



OUTDOOR DINING POLICY

Adopted: 30 March 2022

TRIM 063483.2022

HOW TO USE THIS POLICY

This Policy is divided into 3 main sections as follows:

Part A: Policy Statement which details the definitions, purpose, objectives, scope, legislative context and the key considerations of the policy.

Part B: Requirements which detail the location and site criteria, furniture and amenities requirements, management and compliance requirements and the application and approval process.

Part C: Appendices including a copy of the standard conditions, application form, Macquarie Mall plans and references.

PART A: POLICY STATEMENT

1. INTRODUCTION

Liverpool City Council is guiding and implementing high quality improvements in both the public and private domains and encourages a range of both commercial and non-commercial activities on its footpaths, roads and public plazas that enhance the public domain.

These activities are to be performed safely, effectively and to a high standard, managed through the provision of Outdoor Dining Permits.

Outdoor dining areas are encouraged within the Liverpool City Centre and throughout the Local Government Area (LGA) as they: create vibrant and lively street environments; promote culture and social behaviour; enhance economic viability and the LGA's existing and desired future character.

This policy is designed to assist people who wish to establish an outdoor dining area in association with, and usually adjacent to, a principal business engaged in the provision of prepared food and beverages such as a café or restaurant.

The establishment of outdoor dining areas brings public and private interests together in one place. The relationship between private and public interests must be carefully managed and balanced to maintain the use, variety and enjoyment of the public environment. Other drivers that influence and govern the layout and setting of an outdoor dining area include pedestrian safety, pedestrian priority, the preservation of public domain functions and the enhancement of the existing street character.

Applications for within the Liverpool City Centre should remain consistent with the future desired streetscape character set out by the Liverpool City Centre Public Domain Master Plan (Master Plan). Visit the Liverpool City Council website to access the Master Plan for additional information.

The Policy should be read in conjunction with the relevant sections of the current Liverpool City Council Development Control Plan (DCP). Visit the Liverpool City Council website to access the DCP.

Compliance with the current DCP and this policy does not guarantee approval of an application. Grant approval rests with Council and is subject to the merits of each application.

2. DEFINITIONS AND ABBREVIATIONS

Council	means 'the Council of the City of Liverpool'
DCP	means 'Development Control Plan'
Outdoor dining	means an outside area which is associated with and usually adjacent to a principal café or restaurant business where: <ul style="list-style-type: none">• The site is accessible and available for patrons of the associated business

- The associated business extends its supervised activities within the outdoor dining area
- Food and beverages are provided for consumption by patrons of the associated business, excluding pubs and small bars
- Outdoor furniture is arranged temporarily or is fixed if permitted by Council, to allow for the service of food and/or beverages for use by patrons of the associated business.

LGA	means 'Local Government Area'
Outdoor dining furniture	includes items such as shading devices/structures, tables, chairs, heaters, bollards, garden beds, planter boxes, perimeter barricades and other structures or items that are used to support the service of food and/or beverages outdoors
Permit	means an annual renewable contract between Council and the applicant that allows the applicant to use a Council approved area for the purposes of 'outdoor dining' with specific conditions in return for an annual fee
Road	means a public or private street, pathway or thoroughfare to which public access is available on a continuous basis to vehicles or pedestrians or both and includes a walkway.
Clear Widths	is a footpath's width/height at the narrowest point, or between obstructions
Café Parklet	is a temporary extension of a walkway/sidewalk/footpath into an on-street parking space, for the purpose of creating a dining area for the service of food and/or beverages outside, adjacent to or near its principal café or restaurant premises. The permissibility of Cafe Parklets are subject to Council approval and certain site and eligibility criteria
Extension Areas	means areas of the public domain that are not walkways/footpaths but may be suitable for outdoor dining. This includes on-street parking spaces (café parklets); outside adjacent shops/businesses; selected laneways; selected service-ways; nature strips, parks, and reserves; selected streets with low volumes of vehicular traffic and speed.
Food and drink premise	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— <ul style="list-style-type: none"> a) a restaurant or café b) take away food and drink premises, c) a pub, d) a small bar (Liverpool Local Environmental Plan 2008).

3. PURPOSE AND OBJECTIVES

3.1 Purpose

The purpose of this Policy is to maximise the benefits and synergies between outdoor dining areas and other public uses in the Liverpool City Centre and LGA. It is important that all outdoor dining areas conform to a series of standards designed to ensure that outdoor dining is suitable for the site's conditions, safe, accessible to all people and attractive.

In addition, this policy document defines the safety, performance and maintenance requirements for the establishment of new outdoor dining areas within the public domain.

3.2 Objectives

The objectives of this Policy are to:

- Ensure that outdoor dining approved under this policy is consistent with existing street character and Council's vision for future desired character;
- Promote high quality outdoor dining areas that enhance, are attractive, and contributory to the surrounding streetscape to provide high quality public domain outcomes;
- Support local economic development and commercial vitality;
- Ensure that outdoor dining approved under this policy is equitable, inclusive, and accessible for people with all levels of abilities;
- Ensure that pedestrians and other forms of traffic are not unduly obstructed by activities on the footpaths and/or roads;
- Ensure the safety of both pedestrian and vehicular traffic;
- Ensure that activities on footpaths and roads contribute to the amenity of adjoining or nearby properties;
- Ensure that proposed activities are compatible with other community uses of public space, and that all existing public domain features remain functional;
- Ensure that Council clearly communicates its desires and responsibilities for use of its footpaths and roads in the LGA and that the controls are easily regulated;
- Promote the operational layout principles for patrons' safety and activity areas in order to achieve consistency in the use of road reserve areas; and
- Ensure the appropriate management, maintenance and cleanliness of the outdoor dining area and the surrounding public domain.

4. POLICY SCOPE

This policy:

- Provides guidance for the use of the public domain such as footpaths and roadways, public plazas and public squares that are owned or managed by Council, which would ordinarily be used by the public for pedestrian movements or recreation within the Liverpool LGA;
- Provides standards for the quality of outdoor dining and outdoor furniture, to enhance the appearance of the public domain;
- Applies to outdoor dining areas adjacent to and associated with the principal place of business.

5. LEGISLATIVE AND POLICY CONTEXT

This policy should be read in conjunction with the:

Building Code of Australia
Companion Animals Act 1998
Disability Discrimination Act 1992
Environmental Planning and Assessment Act 1979 and associated regulations
Food Act 2003 and Food Safety Standards
Our Home Liverpool 2027 (Community Strategic Plan)
Disability Inclusion Action Plan
Economic Development Strategy 2019 – 2029
Destination Management Plan
City Activation Strategy

Liverpool City Centre Public Domain Master Plan
Liverpool City Centre Public Domain Technical Manual
Liverpool Development Control Plan
Liverpool Local Environmental Plan 2008
Local Government Act 1993 and associated regulations
Roads Act 1993 and associated regulations
State Environmental Planning Policy (Exempt and Complying Development Codes) Smoke-free Environment Act 2000
Smoke-Free Regulation 2016
Public Health (COVID-19 Safety) Order 2021
Fun SEPP 2021 (draft)

6. POLICY CONSIDERATIONS

6.1 Eligibility

Liverpool City Council encourages all restaurants and cafes within the LGA to apply for outdoor dining. To be eligible for a permit under this Policy the establishment must be a food and drink premise as per the definition of the Liverpool Local Environmental Plan 2008:

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—

- a) a restaurant or cafe,
- b) take away food and drink premises,
- c) a pub,
- d) a small bar.

6.1.1 Health Related Restrictions – Including COVID-19

Note that under health-related restrictions such as the Public Health (COVID-19 Safety) Order 2021 or other Public Health Orders imposed by the NSW Government, Council may consider an outdoor dining area as the primary dining area for the purposes of this Policy and for any related applications for outdoor dining permits. Note: Safety Plans will apply under these circumstances.

6.2 Key Standards

The standards contained in this policy provide a set of best practice design requirements for establishing and managing outdoor dining areas. The standards are in place to:

- Regulate the installation and management of outdoor dining to ensure that pedestrian access is not obstructed;
- Ensure that all outdoor dining areas and outdoor furniture are attractive and are of high quality, design and appearance, with repair and presentation standards maintained throughout
- Ensure safety of patrons and pedestrians
- Ensure that outdoor dining areas have safe and convenient layouts
- Ensure easy accessibility for people with all levels of abilities
- Ensure that signage and advertising material is minimal and of an acceptable size and design (restrictions apply) as well as deemed safe (not creating unreasonable hazards);
- Ensure that all outdoor dining areas and outdoor furniture proposed are consistent with existing and the future desired character of the area;
- Ensure that outdoor dining areas do not obstruct or inhibit the use, operation, and/or function of the public domain.

6.3 Application Requirements

In seeking Council approval under section 68 of the Local Government Act 1993, applicants for an Outdoor Dining Permit must:

- a) Complete the application form and provide the associated documentation (as outlined in Section 10 Application and Approval), including:
 - i. Site Layout and Management Plan;
 - ii. A Waste Management Plan;
 - iii. Photographs and Reference Images;
 - iv. Written consent from owners where required or advice that the property owner has refused consent;
 - v. Certificate for Currency for Public Liability Insurance cover of at least \$20 million.
- b) Pay the prescribed Application Fee, Bond and Permit Fee for occupying Council Land as required (click [here](#) for Council's list of fees and charges);
- c) Agree to comply with the conditions of the permit (standard conditions attached in Appendix 1).
- d) Adhere to the Requirements for Outdoor Dining, set out in Part B: Requirements

6.4 Requirements

In addition to this Policy Statement, the Requirements for Outdoor Dining Areas (which are detailed in Part B) shall consist of the following elements:

- a) Location and Site Criteria
- b) Furniture and Amenities Requirements
- c) Management and Compliance Requirements
- d) Application and Approvals Procedures

PART B: REQUIREMENTS

7. LOCATION AND SITE CRITERIA

7.1 Introduction

The most important conditions to be considered in locating outdoor dining areas are:

- Proximity to the associated approved food and beverage premises;
- Location of the proposed food and beverage premises (i.e. within the surrounding context);
- Size of the adjacent public domain frontage, available for outdoor dining (i.e. footpath width);
- Adjacent on-street parking arrangement;
- Adjacent traffic speeds/road typology;
- Proximity to an existing outdoor dining area;
- Potential noise generation;
- Proximity to residential premises;
- Potential for the equitable access and movement of people of all abilities;
- Location of and proximity to existing public domain infrastructure (e.g. bins, benches, trees & grates, bike racks, lighting, bollards etc);
- Location of existing awnings, including awning width and height;
- Location of existing services and service lids as well as their maintenance requirements;
- Road alignment, clear zones and setbacks; and
- Peripheral activities such as the operation of buses, taxis and accessible parking locations or other activities that may require the footpath area for pedestrian movement, events or storage.

