

**Item 10****Support for Our Community – 2021 Lockdown Response****File No: X034972.14****Summary**

On 28 June 2021, Council requested that the Chief Executive Officer monitor the current Covid-19 outbreak across Greater Sydney and investigate whether other assistance measures are needed as the situation evolves.

The extended lockdown across Greater Sydney is having a devastating impact on the local economy and community. On 13 July 2021, the State and Federal government announced a joint NSW Covid-19 Support Package with \$4.1 billion from the NSW Government to provide immediate financial relief for businesses and \$500 million each week from the Commonwealth Government. This included specific support for the heavily impacted arts sector worth \$75 million and \$26 million for the tourism sector, and \$17 million in mental health support.

The City is committed to providing complementary support and since the onset of the pandemic, two City business support packages valued at \$72.5 million have been implemented focusing on local government responsibilities including fee waivers for footway dining, venue and banner hire, childcare services, parking services, rent relief in City-owned properties, grant funding for businesses and donations to support vulnerable communities. In October 2021, the City and NSW Government established a \$20 million CBD Revitalisation Fund to boost the local economy (refer Table 1 for summary).

**Lockdown Recovery Package**

The City will again support businesses, the creative sector and vulnerable communities with a phased Lockdown Recovery Package worth \$5 million along with an additional \$7.8 million in estimated revenue forgone and fee waivers per month for the lockdown period (refer Table 2 for summary). The package will include \$5 million to support economic and social recovery from the lockdown comprising of:

- Immediate support through donations of \$300,000 each to OzHarvest Limited and, Foodbank NSW & ACT Limited, along with \$100,000 for SecondBite to allow vulnerable communities to access food.
- An additional \$250,000 in new Community Emergency Quick Response Grants will support services to address community needs that arise from lockdown.
- The supply and distribution of masks to vulnerable communities at a cost of \$50,000 and increased communication to connect people with mental health and social connection support services.

- The Chief Executive Officer to develop a proposal for further grants to be provided directly to businesses and the creative sector to collaborate on initiatives to support reactivation post lockdown, as well as the resources to do so, with a recommended total of \$4 million including funding the resources to do so.

### **CBD Revitalisation Fund**

Coming out of this current lockdown, it will be important for the City to continue its work to revitalise the CBD and support our village main streets. This includes a commitment, together with NSW Government, to extending the successful outdoor dining program across the local government area until end June 2022. To date this program has enabled businesses to trade more safely outdoors and provide opportunities to increase their turnover. This will be more important than ever when hospitality businesses reopen and seek to attract patrons and continue to operate in a Covid-safe manner through the coming spring and summer period. This report recommends Council approve a variation to the CBD Revitalisation Fund contract with NSW Treasury signed 28 October 2020 to extend the term of the program by 11 months from 30 October 2020 to 30 September 2022, allowing for a three-month removal of outdoor dining infrastructure.

### **Outdoor Dining Guidelines**

On 17 May 2021, Council resolved to continue the fee waiver for outdoor dining across the local government area until 30 June 2022 valued at \$3.5 million. Extension of the outdoor dining program will also require Council to extend the temporary changes to the Outdoor Dining Guidelines which was endorsed on 26 October 2020 to be in place until 31 October 2021. This report seeks Council approval to extend the temporary changes in line with the extended timeframe for the fee waivers until 30 June 2022 (refer Attachment A).

## Recommendation

It is resolved that:

### Lockdown Recovery Package

- (A) Council approve the continuation of fee waivers and note the potential revenue foregone for the lockdown period, at an estimated value of \$7.8 million per month;
- (B) Council approve funding donations of:
  - (i) \$300,000 to OzHarvest Limited;
  - (ii) \$300,000 to Foodbank NSW & ACT Limited; and
  - (iii) \$100,000 to SecondBiteto provide food relief to vulnerable communities;
- (C) Council approve funding of up to \$50,000 to supply and distribute masks to vulnerable communities and to increase communication to connect people with mental health and social connection support services;
- (D) Council approve an additional \$250,000 in new Community Emergency Quick Response Grants for not for profit entities to deliver community services addressing urgent needs as they arise;
- (E) authority be delegated to the Chief Executive Officer to finalise grant criteria, advertise for applications as appropriate and approve the Community Emergency Quick Response Grants due to the emergency need, and to report back on grants awarded by way of CEO Update;
- (F) Council approve the transfer of \$1.0 million from General Contingency funds to fund the initial phase of the recovery package, and note the balance of funding will be determined as the City gains a better understanding of the financial and operational impacts of the current lockdown, to refine and bring back its financial recovery plan to Council;
- (G) the Chief Executive Officer be requested to develop an appropriate grant program for delivery of an additional \$4 million to support business and creatives in the recovery of the city economy (including funding for resources to do so), with the proposed program to be reported back to Council;

**CBD Revitalisation Fund**

- (H) Council approve a variation to the CBD Revitalisation Fund contract with NSW Treasury to extend the term of the program by 11 months until 30 September 2022;
- (I) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the variation to the CBD Revitalisation Fund agreement;
- (J) authority be delegated to the Chief Executive Officer to make any further variations to the CBD Revitalisation Fund contract to enable the implementation of activities as outlined in this report, with such changes to be reported by way of a CEO Update.

**Outdoor Dining**

- (K) Council adopt the temporary changes to City of Sydney Outdoor Dining Guidelines, June 2021, as shown at Attachment A to the subject report, noting the temporary changes will apply until 30 June 2022 across the whole of the local government area and public consultation has not been possible given the circumstances;
- (L) authority be delegated to the Chief Executive Officer to make any further temporary changes to the Outdoor Dining Guidelines for the duration of the program to enable the implementation of activities as outlined in this report, with such changes to be reported by way of the CEO Update; and
- (M) authority continue to be delegated to the Chief Executive Officer to, by notice on the City's website, approve the use of roads, footways and public open spaces for outdoor dining, extension of foyer space and performance space under Part 12 of the Liquor Act 2007 in accordance with the requirements of that Act, with such delegation to apply until 30 June 2022.

**Attachments**

**Attachment A.** City of Sydney Outdoor Dining Guidelines July 2021

## Background

1. The Covid-19 pandemic continues to impact the local economy and community and the City is committed to providing ongoing support for those impacted across the local government area, including businesses, creatives and vulnerable communities.
2. In March and April 2020, the City announced two Covid-19 Relief support packages valued at \$72.5 million to complement the support of State and Federal Government.
3. The City's first Business, Arts and Creative package, valued at \$25 million, included:
  - (a) Waiving fees for Health and Building compliance activities;
  - (b) Reviewing rents in conjunction with tenants in City premises;
  - (c) Waiving banner and venue fees to organisations who had to cancel events;
  - (d) Waiving footway dining, market permit and filming fees on the grounds of hardship; and
  - (e) A flexible approach to parking and other infringements.
4. The City subsequently expanded this package with an additional set of measures valued at \$47.5 million including rent relief in City owned properties, an accelerated capital works program and a Covid-19 Relief Grants Program valued at \$10.67 million which was created to provide urgent financial assistance to the City's cultural and creative, small business and community sectors.
5. The initial package included direct financial support of \$3.95 million for local and vulnerable small businesses and arts enterprises to innovate and adapt, foster business continuity and increase business capabilities.
6. It also provided support for vulnerable communities through a \$1 million donation to OzHarvest Limited and a further \$1.96 million in grants to respond to issues of food security, digital inclusion, social isolation, tenancy support and homelessness services.
7. A dedicated City Concierge service was also set up to ensure enquiries from businesses received tailored advice relating to the City grants offering and information on how to pursue support from other levels of government.
8. On 26 October 2020, Council resolved to approve the joint \$20 million CBD Revitalisation Fund partnership between the City and NSW government to boost the city centre economy, support businesses and creatives and invite the public safely back into the city, with the NSW Government contributing up to \$15 million and the City contributing up to \$5 million as outlined in the subject report.
9. An agreement between the City and NSW Treasury to give effect to a number of the resolutions as part of a CBD Revitalisation Fund was signed on 28 October 2020.
10. Key initiatives were implemented over nine months adhering to NSW Health Orders and were well-received by community and business, as outlined below:
  - (a) Transforming the city into an outdoor summer cultural experience;
  - (b) Creating a summer of outdoor dining;

- (c) Funding projects that enliven public spaces, venues, laneways with music, performance and public art;
  - (d) Keeping Sydney's cultural institutions open into the evenings; and
  - (e) Working with Destination NSW to invite people back to the city centre.
11. Table 1 outlines City contributions to date to support business and vulnerable communities impacted by the pandemic across the local government area.

Item	\$ Amount	Timing
Covid Relief Packages Covid Relief Grants Accelerated capital works Rent relief in City owned properties Fee waivers e.g. footway dining, venues, banner hire, childcare, parking income	\$72.5 million	March 2020 onwards
CBD Revitalisation Fund	\$20 million partnership with NSW government City contribution \$5 million State contribution \$15 million	October 2020 and to be extended until end September 2022

Table 1 – City Contributions

### Business Needs Survey

12. In May 2021, the City conducted the latest Covid-19 Business Needs Survey to understand business needs and priorities 12 months after the first survey in May 2020. The survey was live 31 May to 21 June 2021, receiving more than 500 responses from businesses across the local government area.
13. The responses provide insight into business needs right before the current Sydney lockdown as businesses were asked what support they needed most over the next 12 months, which they ranked in order of priority as follows: (1) financial support, (2) marketing and promotion, (3) clear and ongoing communication of ongoing support available for small business, (4) less red tape and regulation, (5) advocacy for business support across levels of government and industry, and (6) events and activation of local precincts.

14. The top need for businesses was the same as in May 2020, with financial support number one, especially to cover costs like rent and wages, followed by marketing and promotion to bring people back into the streets when restrictions allow.
15. In response to the lockdown announced on 26 June 2021, and subsequently extended and expanded, the City has reviewed business feedback and the support available for businesses at a State and Federal level to identify gaps where support can be provided by local government.

### **State and Federal Government Support**

16. On 25 March 2021, the NSW Government announced a \$51.5 million economic package for the visitor economy including specific sector support packages for live music, business events and tourism.
17. In early June 2021, further support was announced including \$50 million for the Thank God Its Friday campaign to encourage workers to return to the office on Friday and \$200 million over four years to secure future major events to rejuvenate the visitor economy as part of the State Significant Event Fund.
18. On 29 June 2021, the NSW Government announced direct cash support for small businesses impacted by the lockdown in the form of a Small Business Covid-19 Support Grant of up to \$10,000 for small businesses who can show a decline in turnover experienced during the restrictions, as well as changes to the Dine and Discover vouchers so they can be used for takeaway and a further one-month extension until 31 August 2021 to allow people more time to use them.
19. The Federal Government Covid-19 Disaster Payment was also made available to City of Sydney residents from 4 July 2021, providing a lump sum payment to help workers unable to earn income due to lockdown restrictions which extend for more than seven days.
20. On 13 July 2021, the State and Federal Governments announced a NSW Covid-19 Support Package with \$4.1 billion from State to provide immediate financial relief for businesses and \$500 million each week to support individuals from the Federal government. The packages are designed to work together to protect business, keep jobs and support the community and include:
  - (a) Increased small business support payments of up to \$15,000 from 19 July 2021 which can be used for expenses such as rent, utilities and wages;
  - (b) JobSaver Employee Retention Scheme to maintain employment of staff;
  - (c) Microbusinesses Grants to support small business or sole traders with annual turnover of more than \$30,000 and under \$75,000 from late July 2021;
  - (d) Commercial, retail and residential landlords now required to participate in mediation before taking actions to evict or lock out tenants and up to 100 per cent land tax concessions if they provide rent relief to tenants;
  - (e) A \$75 million support package for Performing Arts sector and \$26 million support package for the Accommodation sector;

- (f) Tax relief with payroll tax deferrals for all businesses and a 25 per cent concession for businesses with Australian wages of between \$1.2 million and \$10 million that have experienced a 30 per cent decline in turnover;
- (g) Increased payments from \$500 to \$600 per week for those who lost more than 20 hours of work and \$375 for those who lost between eight and 20 hours of work;
- (h) \$17.35 million in mental health support targeted at young people and Culturally and Linguistically Diverse communities; and
- (i) \$12 million in additional funding for temporary accommodation for those at risk of or experiencing homelessness.

