

10.5. Amended Outdoor Dining and Goods on Footpath Policy

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ATTACHMENTS	1. Outdoor Dining Goods Display Policy Appendix A Guidelines 2023 Version for Co [10.5.1 - 65 pages] 2. Outdoor Dining and Goods Display on Footpath Policy 2023 version for CI a (1) [10.5.2 - 7 pages]
CSP LINK	2. Our Built Infrastructure 2.1 Infrastructure and assets meet diverse community needs

PURPOSE:

This report outlines proposed amendments to *the Outdoor Dining and Display of Goods on the Footpath Policy* and its accompanying *Guidelines* to ensure alignment with the relevant legislation and Council policies; and seeks endorsement to publicly exhibit the proposed amendments.

EXECUTIVE SUMMARY:

- On 20 December 2013, *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)* was amended and introduced 'Footpath-Outdoor Dining' as an exempt development type, subject to meeting specific criteria within the Policy.
- The amendments to the *Codes SEPP* affect Council's *Outdoor Dining and Display of Goods on the Footpath Policy* and accompanying *Guidelines* as well as *Section 8 - Outdoor Dining and Display of Goods on the Footpath* to Part B of the *North Sydney Development Control Plan (NSDCP) 2013*.
- On 24 February 2020, the Council considered a report to amend its *Outdoor Dining and Display of Goods on the Footpath Policy* and accompanying *Guidelines* in light of the amendments made to the *Codes SEPP*. Council resolved to defer the matter to a Councillor Briefing, to discuss issues pertaining to fees for the use of the footpath.
- Council also considered a separate report on 24 February 2020 outlining draft amendments to *NSDCP 2013*, which included, but was not limited to, amendments to the *NSDCP 2013* to take into account the amendments made to the *Codes SEPP* in relation to outdoor dining. Council resolved to adopt these draft amendments for exhibition and the finalised amendments to *NSDCP 2013* were subsequently made on 24 August 2020 and came into effect on 14 September 2020.

RECOMMENDATION:

1. **THAT** the Council endorses the public exhibition of the amended *Outdoor Dining and Display of Goods on the Footpath Policy* and *Guidelines* for 28 days; and
2. **THAT** the Council notes that a further report will be provided to the Council following the conclusion of the public exhibition period.

Background

The *Outdoor Dining and Goods on Footpath Policy* was originally adopted by Council on 12 May 2008 and was last amended on 25 June 2018.

On 20 December 2013, *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)* was amended and introduced 'Footpath-Outdoor Dining' as an exempt development type, subject to meeting specific criteria within the Policy.

When *North Sydney Local Environmental Plan (NSLEP) 2013* and *North Sydney Development Control Plan (NSDCP) 2013* were first made, they permitted 'outdoor dining' and 'display of goods' on a public footpath to be undertaken as exempt development subject to meeting certain criteria, or otherwise required obtaining development consent. The principal difference between the ability to undertake "outdoor dining" or "display of goods" as exempt development or with Development Consent related to the size of the footpath to be used.

Section 8 to Part B of *NSDCP 2013* relates to "*Outdoor Dining and Display of Goods on the Footpath*" and must be read in conjunction with the *Codes SEPP* and Council's *Outdoor Dining and Goods on Footpath Policy* to maintain consistency between the two documents.

The amendments to the *Codes SEPP* in 2013 significantly increased the opportunities when outdoor dining activities could be undertaken as exempt development thereby removing the need to obtain development consent.

The *Code SEPP* identifies the circumstances when **outdoor dining** can be undertaken on footpaths without development consent (i.e. it meets all thresholds to be deemed "exempt development"). On 30 June 2021, Amendment No.30 to NSLEP 2013 was made, which amongst other things removed "outdoor dining" as an exempt development category type, due to the *Codes SEPP* taking precedence over the LEP's role. NSLEP 2013 continues to identify the circumstances when **the display of goods** can be undertaken on footpaths without development consent (i.e., it meets all thresholds to be deemed 'exempt' development).

On 24 February 2020, Council considered a report to amend its *Outdoor Dining and Display of Goods on the Footpath Policy* and accompanying *Guidelines* in light of the amendments made to the *Codes SEPP*, however Council resolved to defer the matter to a Councillor Briefing.

The primary purpose of deferring the matter was to specifically address issues associated with the fees imposed with regards to outdoor dining.

A separate briefing in accordance with the resolution was not held as the issue of fees was addressed as part of the Council's annual setting of the fees and charges schedule, occurring concurrently at the time.

Council also considered a separate report on 24 February 2020 outlining draft amendments to NSDCP 2013 which included, but was not limited to, amendments to Section 8 to Part B of NSDCP 2013, to take into account amendments made to the Codes SEPP in relation to outdoor dining. The amendments to NSDCP 2013 were subsequently made on 24 August 2020 and came into effect on 14 September 2020.

On 10 July 2023, Council considered a report (Item 10.5) addressing the prospect of allowing small coffee carts in Council controlled outdoor dining spaces. Council subsequently resolved:

1. THAT Council does not approve the proposal for coffee carts to operate as “other footpath trading activities” as stated in accordance with Clause 1.1(b) of Council’s Outdoor Dining and Goods on Footpath Policy.

2. THAT Council update the Policy and Guidelines to exclude coffee carts in Outdoor Dining areas.

Report

The primary purpose of the proposed amendments to the *Outdoor Dining and Display of Goods on the Footpath Policy* is to maintain a clear, correct, and consistent approval process.

This Policy is accompanied by the *Outdoor Dining and Display of Goods on the Footpath Guidelines* which should be read in conjunction with the following legislative planning policies:

- *State Environmental Planning Policy (Exempt & Complying Development Code) 2008 (Codes SEPP);*
- *North Sydney Local Environmental Plan (NSLEP) 2013; and*
- *North Sydney Development Control Plan (NSDCP) 2013*

As NSLEP 2013 and NSDCP 2013 have been updated to reflect the current approval process, it is important that the *Outdoor Dining and Display of Goods on the Footpath Policy* and its accompanying Guidelines also be updated.

1. Key Amendments

The key updates to the *Outdoor Dining and Display of Goods on the Footpath Policy* and *Outdoor Dining and Display of Goods on the Footpath Guidelines* are to ensure alignment with the Codes SEPP, NSLEP 2013, and NSDCP, and to reinforce Council’s policy decision to not permit food carts in the public domain.

The key amendments within the Policy and Guidelines are outlined as follows:

