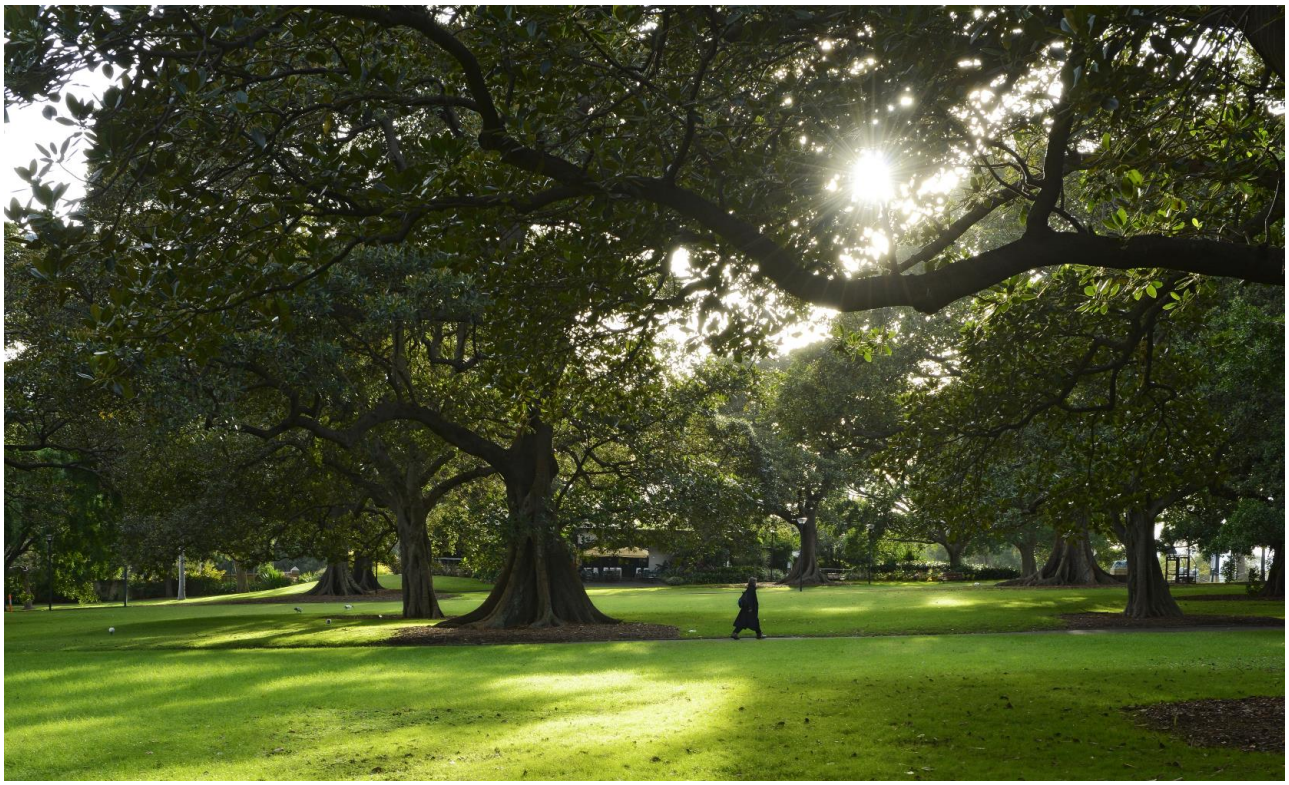
# Attachment B

## Summary of submissions

CITY OF SYDNEY

# Summary of Submissions – Outdoor Dining Guidelines



**Summary of Submissions – Outdoor Dining Guidelines**
October 2024

The City of Sydney acknowledges the Gadigal of the Eora Nation as the Traditional Custodians of our local area.

# Contents

# Summary of Submissions

This document provides a summary of submissions made during public exhibition of the draft amendment to the Outdoor Dining Guidelines, from November to December 2023.

## Background

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.

The review was reported to Council in September 2023, recommending changes to the outdoor dining guidelines to provide more guidance for outdoor dining on pedestrianised lanes and streets and similar public spaces.