### **Lockdown Recovery Package**

21. The City will support businesses, the creative sector and vulnerable communities with a phased Lockdown Recovery Package worth \$5.0 million, plus an additional \$7.8 million in revenue forgone and fee waivers per month for the lockdown period.
22. Donations of \$300,000 each will be given to OzHarvest Limited and Foodbank NSW & ACT Limited, along with \$100,000 to SecondBite to support these organisations to assist vulnerable communities to access food relief.
23. Over the next three months these donations will help to address increasing demand with decreased distribution points due to services closing their doors and provide an opportunity for collaboration between the three major suppliers to address logistical challenges and supply issues.
24. To avoid over-supply or duplication in one area, the City will consult with the three organisations on focussing their resources on the place-based protocol areas established through the City's food operations network. There are already established strong networks between the suppliers and the protocol groups.
25. To further support vulnerable communities, the City will also provide an additional \$250,000 in funding for new Community Emergency Quick Response Grants to support small scale initiatives which build the capacity of our communities to respond to the current impacts of the pandemic.
  - (a) Up to \$10,000 to eligible groups for not-for-profit organisations or unincorporated community groups.
  - (b) Applicants must operate within the City of Sydney local government area or be able to demonstrate benefits for the area's residents, workers and/or visitors.
  - (c) Applications are strongly encouraged from organisations, groups and networks that support Aboriginal and Torres and Strait Islander communities including Aboriginal community-controlled organisations and networks.
  - (d) Funding priorities include strengthening community cohesion to build the resilience of our local communities, increasing digital inclusion within our local community, reducing food insecurity and improving access to information on rights and conditions of tenants

26. The City will also supply and distribute masks to vulnerable communities at an estimated cost of \$50,000 and increase communications to connect people to mental health support and other social connection services depending on the individual need.
27. Included in the City's investment, the City will develop and present to Council a grant program which will provide funding to businesses and creatives to collaborate on initiatives which foster business connections and programming to enliven precincts post lockdown across the local government area.
28. These new grants will be available from early 2022 to continue the \$9 million pipeline of activations already funded by the City which will take place over the next six to 12 months as many organisers have not been able to find a suitable time or place to host events, given the uncertainty around health orders.
29. The City will also continue existing fee waivers for footway dining, venue hire, banners, parking services, childcare and health and compliance activities and work with tenants in City-owned properties on rent rebates for the lockdown period.
30. Table 2 outlines City contributions as part of the Lockdown Recovery Package

Item	\$ Amount (approx.)	Timing
Vulnerable communities support  Community Emergency Quick Response Grants (\$250,000)  Donations to OzHarvest, FoodBank and SecondBite to provide food relief (\$700,000)  Supply and distribute masks to vulnerable communities (\$50,000)	\$1 million	August 2021 onwards
Business support  Grant funding to support businesses and creatives  Promotion of program  Resources	\$4 million	From early 2022 onwards
Existing City grant programs to support economy, culture and community	\$8.9 million cash plus value-in-kind	Round 1 July 2021  Round 2 February 2022

Table 2.1 – City Contributions – 2021 Lockdown Recovery Package

Item	\$ Amount (approx.) Estimated value per month	Timing
Fee waivers for outdoor dining (as per CBD revitalisation agreement with State Government)	\$200,000	Until 30 June 2022
<i>Other fee waivers</i> Childcare	\$20,000	During lockdown period
<i>Estimated Revenue Foregone</i>  Rent relief City owned properties  Parking Related  Venue Hire/ Banner hire  Health and compliance	  \$1.0 million  \$5.7 million  \$700,000  \$150,000	During lockdown period
<b>Total (estimated value per month)</b>	<b>\$7.8 million</b>	<b>During lockdown period</b>

Table 2.2 – City Contributions – 2021 Lockdown Recovery Package (Estimated value per month)

### CBD Revitalisation Fund

31. In October 2021, the City and NSW Government entered into a joint partnership to revitalise the city centre, establishing a \$20 million CBD Revitalisation Fund to boost the local economy and invite the public back to the city.
32. The City and NSW government will continue this work by extending the outdoor dining program across the local government area until end June 2022.
33. The outdoor dining program was particularly successful in supporting businesses across the city to trade safely outdoors and provide opportunities to increase turnover. As of 30 June 2021, 339 applications have been received. Of those, 240 have been approved with 18 applications currently under planning assessment.
34. The program has received a positive response and made a tangible difference to business, with 90 per cent of businesses who responded to a recent survey stating the program had been beneficial or crucial for their business. 45 per cent reported employing an additional two or more staff per week, 41 per cent reported increasing staff hours by 10 hours or more per week and more than half (58 per cent) reported an increase in turnover of up to 10 per cent.

35. This report requests Council approve a variation to the CBD Revitalisation Fund contract with NSW Treasury signed 28 October 2020 to extend the term of the program by 11 months from 30 October 2021 to 30 September 2022, allowing for a three-month removal of outdoor dining infrastructure.
36. The overall contract value of \$20 million remains unchanged, however, funding allocations across the two financial years 2020/21 and 2021/22 has changed from the initial plans.

### Outdoor Dining Guidelines

37. The establishment of the outdoor dining program required close collaboration with multiple government agencies and delivered the following:
  - (a) Fast track criteria for quick approvals, moving to a simple online application form.
  - (b) Amendments to the Roads Act 1993 and the State Environmental Planning Policy (Exempt and Complying) Codes 2008.
  - (c) Amendments to the City's Outdoor Dining Guidelines to temporarily reduce the clearance for pedestrians to be consistent with the Australian Standard minimum, enable footway dining on reallocated roadway and reduce public consultation from 14 days to seven days, and allow later trading with reduced or no trial periods.
  - (d) Reduced notification from 56 days to seven days by consolidating the traffic (14 days), planning (14 days) and liquor licence (28 days) consultation periods into a single process.
  - (e) Support from the Local Pedestrian Cycling and Traffic Committee for reallocation of parking space for outdoor dining, with a three day out of session approvals process.
  - (f) Integration of liquor licencing into the planning assessment process, with licensing approval within three days of the City issuing the approval.
  - (g) Waiver of all fees and charges associated with outdoor dining.
38. On 17 May 2021, Council resolved to continue its partnership with the NSW Government by extending the fee waiver for outdoor dining until 30 June 2022.
39. To continue the temporary outdoor dining program for this period, it is recommended Council continue the temporary provisions in the Guidelines and adopt new temporary changes. The updated Guidelines are at Attachment A with deletions shown as strikethrough and additions shown in bold underline. The changes are proposed to be adopted without consultation given the timing and constraints of the program and will be in place until 30 June 2022. The temporary Guidelines are described below. An extension of the delegation to the Chief Executive Officer to make amendments to the Guidelines is also recommended.

**Existing temporary Guidelines related to notification of applications, the clear path of travel, trading hours and use of the roadway will continue until June 2022**

40. Consultation and notification: From October 2021 the notification period was reduced from 14 days to seven days in order to reduce application processing times. Currently, applications in Central Sydney are notified for comment if they are greater than 20 square metres in size. Applications outside Central Sydney are notified if they are greater than 10 square metres or the operating hours are outside 7am to 10pm. The average determination for outdoor dining applications to date has been 13.6 days noting this incorporates seven days of notification. It is recommended to continue the seven day notification period to 30 June 2022.
41. Clear path of travel: The minimum clear path of travel was temporarily reduced from 2 metres to 1.8 metres recognising the need for social distancing and the reduced number of pedestrians. 1.8 metres is consistent with the Australian Standards which also allows the clear path of travel to be decreased to 1.2m in parts if there are areas for pedestrians pass and the speed of the road is low. The temporary reduction of the clear path of travel is recommended to continue to 30 June 2022.
42. Trading hours: The temporary Guidelines allow maximum trading hours to be approved with reduced or no trial periods due to the length of the temporary approvals. It is recommended temporary trading hours provisions continue to 30 June 2022.
43. Reallocation of roadway for outdoor dining: the Temporary Guidelines support the reallocation of the roadway, allowing businesses to extend operations along the reallocated road space to provide additional outdoor dining opportunities and assist with social distancing. Outdoor dining on the roadway is required to be protected with barriers suitable to the speed limit on the road and the businesses cannot extend in front of another food and drink businesses. It is recommended the temporary Guidelines for the use of the roadway continue to 30 June 2022.

**Outdoor Dining Guideline - recommended updates**

44. Outdoor Dining Guidelines updates are recommended with temporary additional provisions for setbacks, criteria for use of the road and the extension of temporary approvals.

**500 mm setback - road reallocation**

45. At the Local Pedestrian, Cycling and Traffic Calming Committee meeting on 19 November 2020, the City presented an overview of the outdoor dining program. One of the initiatives included reallocating the road space to install an outdoor dining area. The Committee agreed to out-of-session endorsement for the temporary reallocation of kerb space for an outdoor dining area.
46. As part of due diligence, a road safety specialist was engaged to conduct road safety checks of the installed barriers at various locations. A recommendation was for all approvals to have furniture and structures offset by 500mm from the inside edge of barriers. This continues to be implemented and is recommended to be included in the Guidelines.

#### Criteria for road reallocations

47. Criteria for the use of the roadway was established in collaboration with NSW Police and Transport NSW. The City has communicated to applicants the criteria for road space that is unsuitable for reallocation to outdoor dining. It is proposed that the criteria be included in the Guidelines for clarity. Roadway areas not suitable for outdoor dining include:
  - (a) Bus stops or bus zones;
  - (b) Roads with speed limits of more than 50km/h;
  - (c) Clearways;
  - (d) Parking for Australia Post, police, fire, ambulance or car share vehicles;
  - (e) No stopping zones;
  - (f) Separated bike paths; and
  - (g) In-road fire hydrants.
48. The Guideline includes considerations for other types of parking spaces which may or may not be suitable for reallocation to outdoor dining. Due to the complexity of the City's streets, applications will be assessed on a case-by-case basis considering the specific context of the site and location, parking restrictions, demand for parking and neighbouring businesses and road environment.
49. This report proposes two new circumstances for Council to consider revoking, suspending or amending an outdoor dining approval. These are where the business has not used the road area for outdoor dining for a period of 4 weeks following a request from the City to use the road area; or if the outdoor dining program is not being extended.