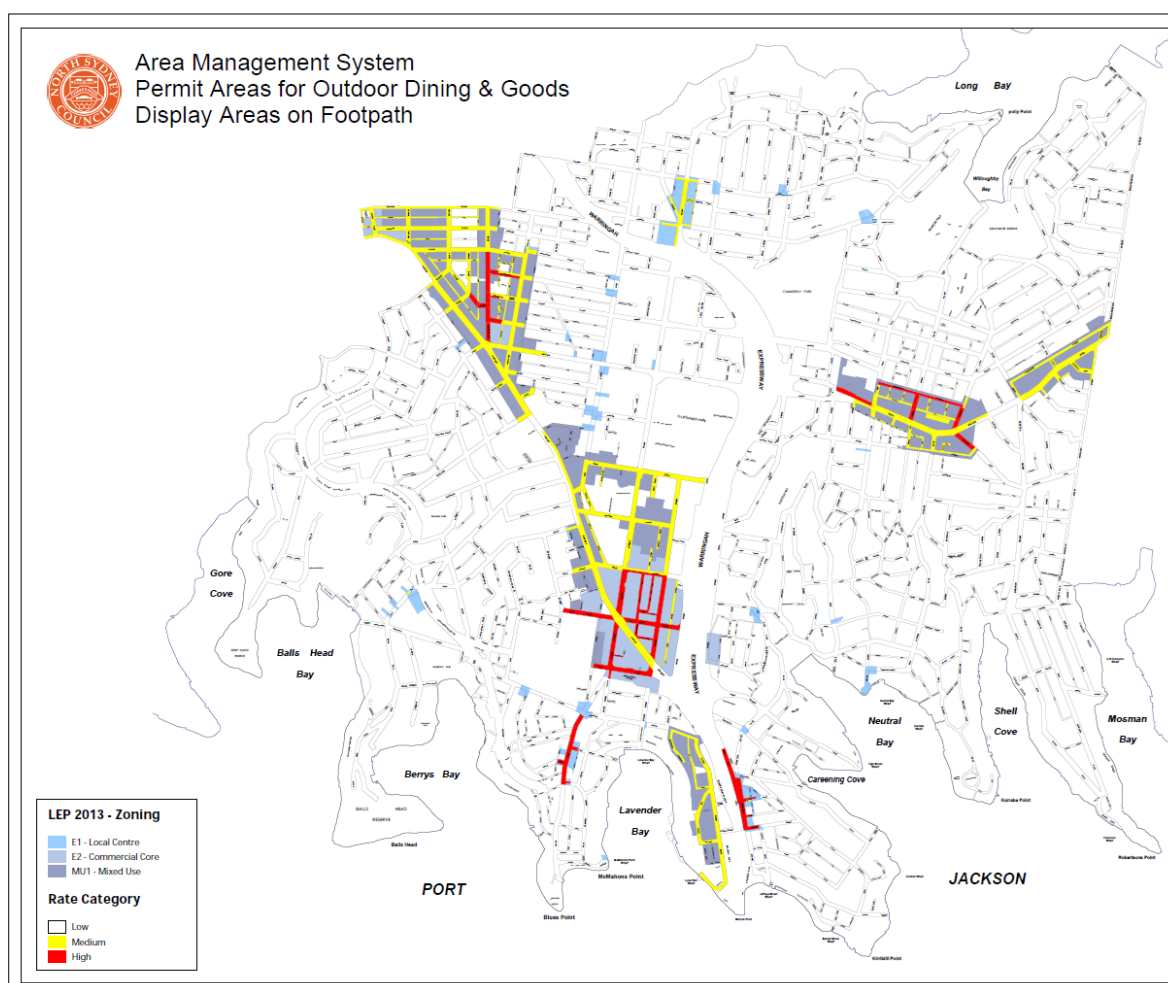
- updating of the approval process;
- correcting of spelling and grammatical errors;
- correction of the legislated terms in relation to outdoor dining and goods display;
- reflect recent changes to the business and industrial zone names used under NSLEP 2013;
- minor formatting issues to ensure consistency throughout the documents;
- minor amendments to the character statements within the Guidelines to reflect the

- current and future local context;
- replacement of negative connotations within the Guidelines that do not promote the uptake of outdoor dining;
- re-incorporation of missing diagrams within Schedule 5;
- revision of the Area Management map to correct the zone names and colours under NSLEP 2013;
- incorporation of updated images; and
- incorporation of provisions to provide compensation to Café operators who are affected by Council works on footpaths.

Outdoor Dining & Goods Display areas on Footpath Management Map

The map below illustrates the extent of the relevant employment zones under NSLEP 2013 where premises that undertake outdoor dining and goods display may be permitted, and areas subject to low, medium, and high-density of footpath use. [A larger version of this map is available for viewing on Council's website.](#)

As part of the proposed amendments to the Policy, it is not proposed to change the extent of the areas currently categorised as low, medium, or high rated areas for Outdoor Dining and Display of Goods areas on footpaths. Only the zone references have been updated to reflect those implemented in December 2022 which came into effect in April 2023.



Consultation Requirements

It is proposed to place the amended Outdoor Dining and Display of Goods on the Footpath Policy and Guidelines on public exhibition for 28 days, in accordance with Council's Community Engagement Protocol.

Financial/Resource Implications

Progressing, exhibition, and finalising the amendments to the Policy and Guidelines in the manner proposed will be managed within existing operational budgets.

Legislation

The following legislation was considered and applied in the preparation of this report:

- *Environmental Planning and Assessment Act 1979 and accompanying Regulations 2021;*
- *Local Government Act 1993 and accompanying Regulations 2021; and*
- *Roads Act 1993 and accompanying Regulations 2018.*

GUIDELINES

Outdoor Dining and Goods Display on Footpaths



Updated: January 2020
Adopted by Council: ... 2023

Contents

1. INTRODUCTION.....	3
1.1. BACKGROUND	3
1.2. LAND TO WHICH THIS POLICY APPLIES	3
1.3. RELATIONSHIP TO OTHER POLICIES AND CONTROLS.....	4
1.4. ACTIVITIES CONTROLLED BY THESE GUIDELINES AND POLICY.....	5
1.5. POLICY OBJECTIVES	6
1.6. COUNCIL DETERMINATION OF A PERMIT	6
1.7. USING A PROFESSIONAL ADVISER	6
2. PERMIT APPLICATION PROCEDURE.....	8
3. DESIGN APPROACH	10
3.1. THE “OUTDOOR ROOM”	10
3.2. OUTDOOR DINING LOCATIONAL RESTRICTIONS	13
3.3. ENVIRONMENTAL CRITERIA.....	13
4. FURNITURE CRITERIA.....	15
4.1. GENERALLY.....	15
4.2. SCREENS AND PLANTERS.....	15
4.3. TEMPORARY SCREENS OR BARRIERS.....	15
4.4. PLANTER BOXES	15
4.5. HEATERS.....	16
4.6. TABLES AND CHAIRS	16
4.7. UMBRELLAS	17
4.8. RETRACTABLE CANOPIES	17
4.9. CLEAR PLASTIC DROP DOWN SCREENS.....	18
4.10. DISPLAY STANDS.....	18
5. MAINTENANCE OF FURNITURE.....	19
6. REFERENCES AND ACKNOWLEDGEMENTS	20
SCHEDULE 1 LOCALITY CHARACTER STATEMENTS.....	21
SCHEDULE 2 EXISTING CONDITIONS PLAN REQUIREMENTS	45
SCHEDULE 3 SETBACK AND SIGHTLINES CRITERIA	46
SCHEDULE 4 LAYOUT CRITERIA	50
SCHEDULE 5 FURNITURE EXAMPLES.....	53
SCHEDULE 6 LOGOS	59
SCHEDULE 7 PERMIT PLAN REQUIREMENTS.....	60
SCHEDULE 8 OPERATIONS PLAN REQUIREMENTS.....	61
SCHEDULE 9 INDEMNITY AND PUBLIC LIABILITY INSURANCE	62
SCHEDULE 10 LANDOWNER’S CONSENT.....	63
SCHEDULE 11 EXEMPT DEVELOPMENT.....	64

1. Introduction

1.1. Background

The use of footpaths for outdoor dining and goods display has become a feature of places in metropolitan Sydney taking advantage of its mild climate and resulting in an enlivening of streets and public areas. This increases the amenity of the public spaces, provides casual surveillance and assists business prosperity.

Cafés are being used as surrogate business meeting rooms where professional people are seen carrying out their work and having meetings in cafés. Like their predecessors in Europe, cafés often provide a refreshing extension of the office or home environment and provide a welcome change of venue during a long day. The break in environment or a stimulating walk to meet a friend for a coffee or to chat with business associates may increase productivity by way of enabling a better quality of life for residents and improve the working environment.

With careful consideration given to design, sensitivity to local characteristics, amenity of residential areas as well as safety, these benefits can extend to other localities within the North Sydney Local Government Area (LGA), as well as for other ancillary business activities on road reserves including the display of goods for sale.

1.2. Land to which this Policy applies

This Policy applies to all land within in the North Sydney LGA to which North Sydney Local Environmental Plan (NSLEP) 2013 applies and where “business premises”, “office premises” or “retail premises” (or their sub-landuse terms) are permissible with development consent. In particular, these land use activities are principally permitted in the *E1 Local Centre*, *E2 Commercial Centre* and *MU1 Mixed Use* zones under NSLEP 2013. However, these land activities or their sub landuse terms may also be permitted in the *R3 Medium Density Residential*, *R4 High Density Residential*, *E3 Productivity Support*, *W4 Working Waterfront*, *RE1 Public Recreation* or *SP2 Infrastructure (Classified Road)* zones.

