

Attachment A

<p>City of Sydney Outdoor Dining Guidelines July 2021</p>



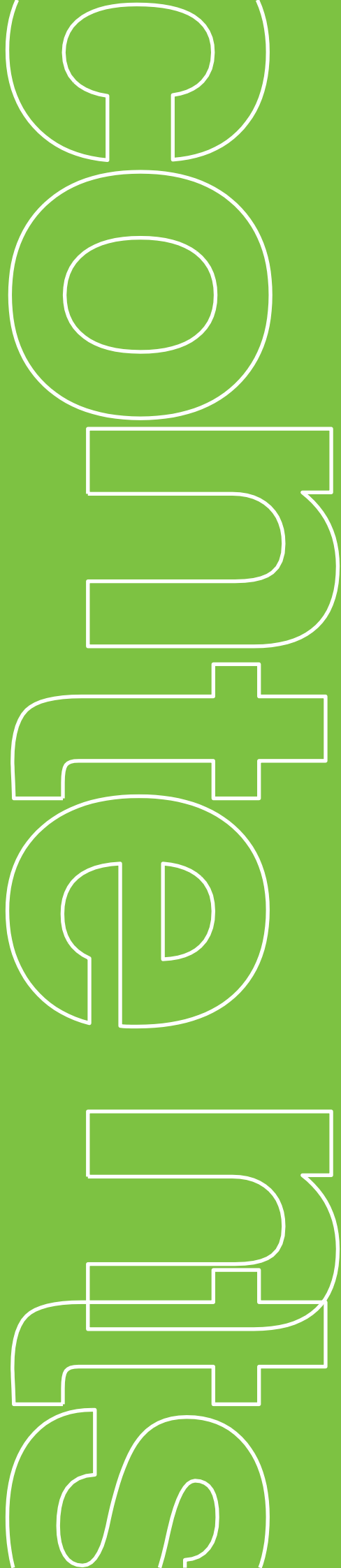
Sydney2030/Green/Global/Connected



Outdoor Dining Guidelines

June July 2021

city of villages



Outdoor Dining Guidelines

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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"> not associated with a pub or a small bar, and 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 carried out in accordance with any approval granted under section 68 of the <i>Local Government Act 1993</i>.
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"> a restaurant or cafe, take away food and drink premises, a pub, a small bar.
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
- Llanekelly 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.