#### **Temporary outdoor dining program approvals will be extended to June 2022**

50. The City will streamline the extension of existing approvals granted under the temporary Guidelines. These approvals were intended to cease on 31 October 2021 but are proposed to be extended to 30 June 2022.
51. The existing process for renewing a permanent outdoor dining area requires the applicant to submit a renewal form before their Footway Approval lapses. If an applicant applies to renew the approval and no changes are proposed, an assessment is undertaken and a determination is issued, without the requirement for notification.
52. A streamlined process for the extension of existing temporary approvals will be developed if the program and guidelines are extended to 30 June 2022 as recommended.
53. The City will inform all businesses with approvals about the program extension and request confirmation of their interest to extend. Once confirmed and subject to investigation of any outstanding compliance matters, the City will reissue the approval with the extension to 30 June 2022. The City will notify neighbours, by letter, of any continued use of road space for outdoor dining.

54. The provisions in the Guidelines continue to require all new applications for outdoor dining to be notified for 7 days if the proposed area is over 20sqm in Central Sydney, over 10sqm outside of Central Sydney or it is proposed to trade later than 10pm.
55. New applications for reallocation of road space will also remain subject to the current process of seven days notification (concurrent with the outdoor dining notification), with endorsement by the Local Pedestrian, Cycling and Traffic Calming Committee obtained prior to determination.

**Temporary delegations to the Chief Executive Officer to make and amend guidelines is recommended to continue until June 2022**

56. This report also seeks the extension of two delegations from Council to the Chief Executive Officer.
57. In December 2020, Council resolved to grant two temporary delegations to the Chief Executive Officer. The first enabled the Chief Executive Officer to approve the use of roads, footways and public open spaces for outdoor dining, extension of foyer space and performance space under Part 12 of the Liquor Act. The second delegation allows the Chief Executive Officer to make temporary changes to the Outdoor Dining Guidelines and develop any necessary further guidelines to enable the implementation of CBD revitalisation objectives. Both delegations are recommended to be extended to 30 June 2022 to facilitate the implementation of these programs.

**Related changes to NSW Government legislation**

**SEPP (Exempt and Complying) 2008**

58. As part of establishing the program the City worked with Department of Planning, Industry and Environment to exempt pubs and small bars from requiring a development application to access outdoor dining to 31 October 2021. To continue this exemption, it is necessary that the NSW Government to extend cl 2.40B of the SEPP (Exempt and Complying) Provisions 20A Footpaths outdoor dining to June 2022.
59. The City understands the Department of Planning, Industry and Environment are investigating the extension of the clause beyond 31 October 2021. Pubs and small bars will be unable to extend the term of their outdoor dining approval beyond 31 October 2021 without a development application unless this amendment is implemented.

**Liquor Regulation 2018**

60. A temporary amendment made under the Liquor Regulation 2018 enabled an integrated liquor licencing and Council footway approval process possible. Clause 130B of the Liquor Regulation provides a temporary extension to the existing boundary of a liquor licence to cover the expanded or new outdoor dining area, which is approved within 3 days of receiving notification of Council's footway approval.
61. Liquor and Gaming NSW are investigating an extension of these provisions to June 2022 align with the City's extension of the outdoor dining program.

## Key Implications

### Strategic Alignment - Sustainable Sydney 2030

62. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This program is aligned with the following strategic directions and objectives:
- (a) Direction 5 - A Lively and Engaging City Centre - Continuing the work to revitalise the CBD will safely promote and activate the city centre post lockdown through more outdoor dining, live music, events and performances.
  - (b) Direction 6 - Vibrant Local Communities and Economies - Covid-19 has had a devastating impact on local communities and the economy. The new funding package for businesses and support for vulnerable communities will aim to boost the local economy and strengthen community resilience over the next year.
  - (c) Direction 10 - Implementation through Effective Governance and Partnerships - The City has formed a new and effective partnership with the NSW Government in order to deliver this program which is in line with the City's Community Recovery Plan goals.

### Organisational Impact

63. The business and creative recovery support includes funding for additional resources that will be needed to implement the new grants and the promotion of the activations.
64. The extension of the term of the outdoor dining program by 11 months will involve staff from across the City who will be extended in their positions to continue to implement the program. Identified staff will be responsible for leading and managing the specific initiatives, including reporting to the NSW Government.

### Economic

65. The pandemic has had severe impact on the city and the economy. The impact of the current lockdown is particularly significant in our local area due to the high number of hospitality businesses. As restrictions change due to ongoing impacts of the pandemic, it is important the work to revitalise the CBD continues. This program aims to safely encourage workers and visitors back to the city, helping businesses to survive in the short-term and creating opportunities for them to thrive in the long term.

### Financial Implications

66. The initial estimated cost of the City's support for business and the community was \$72.5 million with the financial impact of the pandemic expected to last approximately 6 months from March 2020. The 2020/21 budget was modified accordingly. The current financial year's results and forecasts, against the budget and the financial recovery plan, have been progressively reported to Council as part of the Quarterly reporting process. The Q4 report will further update Council, in detail, on the financial outcomes of the 2020/21 financial year.
67. An additional \$5 million is proposed to fund the support of businesses, the creative sector and vulnerable communities, as noted above, in response to the latest Covid lockdown.

68. The \$1 million of funds required for the immediate elements of the recovery package will be drawn from General Contingency. The balance of funding will need to be determined as the City gains a better understanding of the financial and operational impacts of the current lockdown
69. At this stage, the length and financial impact of the latest Covid lockdown remains very uncertain. However given the magnitude of the disruption to the City's operations and its financial situation, the City will need to reassess its financial recovery plan, which may include an adjustment to a number of Council programs and projects in the current financial year, with any adjustments to the timing and funding of programs to be the subject of future reports to Council.
70. The value of the CBD Revitalisation Fund contract remains unchanged at \$20 million, however the funding allocation across the two financial years 2020/21 and 2021/22 has changed from the initial plans.
71. The extension of the outdoor dining program to end June 2022 will involve a fee waiver for outdoor dining valued at \$3.5 million. The reduction in income as a result of the fee waiver has been incorporated into the draft the 2021/22 operating budget and the City's Long-Term Financial Plan.
72. It is estimated that the cost per month for fee waivers and revenue foregone as a result of the lockdown totals in the order of \$7.8 million, however the losses per month will vary due to differing demand levels assumed for each of the key services. The actual financial impacts upon the Council's financial situation will be reported progressively back to Council.

### **Relevant Legislation**

73. Liquor Act 2007
74. Liquor Regulation 2018
75. State Environmental Planning Policy (Exempt and Complying Codes) 2008
76. Roads Act 1993.
77. Section 356 of the Local Government Act 1993. Section 356 of the Local Government Act 1993 provides that a council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

**Critical Dates / Time Frames**

78. Urgent assistance is required by the community at this time given the significant impacts of the current public health situation and lockdown measures.
79. The outdoor dining program is due to finish on 31 October 2021. The review and re-issuing of approvals to extend to 30 June 2022 will need to be complete by this date.

**EMMA RIGNEY**

Director City Life

Lara Wolski, Manager City Business and Safety

Ben Pechey, Executive Manager Strategic Planning and Urban Design

Bob Wallace, Manager Financial Planning and Reporting

**BILL CARTER**

Chief Financial Officer

# **Attachment A**

**City of Sydney Outdoor Dining Guidelines  
July 2021**



Sydney2030/Green/Global/Connected



# Outdoor Dining Guidelines

June July 2021

*city of villages*

# Outdoor Dining

## Outdoor Dining Guidelines

<b>01/ Introduction</b>	01
<b>02/ Outdoor dining approvals</b>	03
<b>03/ Footway access</b>	07
<b>04/ The outdoor dining area</b>	10
<b>05/ Outdoor dining furniture</b>	12
<b>06/ Neighbourhood amenity</b>	15
<b>07/ Responsibilities of the operator</b>	17
<b>08/ Special areas for outdoor dining</b>	19
<b><u>09/ Road area reallocated to outdoor dining</u></b>	

## 01

# Introduction

*A business cannot solely rely on outdoor seating on a public footway*

## Who can have outdoor dining?

The City supports local restaurants and cafes by allowing seating for outdoor dining. ~~to supplement indoor seating.~~

To be eligible, you have to be a 'food and drink premise' (as defined in the local environmental plan) that prepares and sells food or drink (or both) for immediate consumption on or off the premises, and includes any of the following – a restaurant or cafe, take away food and drink premises, a pub, a small bar.

## Where these guidelines apply

These guidelines apply to all applications for outdoor dining on the road, including the footway and similar public spaces in the City of Sydney Local Government Area, except for:

- the Rocks,
- Circular Quay;
- Barangaroo; and
- Darling Harbour.

For applications in those areas, please contact PropertyNSW.

## How to use these guidelines

These guidelines:

- are to be read along with Council's Outdoor Dining Policy;
- provide information for the public and for applicants seeking to use the road, including the footway for outdoor dining under the *Roads Act 1993*; or the *Local Government Act 1993* for other public spaces; and
- provide guidance for Council in determining applications for use of the road and other public spaces for outdoor dining. **Section 9 includes additional guidance on road area that may be reallocated outdoor dining.**

There are nine parts to these guidelines:

- 1 Introduction outlines general information for outdoor dining applications.
- 2 Outdoor dining approvals has information on the approvals that are needed.
- 3 Footway access sets out requirements to leave enough room for pedestrians on the footway.
- 4 The outdoor dining area provides information on suitable locations and sizes of outdoor areas.
- 5 Outdoor dining furniture has design requirements for furniture and other structures to be used in conjunction with the outdoor dining; and on measures to protect the amenity of neighbourhoods.
- 6 Neighbourhood amenity details the matters that will be considered in deciding if outdoor dining is appropriate for neighbourhoods.
- 7 Responsibilities for the operator details Council's expectations for operators using public spaces for outdoor dining.
- 8 Special areas for outdoor dining gives more detailed guidance for nominated precincts.
- 9 Road area reallocated to outdoor dining is a temporary measure to support the City's COVID recovery, allowing parking spaces to be used by businesses for outdoor dining.



## Key terms

Term	Meaning
Clear path of travel	<p>The area of the footway maintained for safe and equitable pedestrian circulation that 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:</p> <p><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 that would prevent it from being safely negotiated by people with disability.</i></p>
Exempt development	<p>Development that does not need development consent under the <i>Environmental Planning and Assessment Act 1979</i>, but which may still need some other approval. At the time of adoption, the <i>State Environmental Planning Policy (Exempt and Complying Codes) 2008</i> makes footway dining exempt development if it is:</p> <ol style="list-style-type: none"> <li>not associated with a pub or a small bar, and</li> <li>carried out in accordance with an approval granted under section 125 of the <i>Roads Act 1993</i>, including in accordance with any hours of operation to which the approval is subject, and</li> <li>carried out in accordance with any approval granted under section 68 of the <i>Local Government Act 1993</i>.</li> </ol>
Food and drink premises	<p>As defined by the local environmental plan, food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following –</p> <ol style="list-style-type: none"> <li>a restaurant or cafe,</li> <li>take away food and drink premises,</li> <li>a pub,</li> <li>a small bar.</li> </ol>
Outdoor dining	Dining on the public road, including the footway, associated with an approved food and drink premises.
Public footway	That part of a road that is set aside or formed as a path or way for pedestrian traffic, whether or not it may also be used by bicycle traffic.