Both outdoor dining and goods display comprises an ancillary activity to “business premises”, “office premises” or “retail premises” (or their sub-landuse terms) as defined under NSLEP 2013.

The following represents the main localities in the LGA that are relevant to this Policy. Their characteristics and objectives in relation to outdoor dining and goods display are described in *Schedule 1 – Locality Character Statements*:

- North Sydney Central Business District
- North Sydney Civic Neighbourhood
- St Leonards Town Centre
- Crows Nest Town Centre
- Cammeray Village Neighbourhood
- Kirribilli Village
- Blues Point Village
- Milsons Point Town Centre
- Neutral Bay Town Centre
- Cremorne Town Centre
- Waverton Village Centre

See Figure 1 identification of the above localities.

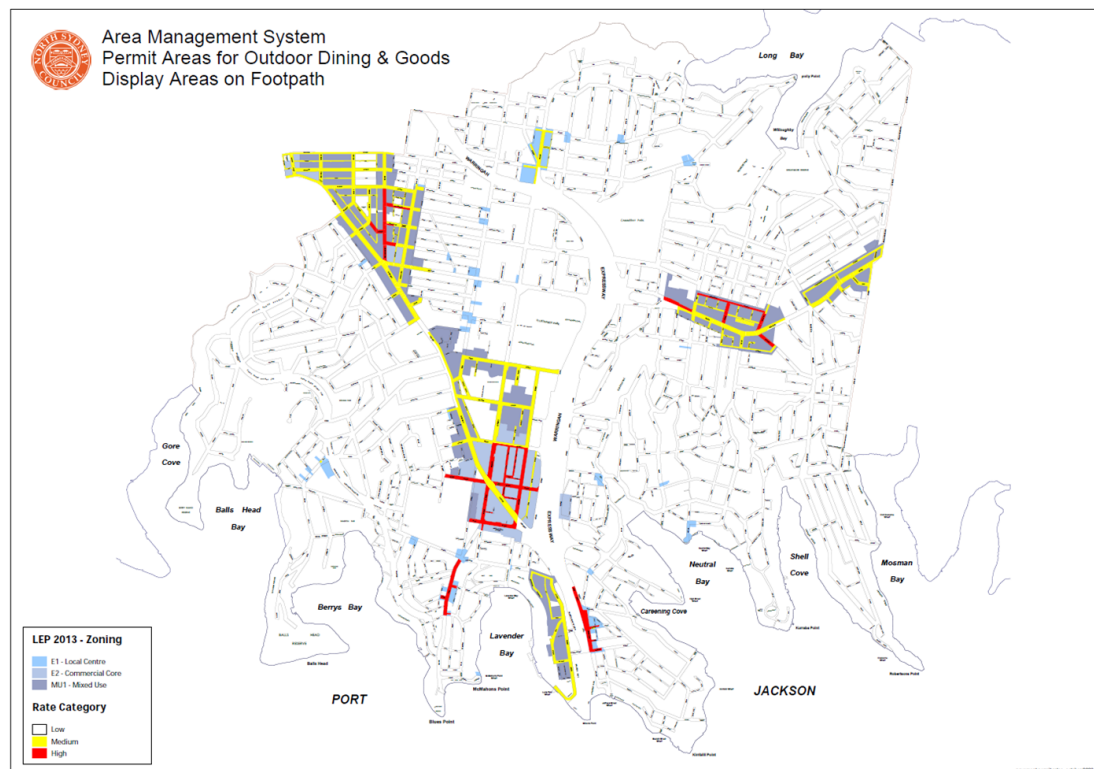


Figure 1 Localities Map

1.3. Relationship to other policies and controls

These Guidelines (and the accompanying Policy) should be read in conjunction with the following legislative planning policies:

- *State Environmental Planning Policy (Exempt & Complying Development Code) 2008* (Codes SEPP);
- North Sydney Local Environmental Plan 2013; and
- North Sydney Development Control Plan 2013.

The Codes SEPP identifies the circumstances when outdoor dining can be undertaken on footpaths without development consent (i.e. it meets all thresholds to be deemed “exempt development”). NSLEP 2013 identifies the circumstances when the display of goods can be undertaken on footpaths without development consent (i.e. it meets all thresholds to be deemed “exempt development”).

Where a proposal is not capable of meeting the relevant criteria to be “exempt development”, a development application will need to be lodged to seek development consent to use the footpath for either outdoor dining or goods display. Council should be consulted prior to the lodgement of any application to ensure that the proposal is both permissible and to determine the appropriate approval process (i.e. applying for a Permit Application, Development Application or both).

Outdoor Dining and Goods Display on Footpaths Guidelines

Page 5 of 65

Where Council is the landowner (e.g. public footpaths) an application for a Permit (under the *Roads Act 1993*) must be submitted to Council and no works or outdoor dining use can take place until such time as Council has issued a Permit. This Permit is in addition to any requirement to obtain development consent from Council, if required.

These Guidelines and Policy are subject to the provisions of:

- *Environmental Planning and Assessment Act 1979*;
- *Roads Act 1993*;
- *Liquor Act 2007*;
- *Local Government Act 1993*; and
- *Building Code of Australia*

1.4. Activities controlled by these Guidelines and Policy

Includes:

- Outdoor dining associated with an existing or approved “food and drink premises” as defined under NSLEP 2013 (or a development application lodged concurrently for a “food and drink premises”, where such a land use is permissible with development consent) located on land owned by the Council, comprising a “road” to which the *Roads Act 1993* applies, or land under the care control and management of the Council and where outdoor dining is not inconsistent with any relevant Plan of Management.
- Outdoor dining incorporates the serving of food and/or drink in the public domain and any associated furniture such as seating, tables, barriers, planters, umbrellas, heaters and the like. It does not include the preparation of food and or drink in the public domain.
- Outdoor display of goods associated with an existing or approved “business premises”, “office premises” or “retail premises” as defined under NSLEP 2013 (or a development application lodged concurrently for a “business premises”, “office premises” or “retail premises”, where such land uses are permissible with development consent), located on land owned by the Council, comprising a “road” to which the *Roads Act 1993* applies, or land under the care control and management of the Council and where outdoor display of goods is not inconsistent with any relevant Plan of Management.
- Items and temporary structures, including umbrellas, protective blinds or coverings, heaters (fixed and portable), temporary or removable barriers (screens), safety railings, planters, paving, display racks, tables and chairs associated with either outdoor dining or the display of goods.
- Equipment and structures used for the preparation of food and/or beverages within the public domain are not permitted (e.g. food carts, coffee carts, hotdog carts and the like). An exemption to this requirement may be permitted, but only in relation to the running of a temporary event.
- Use of “A-frame” or “sandwich boards” for advertising of commercial premises on public land is not permitted. An exemption to this requirement may be permitted, but only in relation to the advertising of a temporary event.
- Other outdoor dining or goods display areas, located on any land contiguous with a road or footpath, such as within an adjacent colonnade, building undercroft or plaza area on private land, that relates to a public road or to other public space, despite whether a permit under the *Roads Act 1993* is required or not, but development consent also is required.
- Outdoor dining associated with “licensed premises” as defined under the *Liquor Act 2007*. Where it is intended to serve alcohol, a license may also be required to be issued by the

Outdoor Dining and Goods Display on Footpaths Guidelines

Page 6 of 65

relevant authority under the *Liquor Act 2007*. Note that Council may oppose the granting of such a license in certain circumstances.

As indicated in Section 1.3 to this Policy, prior to the use of any footpath for outdoor dining or goods display purposes, it needs to be determined whether development consent is required from Council to undertake the activity. Where development consent is required, the applicant must lodge a development application with Council. However, a development application may not be required where that activity satisfies the relevant exempt development provisions under the Codes SEPP or NSLEP 2013. Despite if development consent is required or not, a Permit will need to be obtained from Council, if the activity is proposed on a “road” as defined under the *Roads Act 1993*.