7.2 Site Conditions

The ground surface must be suitably constructed and sufficiently level to support a proper layout and safe use of furniture.

Minor structures and changes to the footpath may be approved to achieve a suitable gradient. In elevated locations, for example, a change of level, and at the edge of deep water, outdoor dining is only appropriate in conjunction with a suitable safety rail, the design of which shall be to Council's satisfaction and approval.

In certain circumstances, the applicant may wish to undertake other streetscape works to accommodate an outdoor dining area. Such hardscape infrastructure works might include footpath widening, paving, street tree planting, safety fencing, bollards, in-ground garden beds, pedestrian fencing and the like. Substantial streetscape works may require the submission of a separate Development Application and approval by Council prior to the work being undertaken.

7.3 Location and Space Requirements

In order to comply with the requirements of section 125 of the Roads Act 1993, the following parameters need to be addressed in the application. The location will be determined considering local conditions, including the retention of a continuous accessible pedestrian corridor; the volume of pedestrian traffic; the location of existing outdoor dining areas, existing shop fronts and awnings; and the location of streetscape elements including poles, signs, refuse bins; and the location of the bus stops and taxi stands and the like.

Equitable access is to be considered and clear widths must have regard to current Access Standards including AS1428.

7.3.1 Footpath locations

For circulation, safety, accessibility and convenience, clearances are required around outdoor dining areas. Clearances may be located adjacent to the:

- a) Respective indoor premises, or
- b) Kerb/roadway.

7.3.1a Outdoor dining area clearance is adjacent to respective indoor premise of business

The minimum width of footpath reserve required for an outdoor dining area is 3.3 metres and anything narrower than this will not be considered. The outdoor dining area on a 3.3 metre footpath will be restricted to a single line of tables and chairs situated next to the building line and must allow an unimpeded absolute minimum 2.0 metre clear width for pedestrians. The appropriate clear width required will depend on pedestrian volume in the area and will be assessed on a case-by-case basis.

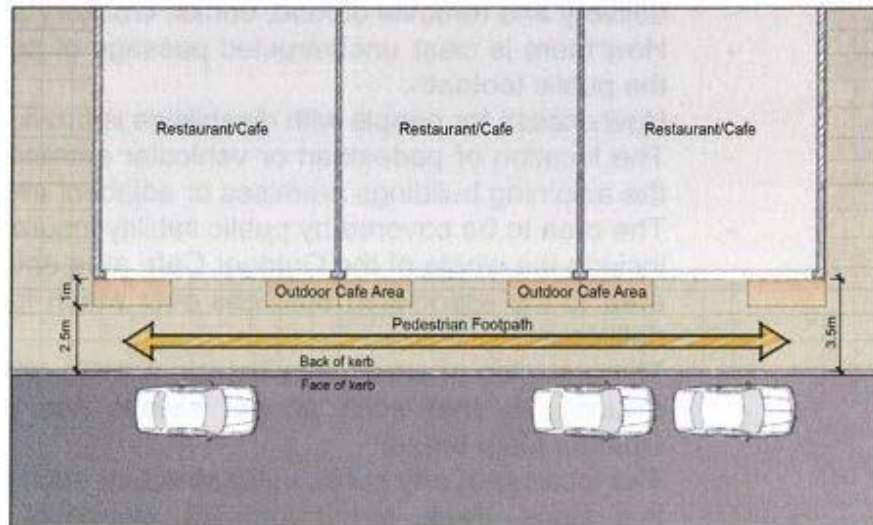


Figure 1 Example of outdoor dining against respective indoor premise

7.3.1b Outdoor dining area clearance is adjacent to the kerb

Alternatively, the following diagram shows the location of the 2.0m wide pedestrian corridor where outdoor dining is proposed along the kerb line. The appropriate clear width required may be greater than 2.0m and will depend on pedestrian volume in the area. This will be assessed on a case-by-case basis.

Location requirements specify that a 600mm clear width from the kerb must be provided where there is a parking lane in the adjacent road. Note, this means that the minimum footpath width requirement in this situation is 3.6m wide.

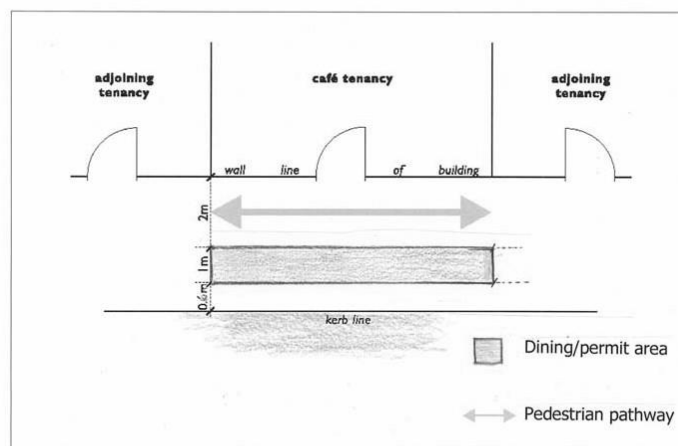


Figure 2 Example of outdoor dining along kerb line

For safety reasons, allowances for clear pedestrian passage may be increased in areas of higher pedestrian activity, and traffic speed and volumes, and where required by Transport for NSW (TfNSW) on classified roads. Energy-absorbing safety bollards/barriers may also be required to be installed at the expense of the applicant/approval holder and to the satisfaction of Council.

Where there is no kerb-side parking, a suitable barrier may need to be erected at the expense of the applicant/approval holder and to the satisfaction of Council for safety considerations including, preventing diners from walking directly onto the roadway. More details on barrier requirements are outlined in Section 8.2.3.

A minimum setback is required and the distance depends on the frangibility of the object placed within the clear zone area; however the barrier must be approved by Council and compliant with TfNSW approved barriers/infrastructure.

Landscape barriers which are moveable, penetrable and constructed from timber and/or durable materials (e.g. planter boxes, pots and trellis) are recommended over barriers which are fixed and continuous (e.g., brick/concrete walls).

Access for maintenance of services that may exist in the footpath area needs to be considered with the placement of any structures temporary or permanent in nature.

For footpaths which measure 6 metres or over in width the outdoor dining area should be located towards the kerb at a distance of not less than 1 metre from the kerb line and must also allow a minimum of 2.5 metres width from the building line for pedestrian thoroughfare.



Figure 3 Example of outdoor dining on a 6-metre footpath

Council reserves the right to adjust these measurements depending upon the circumstances. Mere technical compliance with these standards does not guarantee approval.

7.3.2 Corner locations

At street corners, a setback of at least 2.5 metres measured from the building corner applies exclusive of any obstruction or street fixture for example, a bench, tree, rubbish bin, pole. This is required to maintain safe sight distances for vehicles and pedestrians, as well as clear paths of travel and equitable access.

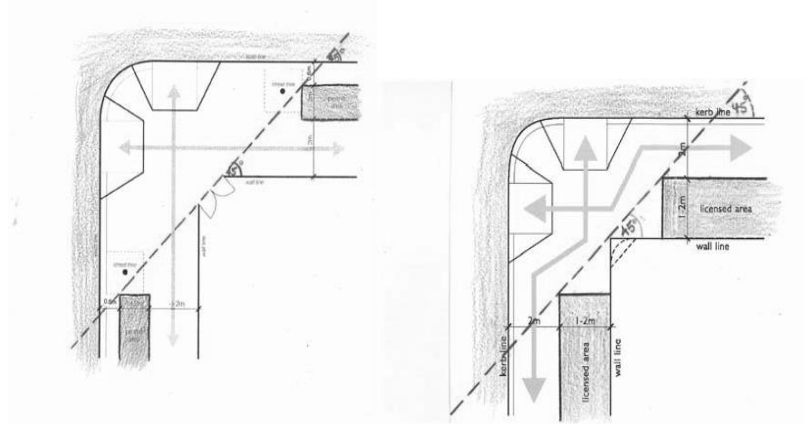


Figure 4 Corner Restrictions

7.3.3 Plaza or mall locations

7.3.3a General plaza or mall locations

Where the outdoor dining area is proposed for a mall or plaza location (other than the Macquarie Mall – see Section 7.3.3b below), it may be considered in locations not directly in front of the associated business. In these circumstances it may be considered in close proximity to the respective café, restaurant or hotel, depending on:

- The design of the plaza area;
- The location of street furniture and services;
- Topography of the site and surrounds;
- Location of pedestrian corridors, service vehicle access (existing or planned), street stalls, and
- Other matters including the needs of adjacent businesses.

The size and distance of the outdoor dining area in mall or plaza locations will be determined by Council, relative to the size of the applicant's business frontage, and the clearance required for pedestrian flows.

Any consideration of these matters will require the written consent of the owner and the occupier of the adjoining premises or advice that consent has not been provided. More details on written consent requirements can be found in Section 10.5.