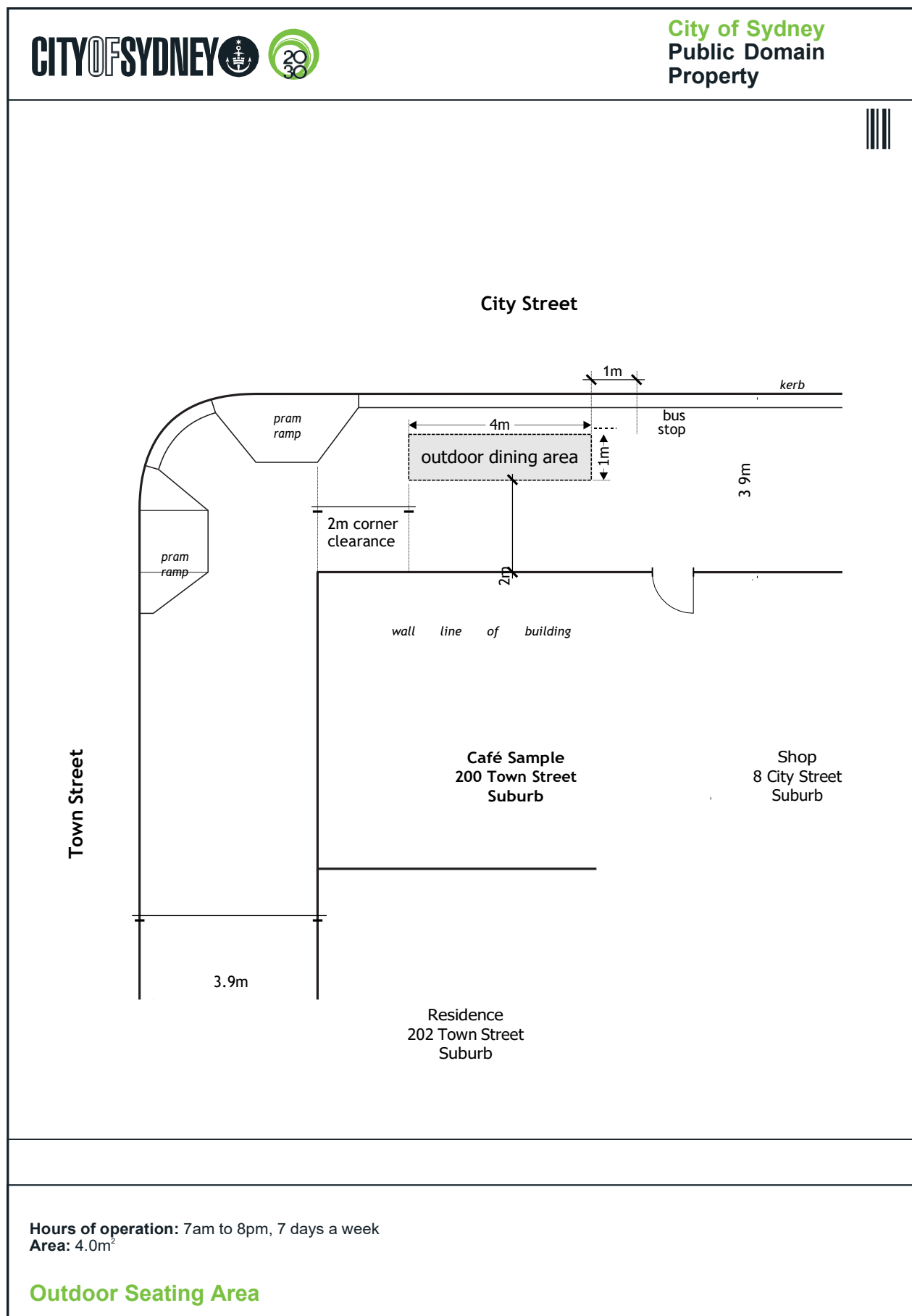
- 2.5. An outdoor dining area plan should be to scale and with clearly marked dimensions, showing:
 - the width of the pavement and the proposed outdoor dining area;
 - the location of the outdoor seating area on the footway, along with the associated premises, and neighbouring premises;
 - layout of 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

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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