It should be noted that, that whilst the exempt development provisions of the Codes SEPP may result in an increase in overall seating capacity associated with an approved “food and drink” premises, the Council approval (i.e. a development consent) for the “food and drink premises” may contain a condition which caps the maximum number of patrons the premises can serve. Therefore, development consent may be required to be obtained to increase the total capacity of patrons on the site and adjoining outdoor dining area to match the total number of seats.

1.5. Policy objectives

The aim of these Guidelines and Policy is to control outdoor dining and goods display activities on Council footpaths and on other land that is contiguous with public land (such as colonnades, plazas and undercrofts of buildings over private land) in the North Sydney LGA.

The objectives are to:

- emphasise the need for **high quality of design** while allowing for flexibility in design and appearance to better relate to the individual character of different localities and development;
- **maintain a safe environment** for pedestrians and outdoor dining patrons;
- **avoid disruption to pedestrian movement** in thoroughfares and to other legitimate street activities;
- ensure that outdoor dining and goods display areas are **compatible with the amenity of surrounding predominant land uses**, especially residential uses; and
- **provide general performance criteria and standards as well as locality specific objectives** for outdoor dining and goods display areas to be addressed in applications for permits and development consents.

1.6. Council determination of a Permit

In determining whether to approve a Permit Application, the decision of the Council is final. In some circumstances the Council may grant a **trial period** of up to 12 months to help determine a location’s suitability for an outdoor dining or goods display area. Following the trial period, Council may vary the design, operations and/or conditions of an approved permit on renewal (or to revoke the permit if it is deemed by Council to be an unsuitable site).

As well as determining a development application, if required, the Council may also impose appropriate conditions under any development consent granted in satisfaction of a development application. In most circumstances a permit application and a development application can be determined concurrently.

1.7. Using a professional adviser

It is recommended that a professionally qualified person prepares a permit application (or development application) for outdoor dining. Architects can be found through the Royal Australian Institute of Architects. Other appropriate professions include town planners and urban designers.

Using the services of a professional designer will help to:

- obtain a better result,
- conserve your time for your business,
- ensure faster processing of your application by using a professional accustomed to approvals requirements. The submission is more likely to be complete and therefore processed efficiently.

2. Permit Application Procedure

Follow the procedure to ensure your application for outdoor dining/display of goods can be processed efficiently.

Applicant	Checklist	Council
<input type="checkbox"/>	1. Obtain and complete a Permit Application Form to establish an outdoor dining or goods display area in a public place from Council's website.	<input type="checkbox"/>
<input type="checkbox"/>	2. Provide a copy of a current development consent for the primary use as a "food or drink premises", business premises", "office premises" or "retail premises" or a sub land use term to these definitions. Refer to Schedule 11* for Exempt and Complying Development provisions. Note that a development application may be concurrently processed if required.	<input type="checkbox"/>
<input type="checkbox"/>	3. Consider the Character Statement of the locality where you want to undertake outdoor dining or goods display. See Schedule 1*. Consider how your outdoor dining or goods display area can contribute to the existing and planned context and help to achieve the objectives of the Character Statement.	<input type="checkbox"/>
<input type="checkbox"/>	4. Check the Heritage Map to NSLEP 2013 to see if there are Heritage Items nearby or whether the proposal is located within a Heritage Conservation Area . If relevant, provide a brief written statement describing how the proposal addresses any potential heritage issues.	<input type="checkbox"/>
<input type="checkbox"/>	5. Provide an Existing Conditions Plan at scale 1:100 or 1:50 and photographs of the existing conditions. See Schedule 2* for the requirements. Identify by reference to the development consent the current approved seating layout of any existing premises that is related to the proposal.	<input type="checkbox"/>
<input type="checkbox"/>	6. Identify your proposed area using the Setbacks and Sightlines information in Schedule 3*.	<input type="checkbox"/>
<input type="checkbox"/>	7. Using the Layout Diagrams in Schedule 4 work out the table and seating layouts.	<input type="checkbox"/>
<input type="checkbox"/>	8. Consider the advice in Section 4 " Design approach " for information and guidance.	<input type="checkbox"/>
<input type="checkbox"/>	9. Review the outdoor furniture examples at Schedule 5* and identify existing furniture presently being used in the locality in order to make your selections appropriate to your purpose and the local context. Apply the sizes of selected furniture to the Permit Plan to make sure they fit and can be used in accordance with the manufacturer's requirements. Provide specifications or advice from	<input type="checkbox"/>

Outdoor Dining and Goods Display on Footpaths Guidelines

Page 9 of 65

Applicant	Checklist	Council
	the manufacturer that confirms the items are “commercial grade” and are suitable for their intended purpose.	
<input type="checkbox"/>	10. For Logo artwork and locations see Schedule 6*.	<input type="checkbox"/>
<input type="checkbox"/>	11. Provide a Permit Application Plan in accordance with the requirements in Schedule 7*.	<input type="checkbox"/>
<input type="checkbox"/>	12. Provide an Operations Plan. See Schedule 8 requirements.	<input type="checkbox"/>
<input type="checkbox"/>	13. Indemnity and Public Liability Insurance. Provide certificate of Currency of Public Liability Insurance. See Schedule 9* for required insurance and an example certificate. See Application form for Indemnity Statement.	<input type="checkbox"/>
<input type="checkbox"/>	14. Provide landowner’s consent where part or all of the land is not owned by Council. Consent may be by a letter from the landowner or completion of the form in Schedule 10* with the landowner’s signature.	<input type="checkbox"/>
<input type="checkbox"/>	15. Finally, check that all information required in the above steps is included with your Permit Application and lodge with Council.	<input type="checkbox"/>

* The term “Schedule” within the Table above refers to a Schedule within these Guidelines.

3. Design Approach

3.1. The “outdoor room”

This section is to encourage and inspire high quality design of an outdoor dining area. When designing outdoor dining areas, you are essentially designing an **outdoor room**. It is not a conventional room with hard walls and ceiling but is defined by delineation devices such as:

- **‘A roof or ceiling’**

Shelter is best provided by a combination of the following:

- verandahs
- awnings
- umbrellas
- shade tree canopy (tree canopies can be quite high)

North Sydney is fortunate to have a legacy of mature plane trees which are a highly successful urban tree and provide an excellent canopy for outdoor dining. To delineate a space, the layering of devices such as street tree canopies, awnings and umbrellas is ideal, as the comfort conditions for people seated in outdoor dining areas is increased. Layering of various means of delineation, especially the “roof/ceiling” or canopy creates a softer sense of enclosure which is pleasant and yet allows the experience of the outdoors. It also provides effective year round weather protection.

- **‘Walls’**

‘Walls’ are mostly imaginary with some discrete form of definition (such as a planter, short screen and canopy edge) and transparent. The definition around the edge of an outdoor dining area can provide protection from traffic (for example, the substantial planter boxes around the outdoor dining areas in the Crows Nest Town Centre). These “walls” require an “open” quality so that there can be casual visual interaction in the public domain. This enables the important social function of people being able to interact with the wider community.

- **‘Floors’**

The “floor” is the Council paving and paving on private land. Paving for outdoor dining areas should be:

1. Fully vitrified or dense stone, preferably granite, for easy cleaning;
2. Anti-slip for safety;
3. A dark colour so as to not show dirt;
4. Large size pavers in order to suit the scale of public spaces and for less joints which means easier cleaning and better comfort for people in wheelchairs due to less wheel vibration; and
5. Consistent with any relevant Public Domain Strategy and Public Domain Style Manual.

Cement joints are porous and difficult to clean especially of grease or contaminants like chewing gum. Therefore, it is preferable to minimise the number of joints and the width of joints.