The proposed changes address pedestrian movement, access to public seating, use of space for community activities and events, and setbacks from fixed elements such as lawns, gardens, walls and similar.

On 18 September 2023, Council approved for public exhibition the draft amendment to the Outdoor Dining Guidelines.

## Public Exhibition

The public exhibition was carried out in November and December 2023.

The draft amendment to the Outdoor Dining Guidelines was exhibited on the Sydney Your Say website. The website was open from 8 November to 6 December 2023.

There were 535 unique page views and 184 downloads of the documents.

**Notifications**

The following notifications were sent to stakeholders:

– letters were distributed to all addresses within a 25 metre radius of premises that currently operate outdoor dining on closed roads (9 properties in total) with 4,585 letters sent;

– a stakeholder email was sent to disability and inclusion stakeholder groups; and

– Included in the November edition of Sydney Your Say eNews to 6,733 subscribers.

## Submissions received

A total of 47 submissions were received during this period including:

– 8 by email;
– 38 by online feedback form; and
– 1 by phone call.

The issues raised by submissions have been catalogued and organised in the Submissions Table.

## Submissions Tables

Some submissions covered more than one point of support or objection. As such, the key points of each submission have been summarised under common headings in the Submissions Tables, below. Two tables are presented below, with separate tables for key points raised in support, and objection, respectively.

One or more of the points may be contained in a single submission. The instances in which each point has been raised in submissions has been noted next to each point, and the City's response to submission topics is also provided.

**Table 1: Points raised in support**

| Issues raised | Instances | Response |
|---|---|---|
| **General support of Outdoor Dining** | 8 | n/a |
| **Specified reasons for support of Outdoor Dining:** | | All noted. |
| - Take advantage of Sydney climate | 5 | |
| - Positive health benefits of being outside | 2 | |
| - Mental health benefits of social activity | 2 | |
| - Lively neighbourhoods | 1 | |
| - Economic activity | 2 | |
| - Reference to international precedents | 4 | |
| - 'Let's make Sydney the Paris of the Pacific' | 1 | |
| - Walkability | 1 | |
| **Points relating specifically to the guidelines** | | All noted. |
| General support of the amendment | 11 | |
| Balances outdoor dining with community use | 1 | |
| Allowing public and private uses to share the space | 1 | |
| Sensible and practical changes | 1 | |

| Issues raised | Instances | Response |
|---|---|---|
| Wheelchair users have been provided for | 2 | |
| Prioritising people over cars | 1 | |
| Support for access to footpaths | 1 | |
| Support for minimum 2m clear path of travel | 1 | |
| More streets should be closed to traffic in favour of outdoor dining. | 1 | |
| Support for inclusion of provisions ensuring protection of pedestrian and cycle connections, desire lines, and access to public seating. | 1 | |
| Measures must be taken to ensure that streets must remain walkable and accessible for wheelchairs and people with limited mobility. | 1 | |
| It would be good to add overhead shelter to the dining areas. | 1 | |
| Request to make spaces accessible for those with mobility or vision impairment or similar to enjoy the spaces. | 1 | |
| Support for the statement in the guidelines regarding outdoor dining not interfering with the intended public use and enjoyment of the space. | 1 | |

**Table 2: Points raised in objection**

| Issues raised | Instances | Response |
|---|---|---|
| **Accessibility and Safety** | | |
| General comment about outdoor dining obstructing footpaths and causing safety hazards for pedestrians, particularly the elderly and those with mobility impairment. | 1 | Noted. The amendment applies the 2m minimum clear path of travel already established by the guidelines. |

