may only be located in the 1800mm and no more than 2500 mm zone outside the premises they relate. They are not permissible in blister areas or other public spaces outside the zone. Please refer to Diagram C.
- A clear distance of 600 mm is required between outdoor eating furniture, bins etc and the kerblines or 1800 mm from any other street furniture, trees, plaza or reserve.
  - Note there is to be a minimum of 600mm clearance from the kerb to the outside face of fixed street furniture such as garbage bins, seats, street lights, planters etc unless they are located on a footpath blister extension.
  - Where tables and chairs are located on the footpath, other than in a blister area, tables are to be restricted in size to a maximum of 600mm diameter or 600mm x 600mm square.
  - Where larger plaza areas or extended footpath blisters are available, outdoor furniture etc can be located adjacent to the kerb so long as the other dimensional requirements of this section are met.

DIAGRAM A

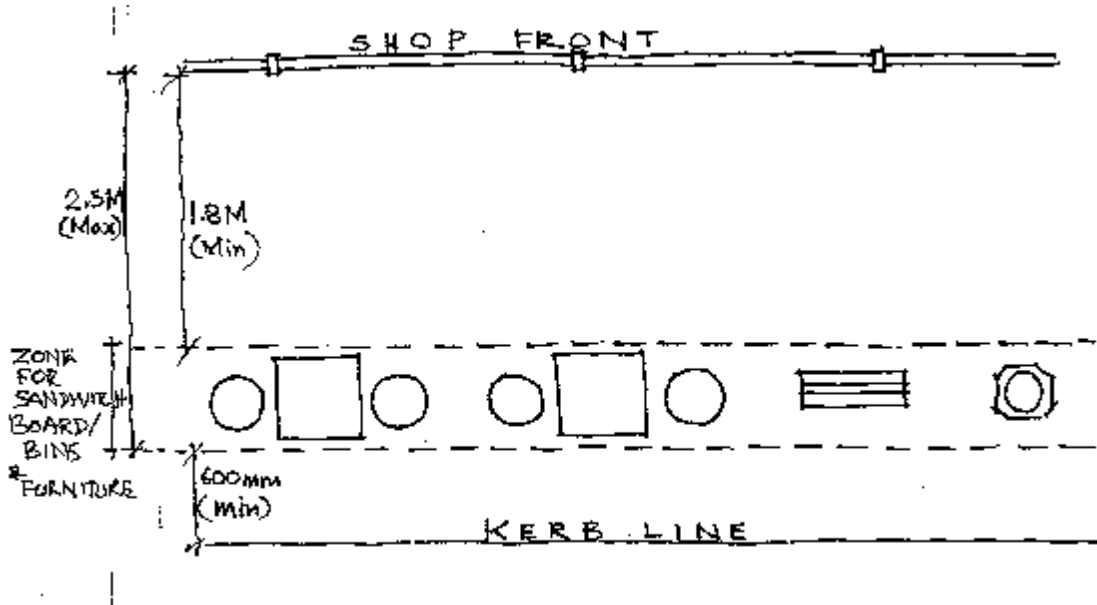


DIAGRAM B

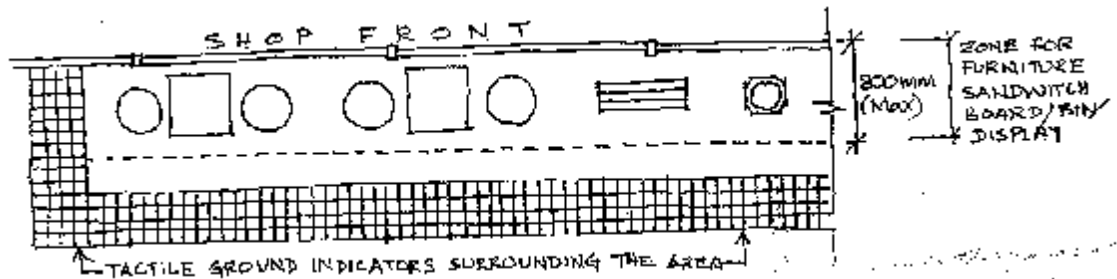
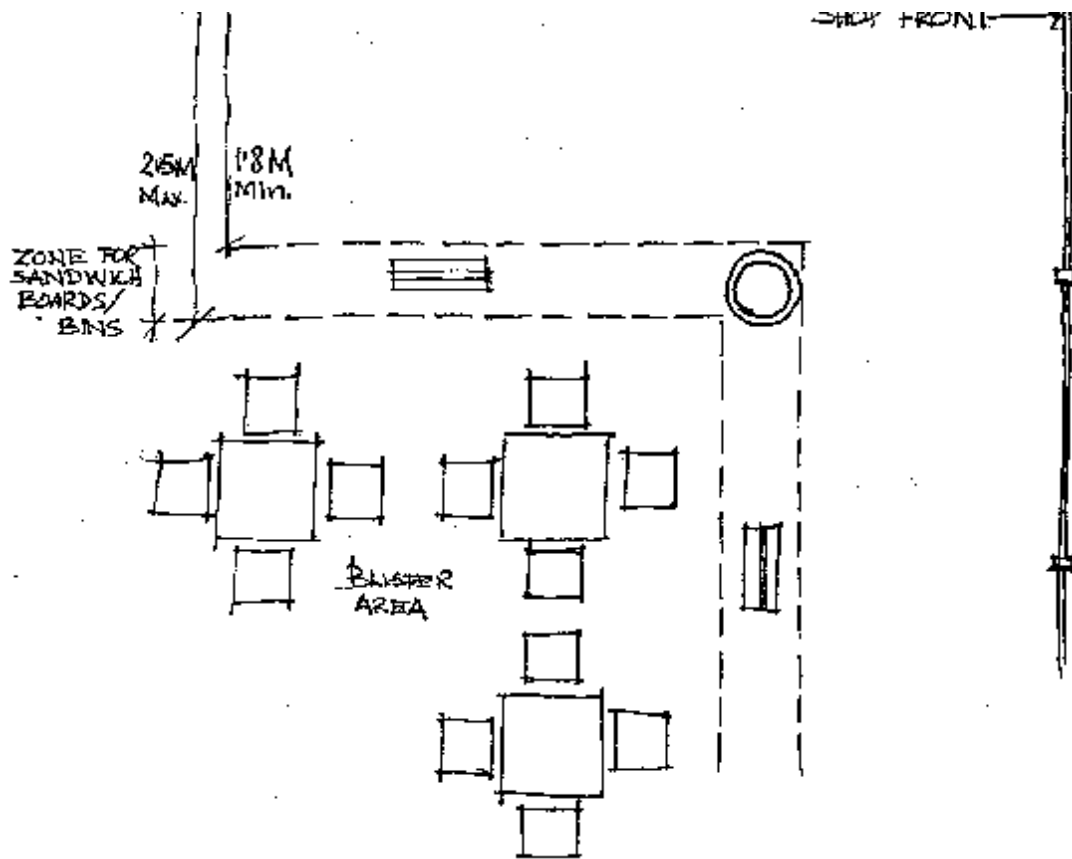


DIAGRAM C



- if the operation of the outdoor eating area, sales bin etc is found to cause undue inconvenience or disruption to pedestrian movement or to the adjoining business premises, Council may review the licence.
- the outdoor eating area or merchandising bin or display structure should not obstruct vehicular traffic that is entitled to cross the footway.
- flags and other projecting structures will not be permitted to be mounted on shopfront facades.

## 2.2 Operational Requirements

**Note that sandwich boards sign structures are not permitted to be used on public land in the Bowral town centre at any time.**

**Sandwich boards are permitted in other commercial centres in the Shire subject to the provisions and requirements of this DCP.**