7.3.3b Macquarie Mall locations

Given the prominence of the Macquarie Mall as a special precinct within the Liverpool City Centre and the ownership of assets within the Mall by Council, additional operational standards and conditions apply to the outdoor dining areas in the Mall.

The Special Standards Applicable to Macquarie Mall Outdoor Dining (Appendix 3) will override the general policy if any inconsistency arises.

The Special Standards Applicable to Macquarie Mall Outdoor Dining (see Appendix 3) the details allowable locations for outdoor dining including:

- a) Permanent outdoor dining zones which define the central zone of the Mall; and
- b) A zone for outdoor dining along the building edge in front of the John Edmondson Club Liverpool

7.3.3c Council use of Macquarie Mall after normal business hours

Where a Permit Holder in Macquarie Mall does not require their approved outdoor dining area after normal hours, Council reserves the right to occupy the space for any planned activations or activities.

7.3.3d Liverpool City Centre Locations

Given the prominence of the Liverpool City Centre as another emerging CBD in Sydney, all outdoor dining applications for the city centre must be consistent with the existing and future desired character as outlined in the Liverpool City Centre Public Domain Master Plan. Applications will be reviewed in this context.



Figure 5 Map of Liverpool City Centre with Boundaries

7.4 Extension Areas

Extension areas for outdoor dining may be considered where outdoor dining is not permissible on the walkway/footpath, or where more space is required by the applicant, on a case-by-case basis.

Areas of the public domain that are suitable to extension areas are: on-street parking spaces (café parklets); outside adjacent shops/businesses; selected laneways; selected service-ways; nature strips, parks, and reserves; selected streets with low volumes of vehicular traffic and speed.

Prior to application, it is recommended that the applicant consult with Council to determine whether the site for the extension area is deemed to be appropriate.

Any extension areas that may impede on on-street parking amenity will require approval from Council's Local Traffic Committee. In instances where parking demand is deemed significant, occupancy of any car spaces for extension areas would not be supported.

Any approvals given by Council for extension areas will cease upon change of use or change of ownership of the principal dining premises. Outdoor dining permits are strictly non-transferrable.

7.4.1 Outside Adjacent Shops/businesses

In some circumstances, for example, where an outdoor dining area is proposed outside a row of shops, consideration may be given to extending the outdoor dining into the area in front of the adjoining businesses. This consideration will require the written consent of the owner and the occupier of the adjoining premises to be submitted with the application. If permission is not granted the owner and occupier of those businesses are required to substantiate their reasons in writing to Council. Council will then assess those reasons in making its final decision. Council is the final decision-maker given that the property to be used is owned and managed by Council.

Any changes to the ownership or occupancy of the adjoining premises will require the approval holder to seek continuing consent from the new owner or occupants of the adjoining premises. If this approval is not provided, building owners or adjoining premises need to substantiate their concerns in writing. Council will take these concerns into account in making its final decision.

7.4.2 Café Parklets

In some circumstances, where outdoor dining is not permissible on the walkway/footpath, Council will consider applications for outdoor dining areas that propose café parklets.

Outdoor dining applications proposing café parklets are to satisfy the following eligibility criteria prior to their application:

- a) The café parklet should only be proposed in instances where outdoor dining is not permissible due to inadequate space on the walkway/footpaths as required by this Policy;
- b) The café parklet will only be considered for approval on streets with speed limits less than 50km/h;
- c) Neighbouring businesses and/or residents, must provide their consent in writing to the establishment of the proposed café parklet;
- d) The café parklet must be capable of removal to restore the public domain upon request of Council;
- e) The café parklet proposed must factor in user safety and accessibility in all aspects of its design, construction, and operation as an outdoor dining area;
- f) The café parklet must not occupy a parking space of high demand, to be determined by Council;
- g) Site and traffic conditions of the street must be deemed appropriate by Council.

Prior to the application for a café parklet, it is recommended that the applicant consult with Council to determine whether the site and traffic conditions of the street are deemed to be appropriate.

Applications proposing café parklets will be assessed on a case-by-case basis due to the various risks associated with outdoor dining areas being positioned within on-street parking spaces. Applications proposing café parklets are subject to the same application processes and requirements as outlined by this Policy for outdoor dining but must also consider in greater detail the risks and safety for users as outlined further in Section 7.6. This will involve the supply of a Risk Assessment and Road Safety Audit conducted by a qualified consultant for review and approval by Council and Council's Local Traffic Committee.





Figure 6 Examples of Café Parklets

7.4.3 Innovative Outdoor Dining Areas

In some circumstances, Council will consider applications for outdoor dining areas that are innovative, and creatively propose the activation of underutilised public spaces. Some eligible types of public spaces can include selected laneways; selected serviceways; nature strips, parks, and reserves; selected quiet streets.

Applications proposing innovative design ideas will be assessed on a case-by-case basis due to the various risks associated with certain types of public spaces. Applications proposing innovative outdoor dining areas are subject to the same application processes and requirements as outlined by this Policy for outdoor dining, but must also consider in greater detail the risks and safety for users as outlined further in Section 7.6. Dependent on proposed location, this may involve the supply of a Risk Assessment and Road Safety Audit conducted by a qualified consultant for review and approval by Council and Council's Local Traffic Committee. Requirement for a Risk Assessment and Road Safety Audit will be determined in the pre-application meeting with Council.

Where applicable, they may also be subject to the requirements for extension areas proposed outside adjacent shops/businesses.



Figure 7 Examples of Innovative Outdoor Dining Areas

7.5 Unsuitable Areas

Not all footpaths are suitable for use as outdoor dining areas, as they may not have sufficient width to meet pedestrian or vehicular access and clear sightlines.

If a suitable contiguous pedestrian access corridor is unable to be provided on applications proposing outdoor dining on a walkway/footpath, outdoor dining will not be permitted. However, applicants may be eligible to propose outdoor dining in an extension area.

Some locations may be unsuitable for outdoor dining due to the road's speed zone and influence zones. All applications will be assessed on a case-by-case basis however applications in areas with a speed zone greater than 60 km/h are unlikely to be supported.

Outdoor dining areas will not be considered within 5 metre of bus stops, taxi ranks, accessible parking places, near pedestrian crossings, or other areas where there is concentrated pedestrian or vehicular traffic and associated safety concerns.

7.6 Risk and Safety

For applications pertaining to Café Parklets (7.4.2) and relevant Innovative Dining Areas (7.4.3), the applicant is to engage a suitably qualified consultant to undertake a Risk Assessment and Road Safety Audit to determine the feasibility of the proposed outdoor dining location. This will be discussed during the pre-application meeting with Council for Café Parklets and Innovative Dining Area applications.

The Assessment should take into consideration:

- Parking amenity
- Pedestrian volumes
- Vehicular volumes and speeds

And how these may impact the dining area.

8. FURNITURE AND AMENITIES REQUIREMENTS

This section provides requirements for the design of both removable and fixed furniture associated with outdoor dining.

Note: The cost of any street furniture belonging to Council which is required to be moved and relocated to a new position will be charged to the applicant. Any additional changes to the footpath in order to accommodate the outdoor dining area will also be charged to the applicant.

8.1 Furniture Layout

The layout and orientation of furniture should be chosen according to the size and shape of the available space. The available depth of an outdoor dining area depends on the width of the footpath, however the minimum practical width for outdoor dining is 1m for narrow width paths (paths less than 3.6m wide).

The location of all furniture, barriers and the like, removable and fixed, must not extend beyond the boundaries of the approved outdoor dining area. The approval holder is responsible to ensure patrons maintain furniture within the boundaries of the approved seating area and its storage outside business hours.

In kerbside locations, for safety reasons, the layout must be organized so that chairs must not be placed with their backs to the kerb.

The placement of outdoor dining should be consistent with the existing street infrastructure within the public domain (for example street benches, signs, poles and the like) as to not create additional clutter and/or obstruct a clear pedestrian path of travel.

The layout of the outdoor dining area should also make provision for people of all abilities to allow for reasonable access and mobility.

8.2 Boundary Identification

Applications proposing an outdoor dining area adjacent to the kerb will require barriers between the furniture and kerb. In all other cases, it is optional for applicants to mark out the boundaries of their approved dining area.

Regardless of whether the boundaries of the outdoor dining area are marked, approved applicants must always remain within their approved dining area under their permit which will be managed by Council for compliance.

The methods of identifying the boundaries may include:

- a) Markers;
- b) Tactile ground surface indicators;
- c) Barriers/bollards – fixed or removable;
- d) Planter boxes, seating walls and other landscape elements.

All removable boundary identifiers should be included in the outdoor dining application for Council's review.

All fixed boundary identifiers involving holes, fasteners or penetration of pavement will require the approval of Council. Failure to comply with Council conditions and for directions in relation to the nature of placement or condition of markers, ground surface indicators, barriers or bollards will result in termination of the outdoor dining permit.

8.2.1 Markers

In most cases, corner markers will suffice. In some locations, it may be necessary to use additional markers along the boundary alignment. Where markers are to be used, Council will install them on land in its ownership, at the cost of the approval holder. In paved areas, metal discs are installed flush with the paved surface. In areas with a grass, gravel, or similar surface pavement markers are not feasible and existing or new landscape elements such as trees, light poles, bollards, and the like are used instead.

8.2.2 Tactile ground surface indicators

Tactile paving markers may be used to indicate a change in conditions and imminent outdoor dining areas, furniture or barriers, for persons with vision impairment or low vision. However, care should be taken when deciding on the use of markers and it is important to consider that incorrectly or poorly located tactile paving can be a hazard particularly for wheelchair users. Consideration could also be given to colour contrasts when selecting barriers, as a means of assisting people with vision impairments to avoid obstacles.

If Tactile Ground Surface Indicators (Warning Type) must have a 30% luminance contrast to the surrounding ground surface and must comply with Sections 1 and 2 of AS/NZS1428.4.1-2009.