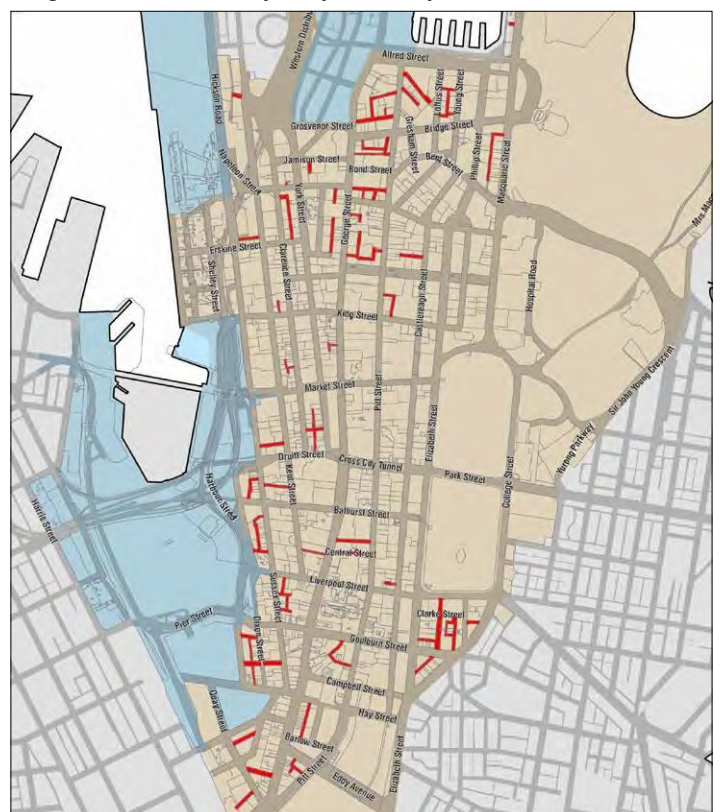


Figure 4 – this clear path of travel is in a consistent location on the block and is predictable for pedestrians. This figure also shows the special clearances