All of the above requirements for paving are especially important where the serving of food is involved. Inevitably food and drink are spilled and the performance requirement for the

paving material that takes priority over most other considerations is the ease of cleaning and the reinstatement of a presentable surface for pedestrian safety and amenity of the public domain.

In certain localities (see Schedule 1) Council may consider the erection of a second floor over the Council paving, such as a floating timber deck, to accommodate level outdoor dining areas.

- **Edge design of private developments**

Outdoor dining areas are usually positioned along the edges of buildings and streets so they have exposure to views and passing activity and as such are the most desired and valuable space for a business when conditions are good. It is for this reason that the shape of outdoor dining areas is often a long thin rectangle.

The edges of these areas are sought out by patrons when conditions are favourable. Therefore, the edges need to be flexible and adaptable to increase the amount of time that the valuable edge is in optimal conditions (for example, extendable awnings). Some businesses invest in flexible, transparent, plastic, roll-down/zip-up screens/walls which are used extensively during cold inclement conditions.

The plan shape of an outdoor room for dining can often be a long thin rectangle because of edge conditions. This shape is usually optimal as most patrons then have a front row seat. When designing outdoor dining areas an important objective is to give patrons a prime position. Deep or large spaces can benefit from a slight change in level to increase the number of clear views and break up the mass of seating to prevent some dining areas from being overly enclosed.

By using the above techniques, specific uses have visually defined areas.



Figure 2 Prime position seating Kirribilli

The following examples show how these techniques can work well:

- Woolloomooloo Wharf

Patrons can sit in cafés and restaurants close to people walking by on the promenade. Most diners are comfortable because the promenade and outdoor dining areas are clearly defined



Figure 3 Woolloomooloo Wharf

- Cours Mirabeau, Aix en Provence, France

France, the home of cafés, is the place to find the archetypal best. In Cours Mirabeau the aged plane trees form a cathedral like roof between 10 and 20 metres above the street. The tree canopy formed by 2 rows of trees fills the upper reaches of the boulevard space between the 5 storey buildings on either side of the main shopping street, Cours Mirabeau. Cafés nestle on the street below where further devices of awnings and umbrellas intensify the depth of shadow on a hot summer's day. The whole boulevard forms a massive outdoor room in the cavity of the street within which there is a row of cafés with their additional defining devices.



Figure 4 Cours Mirabeau (France)

- Blues Point Road, North Sydney

Is a smaller intimate scale where the incidental and effective layering of tree canopies, awnings and umbrellas is used to optimal effect.



Figure 5 Blues Point Road

3.2. Outdoor dining locational restrictions

The convenience for pedestrian movement will take priority and further restrictions may be imposed by Council on the location of outdoor dining areas. Such restrictions may be in siting, layout and time of use. For example, locations adjacent traffic clearways are particularly problematic as described below.

Adjacent traffic clearways

Non-complying outdoor dining areas are discouraged in potentially hazardous places. These are generally roads with high traffic volumes that are affected by clearway restrictions (for example, Pacific Highway and Military Road). The level of amenity on these roads is generally poor during the clearway period.

Outdoor dining areas directly adjacent to the premise's street walls can be permitted during clearway times provided the minimum setbacks are complied with for heavily trafficked roads or suitable safety devices are installed. At other times (outside clearway restriction periods) the circumstances of each case will be considered on their merits and subject to compliance with the setback and other provisions of this policy.

3.3. Environmental Criteria

There are a number of related environmental goals that should be considered in formulating a suitable proposal:

Outdoor Dining and Goods Display on Footpaths Guidelines

Page 14 of 65

Noise - Minimise unnecessary noise generation, especially to nearby residential development. Avoid any external live or recorded entertainment such as music and broadcasts.

Lighting - Ensure that adequate lighting is available to provide for existing pedestrians using the footpath as well as providing for the safety and comfort of patrons. Avoid “light spill” that may disturb neighbouring shops or cause impacts to residences.

Solar Access - Choose a location that has good access to daylight. Avoid any unreasonable loss of sunlight access to public places such as parks, other adjoining outdoor dining areas or residences during the winter months.

Weather protection - Provide for weather protection for patrons. Canopies, umbrellas, heaters and other techniques and infrastructure may be appropriate during different times of the year as generally described in Chapter 4.

Safety - Ensure that the safety of patrons and pedestrians and other roadway users remains the paramount consideration. Avoid any potential screening of advisory or other road regulatory safety signs or signals.

Equity - Consider the neighbouring properties when locating outdoor furniture so that window displays are not unduly screened, or business identification is made difficult for pedestrian passers-by or road users.

4. Furniture criteria

4.1. Generally

Generally, all structures to be used in conjunction with an outdoor dining or goods display area are to be used in the manner for which they were designed and manufactured.

Schedule 5 provides examples of outdoor furniture which are of a suitable standard and type under this Policy.

Details from the manufacturer (i.e. technical specifications) demonstrating the furniture items are commercial grade and suitable for public outdoor use are to be provided with your permit application (see Schedule 7)

The following standards and performance criteria apply to all outdoor furniture and goods display and are subject to Council approval prior to installation.

- All furniture must be installed and maintained in accordance with the manufacturer's specifications;
- All furniture must be kept in safe working order at all times;
- All furniture must be routinely cleaned and service to ensure that their presentation does not aesthetically detract from the streetscape character or public domain.
- Use of "A-frame" or "sandwich boards" are not permitted. Advertising however, may be incorporated onto permitted temporary street furniture as outlined in these Guidelines.

4.2. Screens and planters

- Screens and planters shall be uniform in appearance for the premises that they serve, where there is more than one screen, or one planter proposed.
- Moveable planters and screens must be removed from the footpath and stored inside the premises at the cessation of trading or at the time allowed under the permit, whichever is the sooner.
- Council may accept (or require) that some safety screens or planters are fixed in place as a permanent fixture associated with a permit, for safety (or aesthetic) reasons.

4.3. Temporary screens or barriers

- The design height of a temporary screen is to be 900mm. Screens that are located on sloping sites may be "levelled" off by use of an adjustable telescopic foot or similar.
- The length of a screen is to be 1.2 metres maximum. Where two or more screens are joined, they should be joined with a common lift off pedestal foot, not roped or chained together.

Outdoor Dining and Goods Display on Footpaths Guidelines

Page 16 of 65

- A temporary screen is to be manufactured from stainless steel, powder coated or painted metal with fabric or vinyl insert either bonded or laced to the metal frame. Temporary glass/perspex inserts or plastic frames are not permitted.
- Refer to Schedule 6 for logo criteria.

Refer to Schedule 5 suitable examples of temporary screens and barriers.

4.4. Planter boxes

- Non-permanent planter boxes are to be capable of being moved from the footpath to overnight storage by one person.
- Non-permanent planter boxes are not to be longer than 1.2 metres in length nor more than 0.8 metre in height (excluding plants).
- Planter boxes are to be stable and safe (to avoid being knocked down by people or the wind)
- Plants in planters are to be either hardy pot species or in season flowering varieties (which are changed when not in season).

Refer to Schedule 5 for suitable examples of planters.

Note that permanent fixed planters may only be installed with the consent of Council.

4.5. Heaters

- Heaters are to be compliant with the relevant gas association standards or electrical authority requirements. Electric heaters must comply with Australian Standards and the circuit be fitted with earth leakage shut off safety devices.
- Gas heaters must incorporate an integrated gas bottle and must be fitted with a compliant (in service date) gas bottle with a safety shut off valve (in case of tipping over).
- Heaters are to be removable and not to be permanently fixed. They must be removed from the footpath and stored inside the premises when seating and other temporary structures are removed, at the cessation of trading or at the time stipulated on the permit, whichever is the sooner.
- Heaters shall be used in accordance with the manufacturer's instructions and placed clear of all combustible materials and are not to be placed under a fabric umbrella or a fixed canopy unless there is a clear distance of 0.5m (or the manufacturer's specified distance, whichever is the greater) above and to the sides of the heater or within 800mm of any kerb (measured from the edge of the heater canopy reflector).
- Table top heaters are not permitted.