8.2.3 Barriers and bollards

The placement of barriers or bollards needs to consider the crashworthiness of the object and level of protection offered relative to the likelihood of impact, clear zone maintenance and the speed limit applied to the road adjacent to the outdoor dining area.

Barriers may be considered between adjoining outdoor dining areas to separate the dining activities.

Barriers should be provided where the outdoor dining area is located 600mm from the kerb line to prevent chairs and tables creeping closer to the kerb. The barriers prevent car passengers walking through the maze of tables and chairs to access the footpath. There should be sufficient clear width between dining activities such that drivers can exit their vehicle and walk, unobstructed, to the footpath and such that a vehicle door can be opened without impacting the street furniture associated with the dining area. For safety purposes, barriers/bollards are

required to be designed to be energy-absorbing and their choice will be dependent upon the speed zone of the road, clear zone and risk impact.

Removable impact absorbing barriers and/or bollards, placed on public land, must be free standing and of a weight that is safe, durable and supports the design. Fixed barriers/bollards requiring establishment of holes, location of fasteners and other penetration into a pavement surface will require Council approval.

Council recommends the use of black and/or timber outdoor dining barriers to align with the future desired streetscape character. All outdoor dining furniture finishes must be of suitable luminance contrast and must adequately reflect light for visibility, to assist people with low-vision and vision impairments (as per AS1428). Barriers should not reduce visibility, either of oncoming pedestrians, or potential vehicles entering/exiting driveways and should not become a physical or visual obstruction within the public domain.

Each outdoor dining application should adopt a consistent approach to the furniture, fixtures, and fittings. Council reserves the right to provide design guidance/recommendations to each applicant to ensure consistent standards are achieved within the City Centre and across the LGA. Please refer to the images below for examples of barriers.

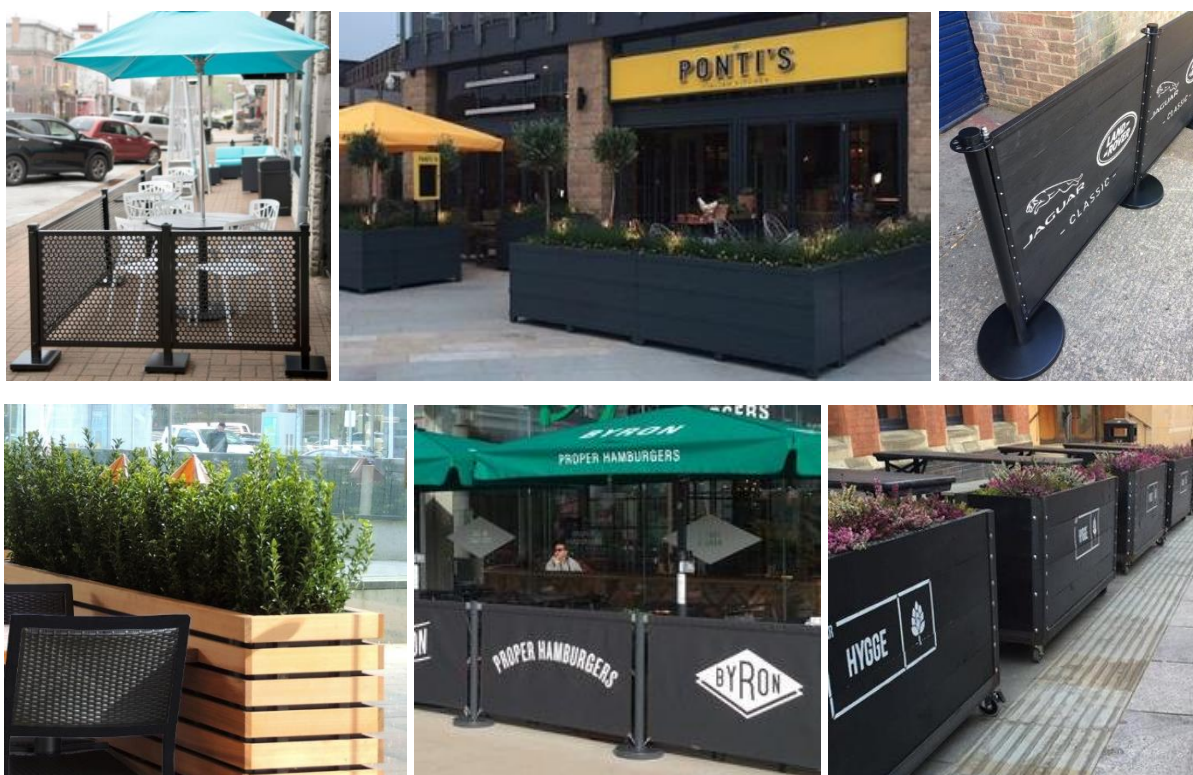


Figure 8 Examples of dining area barriers

8.2.4 Planter boxes, seating walls and other landscape elements.

Other barriers that may be appropriate between the outdoor dining area and footpath/ kerb area are planter boxes and landscape features. Planter boxes and other landscape elements cannot be used as road safety barriers.

8.3 Furniture Style

Council recommends the use of black and/or timber outdoor dining furniture to align with the future desired streetscape character. Council encourages furniture styles that are practical, robust and attractive, and that make a positive contribution to the street environment. All furniture items, including umbrellas and barriers, are to be approved by Council, details of which must form part of any application.

All outdoor dining furniture finishes must be of suitable luminance contrast and adequately reflect light for visibility, to assist people with low-vision and vision impairments (as per AS1428).

Each outdoor dining application should adopt a consistent approach to the furniture, fixtures, and fittings. Council reserves the right to provide design guidance/recommendations to each applicant to ensure consistent standards are achieved both within the City Centre and across the LGA.

Manufacturers' details and/or related information are to be provided with any application to demonstrate compliance with the following criteria:

- a) The furniture should be strong, sturdy, durable, waterproof and weather resistant, designed for commercial outdoor use;
- b) The design must not contain parts that are likely to cause damage to the pavement;
- c) The furniture must be suitable for public safety, comfort and hygiene considerations:
 - i. Particular care should be taken with any sharp edges, and hinges or other moving parts to ensure that they do not present a potential hazard to their users;
 - ii. Tables must be able to be cleaned and not be of a design that allows particles of food to collect;
 - iii. Surfaces such as tabletops must be non-reflective;
- d) All removable furniture must be easily stored within the associated indoor premises;
- e) Furniture colour schemes must form part of any application, and
- f) Any proposed items of furniture that are to carry advertising materials (logos, brand names and the like) must be detailed as part of the application.

Note: Council retains the right to require that all outdoor dining furniture be removed or relocated during street festivals and other Council approved events. No compensation shall be offered or paid under these circumstances.

The following figures provide some examples of removable and fixed outdoor dining furniture and other fittings. They are illustrative only and requirements will vary based on the proposed location of outdoor dining area.



Figure 9 Examples of removable outdoor dining furniture



Figure 10 Examples of fixed outdoor dining furniture

8.4 Enclosures

Full height solid screens are not preferred. Contact with the surrounding environment is an integral part of the outdoor dining experience.

Where applicants propose the use of any form of enclosure for outdoor dining areas, such as roll-up blinds and screens, the enclosures are:

- a) Not to be permanently rolled down (in the case of blinds) but can be rolled up and down for use in inclement conditions;
- b) Not to work against the amenity of outdoor dining;
- c) Not to cause any obstruction to the minimum path clearance required for public access (including special access requirements for people with a disability);
- d) Not to encroach on the roadway or the approved seating area;
- e) Not to be able to be blown into kerb edge/ roadway area or pedestrian area;
- f) Not to be located near any heating devices so as not to cause a potential fire hazard;
- g) To be securely fitted and installed to ensure that they withstand the effects of wind.

The placement of any permanent structure, that is, a shade structure, framework and so on also:

- a) Requires structural engineering certification and Council approval;
- b) Is not to undermine the strength of the structure on which they are to be fitted, and
- c) Is not to be used for the display of general advertising.



Figure 11 Examples of outdoor dining enclosures

8.5 Umbrellas

Umbrellas are appropriate for providing shade and shelter; however safety considerations are critical and umbrellas must:

- a) Be installed to ensure that they are at all times securely fixed to withstand the effects of wind. Fixtures that penetrate or damage the pavement on Council footpaths will not be permitted without Council's approval;
- b) Be removed or closed in extremely windy conditions and must be removed when the outdoor seating area is not in use;

- c) Not encroach on, or interfere with pedestrian movement, and must be at least 2.2 metres above the ground level at the lowest point;
- d) Be manufactured from fire retardant material if adjacent to a heating device;
- e) Be maintained in sound and aesthetically acceptable condition, and
- f) Not have general advertising, but may include business premises identification and advertising associated with the food and beverage premises (for example, coffee brand).

Other shade structures may be permissible, but only with written consent from Council.



Figure 12 Examples of umbrellas

8.6 Heating Devices

Where the use of a heating device is proposed, details of the type, location and design must be included in the application. The design of the device and the safety of persons and property will be the main consideration. Heating devices should turn off automatically if overturned to prevent injury to patrons and property. Any such devices must be constructed in accordance with the applicable Australian Standard and relevant industry standards, and be kept in a safe and serviceable condition.

