

Item 3.

Public Exhibition - Outdoor Dining Guidelines Amendment

File No: S060627-02.023

Summary

Outdoor dining supports strong local businesses, brings life to our high streets and neighbourhoods and fosters dining and shopping precincts as destinations. Council policies encourage outdoor dining in a way that provides a safe and comfortable experience for all users of footways and public spaces including pedestrians, diners and public space users.

While the vast majority of outdoor dining is on footpaths there are some situations where outdoor dining can be on other public spaces such as pedestrianised lanes or streets, plazas and parks.

Well-managed public spaces and footways promote both equitable access and support local businesses by creating places and streets that are amenable and attractive to all visitors.

This report recommends public exhibition of a change to the outdoor dining guidelines to provide more guidance for outdoor dining on pedestrianised lanes and streets and similar public spaces.

On 20 February 2023, Council resolved to review of the outdoor dining guidelines in relation to applications on or near green spaces to reflect the City's commitments to protect the equitable and accessible use of public parks and green spaces.

This report explains the review and the proposed changes to the Outdoor Dining Guidelines to include additional provisions that ensure access and use of pedestrianised lanes and streets and similar public spaces while continuing to allow opportunities for outdoor dining that supports activity in our neighbourhoods.

The proposed changes address:

- The clear path of travel, pedestrian connections and access to public seating
- Availability of space for the common activities undertaken in the public space
- Servicing of the outdoor dining through the public space
- Community events
- Setbacks from lawns, gardens, walls and similar structures

This report recommends public exhibition of the draft amendment to the Outdoor Dining Guidelines as shown at Attachment A.

Recommendation

It is resolved that:

- (A) Council approve for public exhibition the draft amendment to the Outdoor Dining Guidelines as shown at Attachment A to the subject report;
- (B) Council note that the draft amended Outdoor Dining Guidelines, including any recommended changes, will be reported to Council for consideration following the exhibition period; and
- (C) authority be delegated to the Chief Executive Officer to undertake minor editorial amendments for clarity or correction of drafting errors prior to the exhibition of the draft Outdoor Dining Guidelines.

Attachments

Attachment A. Draft Amendment to the Outdoor Dining Guidelines

Attachment B. 20 February 2023 Council Resolution - Item 13.14 - Equity and Access to Parks and Public Green Spaces

Background

1. On 20 February 2023, Council resolved via a Notice of Motion to review of the outdoor dining guidelines in relation to applications on or near green spaces to reflect the City's commitments to protect the equitable and accessible use of public parks and green spaces. (NOM 13.14 - 20 February 2023 - Equity and Access to Parks and Public Green Space).
2. Council noted the City's various initiatives in relation to supporting outdoor dining in the City, including the Outdoor Dining Policy and Guidelines, and the policies and plans protecting equity of access to parks.
3. Further, Council resolved that 'the Chief Executive Officer be requested to provide advice to the Council about how the City's policies and procedures for outdoor dining can be clarified to include more specific provisions for applications on or near green spaces, which reflect the City's commitments to protect the equitable and accessible use of public parks and green spaces.'
4. This report describes that review and recommends that amendments to the Outdoor Dining Guidelines at Attachment A are publicly exhibited.

Policy context

5. Outdoor dining in public spaces is governed by the [Outdoor Dining Policy](#), which sets out the circumstances and considerations under which the City of Sydney will issue approvals for outdoor dining in public places, including the footway, parts of the road and other similar areas.

Review of relevant sites

6. Six sites were identified in the Local Government Area where a business with outdoor dining operates or has operated in or adjacent to a public park or green space. This is a small portion of outdoor dining operating in the council area, with 764 (including 140 roadway approvals) active on 30 June 2023. The purpose of the review was to identify the key considerations in these types of spaces to ensure that the equitable and accessible use of these spaces is protected while providing opportunities for outdoor dining that activates the public domain.
7. Places on land dedicated as parks were not investigated in detail as they are subject to detailed Plans of Management that address any outdoor dining areas and access considerations appropriate for the park. Larger parks, such as Hyde Park, Sydney Park and Pirrama Park, are typically designed accommodate outdoor dining with cafes or kiosks.
8. The public spaces where there is, or could be, outdoor dining, that are not typical footway conditions, are lanes or streets that are closed to vehicular traffic. In most cases, the amenity of these spaces had been improved by removing the asphalt carriageway and replacing it with trees, garden beds, paving, seating, and sometimes lawn areas, to create green space.