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- The licensed area and its immediate surrounds are to be maintained and cleaned on a regular basis throughout the day.
  - If required the licensee may mark the boundaries of the licensed area either by removable bollards, pavement markers, fencing, or planter boxes using only materials and designs approved by Council. Permanent material needs to be fixed to the pavement and temporary material sufficiently secured in a manner approved by Council.
  - All outdoor furniture, bins and sandwich board signs shall be kept strictly within the bounds of the area to be licensed and not permitted to encroach upon the adjoining footway at any time.
  - All outdoor furniture shall be maintained at all times in a physically sound state and be able to sustain frequent use to prevent damage and movement to ensure public safety.
  - The outdoor furniture, bins and sandwich board signs shall only be used during normal trading hours and be capable of being easily removed and stored within the business after closing time.
  - Umbrellas shall be anchored appropriately and safely.
  - All reasonable action should be taken to ensure that the outdoor eating area does not produce any nuisance or offensive noise.
  - No entertainment or amplified music will be permitted in the outdoor eating area;
  - Food and drink must not be prepared in the area licensed for outdoor eating.
  - The licensee is not to sell or serve, or permit to be sold or served, any alcoholic or intoxicating liquor in or from the licensed area except where Council has granted specific approval and an appropriate liquor licence is obtained from licensing authorities.
  - Outdoor eating areas and associated commercial activities shall be able to be used during all the business hours of the related premises

### **2.3 General Design Requirements for Outdoor Street Furniture and Associated Landscape Treatment**

*Outdoor Furniture* referred to below generally means tables and chairs and other elements associated with outdoor dining.

- The design of all outdoor furniture is to be approved by Council.
- All outdoor furniture, including tables and chairs, should be of metal and or wooden construction. All plastic furniture is not permitted, however plastic and cane etc elements may be considered when they form a secondary component of the furniture.
- The furniture used must be aesthetically pleasing and involve a colour scheme and materials that are both practical and serviceable and in keeping with its surrounding area and shop front. Where possible they should be compatible with local town centre corporate colours and materials.

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- The furniture used will have to take into consideration climatic variations. The furniture should, therefore, be waterproof, able to withstand long periods of exposure to sunlight and of sufficient weight to cope with windy weather.
  - No advertisement or advertising structure shall be placed upon outdoor furniture or the area subject to licence, without specific approval of Council.
  - Umbrellas shall be adequately anchored and be of an appropriate style, colour, height and design. They should not involve sharp protrusions and will provide shade for customers and protect the furniture from damage.
  - All landscape material and containers shall be approved by Council and will be assessed by Council on their merits, except that containers *will not* be approved if they are less than 450mm high and 300mm diameter or 300mm x 300mm and are to be a plain finish. Preference should be given to a finish to the pots in natural earthen colours (terra-cotta, sandstone etc).
  - Removable barriers, bollards, and the like shall be approved by Council and will be assessed by Council on their merits.

#### **2.4 Design and Requirements for the Outdoor Display of Goods.**

§ Where no tactile surface ground indicators are installed, display bins or structures must be wholly located within the 1800mm to 2500 mm zone out from the shop frontage.

- Display bins must be constructed from durable materials and complement the style and character of the shop. Temporary structures such as cardboard boxes are not permissible. Multiple stacking of storage units is also not permitted. All displays of goods should be well organised and neat and tidy.
- Goods and the display structure used shall not exceed 1.5m in total height.
- Goods being displayed shall be non-perishable and meet relevant health regulations.
- Clothing racks and similar methods of display will not be permitted.
- The display and/or sale of goods must be directly related to the primary approved uses of the adjoining business.
- Only saleable goods shall be displayed on footpaths.
- The stand or display unit shall be of stable construction with no part protruding past the main body of the stand and not involve sharp corners.
- The stand or display unit shall have a surrounding base with a minimum depth of 450mm to enable sight-impaired people using canes or guide dogs to locate the unit as a potential obstacle.
- No advertisement shall be located on bins or other merchandising structure.
- Goods for display or sale shall not be affixed to any premises, footpaths, traffic sign, awning, street furniture, or pole.

- Goods for display or sale may only be placed outside the premises to which they relate and only during business hours. After these hours the bins shall be removed.
- No objects, merchandise or decorations are permitted to hang from awnings.