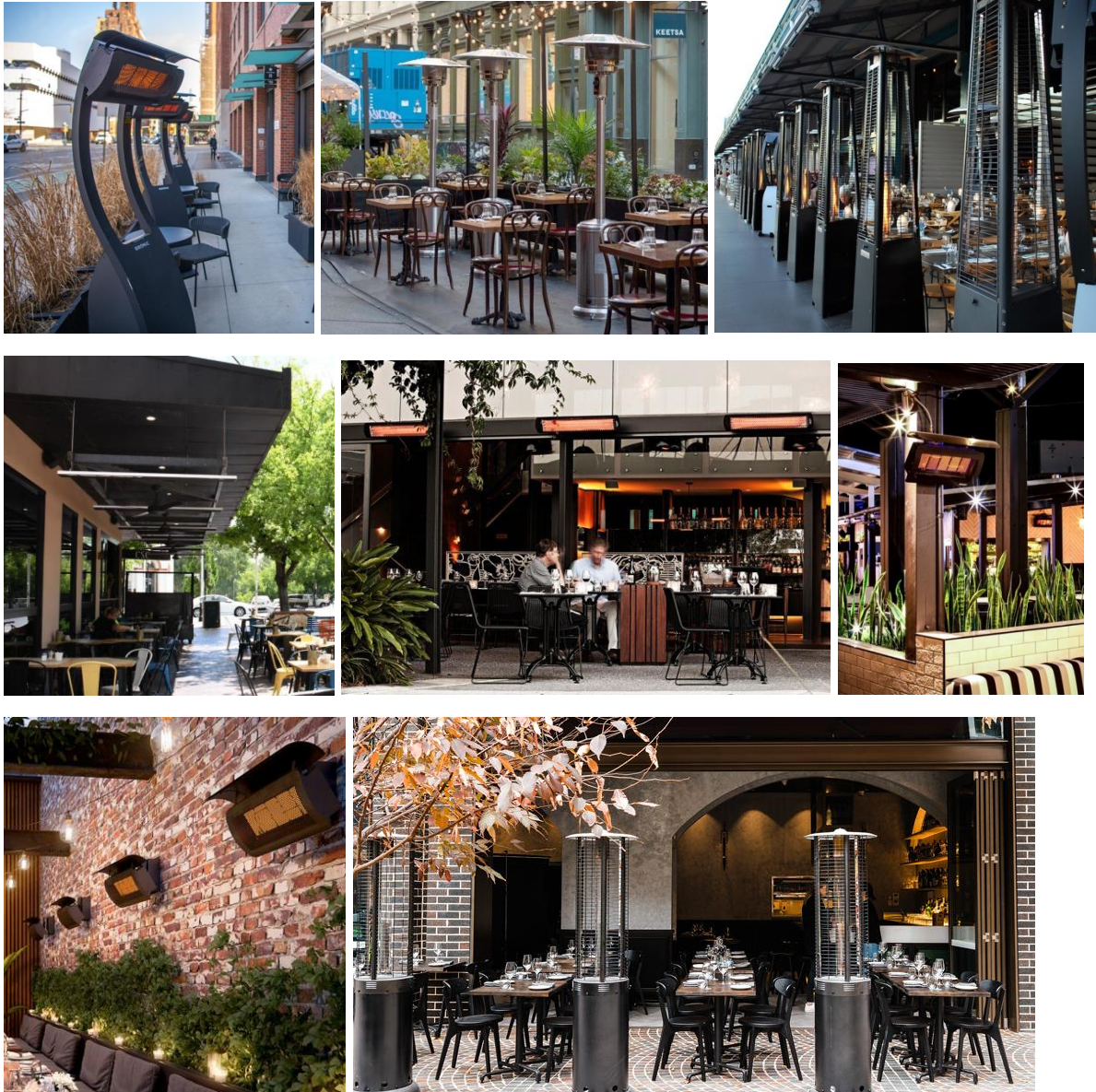


Figure 13 Examples of heating devices

8.7 Service

Table service is encouraged. It is mandatory where alcohol is served. Applicants should consider how outdoor dining areas will be serviced by staff across pedestrian lines.

The use of crockery and glassware is preferred in the serving of food and beverages in outdoor dining areas.

Plastic containers, paper and polystyrene cups add to waste consumption and cause additional litter on the street and stormwater drains, as well as contribute to greenhouse emissions. In addition, the use of crockery and glassware can indicate quality and attract diners.

If the site of the subject application for outdoor dining is in or adjacent to a residential area and is likely to involve the consumption of alcohol, Council must consider the following matters in determining the application:

- Whether the proposed use is likely to have a detrimental impact on the amenity of the surrounding residential area, and
- Whether any objections to the proposed liquor licence are well founded.

8.8 Smoke Free Environment

The control of smoking within and adjacent to an outdoor dining area must be in accordance with the provisions of the Smoke-Free Environment Act 2000 and Regulation. The Act makes a number of outdoor public places smoke-free, namely, a seated dining area, within 4 metres of a seated dining area on licensed premises, restaurant or café, and within 10 metres of a food fair stall.

Under the Act, smoking relates to any ignited tobacco product or non-tobacco smoking product and includes smoking from a cigarette, pipe, water-pipe, e-cigarettes or any other smoking device.

Owners must ensure that adequate 'no-smoking' signage is displayed in an outdoor dining area. This signage needs to meet specific wording requirements. Guidelines and resources are available from NSW Health at: <http://www.health.nsw.gov.au/tobacco/Pages/smoke-free-resources.aspx>

8.9 Storage Facilities

Adequate storage facilities will be required to be provided in the associated premises or in the building containing the associated premises for tables, chairs, umbrellas, heating devices and the like, when not in use.

8.10 Access to Amenities

Toilet facilities are required to be available in the building occupied by the food and beverage premises where alcohol is served or if the total seating provided (including indoors and outdoors) exceeds 19 seats in accordance with the requirements under the health and amenity provisions of the Building Code of Australia.

The addition of outdoor dining will increase the number of seats to a food and beverage premises. Where a significant increase in the number of patrons results from the addition of an outdoor area it may be necessary to upgrade the existing facilities in accordance with the requirements of Part F2 of the Building Code of Australia.

8.11 Advertising and Signage

The name of the outdoor dining premises, its business name or logo may be placed on outdoor umbrellas, and other items of furniture, only if it:

- a) Identifies the outdoor dining premises;
- b) Is in the nature of a corporate logo or identification;
- c) Is an integral element of the furniture design and does not have an excessive impact on the dining area or streetscape.

No other advertising is permitted on any outdoor furniture or elsewhere in the outdoor dining area or adjacent area unless Council grants a specific conditional approval.

Details of all signage and advertising must be submitted for approval as part of the application. Council reserves the right to provide design guidance/recommendations to each applicant to ensure consistent standards are achieved both within the City Centre and across the LGA.

8.12 Lighting

Any outdoor dining area approved to operate outside daylight hours must provide adequate lighting, to Council's satisfaction, to ensure the safety and amenity of patrons and the general public. The installation of private lighting must ensure:

- the safety and amenity of the general public and road users is maintained;
- it does not reduce safety as a result of glare or light spillage;
- it does not pose a sensory concern, particularly as a result of strobing or flashing lights;
- it is to be located within the approved outdoor dining area;
- electrical cabling does not create trip hazards.

Any lighting should be designed to comply with AS 300, AS 1158, AS 4282 1997 Control of Obtrusive Effects of Outdoor Lighting.

8.13 Animals

Animals are permitted within the outdoor dining area under the Companion Animals Act 1998, however the operator of the premises reserves the right to refuse some, but not all, animals within the approved area.

Owners are required to keep the animal on leash (and off furniture) and cannot feed or use cutlery/ plates for feeding the animal.

8.14 Exclusions

Loudspeaker equipment, food vending machines, food preparation equipment and other equipment such as refrigerators are not permitted in outdoor dining areas.

9. MANAGEMENT AND COMPLIANCE

This section of the requirements sets out the ongoing management and compliance standards necessary to ensure that outdoor dining areas meet the relevant approvals and local controls.

9.1 Conditions of Approval

The approval holder will be responsible for making sure that the outdoor dining area is operated in accordance with the conditions attached to the approval which will include under the section 125 of the Roads Act 1993. A copy of the standard conditions is in Appendix 1.

Non-compliance will be enforced by way of a written warning for a first offence and a fine in all other circumstances. Continual non-compliance may result in the approval being revoked or enforcement action being taken.

9.2 Fees

Council will charge an application fee and ongoing fee for the use of the footpath or Council owned land as an outdoor dining area. The initial and ongoing fees for outdoor dining approvals will take into account current market rates for equivalent indoor spaces.

Relevant fees are outlined in Council's Fees and Charges Schedule and are reviewed on an annual basis. The annual fee is payable in advance and invoiced following approval of application. No refunds will be provided. A fee may also be charged for any Council provided shade structure and furniture.

Upon receipt of an Outdoor Dining Permit the applicant will be required to pay a security deposit bond equivalent to three (3) months of the total annual approval fee. This will be held by Council in trust for the duration of the approval holders occupation of the footway or Council land and returned when Council is notified in writing by the approval holder that the holder wishes to stop the use of the approved area, as long as there are no outstanding monies owed to Council and the approved area is left in good condition.

For existing approvals, the fee will be reviewed annually in accordance with the approval conditions. Applicants may be eligible for a pro rata fee or reduction in fees depending on the date the application is received, for a part of the year. Pro rata fees will be charged on a monthly basis and will be at the discretion of Council.

Applicants providing smoke free areas for their outdoor dining area will be offered Outdoor Dining Fees at 50% of the full permit fee.

9.3 Display of Permit

A Permit will be issued as part of the Council approval process and a copy of the outdoor dining approval, including a plan of the approved area, must be displayed in a clear and visible position inside the front window of the associated premises and be available to any authorised person.

9.4 Public Liability Insurance

All approval holders will be required to carry and maintain public risk liability insurance to the minimum value of \$20 million, see Section 10.5.

9.5 Change of Ownership

The approval to operate an outdoor dining area will cease upon change of ownership or change of use of the principle dining premises. A new application is required in the case of a change of ownership.

9.6 Maintenance, Repair and Cleaning

All furniture must be maintained in a physically sound and aesthetically acceptable condition to the Council's satisfaction at all times. Appendix 2 provides a guide to maintaining a high standard of presentation for all outdoor dining furniture and fittings.

The approval holder is responsible for cleaning the approved outdoor dining area, ensuring it presents a clean and well-maintained image as specified in the conditions of the approval.