## 02

# Outdoor dining approvals

Council will encourage and support well managed use of the road and footway. The City's roads and footways are public land and an approval to use this land for outdoor dining is a requirement.

## What approvals are required?

All outdoor dining requires an approval to use public land. At the City of Sydney, this is called a Footway Approval (Outdoor Dining).

Most outdoor dining will not need development consent. It will be 'exempt development' (see Key Terms) and will only need a footway approval from Council.

Outdoor dining that is not exempt development will also need development consent from Council.

If you are not sure which approvals you need, please talk to Council either at one of our Neighbourhood Service Centres, or by calling 9265 9333.

## Special precincts for outdoor dining

Some places have additional considerations when applying for outdoor dining. Applications for outdoor dining in a nominated special precinct are to be consistent with the detailed guidance in Section 8 of these guidelines. The following are nominated as special precincts:

- Martin Place – from George Street to Pitt Street (the Cenotaph block); and
- Lankelly Place, Potts Point.

## Change of operator

The legislation requires approvals for outdoor dining to be given to the operator of the business, and not to the business or the property.

This means, that when the operator of a business with approval for outdoor dining changes, the approval is no longer valid.

A new operator will need to get a new approval for outdoor dining.

## Compliance with outdoor dining approval

Operators must display the approval notice for an outdoor dining area in a prominent position, and make it available to authorised Council officers on request. It must clearly show the approved hours of operation and approved outdoor dining area.

Authorised Council officers may order the removal of any items on the footway that are not part of the outdoor dining approval, or otherwise permitted under another approval or policy of Council.

## Revoking, suspending, or amending an outdoor dining approval

Applicants should be aware that Council can revoke, suspend or amend an approval for outdoor dining if:

- the conditions of the approval are breached;
- the use of the road or footway area for outdoor dining is causing public safety or public access to be compromised;
- the road or footway area is needed for public works;
- the road or footway area is needed for a special event;
- the road or footway area is needed to manage an increase in pedestrians; or
- **the road area has not been used by patrons of the business over a four week period; or**
- **the approval is based on the temporary amendments to these guidelines that support business recovery from Covid-19 and those temporary amendments are extended.**

Where Council needs to revoke, suspend, or amend an approval for outdoor dining the approval holder will be given notice of Council's intention and will be given an opportunity to make representations to Council.

### Period of approvals between 30 October 2020 and ~~31 October 2021~~ **30 June 2022**

Council has adopted temporary amendments to these guidelines to support businesses with Covid-19 recovery.

Council may limit the period of the approval to ~~31 October 2021~~ **30 June 2022** if an application is lodged and the outdoor dining will operate within the period of 30 October 2020 to ~~31 October 2021~~ **30 June 2022** and the approval is based on the temporary amendments.

## Consultation and notification of outdoor dining applications

Public consultation on some outdoor dining applications can help identify problems that could arise during operation.

### Provisions

- 2.1. Outdoor dining applications will be notified for public consultation:
  - in Central Sydney (as shown at Figure 1), where the proposed area is more than 20 square metres;
  - outside of Central Sydney, where the proposed area is more than 10 square metres; or where proposed operating hours are prior to 7am, or after 10pm;
  - unless the application meets the criteria in 2.2 below;
- 2.2. Outdoor dining applications will not be notified where:
  - there is an existing Footway Approval;
  - the application is to allow for change of operator of the Footway Approval; and
  - there are no proposed changes to the terms of the Footway Approval, including operating hours, and outdoor dining area.
- 2.3. Notification will be made through a notice on the premises, on the Council's website, and via letter or digital service:
  - for a period of 14 days or 7 days if the application is lodged and the outdoor dining will operate within the period of 30 October 2020 to ~~31 October 2021~~ **30 June 2022**; and
  - within a 25 metre radius of the proposal.

### 2.3A Applications for the use or renewal of the use of the road area will be notified in accordance with 2.3.

## Application requirements

Submitting the correct documents with the outdoor dining application will support an efficient application assessment.

- 2.4. The following documents are required
  - a completed application form (available from Council's website);
  - a request to Council for owner's consent for the use of Council-owned land;
  - a description of the proposed outdoor dining, including size and location of the proposed outdoor dining area and hours of operation;
  - colour images of the site and the surrounding context;
  - images, or a manufacturer's brochure, showing any furniture, umbrellas, heaters and the like;
  - a plan of the outdoor dining area (see below);
  - an emergency contact number.

## Outdoor dining area plan

An outdoor dining plan is to be easily understood and allow Council officers to assess the outdoor dining application efficiently and effectively. A sample plan is shown at Figure 2.

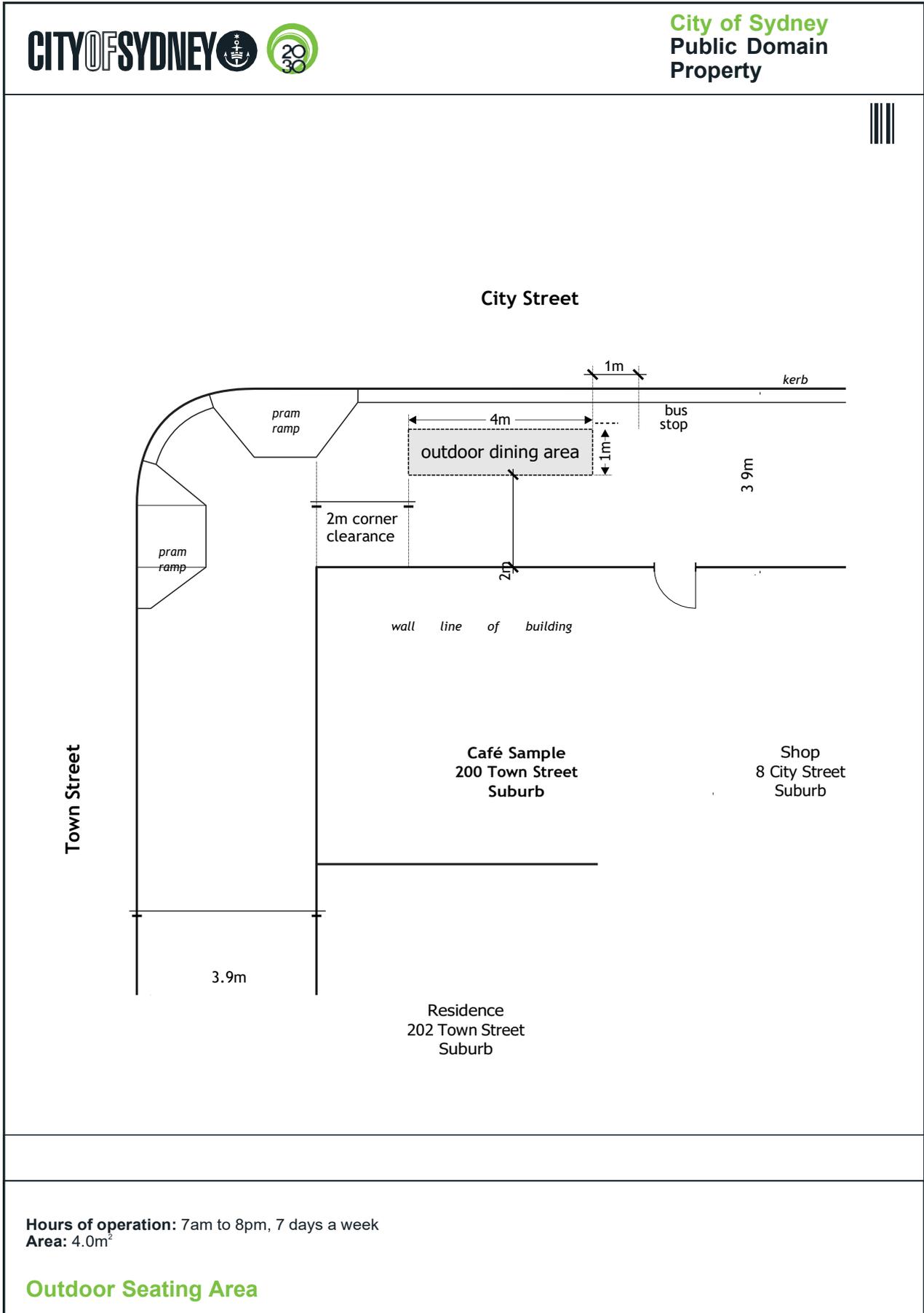
- 2.5. An outdoor dining area plan should be to scale and with clearly marked dimensions, showing:
  - the width of the pavement and the proposed outdoor dining area;
  - the location of the outdoor seating area on the footway, along with the associated premises, and neighbouring premises;
  - layout of the outdoor dining area, including its width, and also umbrellas, heaters and the like;
  - clearances around the outdoor seating area from trees, the kerb, street furniture, street signs and the like;
  - location of all existing street fixtures, including benches, trees, poles, bike parking rings, bins, heritage plaques and inscriptions and the like;
  - location of transport stops, taxi ranks, parking areas, loading zones, pedestrian crossings and street intersections (if any); and
  - the location of all doorways and service openings

Sydney2030/Green/Global/Connecte

Figure 1 – Central Sydney



Figure 2 – a basic outdoor dining plan



## 03

# Footway access

The primary function of a public footway is to provide access to pedestrians and other users travelling along the street.

In some places, the footpath may be too narrow or too busy to support a business use and also provide the clear path of travel required by these guidelines.

In these circumstances, the footway is not suitable for outdoor dining. Council will maintain a map, available through Council's website, of busy streets which are not suitable for outdoor dining.

## Clear path of travel

Council will ensure that the public footway continues to provide safe, dignified and equitable access to pedestrians and other users travelling along the street. To achieve this, the Council will ensure a minimum clear path of travel is maintained to a suitable width before any business uses are considered.

## Provisions

- 3.1. A clear path of travel is to be maintained on all public footways before other uses are considered.
- 3.2. The minimum width of the clear path of travel needs to be:
  - 2 metres for streets;
  - 1.2 metres for Central Sydney laneways, as shown in Figure 3; and
  - 4 metres in shared zones used by vehicles.
- 3.3. In areas of high pedestrian volume or where closeness to traffic might pose a safety risk, Council may:
  - require a greater clear path than shown in 3.2; or
  - not allow outdoor dining, where the street has been identified as not suitable.
- 3.3.A If an application is lodged and the outdoor dining will operate within the period of 30 October 2020 to ~~31 October 2024~~ **30 June 2022**, Council may reduce the width of the clear path of travel provided there is a consistent and predictable clear path of travel for all users and the Australian Standards are met.

*the clear path of travel is to be consistent and predictable for each street block*

- 3.4. Council can require a clearance of less than 2m where:
  - it can be shown that pedestrian safety will not be compromised; and
  - where activity such as outdoor dining is desirable.
- 3.5. The location of the clear path of travel is to be consistent and predictable for each street block.
  - A consistent clear path is located on the same part of the footway for the length of the block.
  - A predictable clear path is one where the location can be anticipated by users based on either local knowledge of the street or environmental cues.

Figures 4 to 6 demonstrate a consistent and predictable clear path of travel.