9. Generally, these spaces worked well when the public use is primary and is complemented by other uses. The key considerations in achieving an appropriate balance are:
 - Public access to the majority of the space is maintained.
 - Pedestrian paths of travel from connecting streets are clear and direct. Appropriate clear paths of travel are maintained adjacent to the building line on all private property frontages.
 - Tables and seating are generally located directly in front of the premises.
 - Access to an appropriate amount of public seating during peak periods of activity in the space are maintained.
 - The tables and chairs occupied a logical location and extent within the configuration of the space and are generally kept to one consolidated area.
 - Garden plantings, and lawn, are not encroached upon. Adequate clearances from built elements are provided to ensure seating was comfortable and garden areas or lawn are not affected.
 - The primary pathways and intended public uses of the space are uninterrupted.
10. The Outdoor Dining Guidelines do not specifically address these atypical outdoor dining opportunities. Additional provisions have been drafted to guide the location, extent and arrangement of outdoor dining in these types of locations to ensure that the accessible and equitable use of public space is protected while providing opportunity for appropriate use and activation.

Proposed amendment to the Outdoor Dining Guidelines

11. The Outdoor Dining Policy supports the provision of outdoor dining while protecting the accessible and equitable use of public space.
12. In response to the Resolution of Council and in keeping with the principles underpinning the Outdoor Dining Policy, it is proposed that three provisions are added to the Outdoor Dining Guidelines under Section 4 Outdoor Dining Areas. The new provisions are contained in a new subsection titled 'Other public spaces'.
13. The proposed text is included below and in the amended Outdoor Dining Guidelines at Attachment A.
14. In the Outdoor Dining Guidelines, insert the following text at the end of Section 4 Outdoor Dining Areas:

Other public spaces

When applying for outdoor dining on a public spaces that is not the footway, such as a pedestrianised lane or street or small plaza or park, it is important to ensure the outdoor dining does not interfere with the intended public use and enjoyment of that space.

Provisions

4.7 The location and extent of the outdoor dining area should ensure that:

- A minimum two metre clear path of travel parallel to the building line is provided consistent with section 3 of these Guidelines.
- The seating is only on one side of the clear path of travel.
- Important pedestrian and cycle connections and desire lines through the space are maintained.
- Access to sufficient public seating is maintained during peak times of public activity in the space.
- The outdoor dining does not substantially encroach upon the area used for common community activities in the space.
- The outdoor dining can be conveniently serviced without impacting on the accessibility and public use of the space.
- In spaces that are sometimes used for community events, it may be necessary to limit either the location, extent or time of the outdoor dining to ensure that community events can operate successfully.

4.8 Applicants should ensure that the following additional special clearances are provided:

- 0.3 metres when next to a garden bed, lawn edge or retaining wall.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

15. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This policy is aligned with the following strategic directions and objectives:
- (a) Direction 1 - Responsible governance and stewardship - the proposed amendment promotes transparency around commercial opportunities in public space and decision-making, and seeks to protect the interests of the community.
 - (b) Direction 3 - Public places for all - the proposed amendment works to ensure that the public and private interests over public space are balanced in the best interests of the community.
 - (c) Direction 4 - Design excellence and sustainable development - the proposed amendment seeks to protect the quality and amenity of public space and support the sustainable use of public space.
 - (d) Direction 5 - A city for walking, cycling and public transport - the proposed outdoor dining provisions ensure that footway uses are managed in a way that facilitates movement of people walking and cycling.

- (e) Direction 6 - An equitable and inclusive city - the proposed provisions act to protect equitable access for all in public spaces.
- (f) Direction 7 - Resilient and diverse communities - the proposed provisions act to support activation of public spaces, provide and protect opportunities for community interaction.

Social / Cultural / Community

- 16. The proposed provisions will assist in balancing the amenity of public spaces with the benefits of outdoor dining in activating the City's public spaces.

Economic

- 17. The proposed provisions provide clarity around opportunities for outdoor dining areas that would support local businesses.

Relevant Legislation

- 18. Roads Act 1993.
- 19. Local Government Act 1993.
- 20. Environmental Planning and Assessment Act 1979.

Options

- 21. An alternative option would be that the Outdoor Dining Guidelines remain unchanged, and individual applications for outdoor dining in public spaces in pedestrianised roads and similar public spaces are assessed on an individual, merit basis with reference to the Outdoor Dining Policy's principles, described as actions in the policy.

Public Consultation

- 22. This report seeks approval to exhibit the draft Outdoor Dining Guidelines at Attachment A. Following exhibition, a report will be provided to Council describing the outcomes of consultation and any changes made as a result of submissions.
- 23. The amended Outdoor Dining Guidelines are proposed to go on public exhibition for 28 days.

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