4.6. Tables and chairs

- Chairs are not to be arranged so that seated patrons have their backs to the kerb unless there is a minimum free space of 1.2 metres between the chair and the kerb for pedestrians or a fixed safety screen located between the chair and the kerb. On busy roads Council may require the installation of a permanent screen or fixed (anchored but removable) safety screen.
- Tables and chairs are to be removed from the footpath and stored within the premises at the cessation of trading or at the time stipulated in the permit, whichever is the sooner.
- Tables and chairs are to be maintained in a serviceable condition.
- Where Council deems it appropriate integrated bench table(s) and seats may remain in place overnight but are to be fitted with an anchoring device to the building or to the ground (as circumstances dictate and as required by the permit conditions).

4.7. Umbrellas

- Moveable umbrellas are to be secured by a stabiliser foot or other restraining device to avoid wind instability. Council may require that an anchoring system be installed.
- Umbrellas are to maintain a minimum distance of 600mm between any of their edges and the kerb. Umbrellas may overhang the edges of outdoor dining areas in other cases (to achieve appropriate weather protection).
- The umbrella fabric shall have a minimum UV rating of 50 and be waterproof (i.e. made with a hydrophobic material or a material treated with a proprietary brand waterproofing/hydrophobic agent).
- Colours used in umbrella fabrics are to be the same for an outlet. If there is an existing predominant local character colour scheme, then this needs to be taken into consideration.
- Umbrellas incorporating logos are to comply with the criteria Schedule 6 Logos.
- Umbrellas may incorporate clear plastic roll down weather screens, where these are permitted, and installed in accordance with the requirements of the umbrella manufacturer. Such screens may only be used during inclement weather.
- Gutters may be installed between adjacent umbrellas to collect rain runoff and provide continuous cover.

4.8. Retractable canopies

- Canopies incorporating logos are to comply with the criteria Schedule 6 Logos.
- Roll out/retractable type canopies are to be fitted and operated in accordance with the manufacturer's specifications and be commercial grade.
- Any motorised retractable canopy is to be capable of being manually retracted.

- Any retractable canopy is to be capable of being fully retracted in under 10 minutes (otherwise it would be deemed a permanent structure and require development consent). Council may require a wind assessment to be carried out if it considers that a site is unsuitable for a retractable canopy.
- The canopy fabric shall have a minimum UV rating of 50 and be waterproof (i.e. made with a hydrophobic material or a material treated with a waterproofing/hydrophobic agent).
- The retraction of canopies during windy conditions is to be carried out in accordance with the manufacturer's recommendations (note that it must have a manual or automatic retraction system although it is essential to also be able to retract manually). Automated retraction control is not to be overridden. Canopies are to be retracted whenever the premises are closed or unattended.
- Anchoring of canopies to pavements or other objects in the footpath is to be avoided. Council may consider an anchoring system at its discretion and may require submission of a written advice and justification by an accredited wind consultant.
- Roll down clear transparent weather screens may be installed at the sides of canopies - not to the front of canopies. Roll down weather screens shall only be used during inclement or windy weather conditions. (see 4.9 below).
- Colours used in canopy fabrics are to be the same for an outlet unless there is an existing local character colour scheme.

4.9. Clear plastic drop down screens

- Are to be replaced if torn or damaged.
- Are to be maintained in a clean and clear condition.
- Are to be used only during inclement weather (to avoid rain, cold or wind) around outdoor dining areas.
- are to be rolled or stored in a manner that does not interfere with the public way.

4.10. Display stands

- Display stands (i.e. tables, menu boards, racks, shelves, boxes and frames) are to be removed from the footpath and stored inside the premises at the cessation of trading or at the times allowed under the permit, whichever is the sooner.
- Display items are to be fitted with a stabiliser foot or locking wheels/rollers. On sloping sites, a tether may be required.
- Display tables are to incorporate weatherproof fitted covers for covering during short periods of inclement weather. If goods are to be stored beneath, they are to be stored on storage shelves or drawers integrated into the table and not on the ground. If materials are to be stored under the table on shelves the table is to be fitted with a skirt to screen the storage areas.

Outdoor Dining and Goods Display on Footpaths Guidelines

Page 19 of 65

- Mobile trolley tables are to have at least two wheels to be “locked” to prevent movement. Sturdy metal or timber construction with wheels is needed for ease of movement.

5. Maintenance of furniture

It is not the intention of this policy to identify all maintenance criteria which should apply to the items that are permitted to be located within the permit area. However, applicants and permit holders are reminded that their minimum obligation under the permit is to maintain all items in good order and repair for their safe use by patrons as well as for general public safety and aesthetic reasons.

Visible signs of wear and tear should be checked regularly by the permit holder or staff for the serviceability of the item. Items found to be in need of repair or replacement, are to be removed and stored away from areas of potential use and public view (i.e. not stacked nearby or left within the permit area).

Council may require removal of any item which is non-complying, unserviceable or unsafe.

The following list is a guide to maintenance of items and that involve regular inspections.

- Abnormal cracks or signs of fatigue, especially in chairs;
- Hazardous projections or broken pieces that provide a sharp object;
- Loose joints, cracked or broken welds, loose screws or rivets;
- Broken legs or posts in tables, chairs and market umbrellas that provide instability of the item;
- Torn fabric in screens, canopies and umbrellas;
- Weak, worn or damaged anchoring systems for canopies or umbrellas;
- Delamination of laminated materials;
- Missing, worn or broken chair leg-end protectors;
- Rotted or warped timber (including poor aesthetic appearance);
- Unserviceable brittle plastics, polypropylene items or fittings; and
- Other items as relevant.

Permit holders may also be held responsible for repair of damage to the footway caused by objects used in the footway (this is particularly relevant to bitumen surfaces, where the use of chairs and table legs without chair and table leg protectors may leave marks in the pavement) or where anchoring systems have been installed without prior approval.

The site of the permit area must be maintained in a clean and serviceable condition, with removal of food scraps, spillages and litter especially cigarette butts being the responsibility of the permit holder or licensee. Regular maintenance by weekly washing with a mop and mild detergent is acceptable and is the minimum to avoid build-up of stains and the development of slippery (and hazardous) pavement surfaces. The use of any bleach based or other caustic chemicals on the footpath as a cleaning agent is not permitted. Surplus water from cleaning is to be mopped up and not allowed to flow into the drainage system. Hosing of the pavement is not permitted (and is subject to strict controls enforced by Council and by Sydney Water). Refer to the Operations Management Plan requirements at Schedule 8.

6. References and Acknowledgements

The following documents were reviewed in preparing this Policy.

- The City of Sydney Outdoor Café Policy 2001
- The City of Melbourne Kerbside Café Code 2003
- The City of Melbourne Outdoor Café Design Guide Draft 2007
- Circular Quay Revitalisation Plan 1988
- Public Private Joint Ventures - Case studies of Co-development Projects for the Ministry of Planning, Victoria
- Design Guidelines for Como, South Yarra, Victoria
- Tenant Fitout Manual, The Grand Avenue, Milwaukee, Wisconsin The Rouse Company, Columbia, Maryland, USA

SCHEDULE 1 LOCALITY CHARACTER STATEMENTS

Character Statements are provided for the following localities in terms of their key characteristics and objectives for outdoor dining and goods display.

