

Relevant Information for Council

FILE: S060627-02 **DATE:** 10 March 2023

TO: Lord Mayor and Councillors

FROM: Graham Jahn AM, Director City Planning Development and Transport

THROUGH: Monica Barone, Chief Executive Officer

SUBJECT: Information Relevant To Item 7.3 – Extension of Temporary Use of Road Space for Outdoor Dining

For Noting

This memo is for the information of the Lord Mayor and Councillors.

Background

At the meeting of the Transport, Heritage, Environment and Planning Committee on Monday 6 March 2023 further information was sought in relation to the requirements for operators to reapply for on-street dining and opportunities for other uses of on-street space.

Reapplying for outdoor dining

Under the Roads Act 1993, councils can grant an approval that allows a person who operates a 'food or drink premises' adjacent to a public road to use part of the public road (including footpaths) for a 'food and drink premises'.

Section 125(4) of the Roads Act 1993 limits the period for approvals for outdoor dining on parts of a public road other than footways to 12 months. Approvals on footpaths can be issued for up to seven years. Approvals issued under s125 of the Act are personal to the person or operator of the food and drink premises and cannot be transferred or extended.

The City conditioned the current approvals to end by 30 April 2023 to align with the NSW Government's funding agreement requirements to remove the barriers during May and June 2023. As noted, a new application is needed for a new approval beyond the end of April 2023.

The subject report seeks a delegation for the Chief Executive Officer to extend existing on-street footway approvals to cover the notification and assessment period where the operator has lodged a new footway application prior to 30 April 2023.

Opportunities to explore other uses of on-street space

The subject report recommends the temporary use of on-street space for outdoor dining continue until the end of December 2024. This provides time to review on-street dining approvals and determine which should become permanent and how they are made permanent.

The first part of reviewing the existing on-street dining spaces is to identify the locations that are not suitable for ongoing outdoor dining use or other uses. The second part is to then carry out a design process to determine how each can be best implemented. The design process will consider permanent (kerb extensions) and semi-permanent (parklets) options. It will also consider adaptability so permanent conversions could alternatively contribute to other outcomes such as greening or public seating or are usable at times when the food and drink business is not operating.

The use of on-street space for alternative uses is also considered through larger streetscape upgrade projects for high streets, such as that for Crown Street. These projects consider the use of street space for other purposes such as trees, greening, water sensitive urban design, street infrastructure, public seating or other suitable public activities.

The City's Neighbourhood Parking Policy contemplates parklets in commercial and mixed use areas. Under current arrangements, proposals for parklets need to comply with existing road transport legislation and road safety audit processes.

Opportunities for the community to comment

Applications to continue on-street dining will be notified to properties within 25 metres and for a period of 10 days in accordance with the City's Outdoor Dining Guidelines. The community will also be able comment on individual applications when a permanent or semi permanent space is available and there is an opportunity to grant an approval for longer than 12 months.

Request for further funding from the NSW Government

The Lord Mayor wrote to the NSW Premier on 25 November 2022 requesting further funding to support on-street outdoor dining. The Minister for Infrastructure, Transport and Active Cities has responded stating that there are no current funding programs to subsidise the costs of outdoor dining fees or infrastructure for Council or businesses. The Minister's response is at Attachment A.

Memo from Graham Jahn AM, Director City Planning, Development and Transport

Prepared by: Ben Pechey, Executive Manager Strategic Planning and Urban Design

Attachments

Attachment A. Correspondence - Minister for Infrastructure, Transport and Active Cities to the Lord Mayor - On Street Outdoor Dining Funding

Approved

A handwritten signature in black ink, appearing to read 'P.M. Barone', with a long horizontal flourish extending to the right.

MONICA BARONE

Chief Executive Officer