

Attachment D

**Outdoor dining policy – dated November
2022**

Outdoor Dining Policy

Purpose

The purpose of this policy is to set out the circumstances and conditions under which the City of Sydney will issue approvals for outdoor dining in public places, including the footway, parts of the road and other similar areas.

Scope

This policy applies to the business use of public places for outdoor dining in the City of Sydney Local Government Area.

Definitions

Term	Meaning
Clear path of travel	The area of the footway maintained for safe and equitable pedestrian circulation which is free from obstructions and assists in wayfinding and navigation. Also referred to as the continuous accessible path of travel, which is defined by the Australian Human Rights Commission as: <i>An uninterrupted route to and within an area providing access to all features, services and facilities. It should not incorporate any step, stairway, turnstile, revolving door, escalator, hazard or other obstacle or impediment which would prevent it from being safely negotiated by people with disability.</i>
Exempt development	Development which does not need development consent under the Environmental Planning and Assessment Act 1979, but which may still need some other approval. At the time of adoption, State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 makes outdoor dining on the footway exempt development if it is: (a) carried out in accordance with an approval granted under section 125 of the Roads Act 1993, including in accordance with any hours of operation to which the approval is subject, and (b) carried out in accordance with an approval granted under section 68 of the Local Government Act 1993, and (c) not under an awning, or under an awning that complies with the requirements set out in BP1.1 and BP1.2 of Volume 1 of the Building Code of Australia.
Outdoor dining	The use of public places, including the footway, parts of the road, and other similar areas for the purposes of an outdoor dining area associated with a lawful food and drink premises.
Food and drink premises	Defined in Sydney Local Environmental Plan 2012 as premises that are used for the preparation and retail sale of food or drink (or both)

Term	Meaning
	for immediate consumption on or off the premises, and includes any of the following: (a) a restaurant or cafe (b) take away food and drink premises (c) a pub (d) a small bar.

Policy Statement

A well-managed footway promotes both equitable access and supports local businesses by creating places and streets that are amenable and attractive to all visitors.

Outdoor dining supports strong local economies, brings life to our high streets and fosters dining precincts as destinations. The City of Sydney's policy can encourage outdoor dining by providing a safe and comfortable experience for diners and all other uses of the public places.

The City of Sydney manages the footway and other public places to provide safe and equitable access for all people around the City including pedestrians with a pram or mobility aid, people with disability and those who are blind or have low vision. This policy and associated guidelines ensure a clear and predictable path of travel is maintained to ensure safe, equitable and dignified pedestrian use.

Actions

To promote public access and well managed outdoor dining in public places, the City of Sydney will:

- value the contribution that well-managed businesses make to the character of the City's streets
- maintain the pedestrian thoroughfare as the primary purpose of the footpath
- promote accessibility by maintaining a consistent and predictable clear path of travel for all users
- continue to work with all stakeholders towards best practice wayfinding on the City's footways and public places
- manage neighbourhood amenity through minimising additional noise, visual, and other impacts
- encourage appropriate outdoor dining and manage particular issues in specific precincts such as Cenotaph block of Martin Place, Lankelly Place, Potts Point and George Street, Sydney
- consider the appropriateness of applications for approval against the City of Sydney's adopted Outdoor Dining Guidelines
- monitor compliance with approvals, and undertake enforcement action when appropriate
- grant approvals for use of the footway for a maximum of 7 years or a maximum of 12 months for any other part of the road in accordance with the Roads Act 1993
- revoke approvals where there are continuing unresolved substantiated breaches of the approval

- charge a fee for the use of public places as set out in the City of Sydney's annual Fees and Charges available on our website.

Approvals

In order for premises to have outdoor dining on the footway, NSW Government legislation sets out that the following approvals are required:

- all outdoor dining on the footway requires an approval under the Roads Act 1993
- outdoor dining that is not exempt development will require a development consent under the Environmental Planning and Assessment Act 1979
- outdoor dining that is on Crown land requires an approval under the Crown Land Management Act 2016
- outdoor dining on community land, such as a park or reserve, requires an approval under the Local Government Act 1993.

Outdoor Dining Guidelines

The City of Sydney's Outdoor Dining Guidelines support this policy and provide additional guidance to applicants on the City of Sydney's requirements in relation to approvals for outdoor dining in public places, including the footway, parts of the road and other similar areas in the City of Sydney LGA.

Responsibilities

Review and update

Responsibility for drafting, reviewing and updating this policy lies with the Strategic Planning and Urban Design unit.

Approvals

Responsibility for issuing approvals in accordance with this policy and the Outdoor Dining Guidelines lies with the Planning Assessments Unit.

Enforcement

Responsibility for ensuring outdoor dining is carried out in accordance with approvals lies with City Rangers.

Consultation

This policy has been developed following consultation with the Council's Inclusion (Disability) Advisory Panel, in addition to internal consultation with Legal & Governance, Planning Assessments, City Rangers, City Business, and Strategic Planning & Urban Design units.

References

Laws and Standards
• Crown Land Management Act 2016
• Disability Discrimination Act 1992 (Cth)
• Environmental Planning and Assessment Act 1979

Laws and Standards
Roads Act 1993
Local Government Act 1993
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
Policies and Procedures
Outdoor Dining Guidelines
A city for all – inclusion (disability) action plan 2021-2025
City of Sydney Retail Action Plan
City of Sydney Tourism Action Plan
Open Sydney – Strategy and Action Plan 2013-2030

Review period

This policy will be reviewed every 4 years.

Approval Status

Council approved this policy on 21 November 2022.

Approval History

Stage	Date	Comment	TRIM Reference
Original Policy	17 October 2016	Approved by Council	2017/040337
Reviewed	21 November 2022	To reflect amendments to state government policy for outdoor dining, and amendments to the Outdoor Dining Guidelines following implementation of certain temporary provisions for Covid-19 and the pedestrianisation of George Street. Approved by Council.	2017/040337
Commence Review Date	21 February 2026		
Approval Due Date	21 November 2026		

Ownership and approval

Responsibility	Role
Author	Specialist Planner (Strategic)
Owner	Director City Planning Development & Transport
Endorser	City of Sydney Executive
Approver	City of Sydney Council