## **2.5 Design of Sandwich Boards.**

- The detailed design of sandwich boards is to be approved by Council.
- § One (1) sandwich board is permitted per business.
- Sandwich boards are only permitted to be located outside the premises to which they relate and only during business hours. After these hours the bins shall be removed.
- § Where no tactile surface ground indicators are installed, sandwich boards must be wholly located within the 1800mm to 2500 mm zone out from the shop frontage.
- Sandwich boards shall not exceed 1000 mm in height and the width of the flat face of the sign shall not exceed 800 mm.
  - The sandwich board design must be aesthetically pleasing and involve a colour scheme and materials that are both practical and serviceable and in keeping with its surrounding area and shop front. . Restrained colour schemes with a limited number of colours are required
  - All graphic material shall be confined to the rectangular faces of the sandwich board and should not project beyond the straight edges of the board.
  - Two or three dimensional signage objects (such as ice creams, soft drink bottles) are not permissible as freestanding signage.
  - Sandwich boards will not be permitted in instances where external display of goods has been approved.
  - Sandwich board signs shall be secured such that they cannot be blown over or easily collapsed. They shall not be placed out on the footpath during adverse weather conditions.
  - All sandwich board signs are to be prepared by a professional signwriter or equivalent.

## **SECTION THREE: THE APPROVAL PROCESS**

### **3.1 Application Requirements**

#### **3.1.1 Outdoor Eating**

The approval of Outdoor Eating Areas requires the submission of a land use application for development approval and the subsequent application for a licence. The land use application shall include:

- A plan drawn to a scale of 1:100, detailing;

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- ◆ The outdoor area to be used (boundaries, dimensions, etc),
  - ◆ Location and number of chairs and tables, other furniture, etc,
  - ◆ The area maintained for public access,
  - ◆ The relationship to the existing restaurant / business premises.
- The type of furniture to be used (design, materials, colours etc) is to be illustrated.
  - Details of any menu board (if proposed).
  - Details of temporary elements (landscape planters, bollards, fencing etc) shall be provided.
  - Details of trading hours.

### **3.1.2 Outdoor Display of Goods**

The approval for the outdoor display of goods requires the submission of an application for approval and the subsequent application for a licence. The application shall include:

- A plan drawn to a scale of 1:100, detailing;
  - ◆ The outdoor area to be used (boundaries, dimensions, etc),
  - ◆ Location and number of bins etc,
  - ◆ The area maintained for public access,
  - ◆ The relationship to the existing business premises.
- The type of bin or other display structure to be used (design, dimensions, materials, colours etc) is to be illustrated.

### **3.1.3 Sandwich Boards**

***Note that sandwich boards sign structures are not permitted to be used on public land in the Bowral town centre at any time.***

***Sandwich boards are permitted in other commercial centres in the Shire subject to the provisions and requirements of this DCP.***

Approval for a sandwich board requires the submission of an application and the subsequent application for a licence. The application shall include:

- A plan drawn to a scale of 1:100, detailing;
  - ◆ The outdoor area to be used (boundaries, dimensions, etc),
  - ◆ Location of the sign
  - ◆ The area maintained for public access,
  - ◆ The relationship to the existing business premises.
- The details of the proposed sign structure (design, dimensions, graphics, colours etc) are to be illustrated.

### **3.2 Fees**

#### **3.2.1 For Outdoor Dining and Outdoor Display of Goods**

A land use application (LUA) fee of \$30.00 is required. A new LUA will be required to be submitted to Council after a period of 2 years.

PLUS

An annual operating rental fee of either:

- \$80.00 per square metre of occupied space per annum where such space is specifically designed for outdoor dining (plazas, blister areas or arcades),

OR

- \$30.00 per square metre of occupied space per annum where such space is any other footpath area (ie standard footpath location).

#### **3.2.2 For Outdoor Display of Goods**

A licence application fee of \$30.00 is required. A new licence application will be required to be submitted to Council after a period of 2 years.

PLUS

An annual operating rental fee of:

- \$30.00 per square metre of occupied space\* per annum.

\* For the purposes of calculating occupied space it will be assumed that the use of the area across the full frontage of the premises will be utilised (less the width of entrances), irrespective of the actual area used.

#### **3.2.3 For Sandwich Boards**

A licence application fee of \$30.00 is required. A new licence application will be required to be submitted to Council after a period of 2 years.

PLUS

An annual operating licence fee of \$100.00 is required per sandwich board.

### **3.3 Insurance Requirements**

**The applicant is to effect and maintain at all times, a Public Risk Policy to the minimum value of ten million dollars (\$10,000,000) with the Policy noting the interest of Wingecarribee Shire Council. Written proof of the policy will be required before any approval to use public lands is granted. This insurance is required to indemnify Council against all actions, suits, claims, debts, obligations and other liabilities relating to the lease.**

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