1. North Sydney CBD
2. Civic Neighbourhood
3. St Leonards Town Centre
4. Crows Nest Town Centre
5. Cammeray Village
6. Kirribilli Village
7. Blues Point Village and
8. Milsons Point Town Centre
9. Neutral Bay Town Centre and
10. Cremorne Town Centre
11. Waverton Village
12. Main Street Streetscape Strategies
13. Other: Typical isolated locations

1. North Sydney Central Business District

The North Sydney Centre is a major office precinct principally located between Berry Street, the Warringah Freeway, Blue Street and the Pacific Highway. The Centre also extends to the north of Berry Street between Miller and Walker Streets. This area is dominated by multi-storey office towers and has a street life influenced by the daily commuter patterns of office workers. The large number of workers and the services required to support the intense activity of the North Sydney CBD creates a significant demand for cafés and associated outdoor dining activity particularly during the weekday morning, lunchtime and afternoon tea times. Additionally, several restaurants operate during traditional evening restaurant hours. Most outdoor dining is associated with cafés on private property (e.g. in setback areas, plazas and in colonnades) or street closures because relatively narrow pavements can, at times, be congested with commuters (Figure 6).



Figure 6 North Sydney CBD
Use of setback and colonnade areas in high pedestrian traffic areas. Some café seating can “spill over” on to footpaths. These encroachments on to the public domain must be approved by the Council

In this commercial environment cafés often act as surrogate meeting rooms where professional people are seen carrying out their work and having business meetings (Figure 7). Like their predecessors in Europe, cafés often provide a refreshing extension of the office or home environment and provide a welcome change of venue during a long day. The break in environment or a stimulating walk to meet a friend for a coffee or to chat with business associates may increase productivity by way of enabling a better quality of life.



Figure 7 Working meetings
Workers use cafés for meetings as an alternative to the office

Some cafés make ingenious use of challenging environments with outdoor dining areas adding ambience (Figure 8). Lunch time outdoor dining is in high demand for much of the year as people seek respite from indoors and air-conditioned offices. The legacy of mature plane trees in North Sydney provides excellent outdoor urban environments for outdoor seating provided by views of the green of the leaves overhead and in distant treed vistas. The dappled light enjoyed under the trees softens the harshness of and otherwise hard urban environment. The deciduous plane trees enable people to sit in comfort out of direct winter sun. After hours and weekend use of cafés and restaurants with their vibrant street life and surveillance is increasing with the introduction of new supermarkets in the CBD, particularly around the intersection of Walker St and Mount Street.



Figure 8 Bacino Bar on Mount Street
An innovative design opportunity using a small space and enhancing the life of the area.

Key characteristics

- Energy or “buzz” typical of a busy business centre.
- Urban environment of hard materials, often impact upon by vehicular traffic noise and challenging microclimate that can affect outdoor dining.
- Improvised and ingenious café locations and creative shopfront designs that maximise outdoor dining opportunities.
- Variety and uniqueness of cafés due to the intense competition for customers.
- Mainly day-time trading, with café’s often closing before 4pm, with afterhours and weekend activity improving.
- Good use of cafés as business “meeting rooms”.
- Mature plane trees often provide a good natural canopy.

Objectives

- To encourage outdoor dining that adds atmosphere, street life and amenity in the CBD.
- To encourage location of outdoor dining areas in private spaces such as setback areas and colonnades and in lanes and streets where they do not adversely impede pedestrian movement
- To keep major transport pedestrian thoroughfares clear during peak travel times (e.g. where pedestrian footpath widths are narrow, outdoor dining areas are only to operate from 10am to 3pm and after 7pm where appropriate) including:
 - Miller Street
 - Walker Street
- To take advantage of available soft shade especially under trees in summer time.
- To take advantage of available sunlight especially in winter
- To encourage the use of canopies, umbrellas and planters to define outdoor dining areas
- To encourage creative opportunities for food and drink premises which enliven underutilised areas and take advantage of good orientation

- To align outdoor dining areas to the building line of the food and drink premises rather than the kerb, to avoid staff having to cross the often high volume pedestrian traffic streams in order to wait on or clean tables.
- To provide frontages of food and drink premises that fully open on to the street where feasible and pedestrian flows allow.
- To encourage the softening of the harsh urban environment by taking advantage of the dappled light of shade trees and supplementary use of umbrellas, awnings, planter pots and separation screens.
- To provide protection for patrons using screens and barriers to be located adjacent to frontages of food and drink premises, not adjacent to the kerb.

2. Civic Neighbourhood

To the north of the North Sydney CBD is the Civic Neighbourhood, which generally comprises a mixture of low to medium rise building stock and typified by educational, professional offices, community facilities and residential. This area is used fairly intensively and despite the large numbers of bus stops that limit opportunities for outdoor dining, there are several significant cafés and restaurants and there are likely to be more in the future. The excellent mature plane trees in this area lends itself to environments which are excellent for outdoor dining. The Civic Neighbourhood contains several conservation areas including:

- McLaren Street;
- Walker/Ridge Streets;
- Holtermann Estate C; and
- Holtermann Estate D.

Any request for outdoor dining within these areas needs to take into account the conservation character of these areas.



Figure 9 Sotto on West on West Street, North Sydney

Key characteristics

- A social mixed use area adjacent to the busy North Sydney CBD.
- A large number of quality shade trees.

- Cafés and restaurants often trading after hours due to the significant residential component of the local population.

Objectives

- To continue to use the following attributes of this area that set it apart from North Sydney CBD.
 - Naturally shaded areas beneath and adjacent to street trees
 - Residential areas with landscaping and generally more relaxed and pleasant environments
 - Architectural conservation areas with one and two storey character building stock
- To encourage the use of canopies, umbrellas and planters to define outdoor dining areas for cafés and restaurants.
- To provide protection for patrons using screens and barriers to be located adjacent to café and restaurant frontages, not adjacent to kerb.



Figure 10 Eighty Eight Café & Restaurant on West Street

3. St Leonards Town Centre

The St Leonards Town Centre is an emerging metropolitan mixed use precinct supporting vibrant levels of employment floor space with residential development above. The cafés and restaurants generally cater to businesses, however are becoming increasingly supported after hours from the emerging high density residential areas in and around the Centre. There are several excellent cafés in the area that demonstrate good and appropriate design such as completely openable shopfronts. There are some smaller cafés in incidental spaces around entry foyers which are also busy. Another niche which is evident in this area is cafés that are above street or road level and utilise space above footpath awnings. The grade separation increases amenity by placing customers in, what feels in many ways like, a separate environment above the noise and traffic especially near the Pacific Highway.

Wider road reserves have enabled Council and property owners to create generously sized outdoor dining areas with landscaping. Outdoor dining opportunities on the south side of major buildings provide excellent shelter and shade in summer. Cafes and restaurants along Chandos Street enjoy good access to sunlight year round.



Figure 11 Wide footpaths

St Leonards Town Centre provides opportunities to locate street cafés on wide footpaths (greater than 2.5m)



Figure 12 Street seating and special paving

Council furniture complementing outdoor café areas. Note: the denser quality paving of the seating area compared to the standard footpath paving. Dense quality impermeable paving is more suited to food areas for easier cleaning.

Key characteristics

- Emerging mixed use precinct anchored to a large extent by the St Leonards Railway Station and future Crows Nest Metro Station.
- Good mix of shops and services, supported by the high level of pedestrian movements from St Leonards Station and future Crows Nest Metro Station.
- Good variety of cafés within walking distance of all areas
- Street trees are young but will mature to provide street conditions with amenity similar to that in the North Sydney CBD.

Objectives

- To encourage creative opportunities for restaurants and cafés which enliven streets, laneways, Mitchel Street Plaza and Christie Street Reserve, taking advantage of good orientation and providing welcome respite for local workers, residents and visitors.
- To continue to use the following attributes of this area which promote amenity:
 - Utilise areas which enliven connections between the St Leonards Railway Station, Mitchell Street Plaza and the future Crows Nest Metro Station.
 - Utilise areas provided for outdoor dining away from heavy traffic (consider planter screens to screen locations in side streets)
 - Utilise areas for outdoor dining that also enliven office lobbies and building entries

Outdoor Dining and Goods Display on Footpaths Guidelines

Page 28 of 65

- Canopies are acceptable and use of umbrellas and planters are encouraged to define café spaces.
- To provide protection for patrons using screens and barriers to be located adjacent to café frontages, not adjacent to kerb.