Figure 3 – Central Sydney laneways

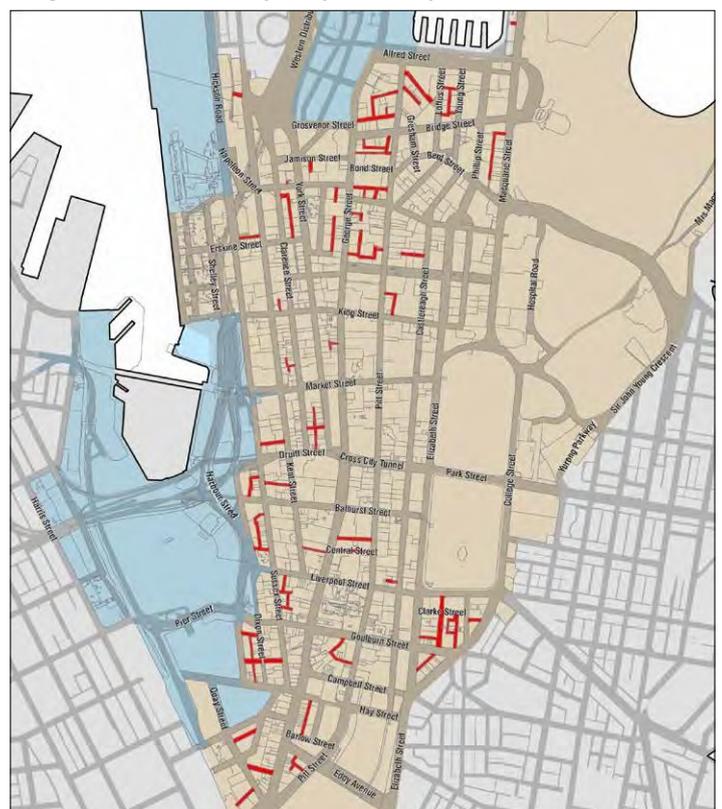


Figure 4 – this clear path of travel is in a consistent location on the block and is predictable for pedestrians. This figure also shows the special clearances are required when dining at the kerbside.

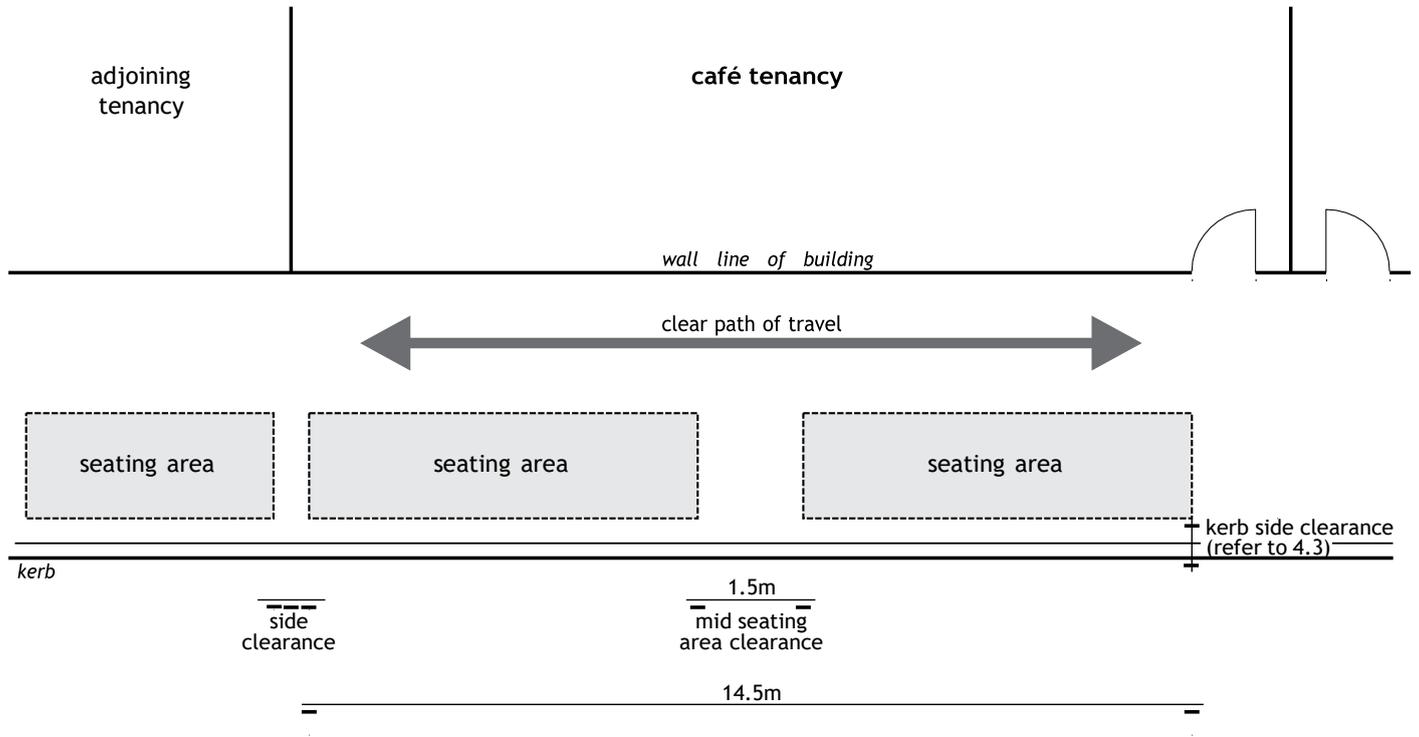


Figure 5 – this clear path of travel is in a consistent location on the block and is predictable for pedestrians.

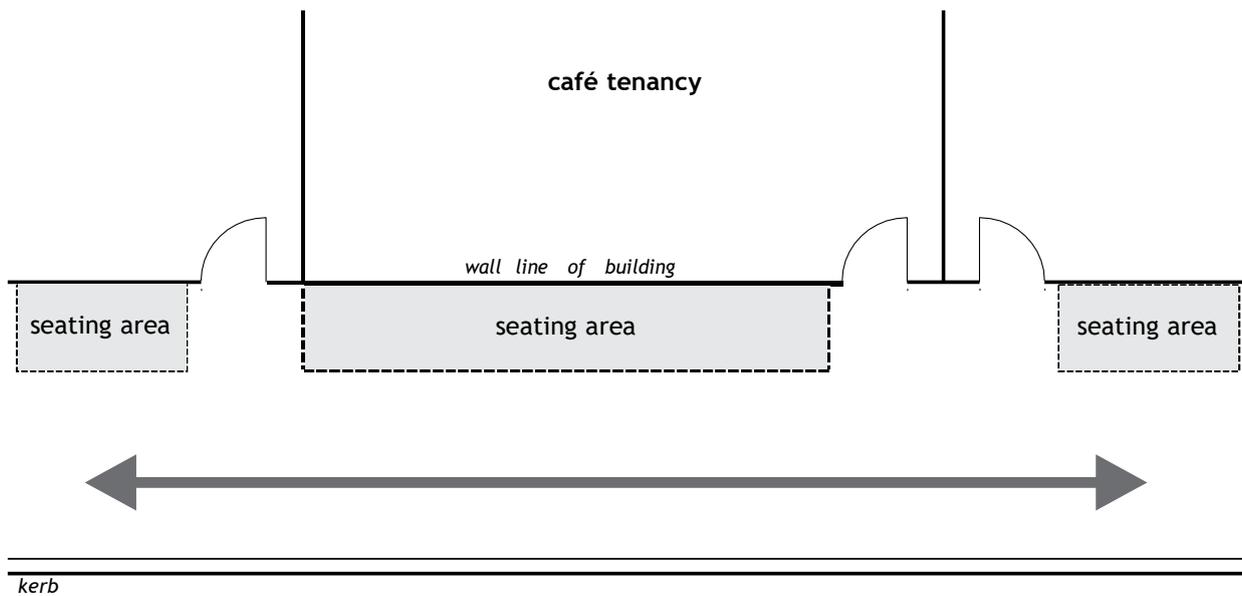
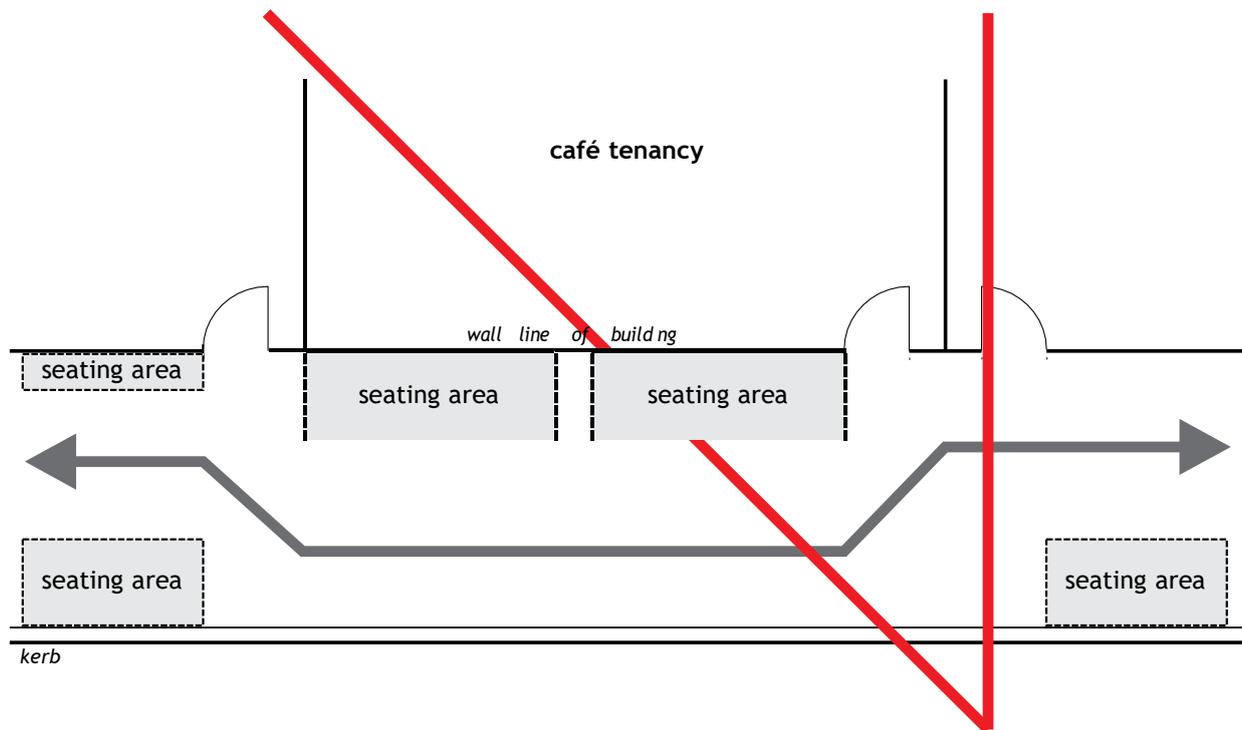


Figure 6 – this clear path is not in a consistent location on the block and is not predictable for pedestrians.



# 04

## The outdoor dining area

Outdoor dining areas are to provide a safe and enjoyable dining experience for customers, while keeping footways safe and accessible for all pedestrians.