| Issues raised | Instances | Response |
|---|---|---|
| Pedestrian access along footpaths should be prioritised over commercial interests. Space should be allowed for walking frames, mobility devices, prams etc. | 1 | Noted. The amendment applies the 2m minimum clear path of travel already established by the guidelines. |
| Note that clear paths are frequently obstructed by chairs and tables that are moved by the patrons. | 1 | Noted. |
| Better enforcement of area limits in needed to ensure clear paths are not encroached upon by tables and chairs. | 1 | Noted. The role of the guidelines is not enforcement. |
| Requests that a statement be included that venue owners be responsible to actively maintain the clear paths of travel, and a mechanism for ensuring compliance. | 1 | This is included in the conditions of consent. |
| Complaint that free paths of travel to the standard described in the Guidelines are not maintained, and are compromised by café furniture, signs, cycle paths, share bikes and Council's digital signs. | 1 | Noted. |
| How will clear path of travel be enforced to ensure adequate space is provided for wheelchair users, managing seating and signage. | 1 | It is a standard condition of consent that all furniture must be kept within the boundaries of the area defined on the approved plans. |
| Request that guidelines require that the clear path of travel is clear of any objects including signs, electrical boxes, dining area barriers etc. and that this is enforced. | 1 | Noted. Submission related to locations not subject to this amendment. |
| General comment regarding food delivery cyclists adding to encroachment on footways. | 1 | Noted. Does not relate specifically to this amendment. |
| Restricting seating to one side of the clear path of travel could be problematic for some venues (this comment mentions standard kerbside arrangements and may not be specifically intended for closed road situations). | 1 | Noted. Submission related to locations not subject to this amendment. |
| Proliferation of electric bikes parked on footpaths and near intersections is not considered. | 1 | Noted. This issue is not related to this amendment. |

| Issues raised | Instances | Response |
|---|---|---|
| Greater effort needed to remove e-bikes from footpaths. | 1 | Noted. This issue is not related to this amendment. |
| Ensure adequate safety for patrons to avoid the unpredictable behaviour of non-thinking vehicle drivers. | 1 | Noted. This issue is not related to this amendment. |
| **Noise and amenity** | | |
| General complaint about the noise and amenity impacts experienced by residents in apartments adjacent to a pub. Owners should take more responsibility for ensuring neighbourhood peace. (outdoor dining conditions of the pub are unclear in the submission) | 1 | The submission is unclear about the outdoor dining conditions, whether they are on public or private land, or whether it is on a typical footway or the types of spaces relevant to this amendment. The draft guidelines do not change the current approach to managing noise from outdoor dining. |
| Outdoor dining in public spaces not supported – looks untidy, degrades everybody' safety and increases noise and other pollution. | 1 | Noted. |
| Specific complaint about noise from patrons at a nearby café, in particular, dogs, children playing and loud groups.<br>It is difficult for business owners to control all behaviour and it would help if the guidelines stated that business owners must require patrons to respect the peaceful amenity of quiet residential neighbourhoods. | 1 | Noted. It is not the role of this amendment to establish or enforce appropriate noise levels. |
| **Privatisation of Public Space** | | |
| Objection to the privatisation of public space, or the use of public space for commercial purposes. | 5 | It is acknowledged that outdoor dining involves some commercial benefits derived from public land. Outdoor dining also contributes to the liveliness, activation and walkability of the City.<br>It is noted that footway dining applications are exempt development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Subdivison 20A Footpaths – outdoor dining. The role of the City's Outdoor Dining Policy and Guidelines is to balance that use with public uses, and ensure that a balance is |

| Issues raised | Instances | Response |
|---|---|---|
| | | achieved in the best interests of our community.<br><br>This has been achieved by limiting the extent of outdoor dining in a way that protects pedestrian routes, access to public seating and maintains space sufficient for community recreation and activities.<br><br>The draft guidelines are consistent with the objectives of the Outdoor Dining Policy, which is consistent with the City's Community Strategic Plan and the strategic directions set out in Sustainable Sydney 2030-2050. |
| Objection to outdoor dining in the public space potentially encouraging unfettered park takeover, gifts to anyone who wants to apply with no regulations confirming duration of licence, land size, location. | 1 | Footway licenses allow temporary occupation of Council land. The City's Outdoor Dining Policy and Guidelines, along with conditions of consent, regulate the duration of the land size, where it can occur and how large the area can be. |
| Concerns that venues establish an expectation of continuing revenue potentially leading to a legal challenge. Problem of setting a precedent. | 5 | Outdoor Dining is subject to the approval process, and the conditions of approval in granting a footway license. They are not permanent or unconditional. The license is a legal document. |
| **Open Space provision** | | |
| Green spaces should be preserved for family and residential recreation. Do not allow parks in Pyrmont and Ultimo to be allowed for commercial dining. | 1 | The proposed Guidelines preserve open space for recreation while also allowing people to enjoy it for outdoor dining. |
| The Guidelines do not offer enough protection for the small amount of green space existing in the inner city. Population size and existing park space ratio should be calculated and results used to protect parks from private uses. (references WHO guidelines for open space provision) | 4 | Outdoor dining is enjoyed by many and in many cases provides activation and casual surveillance of public places that are of benefit.<br><br>It is noted that footway dining applications are exempt development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Subdivison 20A Footpaths – outdoor dining. The role of the City's Outdoor Dining Policy and Guidelines is to balance that use with public uses and ensure that a balance is achieved in the best interests of our community. |