Street rubbish bins are not to be used for the disposal of waste and the approval holder must have suitable arrangements for a commercial waste collection service. This should be addressed in the applicant's Waste Management Plan (see Section 10.4).

Outdoor furniture, heating devices and dining equipment must be removed and stored away from all public areas outside the hours of business operation or when not in use due to bad weather.

10. APPLICATION AND APPROVAL

This section sets out the procedures and documentation required to complete the application process.

Under the Local Government Act 1993, Council can adopt policies regarding footpath use and outdoor dining. The State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 permits the use of a footpath or a public open space that is adjacent to, connected with or part of a café or restaurant (food and beverage premises) as an outdoor dining area, as exempt development.

The outdoor dining areas must comply with policies and requirements as set out in this policy and be completed in accordance with an approval issued under section 125 of the Roads Act 1993 and section 68 of the Local

Government Act 1993. Approval to operate an outdoor dining area on a footway of a classified road will require a notification to TfNSW.

Prior to the application for a café parklet or innovative outdoor dining area, it is recommended that the applicant consult with Council to determine whether the site and traffic conditions of the street are deemed to be appropriate.

The following requirements and documents are required as part of the application, along with the relevant fees and charges:

10.1 Site Layout Plan

A site plan drawn to scale (1:100):

When submitting an outdoor dining application, the applicant must attach a site plan that includes a north point and accurately shows the existing conditions adjacent to the premises in question, including:

- a) A context plan, indicating the location of the proposed restaurant/hospitality venue within the context of the surrounding streets and area/suburb (including street address/roadway or street name);
- b) The width of the building frontage and height of awning (if any);
- c) Traffic and parking conditions in front of property (e.g. loading zone, 1 hour parking, etc.);
- d) The location of all existing street infrastructure, such as (but not limited to): street lights, signs, parking meters, fire hydrants, sprinkler, booster connections, substations, seats/benches, bike racks, utility access points, street trees/tree pits flags and any other public domain elements;
- e) The proposed layout of the outdoor dining area, including width of the footpath - from the 'front of kerb' to the building line of the proposed restaurant/hospitality venue and its entrance;
- f) The side boundary and the address of the neighboring properties (on each side of your premises in relation to your outdoor dining area, include addresses, business/building type and location of entrance for each – this includes residential);
- g) The size and arrangement of all proposed outdoor dining furniture (including but not limited to: screens, barriers, bollards, tables, chairs, umbrellas, planter boxes, planting etc);
- h) The quantity of proposed outdoor dining furniture (including but not limited to: screens, barriers, bollards, tables, chairs, umbrellas, planter boxes, planting etc);
- i) Identified movement corridors for both an unobstructed pedestrian pathway (i.e. minimum 2.0m) and the delivery/removal of food, beverages, crockery and rubbish;
- j) Any adjacent residential buildings or dwellings (i.e., on each side of the outdoor dining proposal and in general proximity to, e.g., opposite side of the street);
- k) Designated inclusive access areas/zones to accommodate people of all abilities;
- l) Indication of any part of the outdoor dining area to be positioned in front of, or in direct proximity of neighboring premises (dimensions to be included);
- m) All dimensions associated with the outdoor dining area.

Note: All applications must clearly indicate the area to be covered by public liability insurance (i.e., this must include the whole of the outdoor dining area and the connecting area to the associated business over which food and beverage is delivered), as well as the provision for emergency vehicle access, where required by Council, so that such access ways always have priority over all outdoor dining areas.

10.2 Site Photographs and Reference Images

The following images should be included in the outdoor dining application:

- a) Colour site photographs clearly showing the proposed outdoor dining area relative to buildings, adjacent properties, residential dwellings or residential buildings and existing features in the footpath; and
- b) Reference images of the outdoor dining furniture (such as tables, seats, shading structures and the like) that show the colour and materials of the items to be included in the space. If reference images are unavailable, manufacturer's brochures of the chosen items, example images or a written description that conveys the intended look and feel of the space will be accepted.

10.3 Site Management Plan

The Site Management Plan must address the following items:

- a) The hours of operation of the associated business and of the proposed outdoor dining area.
- b) Whether the associated business is licensed to serve alcohol and whether it is proposed to seek permission from the licensing court to serve alcohol at the proposed outdoor dining area;
- c) Details of how the name of the business and/or the business' core product/service may be placed on furniture, including details of quantity, size, colour, material, design and wording of any proposed signage;
- d) Details of any proposed artificial lighting and/or heating;
- e) Details of any proposed planter boxes including plantings.
- f) For Café Parklet and Innovative Dining Area applications, comments on how the business will manage and operate the Cafe Parklets and Innovative Design Areas, particularly in relation to:
 - i. The paths or routes accessed by servicing staff to and from the primary place of business;
 - ii. How the outdoor dining furniture (e.g. tables, chairs, umbrella, heater etc.) will be removed and relocated at the end of trade;
 - iii. How movable heater locations will be managed with the consideration of adequate clear widths from trees and planters in the abovementioned spaces;
 - iv. Its cleanliness at all times and ongoing maintenance.

10.4 Waste Management Plan

This policy aims to promote sound environmental practices that reduce the amount of waste generated from the activity and encourages the business owner to responsibly dispose of waste.

Appropriate environmental management is important to Council and the community. Waste management is the responsibility of all stakeholders including outdoor dining operators. This includes the containment and proper disposal of waste away from the outdoor dining area.

All waste must be stored in appropriate containers and operators must accept and demonstrate responsibility for the disposal of all waste as well as the cleanliness of the area immediately adjacent to their premises.

A waste management plan must be included with the application for an Outdoor Dining Permit, providing details of:

- a) How rubbish and litter will be dealt with
- b) How it is intended to clear tables of used crockery and waste
- c) How the outdoor dining area will be kept clean and tidy at all times.

10.5 Public Liability Insurance

To provide adequate protection against claims that may arise as a result of the operation of the outdoor dining area, each operator must have a current public liability risk insurance policy.

Prior to issuing the "Permit for Outdoor Dining", Council will require a copy of a certificate of Currency for a Public Liability Insurance Policy for a minimum cover of \$20 million for the outdoor dining area/s.

The certificate must clearly state that Liverpool City Council has been nominated on the policy as a joint party or as an interested party and indemnify Liverpool City Council against any public liability claims within the area between the front property boundary of the subject premises and the kerb line of the street for the full frontage of the associated premises and influence area of the activity.

Where the outdoor dining area is not directly adjacent to the associated premises, the area covered by the insurance policy shall include the permitted area and the area between the café/restaurant and the associated

business frontage. The policy shall cover accidents involving staff employed and the public within the permitted outdoor dining area and the associated business.

The applicant shall keep the policy current at all times and forward a copy to Council annually and each time it is renewed. A failure to do so will result in Council terminating the dining permit.

10.6 Written Consents

If the applicant is not the owner of the building in which the associated food and beverage business is located, then a letter of consent should be sought from the owner of the building from which the associated business operates. If this consent is not provided, the owners of the building must specify reasons in writing as to why consent is not provided within 30 days of the consent being sought. If this advice is not provided, Council will make a final decision regardless. If this advice is provided, Council will take that advice into account when making its decision. The owner will also be informed by letter of the outcome of the application. Council's decision will be final.

A letter of consent should also be sought from neighbouring owners/tenants on each side of the associated business. If consent is not provided, the neighbouring owners/tenant must specify their objection reasons in writing. Council will take these objections into account when making its final decision. The neighbouring owners/tenants will also be informed by letter of the outcome of the application.

10.7 Completion

On receipt of a completed Outdoor Dining Application Form, associated documentation, a valid Certificate of Currency and payment of all the correct fees including any costs associated with the moving of street furniture, Council may issue an Outdoor Dining Permit. At that time, it will also issue a small notice detailing the area for which the permit applies, which must be displayed in the shopfront window of the associated business.

At that time, Council will also notify the Permit holder of the amount of bond that is payable, as set out in section 9.2 of this Policy.

10.8 Withdrawal of Consents

If written advice withdrawing consent is received from the building owner, Council will take this advice into account as to whether outdoor dining will be allowed to continue. The building owner must specify their reasons in writing as to why consent is being withdrawn. Council will make the final decision taking into account the building owner's rationale.

In the event of the withdrawal of consent, Council will advise that a refund may be made in respect of fees paid in advance for the use of the area in front of the neighbouring premises. Council will also arrange for the refund of any bond monies paid, as detailed in section 9.2 of this Policy.