In considering the size and location of an outdoor dining area, the first consideration will be the safe, dignified and equitable movement of pedestrians.

The location and size of an outdoor dining area will depend on:

- the location of adjacent outdoor dining areas;
- the space required for outdoor dining furniture and the circulation of customers;
- nearby infrastructure such as bus stops, trees and rubbish bins; and
- the amount of pedestrian and vehicle traffic at the location.

### Size and location of the outdoor dining area

#### Provisions

When applying for outdoor dining, applicants are to:

- 4.1. Allow enough room for furniture and customers, by keeping a minimum width of 0.8m for the outdoor dining area.
- 4.2. Maintain safety and circulation on public footways, by keeping outdoor dining areas clear of trees, busstops, and service items such as parking meters, fire hydrants, drains and the like. The minimum clearances needed, shown at Figure 7 are :
  - 1 metre from a public transport stop, public transport access point, bus zone or taxi stand;
  - 1 metre from any service object including firehydrant, utility pit, grate, vents, drains, public seat, bike rack or ring, pay phones, parking meters, rubbish bins and the like;
  - 1 metre from any landscaped area;

- 0.8 metres from any street tree pit or grate – measured from the outside of the pit or grate.
- 2 metres from the corner alignment of the building at street intersections
- sufficient clearance to give safe, dignified and equitable access to buildings; and
- not obstructing or impeding access to fire escapes and emergency exits.

4.3. Applicants cannot apply for outdoor dining approval for an area that is not immediately outside their tenancy (for example, outside of a neighbouring premise).

~~4.3.A If an application is lodged and the outdoor dining will operate within the period of 30 October 2020 to 31 October 2021 **31 June 2022**, space reclaimed by Council from the roadway area may be used for outdoor dining if the area is protected by vehicle-proof barriers appropriate to the speed of traffic. The outdoor dining area on the reallocated roadway may extend beyond the alignment of the business tenancy provided:~~

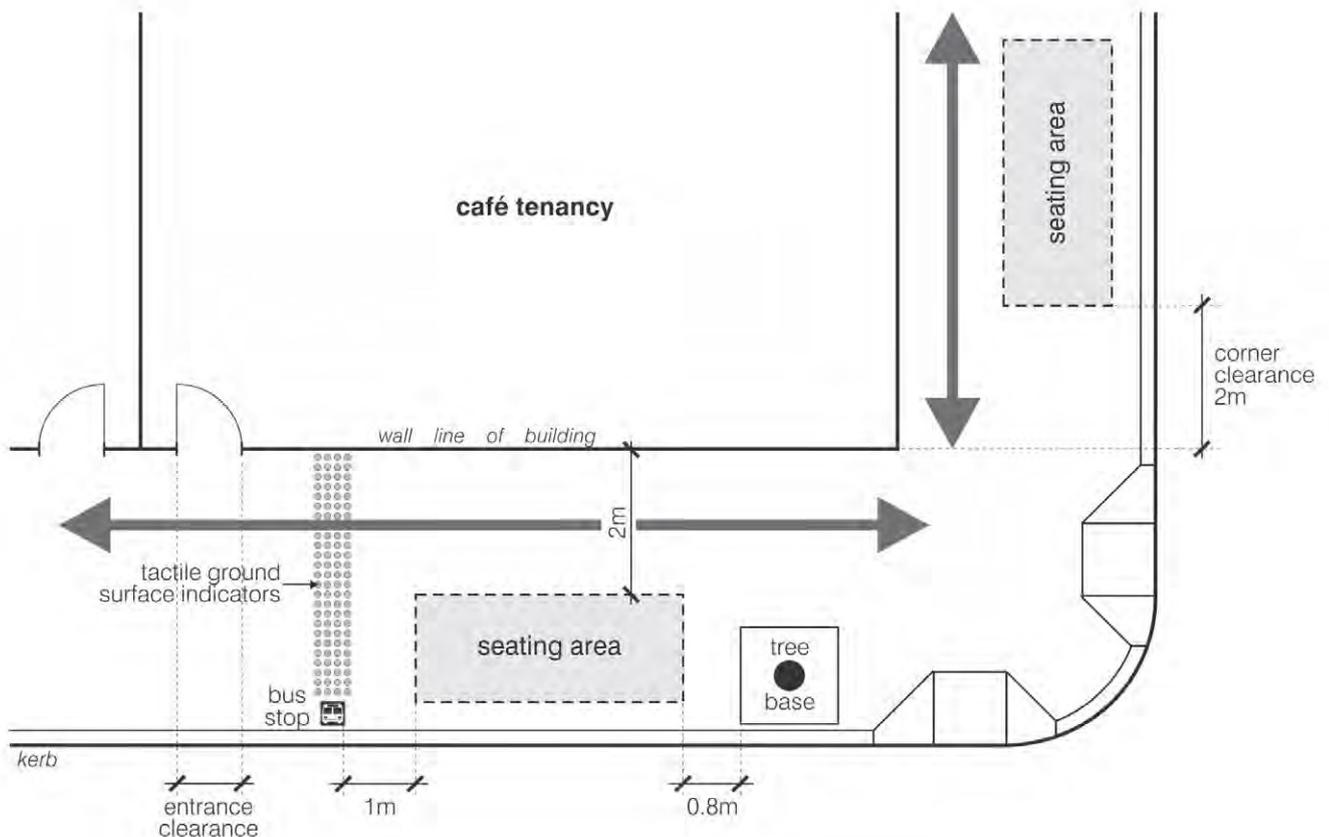
- ~~– it is to be continuous except for mid-area clearances under clause 4.6,~~
- ~~– it is not in front of another food and drink premise, and~~
- ~~– the space in front of a non-food and drink premise is equally shared with any other food and drink premise that adjoins the non-food and drink premise.~~

### Toilet facilities

#### Provisions

4.4. The application should demonstrate that acceptable toilet facilities are available in the premises to which the outdoor dining approval relates.

Figure 7 – clearances required around the outdoor dining area



**Special clearances for outdoor dining at the kerb**

When applying for outdoor dining towards the kerbside of the footway, it is important to consider the safety of patrons from traffic, and to allow room for access to cars parked along the kerb.

**Provisions**

- 4.5. Applicants should leave the following clearances from the kerb:
- 2 metres when next to a RMS classified road, or traffic moving at 20km/hour or more;
  - 1.5 metres when next to an accessible parking spot;
  - 0.9 metres when next to a loading zone;
  - 0.6 metres when next to normal parking conditions, or next to traffic moving at 20km/hour or less.

4.5.A If an application is lodged and the outdoor dining will operate within the period of 30 October 2020 to ~~31 October 2024~~ **31 June 2022**, Council may reduce the clearances from the kerb or carriageway on a classified road provided the area is protected by vehicle-proof barriers suitable to the traffic speed of the road.

- 4.6. Applicants should leave the following clearances around their outdoor dining areas:
- 0.25 metres side clearance at the side boundary of the footway area immediately in front of your building. This is to create a gap between adjacent outdoor dining areas.
  - 1.5 metre mid-area clearance to for seating areas longer than 12 metres, to allow access to the street.

# 05

## Outdoor dining furniture

Outdoor dining areas are to make a positive contribution to the character of the City's streets and public spaces. They are to appear as temporary uses of the public domain, not as permanent fixtures.

An outdoor dining set-up can contain a variety of items – tables, chairs, umbrellas and heaters. Care needs to be taken that streets do not become cluttered and obstructed through the placement of furniture and other items.

Streets that are physically and visually cluttered make business identification and general wayfinding more difficult and detract from the street attractions. Signage, branding and advertising can all add to visual clutter and take away from the positive characteristics of the street.

The choice of furniture, including tables, chairs, and umbrellas are to reflect and build on the existing character of the local area.

Barriers around outdoor dining areas give the appearance that the public space has been privatised, and become an obstacle to access and movement and generally not supported. As much as possible, outdoor dining areas are to remain open and inviting.

### Furniture and other items

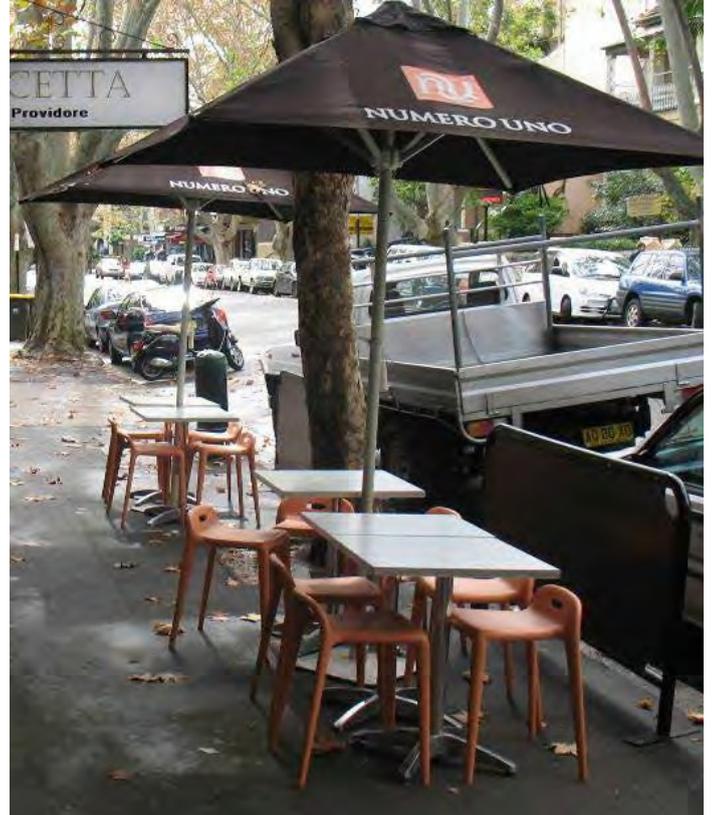
#### Provisions

- 5.1. Any furniture or other items that form part of the outdoor dining set-up should be described in the application for outdoor dining and approved by Council.
- 5.2. All furniture and other items:
  - are to be located within the approved outdoor dining area;
  - should not have permanent fixings; and
  - should be removed and stored safely outside of outdoor trading hours.
- 5.3. Council encourages the design and range of furniture for outdoor seating areas to:
  - demonstrate diversity and innovation;
  - reflect the character of the buildings and permanent elements of an area;
  - have an open appearance; and
  - minimise clutter.
- 5.4. Seating, including chairs, stools, benches, tables and the like are to:
  - be safe for users and not have any sharp edges, hinges or other moving parts that could cause a hazard to users;
  - allow access for all users, including those whose wheelchairs or mobility aids;
  - be non-reflective;
  - be strong, durable, weather resistant and designed for commercial outdoor use;
  - not damage the footway and Council property.
  - be able to be readily removed and stored within the associated premises; and
  - be generally consistent with the character of the area.
- 5.5. Furniture and other items should have a colour or luminance contrast to allow them to be identified by pedestrians with low-vision. A luminance contrast of 30% is recommended.