are required when dining at the kerbside.

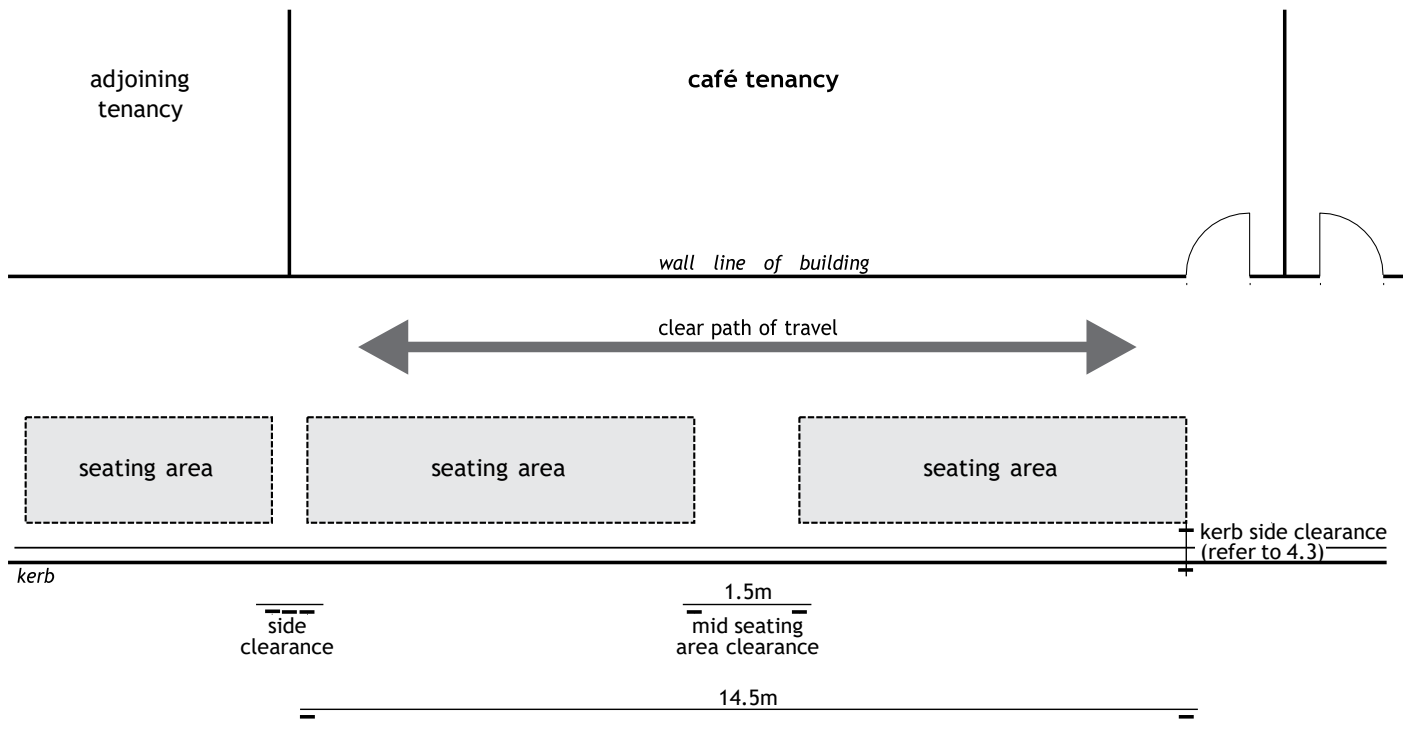


Figure 5 – this clear path of travel is in a consistent location on the block and is predictable for pedestrians.