PART C: APPENDICES

APPENDIX 1: STANDARD CONDITIONS APPLICABLE TO A PERMIT

- 1) Upon payment of the Permit Fee, the period of the Permit shall be twelve (12) months commencing on the day of permit issuance, unless terminated by Council beforehand.
- 2) The Applicant abides by Clause 3 on the Permit Agreement if the Smoke Free option is taken.
- 3) The Applicant must obtain Council's approval for its intention to apply for a license to supply liquor to the Permit Area, prior to making an application to the relevant Liquor Licensing Authority.
- 4) The Applicant shall comply with Council's liquor Licensing Accord or any Conditions relevant to the supply of liquor to the Permit Area imposed by Council.
- 5) The Applicant shall at all times ensure that no more than the number of persons specified on the Permit shall consume food or beverage within the Permit area.
- 6) The Applicant shall not secure any tables, chairs or other objects associated with the outdoor dining activities to the pavement without approval from Council.
- 7) The Applicant shall prepare in the adjoining premises, all meals, food and liquid refreshments supplied, pursuant to the Permit.
- 8) The Applicant shall at all times keep the Permit Area and all approved furniture and equipment thereon, clean and free from litter and waste materials and shall ensure that no waste material is swept or placed into the water system.
- 9) The Applicant shall remove all obstructions from the Permit Area upon twenty four (24) hours' notice (or less in times of emergency), being given to the Applicant by the Council, that the Permit Area is required for pavement maintenance or repair work.
- 10) The Applicant shall remove all outdoor dining furniture at the close of business on each day.
- 11) The Applicant shall not enclose the Permit Area, with café screens, blinds, awnings or similar structures without prior permission.
- 12) The Applicant shall indemnify and keep indemnified and hold harmless, the Council, its members, employees and agents and each of them from and against all actions, costs, claims, charges, expenses and damages whatsoever, which may be brought or made or claimed against them, or any of them, arising out of or in relation to the permit, or out of or in relation to the activities authorised thereby.
- 13) The Applicant or the Council may at any time (whether in the event of default of any of the Conditions or otherwise) terminate the Permit by serving upon the other twenty four (24) hours' notice in writing provided that such termination shall be without prejudice to any rights of the Council against the Applicant for any antecedent breach of any of the Conditions.
- 14) If, after the date of expiration of the period of the Permit, the Applicant continues to operate on the Permit Area without paying permit fees or fails to execute a permit renewal form, Council may take enforcement actions in accordance with the *Local Government Act 1993*, can either refuse to grant a permit on any future application for an outdoor permit or apply a penalty interest rate of 12% per year, on a pro-rata basis.
- 15) This Permit is personal to the Applicant and may not be assigned or disposed of in any way whatsoever in favour of any other person or body.
- 16) The Applicant further agrees:
 - a) To ensure that any alteration to the road does not interfere with, or cause damage to, or in any way affect, the property of any other person.
 - b) To comply with any direction given by any statutory authority or Council to remove, maintain or otherwise modify the alteration to the road, subject to this authorisation.
 - c) This authorisation does not confer on the applicant any exclusive right, entitlement or interest in the road and does not derogate from Council's powers arising under the *Local Government Act 1993* and the *Roads Act 1993*.

17) Special conditions for outdoor dining permits apply to Macquarie Mall, see Appendix 3

APPENDIX 2: REPAIR AND MAINTENANCE GUIDE

The following may be used as a guide for maintaining a high standard of presentation for all outdoor dining furniture and fittings.

Where Council owns these structures, it will also operate within the same timeframes.

Windbreaker/Screen broken	Repair within 24 hours
Windbreak/Screen missing	Replace within 7 days
Windbreak/Screen torn	Remove and repair within 7 days
Graffiti on windbreaker/screens	Clean within 48 hours
Screens, awnings, umbrellas & drop downs in unclean condition	Clean within 24 hours
Components of windbreaker/screens missing or broken	Replace within 7 days
Graffiti on canvas	Remove and clean screens or replace within 7 days
Furniture in disrepair	Remove or replace within 7 days
Planter boxes damaged	Remove or replace within 7 days
Plants wilted	Remove or replace within 7 days
Advertising not meeting Council's Outdoor Dining Policy requirements	Remove within 24 hours
Shade Structure damaged or canvas torn	Remove and replace within 7 days

APPENDIX 3: SPECIAL STANDARDS APPLICABLE TO MACQUARIE MALL OUTDOOR DINING

1.0 INTRODUCTION

1.1 About Macquarie Mall

The Macquarie Mall continues to be the heart of the Liverpool City Centre. The public realm design aims to provide a platform for cultural and civic events by providing activities and destinations to attract members of the public to the Mall. The design responds to the existing cultures, climate and day and night time activities and will provide physical openness and accessibility for all.

The spaces have been designed to be flexible, adaptable, activated, safe and welcoming. A key design principle is to create a layered public realm framework that ensures the linear mall is punctuated by a series of small, medium and largescale events. These events will encourage pedestrian movement from one end to the other, encourage activity and provide the infrastructure for local activities and celebrations.

Both the Elizabeth Street and Moore Street arrival points into the Mall are defined by a large, open event space, linked together by a central promenade and catenary lighting system overhead. A permanent outdoor café zone defines the central zone of the Mall.

1.2 Where do these standards apply?

These standards apply to the Macquarie Mall precinct located in the Liverpool CBD.

These standards are to be read in conjunction with Council's Outdoor Dining Policy and the Outdoor Dining Permit.

1.3 Permissible locations for outdoor dining

Council will only consider approval for outdoor dining in Outdoor Dining Zones noted in the Macquarie Mall Outdoor Dining Plan (see Appendix 3, Figure 9). Other locations within the Mall have been designated for other uses such as events, activities or thoroughfares and will not be considered for outdoor dining.

1.4 Allocation of sites and Permits for Outdoor Dining

Each Outdoor Dining Zone will be licensed for a maximum period of one year, commencing on 1 July and terminating on 30 June the following year. Permit Holders are required to apply to renew permits on annual basis.

The allocation and approval of Outdoor Dining Zones and renewal of Outdoor Dining Permits is at the absolute discretion of Council. Council usually renews Permits with the incumbent Permit Holder on an annual basis. However, Council reserves the right not to renew permits in circumstances including but not limited to:

- a) Where the Permit Holder has breached conditions of the Operational Standards or the Outdoor Dining Permit and has not remedied within 28 days of notification in writing by Council; or
- b) Where the dining zone is located in front of adjoining premises and the Owner of, or the Lessee of those adjoining premises has also lodged an application for a permit.

1.5 Council use of areas

Council reserves the right to utilise outdoor dining spaces or areas outside permitted hours in the Macquarie Mall for activations and activities designed to activate the area.

2.0 COUNCIL STANDARDS FOR USE OF OUTDOOR DINING ZONES IN MACQUARIE MALL

2.1 Alfresco Dining Modules

Licensed Outdoor Dining Zones must use Council approved Alfresco Dining Modules. Module details are as follows:

Product:	Alfresco Dining 'Internal Mast' Dimensions:	4000x3500x2200mm high.
Manufacturer:	Alfresco Shade - Internal Shade Solutions	
Website:	www.alfrescoshade.com.au	

Fabric: Mehler FR700
Ring Beam Size: 75x75mm
Guttering & down pipes: Downpipes discharge into the ground. Side Blinds: 75mm thick double laminated PVC
Dimensions for the two small modules located at the most southern end of the Mall are 2100x2100x2200mm high.

2.2 Tables and chairs

Furniture colour must be predominantly black, or timber. Council may approve other furniture colours if the applicant can demonstrate that proposed colours are required to complement the character of their shop fit out.

The maximum height of tables and chairs must not exceed 1 metre and must comply with all relevant standards and codes.

All furniture must be contained within the boundaries of the Module. Furniture must not be placed past the roofline of the Module.

2.3 Barriers

Framed fabric barriers may be used around the perimeter of each Module. Barriers must not be placed outside of the Outdoor Dining Zones.

The barriers must be free standing and be of a weight that is safe and durable. Holes, located fasteners and penetration into a pavement surface are not permitted.

All barriers including any artwork or advertising require Council's approval prior to installation.

The maximum height of any barrier is to be no more than 900mm.

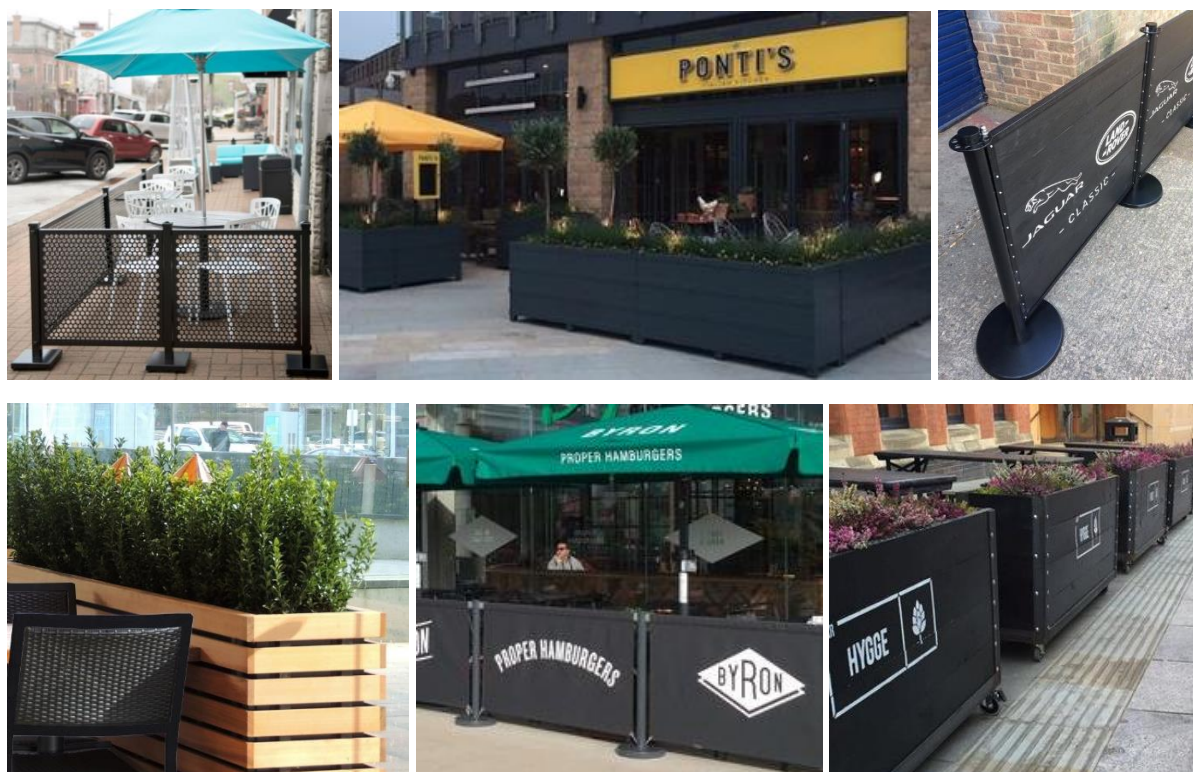


Figure 8 Examples of dining zone barriers

2.4 Heating Devices

The use of heating devices in an Outdoor Dining Zones must be undertaken in a manner that is consistent with best practice in risk management, Australian Standards and Work Health and Safety requirements.