Figure 8 – barriers can be used to enclose a licensed area. These barriers have logos which meet the standards in these guidelines



Figure 9 – these umbrellas have logos which meet the standards in these guidelines



## Barriers

### Provisions

- 5.6. Barriers which enclose the outdoor dining area, or which separate it from the pedestrian footway, are not permitted.
- 5.7. Barriers are permitted where there is a license under the Liquor Act 2007 to serve alcohol in the outdoor seating area and it is in a designated Alcohol Free Zone.
- 5.8. Side, or 'end', barriers which separate one outdoor dining area from an adjacent outdoor dining area are permitted.
- 5.9. Where barriers are used, they must:
  - Have a maximum gap of 150mm from the pavement to the underside of the barrier; and
  - Not be a rope or chain.

## Umbrellas, canopies and the like

### Provisions

- 5.10. Umbrellas are not permitted where a seating area has shelter from a building awning.
- 5.11. Where umbrellas are used, they must have a height clearance of 2 metres from the ground for pedestrian movement and safety.
- 5.12. Umbrellas should be:
  - Square, to take up the least possible space; and
  - Fabric or matte-finished.
- 5.13. Umbrella bases should be safe, simple and compact to avoid causing a trip hazard for pedestrians.
- 5.14. Where there is more than one umbrella, they should be of a single solid colour.
- 5.15. Drop-down blinds, enclosures and canopies are not permitted. Umbrellas connected together by zippers or similar means are considered a canopy.

## Outdoor heaters

### Provisions

- 5.16. Outdoor heaters will only be approved where the safety of people and property is not compromised.
- 5.17. Outdoor heaters should turn off automatically if overturned to prevent injury to patrons and damage to property.
- 5.18. Outdoor heaters should be turned off when the outdoor dining area is not in use.
- 5.19. Outdoor heaters should be stored safely within the premises when not in use.

Note: Australian Standard AS/NZS 1596:2008, *The Storage and Handling of LP Gas* gives advice on storing outdoor heaters.

## Signage and branding

### Provisions

- 5.20. The name, logo and other branding of the food or drink premises or an associated product may be placed on an umbrella, or barrier where permitted by provisions 5.7 or 5.8, only if it:
  - involves only one product or business name being advertised in each seating area; and
  - is a minor and ancillary element of the design, comprising no more than one third of the surface area and does not have an adverse impact on the appearance of the seating area or the streetscape.
- 5.21. No other advertising signage will be permitted.

## 06

# Neighbourhood amenity

Outdoor dining brings many benefits to our streets – from the economic benefits of a thriving local economy to opportunities for informal social meetings and interactions.

Many of our outdoor dining areas are on streets where businesses and residents are mixed, and many residents enjoy their local cafes and restaurants. Where outdoor dining areas are close to homes, care needs to be taken to ensure residents can continue to enjoy the amenity of their neighbourhood.

The City has found that seating arrangements can affect the noise generated. Larger tables of more than four people can lead to louder conversations and disturbances for neighbours while smaller tables with chairs facing the road tend to generate less noise.

## Hours of operation

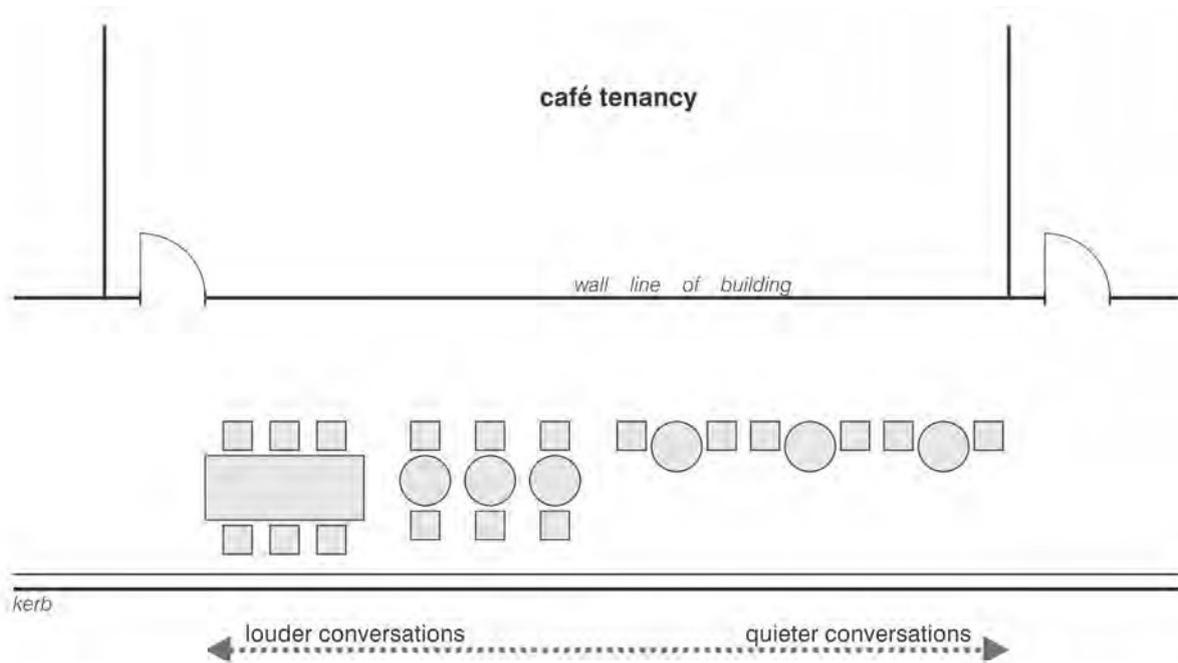
### Provisions

- 6.1. Operating hours for outdoor dining areas will generally follow the outdoor trading hours in the Sydney Development Control Plan 2012 - Section 3.15 Late Night Trading Management.
- 6.2. In considering operating hours for outdoor dining, Council will assess:
  - how close an outdoor dining area is to nearby dwellings and other noise sensitive uses; and
  - the size of the outdoor dining area.
- 6.3. Council may approve alternative hours of operation and size of area, to allow outdoor dining that will not have an adverse noise impact on the neighbourhood.

Notes: Applications for extended operating hours will be subject to the same trial period process specified in Sydney Development Control Plan 2012 - Section 3.15 Late Night Trading Premises Management.

- 6.3.A If an application is lodged and the outdoor dining will operate within the period of 30 October 2020 to ~~31 October 2021~~ **30 June 2022**, Council may reduce or not impose a trial period for trading hours that exceed the base hours under Sydney Development Control Plan 2012 - Section 3.15 Late Night Trading Premises Management.

Figure 10 – the arrangement of tables and chairs influences the noise generated from outdoor dining areas.



## Music

### Provisions

6.4. Entertainment and amplified music are **generally** not permitted in outdoor dining areas.

**6.4A Live performance in outdoor dining areas may be permitted as a temporary measure in accordance with any relevant City of Sydney guidelines or conditions**

## Seating arrangements

### Provisions

6.5. Council may require smaller tables and chairs to face towards the road to reduce noise.

## Lighting

### Provisions

6.6. Council may consider the installation of private lighting for outdoor seating areas that are approved to operate outside daylight hours, provided:

- the safety and amenity of patrons, the general public and road users is maintained;
- it does not reduce the amenity or safety of other uses in the area as a result of glare or light spillage;
- it is to be located wholly within the outdoor seating area; and
- electrical cabling is discreet and does not create trip hazards.

Note: Any lighting should be designed to comply with AS 300, AS 1158, AS 4282 1997 Control of Obtrusive Effects of Outdoor Lighting, and The City of Sydney Lights Code.

## 07

# Responsibilities of the operator

The City encourages well managed outdoor dining that contributes in a positive way to the character of the City and its public spaces. Use of public space, including the footway, brings responsibilities for the operator.

Conditions of the footway approval will include:

## Protection of Council-owned property

- 7.1. An operator will be required to lodge a security deposit with the Council, to pay for any necessary repairs resulting from damage to the footway caused by the operation of an outdoor seating area.
- 7.1.A If an application is lodged and the outdoor dining will operate within the period of 30 October 2020 to 31 October 2021 ~~31 October 2021~~ **31 June 2022**, Council will waive the requirement for a security deposit where the monthly rental fee is also waived. Council will reserve the right to damages caused by the operation of outdoor dining area.

Notes: The details of any required security deposit will depend on the proposal and will be outlined in any approval. Typically it is the greater of \$500.00 or three month rental, and must be paid before the operator can use the footway. It may be used to: repair damage caused by operation of an outdoor seating area; remove private fittings fixed to the footway by an operator; or cover any outstanding money owed to the Council after the operation has permanently ceased.

## Rental fee to occupy the public space

- 7.2. Approval will be subject to a condition that a rental fee will be paid for the use of the footway.
- 7.3. The fee due is set out in Council's fees and charges, and will be due annually at the rate applicable for that year.

Note: Application fees and public land rental costs for outdoor seating areas are outlined in the City of Sydney Schedule of Fees and Charges. The rates can change each financial year, and the latest schedule is available on the Council's website. The ongoing rent will depend on the location and size of the outdoor seating area.

## Public liability insurance

- 7.4. An operator will be required to obtain and maintain a public liability insurance policy with an insurer acceptable to the Council, to cover any legal liability of property damage and personal injury to the public.

Note: The details of any required insurance policy will depend on the proposal and will be outlined in any approval. Typically operators need to provide cover to a minimum value of \$10M, up to \$20M on classified roads. The insurance company will need to provide certificate of currency to Council before the operator can use the footway, and annually thereafter.

## Display of approval

- 7.5. A copy of the approval and plan is to be kept on premises, displayed in a prominent position and be produced on request to authorised Council officers.

## Management requirements

- 7.6. An outdoor seating area is to operate in accordance with the conditions of the approval.
- 7.7. Outdoor dining, including furniture, must be within the approved outdoor dining area.
- 7.8. All patrons are to vacate the approved seating area and all structures are to be removed from the seating area and stored within the premises before the closing time specified in the approval.
- 7.9. Outdoor seating areas can only be used by seated patrons consuming food or drink. Patrons are not permitted to eat or drink or whilst standing in the approved outdoor seating area. Patrons are to be able to consume food and drink in outdoor dining areas at all times and they are not to be nominated as being for smoking purposes.
- 7.10. Outdoor seating areas on the kerb side adjacent to a clearway or bus lane will be required to cease operations while the clearway or bus lane is in operation and store tables and chairs off the public footway.

7.10.A If an application is lodged and the outdoor dining is associated with a pub or small bar and will operate within the period of 30 October 2020 to 31 October 2021, Council may require a plan of management for the outdoor dining area which may be satisfied by an existing or updated plan of management.

Note: Applicants may be required to demonstrate acceptable storage arrangements in the application for outdoor seating on the footway, particularly where the hours of operation for the premises are greater than those for the outdoor seating area.

## Maintenance

7.11. The outdoor dining area and furniture and other items associated with the outdoor dining are to be:

- kept clean and maintained in good order suitable for their purpose;
- positioned and used as required when the outdoor seating area is in use;
- not be permanently fixed unless specific permission is given; and
- removed and stored away from public areas when the seating area is not in use.

7.12. Waste and litter is to be well managed by:

- removing waste promptly from the outdoor seating area;
- disposing of any waste properly (public litter bins are not to be used for the disposal of waste from outdoor seating areas); and
- not using disposable tableware in the outdoor seating area.

Notes: Additional management requirements may form part of any approval depending on the nature of the actual proposal and its location. The Council encourages the separation and recycling of waste.