| Issues raised | Instances | Response |
|---|---|---|
| | | This has been achieved by limiting the extent of outdoor dining in a way that protects pedestrian routes, access to public seating and maintains space sufficient for community recreation and activities.<br>The draft guidelines are consistent with the objectives of the Outdoor Dining Policy, which is consistent with the City's Community Strategic Plan and the strategic directions set out in Sustainable Sydney 2030-2050. |
| Covid-recovery is no longer an appropriate justification for commercial uses in public space. | 4 | Outdoor dining applications are assessed under the Outdoor Dining Guidelines 2022 which does not include any Covid-related provisions. |
| **Regulation framework** | | |
| The Policy should be more detailed, removing the need for guidelines. | 1 | It is appropriate that the detail is contained in the Guidelines rather than the Policy. |
| Too complicated and bureaucratic. Outdoor dining of three tables or less should be able to operate without approval. Plants and small shrubs should be permitted. | 1 | The Guidelines seek to appropriately balance the public and private uses in public spaces. They ensure that the process is transparent for all parties. |
| Objection to additional unnecessary rules that might make it harder for places to have outdoor seating. | 1 | The amendment provides only sufficient guidance for how outdoor dining can occur in specific places and does not make the process of applying for a license more onerous. |
| Outdoor dining licenses should be subject to Development Applications, because:<br>- They are a significant change of use (public space to commercial dining); and<br>- Communities affected have the opportunity to comment. | 5 | In regard to use, footway dining applications are exempt development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Subdivison 20A Footpaths – outdoor dining.<br>Footway applications are required to be notified, as per the guidelines, to allow the community to comment. |
| Request for non-permanent approvals subject to formal annual reviews. | 1 | Approvals are temporary, typically issued for between one and five |

| Issues raised | Instances | Response |
|---|---|---|
| Approvals should be described in the guidelines as conditional and not permanent, and to be reviewed at 2-3 yearly intervals, to put compliance onus on operators and maintain a sense of council ownership. | 3 | years. Relevant legislation limits an approval to 7 years. The City's Rangers will inspect the site if any complaints are made. The complaint and the Ranger's assessment are documented and considered when an application for renewal of the license is received.<br>The conditions of consent allow for the license to be revoked if the Council deems it necessary. |
| **Compliance** | | |
| Comment that café owners are not adhering to the approved areas or time limits. | 1 | It is a standard condition of consent that all furniture must be kept within the boundaries of the area defined on the approved plans.<br>Council can be notified directly regarding specific instances of non-compliance.<br>Compliance is considered when applications for renewal are received. |
| Approvals should be strictly monitored for adherence. Encroachment of chairs, tables or customers outside approved areas or time limits should lead to the withdrawal of the approval. | 1 | |
| A copy of approved conditions should be prominently displayed at all times. | 2 | An outdoor dining approval display notice is required to be displayed at the premises under the conditions of the approval. |
| **Other** | | |
| Comments regarding specific locations not relevant to this amendment. | 3 | All noted. |
| Comments relating to alcohol licenses not relevant to this amendment. | 1 | |
| Comments relating to Alfresco Dining program implemented through Covid period, comment regarding quality of bollards | 2 | |
| Objection to removal of car parking spaces in the interests of accessibility. | 1 | |
| Request for planting for biodiversity in these spaces – does not relate to amendment. | 1 | |

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