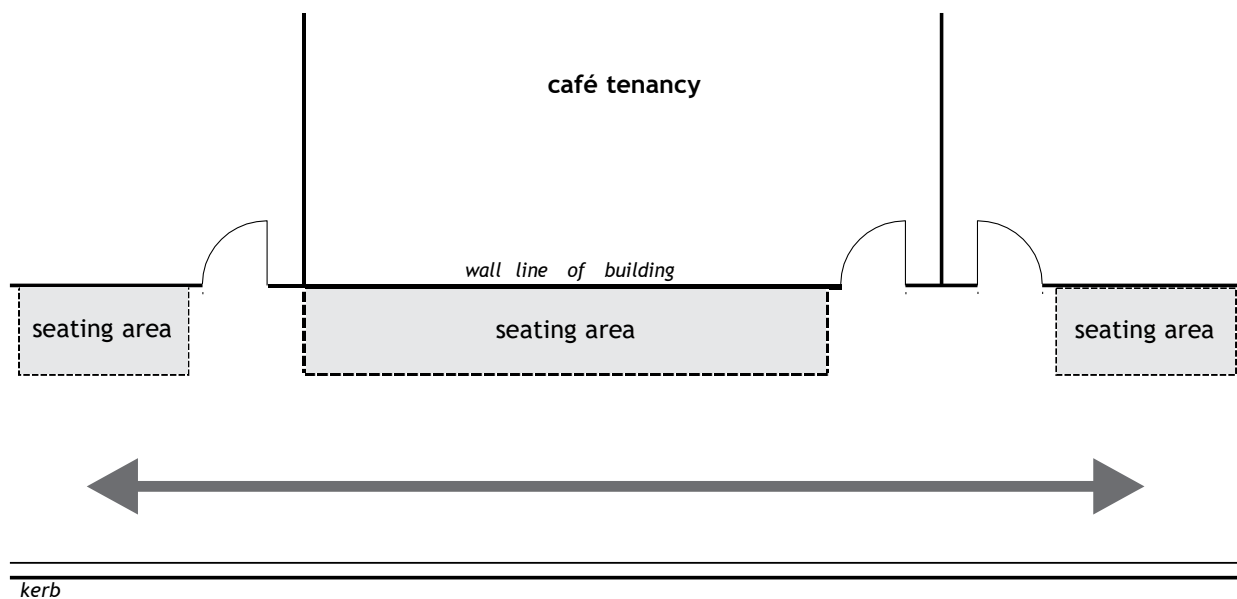
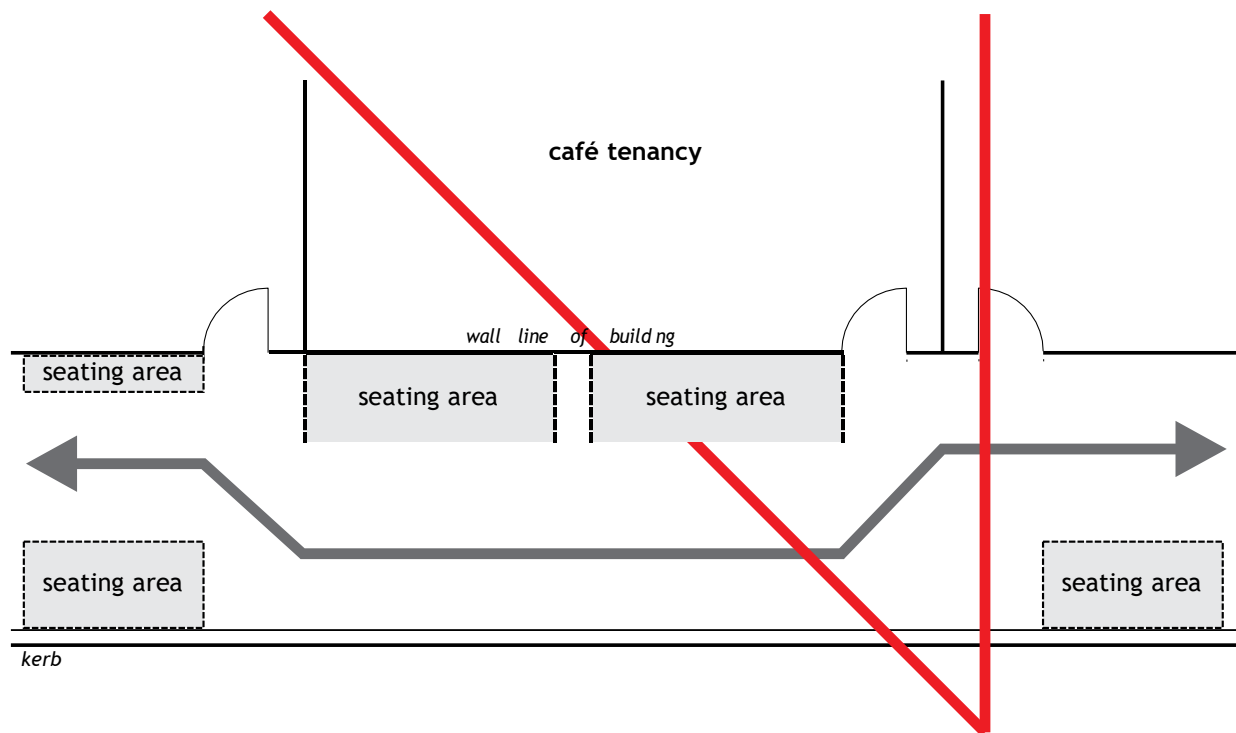