## 08

# Special areas for outdoor dining

Some public spaces have special characteristics that require more detailed guidelines for outdoor dining. This section contains detailed guidelines for special areas.

## Martin Place

Martin Place is Sydney's premier civic space. It holds formal and informal gatherings and events; is a site for festivals including Vivid; and is the annual location for Sydney's Christmas tree and celebrations.

Importantly, the Cenotaph is also located at Martin Place, and is the focus not just of ANZAC Day memorial events, but of many other commemorative events throughout the year. The NSW Returned Services League are the custodians of the Martin Place Cenotaph.

The introduction of outdoor dining to Martin Place is one component of a wider plan to make Martin Place a high quality unified civic space that is lively and activated. It is to be a unique destination in Sydney that is respectful of its cultural and built heritage significance.

Any outdoor dining is to be in keeping with this significant civic setting and is to be respectful of the dignity of the Cenotaph. The design of outdoor dining areas is to be recessive in appearance, and to complement the sandstone heritage buildings along the edge of Martin Place.

Martin Place is a significant pedestrian thoroughfare, and any outdoor dining should not compromise pedestrian safety and comfort.

Note: Martin Place between George Street and Pitt Street is Crown land, identified as Reserve 88056. The City of Sydney has all care, control and management responsibilities for the land under the *Crown Lands Act 1989*. A licence and approval under the *Crown Lands Act* is required for outdoor dining on this part of Martin Place.

## Provisions – Cenotaph block (George and Pitt Streets)

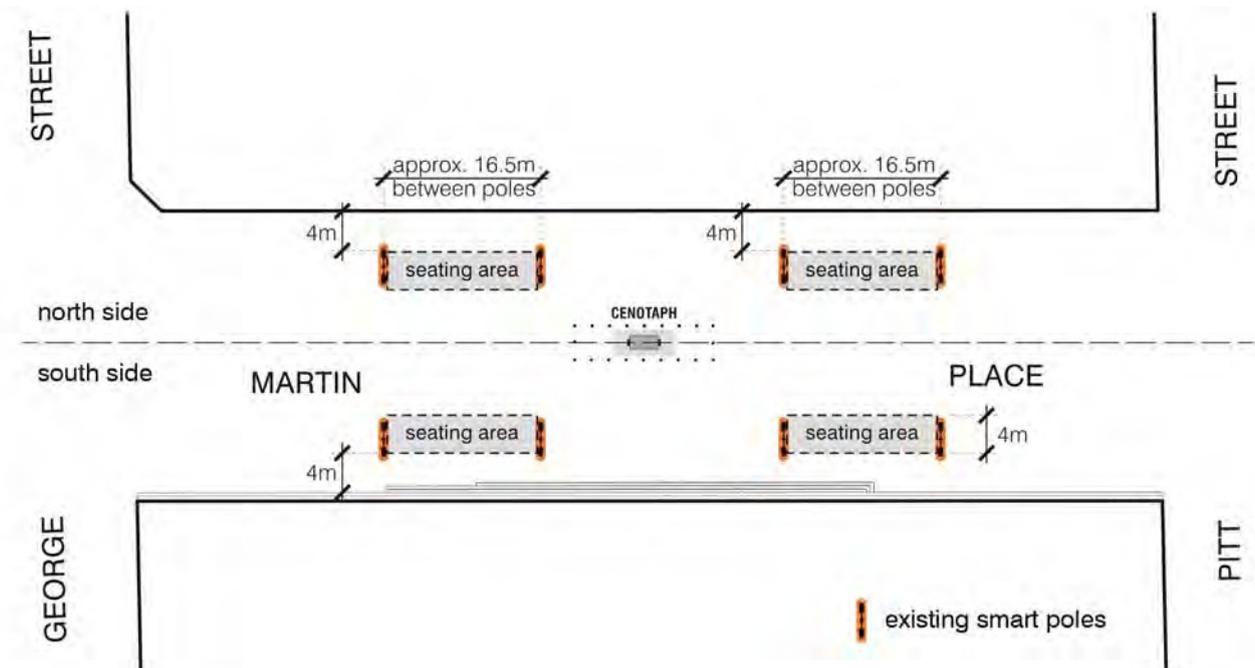
### Respecting the Cenotaph

- 8.1. The outdoor dining area will not operate during times identified by the NSW Returned Services League as memorial or commemorative event times. These times will be provided to operators by the NSW Returned Services League at the start of each year.
- 8.2. The NSW Returned Services League will provide training and information to operators and their staff, to promote understanding of and respect for the significance of the Cenotaph.
- 8.3. The applicant is to prepare a Plan of Management to detail measures to be implemented to:
  - identify and manage behaviour that in the opinion of the NSW Returned Services League is inappropriate for the Cenotaph block; and
  - manage complaints about behaviour, or requests from the NSW Returned Services League to manage inappropriate behaviour.
- 8.4. The applicant is to demonstrate they have undertaken consultation and sought support from the NSW Returned Services League for the Plan of Management.
- 8.5. Council will consider the views of the Returned Services League of NSW when assessing the Plan of Management.

### The outdoor dining area

- 8.6. Outdoor dining is only allowed within the areas shown on Figure 11. Outdoor dining must be in association with a food and drink premises on the same side – either the north or the south – of Martin Place as shown in Figure 11.
- 8.7. All items in the outdoor dining area are to be temporary and portable, and stored indoors outside of approved service hours.
- 8.8. The outdoor dining area is to leave a 4 metre clear path of travel for pedestrians, as measured out from the building line on either side of Martin Place.

Figure 11 – Outdoor dining areas on the Cenotaph block of Martin Place



#### Tables and chairs

- 8.9. Chairs and tables are to be:
- uniform in style and design;
  - hardy and sturdy to resist wind gusts;
  - of metal or quality timber frame construction and not plastic;
  - stackable or foldable for ease of storage and readily removed.
- 8.10. Chairs should be ‘French Bistro’ Rattan type chair, with the colour to be natural, brown or red (as shown in Figure 12).
- 8.11. Tables should be ‘French Bistro’ Rattan type to match the chairs, or are to have white table cloths.
- 8.12. Any variations to these specifications are to:
- respect the heritage setting: and
  - have the approval of Council’s Director of Planning, and Council’s Design Director.

#### Umbrellas

- 8.13. Umbrellas should be spaced so as to be recessive in appearance avoiding visual dominance of the adjacent heritage buildings.
- 8.14. The dimensions of the umbrellas should be:
- for the canopy, not more than 2500mm x 2500mm with an overall height not higher than 3000mm; and
  - for the canopy clearance, not less than 2200mm measured from the lowest edge to the pavement.
- 8.15. The finish of the umbrella should be:
- stone for the canopy, as shown in Figure 13; and
  - matte black for the pole and frame.
- 8.16. Umbrellas should be properly secured in place to prevent blowing over in strong winds. In-ground sleeves are encouraged within the designated outdoor dining areas.
- 8.17. Logos, branding or advertising is not permitted on umbrellas.
- 8.18. Any variations to these specifications are to:
- respect the heritage setting: and
  - have the approval of Council’s Director of Planning, and Council’s Design Director.

Figure 12 – French Bistro style Rattan chairs



Figure 13 – Umbrellas should be stone canopy with black pole and no logos, branding or advertising



#### Barriers

- 8.19. Barriers which enclose the outdoor dining area are not permitted.
- 8.20. Barriers are permitted only where there is a license to serve alcohol in the outdoor seating area and it is in a designated Alcohol Free Zone or Alcohol Prohibited Area. These barriers:
- should not contain any logos, advertising or other graphics.
  - are to be black matte finish and not exceed 900mm in height.

#### Waiter stations

- 8.21. Waiter stations are permitted only where it can be demonstrated they are essential to the safe operation of outdoor dining areas, for instance in areas of very high pedestrian traffic.
- 8.22. Waiter stations should be:
- mobile and stored indoors outside of approved service hours;
  - designed to be unobtrusive and of minimalist appearance, free of any signage, advertising, logo or branding;
  - contained wholly within the approved outdoor dining area.



## Llandkelly Place

Council supports outdoor dining in Llandkelly Place as part of a strategy to increase activation of the laneway. Following a successful trial of expanded outdoor dining opportunities, acceptable areas for outdoor dining have been defined.

The introduction of new outdoor dining areas within Llandkelly Place may require some negotiation between business operators to ensure that there is equitable access to outdoor dining opportunities, and an acceptable clear path of pedestrians.

### Provisions

- 8.23. Outdoor dining is acceptable within the areas identified on Figure 14.
- 8.24. Llandkelly Place is exempt from Council's 'footway freeze' of December 2012.
- 8.25. New outdoor dining areas not shown on Figure 14 can be approved provided that:
  - a consistent and predictable clear path of travel is provided and maintained, to a minimum width of 1.2 metres.

Figure 14 – approved outdoor dining areas for Llangelly Place



# 09

## Road area reallocated to outdoor dining

### Criteria for Road reallocations

To help hospitality venues recover from the devastating effects of Covid-19, we're working to provide businesses with the opportunity to use on-street car parking space for outdoor dining on a temporary basis.

Applicants will be encouraged to apply for footpath dining before an application for outdoor dining on the road area is considered.

The City have criteria that guides where road area cannot be reallocated for outdoor dining.

### **Provisions**

9.1 Areas that are unsuitable for outdoor dining include:

1. Bus stops or bus zone
2. Roads with speed limits of more than 50km/hr
3. Clearways
4. Parking for Australia Post, police, fire, ambulance, or car share
5. No stopping zone
6. Bike lanes
7. Accessible parking
8. In-road fire hydrant

There will be other types of parking spaces that may not be suitable.

All applications are considered on a case-by-case basis due to the complexity of our streets, and the specific context of your location, the parking restrictions and the neighbouring businesses and road environment.

### The outdoor dining area

#### **Provisions**

9.2 Space reclaimed by Council from the road area may be used for outdoor dining if the area is protected by vehicle-proof barriers appropriate to the speed of traffic.

9.3 Council may reduce the clearances from the kerb or carriageway on a classified road provided the area is protected by vehicle-proof barriers suitable to the traffic speed of the road

9.4 In addition to clearances identified in Section 4, applicants should leave a 0.5 metre clearance from the base of the concrete barrier to all furniture and equipment for reallocated road space.

9.5 The outdoor dining area on the reallocated road area may extend beyond the alignment of the business tenancy provided:

- it is to be continuous except for mid-area clearances under clause 4.6,
- it is not in front of another food and drink premise, and
- the space in front of a non-food and drink premise is equally shared with any other food and drink premise that adjoins the non-food and drink premise.

9.6 Use of the road area for outdoor seating may be considered across the frontage of adjacent, vacant retail tenancies. However, approvals may be amended by the City if that vacant tenancy becomes occupied by a food and drink premises.

## Assessing local kerb-side road space access and loading

### Principles

9.7 Balance the reallocation of parking spaces for business with the need to maintain access to commercial areas and access to residential parking, particularly in the following circumstances:

- In high-density mixed-use areas where there is a need to balance business and resident on street parking
- In areas where the cumulative impact of reallocating roadway space will unreasonably impact vehicle access to the commercial area and access to residential parking
- In areas where significant concerns, **objections and complaints** have arisen due to existing road space dining sites  
In areas where there is a **high occurrence and** concentration of existing approved road area way outdoor dining approvals applications