Any heating devices must:

- a) Comply with the laws and requirements relating to them (including, without limitation, AS 4565, 2004 Radiant Gas Heaters);
- b) Cease operation automatically if overturned to prevent injury to patrons and property;
- c) Be removed from public land and appropriately stored when not in use.

Access to the gas mains and use of electrical extension cords are not permitted. Heaters must be contained within the boundaries of the Module.

2.5 Advertising and Signage

Advertising will be allowed on barriers only, subject to final Council approval. Council reserves its right to order removal of any advertising or signage which in the opinion of Council is offensive, breaches copyright laws or is otherwise unrelated to the business being conducted by the applicant.

No advertising or signage of any kind can be placed on any other part of the Module.

2.6 Music

Installation of speakers or playing of music within Outdoor Dining Zones is not permitted.

2.7 Maintenance and Repair

The Permit Holder is responsible for any repairs resulting from their own negligence or misuse of the modules.

2.8 Cleaning

Council will engage a contractor to conduct regular cleaning of the structure, the cost of which is included in the annual fee.

Council will also organise regular machine cleaning of pavers and confirm the cleaning schedule in advance with Permit Holders who will need to ensure that all furniture and items are removed from the module prior to cleaning to allow for machine access.

2.9 Alcohol and Smoking

The Permit Holder, their employees, contractors and agents must comply with all relevant Laws and Regulations including the *Smoke Free Environmental Act 2000* in relation to the purchase and service of alcohol and smoking.

2.10 Ownership of structures

Structures remain the property of Council at all times. The Permit Holder does not have the right to remove any part of the structure at any time.

2.11 Alterations and damage to modules

Council does not permit any alterations to the modules including painting or drilling. Alteration to modules may result in the immediate cancellation of the Permit by Council.

The Permit Holder must rectify damage to modules caused by the Permit Holder, their employees, agents or contractors.

2.12 Utilities

Structures are equipped with a conduit linking the Module to the property boundary. Permit Holders may organise for a 12V power supply to install lighting. Permit Holders requiring an electrical connection must enter into a contract with a suitable electricity provider and pay all associated usage and other costs directly to the electricity supplier.

The Permit Holder is responsible for any repairs to the power supply from the shop to the Module.

2.13 Authorisation of these standards

These standards were approved by Council's Chief Executive Officer on 16 May 2016.

Hierarchy of Outdoor Dining Structure

Two permanent Outdoor Structures will be used for the Mall:

1. Large Structure:

Product: Alfresco Dining 'Internal Mast' Dimensions: 4000x3500x2200mm high

Manufacturer: Alfresco Shade - Internal Shade Solutions

Website: www.alfrescoshade.com.au

Fabric: Mehler FR700 - 10 year UV warranty / white

Ring Beam Size: 75x75mm

Guttering & down pipes: Refer Manufacturers specifications. Connection to stormwater by LCC.

Lighting: Alfresco Shade TRIDONIC 12 Volt LED light Set for Vogue and Freedom Umbrellas

Heating: 4no. x AG2500 2.5 KW Gold Architectural Series, 10 amp Directional Quartz element 1085 mm length

Side Blinds: 75mm thick double laminated PVC supplied by Alfresco Dining

The large structures also have a covered link back to the building awnings: Product: Alfresco Dining 'Internal Mast'

Dimensions: 4500x2000x2200mm

Manufacturer: Alfresco Shade - Internal Shade Solutions

Website: www.alfrescoshade.com.au

Fabric: Mehler FR700 - 10 year

Side Blinds: 75mm thick double laminated PVC supplied by Alfresco Dining

2. Small Structure:

Product: Alfresco Dining 'Internal Mast' Dimensions: 2100x2100x2200mm high

Manufacturer Option 1: Alfresco Shade - Internal Shade Solutions

Contact: Ph (02) 9653 1462; Fax +(02) 9653 1461

Website: www.alfrescoshade.com.au

Manufacturer Option 2: MakMax (Architectural Membrane Innovation Solutions) Website: www.makmax.com.au
info@makmax.com.au

Fabric: Mehler FR700 - 10 year UV warranty / white

Ring Beam Size: 75x75mm

Guttering & down pipes: Refer Manufacturers specifications. Connection to stormwater by LCC.

Lighting : Alfresco Shade TRIDONIC 12 Volt LED light Set for Vogue and Freedom Umbrellas

Heating: 2no. x AG2500 2.5 KW Gold Architectural Series, 10 amp Directional Quartz element 1085 mm length

Side Blinds: 75mm thick double laminated PVC supplied by Alfresco Dining

Location of Outdoor Structures

- 1) Large Structures: are located in-between the avenue of trees and the central promenade/ shared roadway.
- 2) Small Structures: are located in-between the trees in two configurations:
 - a) Single structures, in-between the trees and light poles;
 - b) Group of 4 structures, centred between the trees.

Outdoor Dining Along Building Edge

A zone has been identified in front the John Edmondson Club Liverpool for dining; no shade structures are proposed under the awnings in this location.

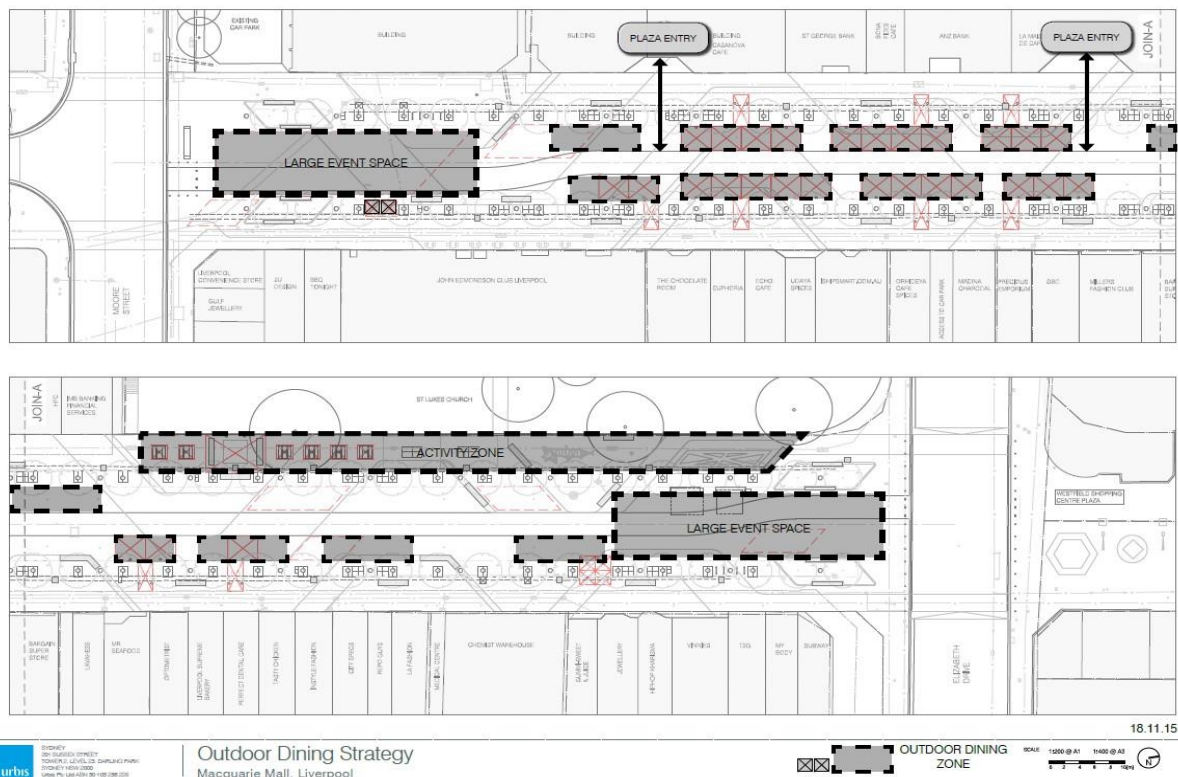


Figure 9 Outdoor dining plan – Macquarie Mall

AUTHORISED BY

Council Resolution

EFFECTIVE FROM

30 March 2022

DEPARTMENT RESPONSIBLE

City Economy
Property and Commercial Development

REVIEW DATE

Every two years from the date of adoption of this policy

VERSIONS

Versions	Amended by	Changes made	Date	TRIM Number
1	Not applicable	Adopted by Council Resolution	14 March 2016	158958.2015
2	Council resolution	Update of photos. Addition of Section 7.3.3c. Addition of Section 7.4 Extension Areas. Addition of Section 7.6 Risk and Safety. Addition of Section 10.2 Site Photographs and Reference Images. Removal of requirement for Statement of Environmental Effects (Section 6.3). Amendment to Section 8.2. Amendment to Section 9.2.	30 March 2022	063483.2022

THIS POLICY HAS BEEN DEVELOPED AND REVIEWED IN CONSULTATION WITH

City Design and Public Domain
Transport Management
Community Development
Governance
Community Standards
Strategic Planning
Environmental Health Services
Infrastructure Planning

REFERENCES

ACT Government: Outdoor Cafe and Vehicle Verge Permits 2013
City of Ryde: Outdoor Dining Policy 2010
City of Melbourne: Outdoor Cafe Guide 2008
City of Newcastle: Outdoor Dining Policy 2011
City of Parramatta: Outdoor Dining Policy 2012

City of Sydney Outdoor Dining Guidelines 2021

Guide Dogs NSW: Community Education Coordinator

NSW Health: "No smoking in commercial outdoor dining areas" Fact Sheet 2015

Planning and Infrastructure NSW: "Footpath Dining and Mobile Food and Drink Outlets" Fact Sheet, 2014

Greater Sydney Commission: Western Parkland City District Plan

[Premises Standards and reviews | Department of Industry, Science, Energy and Resources](#)

The [Disability \(Access to Premises – Buildings\) Standards 2010](#)