Figure 6 – this clear path is not in a consistent location on the block and is not predictable for pedestrians.



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, publicseat, 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, 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:~~

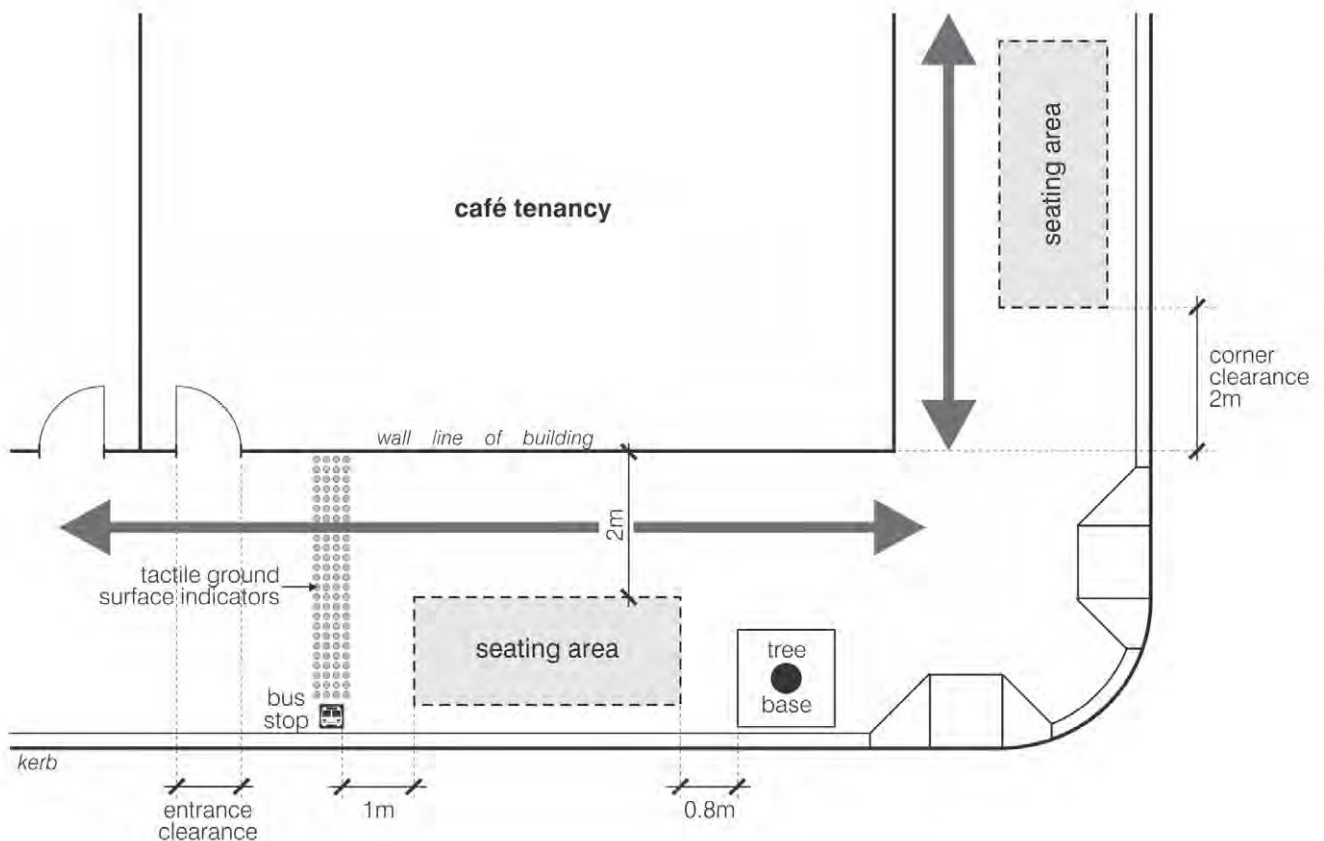
- ~~– it is to be continuous except for mid-area clearances under clause 4.6,~~
- ~~– it is not in front of another food and drink premise, and~~
- ~~– the space in front of a non food and drink premise is equally shared with any other food and drink premise that adjoins the non food and drink premise.~~

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 2021~~ **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

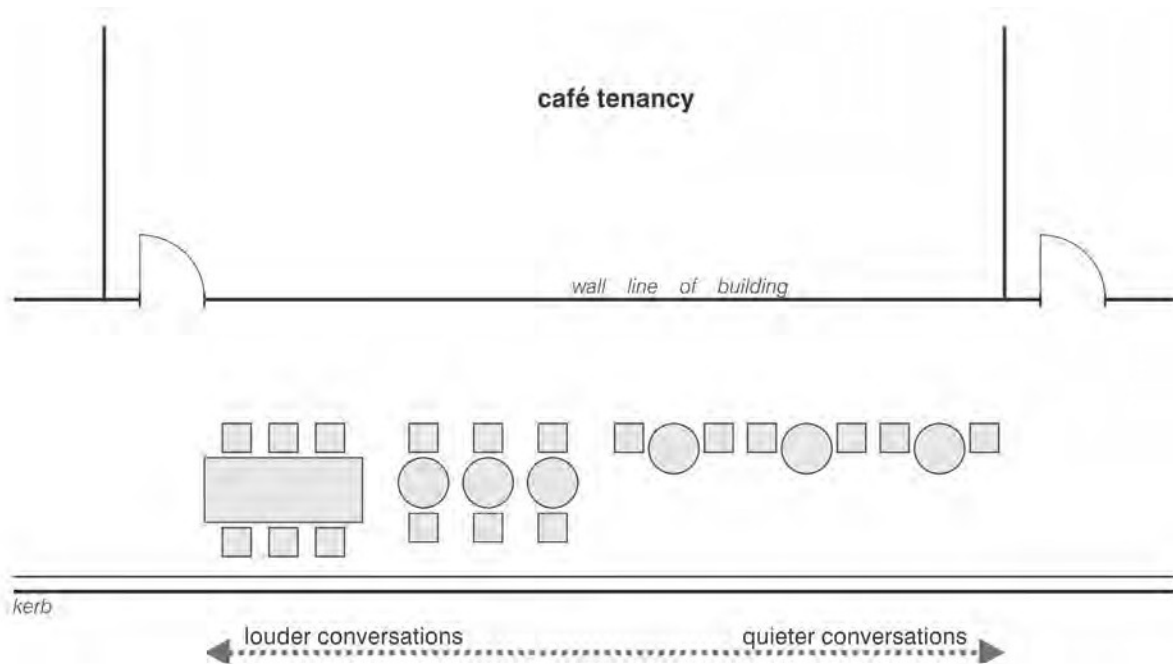
Provisions

- 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 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)

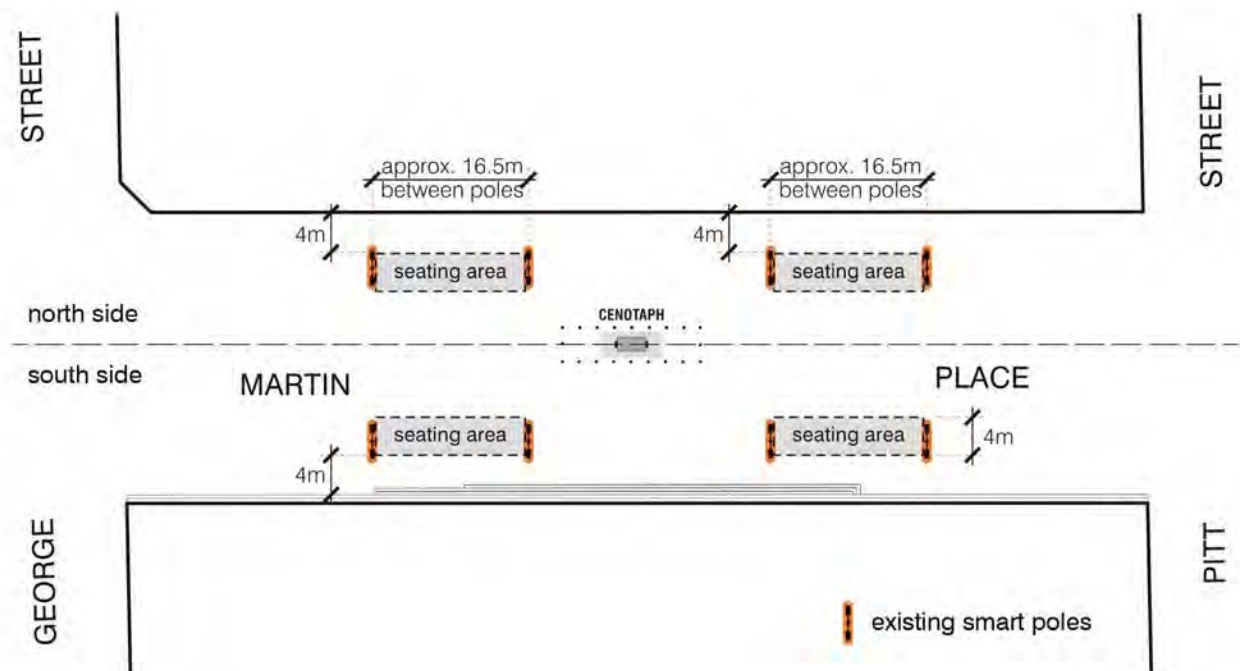
Respecting the Cenotaph

- 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.



Llankelly Place

Council supports outdoor dining in Llankelly 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 Llankelly 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. Llankelly 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 Llankelly 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