4. Crows Nest Town Centre

The Willoughby Road café and restaurant precinct has already achieved an excellent reputation on the lower north shore for the number and variety of eating establishments, that draw patrons from far beyond the locality. Council initiatives have provided for purpose designed outdoor dining areas (Figure 15) creating a contiguous strip of outdoor dining with high levels of amenity. The deep planter boxes with well-established planting surrounding the outdoor seating areas creates a high level of amenity from the heavy traffic conditions utilising Willoughby Road. The consistency without rigid conformity of the umbrella shading treatments contributes to the busy, attractive atmosphere of the streets. The subtle and well resolved wrought iron corner elements incorporate a stylised crow to remind people that they are in Crows Nest (Figure 13). As the precinct is thriving (Figure 15) with the streetscape improvements that have been well thought out and tested over the years, it is recommended for Crows Nest's future prosperity that such improvements be reinforced, extended where possible and not significantly altered. The area has a reputation for afterhours dining (Figure 14). The existing fine grained scale of the area with its traditional shopfronts and sunlit streets are key determinants of its character and needs to be respected and reinforced.



Figure 13 Local identity The crow design in the Crows Nest balustrade reinforces local identity



Figure 14 After hours After hours outdoor trading in Crows Nest is vibrant despite winter conditions.



Figure 15 Thriving Willoughby Road

Key Characteristics

- Café and restaurant precinct - a large number of eating establishments provides a strong draw for customers.
- Predominance of consistent landscaping providing an attractive environment has created an identity which is distinctly Crows Nest including the “crow” logo.
- Consistency of Council constructed outdoor dining areas provides a common high standard and some discretion to expand for larger establishments.
- Length and sunlit amenity of Willoughby Road devoted to restaurants, cafés and retail provides an enjoyable and entertaining environment for walking for carrying out tasks or pleasure.
- Enhanced accessibility through the delivery of the future Crows Nest Metro Station and upgrade of Hume Street Park.

Objectives

- Continue to use the existing urban design framework to expand the existing footpath widening improvements to additional areas due to the proven success of the Crows Nest Town Centre.
- On Willoughby Road, utilise complementary design techniques to existing cafés in order to maintain the overall Crows Nest dining identity in order to create a larger overall attraction to benefit the whole precinct. Examples are:
 - Utilise a harmonious selection of umbrella styles especially with those of neighbours and the street as a whole, that is additional umbrellas should not be a bright colour, odd shape, much smaller, much larger at a very different height etc.
 - To keep dining areas adjacent to the shopfronts so as not to impede pedestrian movement in other parts of the Crows Nest Precinct where pavements are narrower and where there are different conditions.
 - To maintain a consistent outdoor dining and goods display layout (on a block by block basis) with the existing **pattern** of kerb, furniture arrangement and the **siting** of existing outdoor dining areas or goods displays within the streetscape. Irregular patterns of outdoor dining and goods displays are to be avoided.
- Umbrellas are encouraged to provide shelter for patrons and provide a canopy to help define and enclose the outdoor dining areas

Outdoor Dining and Goods Display on Footpaths Guidelines

Page 31 of 65

- Encourage creative opportunities for food and drink premises in side streets and lanes which enliven underutilised areas, take advantage of good orientation
- To locate goods displays adjacent to shopfronts so that the entrance to the shop is defined and shopfront window displays are clearly visible.
- Consideration to be given to creating enlarged footpath areas where two or more food and drink premises are located adjacent to street corners (similar to existing examples in Willoughby Road).

**Figure 16 Building stock character**

There is good character building stock which has an appealing human scale and contributes to the Crows Nest Town Centre atmosphere

**Figure 17 Bustling side street in Crows Nest****Figure 18 Council initiatives**

Council initiatives have provided outdoor dining areas on Willoughby Road which successfully separate diners from passing vehicles.

5. Cammeray Village Neighbourhood

The Cammeray Retail strip on Miller Street has undergone substantial regeneration and due to its focus as the service section of a busy vibrant community it will undergo more in the future. Shop top housing, a street closure and the café response have formed a good foundation precedent for Cammeray.

Council initiatives have increased amenity on Miller Street by using street tree planting with protected tree guards plus planters and fences to visually delineate, soften the edge of the busy traffic street and provide safety and protection at the pedestrian crossing (Figure 20). However, the narrow footpaths on Miller Street at Cammeray and the high peak hour traffic volumes limit the street life and possible outdoor dining areas.

The display of goods especially fruit and flowers provides welcome colour and life in an otherwise harsh urban environment. While there are no heritage buildings in Cammeray Village Neighbourhood around Miller Street and the areas within which cafés are located, the building stock is a scale conducive to a village atmosphere.



Figure 19 Use of side streets
Cammeray side streets provide sheltered environments for street cafés out of the main street traffic flow.



Figure 20 Protection barriers
The design of protection barriers for pedestrians on busy Miller Street, Cammeray successfully integrates high quality design and safety.

Consideration for the future

As traffic levels may increase and the footpath width is fixed retailers and property owners may wish to orient their outdoor dining, towards the rear car park with established trees located to the rear of the shopping strip on the east side of Miller Street. However, care must be taken to continue activating Miller Street. This represents a similar response to that as found in Military Road in the Neutral Bay Town Centre. Such use would need to be carried out with attention to residential areas nearby and after-hours trading noise constraints taken into account in terms of both design and management

Key characteristics

- An old “high” street under transformation due to its inner-city location and proximity to North Sydney CBD Sydney and revitalised residential areas.
- Heavy commuter traffic and important commuter bus stop.
- Narrow footpaths and heavy vehicle traffic create a challenging environment on Miller Street.
- Successful closure of side street for pedestrians.

Objectives

- Continue to use the natural and built attributes of this area that set it apart from the North Sydney CBD
 - Utilise protected paving areas in side streets (Figure 19) away from traffic for outdoor dining especially if facing north so that sun penetrates during cooler months and is controlled at other times
 - Utilise the naturally shaded outlook onto the Council car park to the rear, east of Miller Street, subject to residential amenity considerations.

- All outdoor dining on Miller Street needs to be adjacent to the shopfront and setback from vehicular traffic flows. Protective fencing at the edge of the permit area may also be feasible to ameliorate traffic impacts (Figure 20).
- Ensure that Miller Street remains activated.

6. Kirribilli Village

As the Character statement of Development Control Plan 2013 states “the Village Centre is lively with an appropriate number of outdoor cafés and restaurants”. Much of the residential neighbourhood of the area around the Village Centre is small scale and relatively high density. Broughton Street is the main artery into the village, but it is narrow, and its traffic levels and narrowness preclude extensive street use. However, some traders have cleverly managed outdoor dining in quite restrictive circumstances and the street and neighbourhood is the better for their efforts. Note the narrow but efficient bench style seating along the east side of Broughton Street (Figure 22). Typically, in such cases of busy streets more extensive street use can be found for services and cafés in streets perpendicular to the main busy street. Fitzroy Street is an example with its new cafés with outdoor dining which are most successful. Paving where long-term use of food related activities is envisaged needs to be considered for its permeability, non-slip quality and ease of cleaning.

The Kirribilli Village contains many heritage buildings especially on Broughton Street around Pitt Street.

Existing outdoor dining to date has respected the scale and character of the area. Any outdoor dining applied for adjacent to heritage buildings needs to respect the character of the buildings and the area.



Figure 21 Goods display
This display of goods on Broughton Street adds colour and vitality to the streetscape.



Figure 22 Narrow footpaths
Narrow but efficient custom made bench style seating.

Key characteristics

- As Broughton Street is a main traffic artery which leads down to spectacular views of Sydney Harbour it is active with cafés and retail despite its narrow footpaths.

- Side streets such as Burton Street offer good opportunities for outdoor café activities due to less traffic and wider footpaths.
- Eye catching umbrellas attract people to side street activity.
- Outdoor dining areas in Burton Street function as outdoor rooms defined by umbrellas, planter boxes, screens and drop down transparent plastic sides for inclement weather.
- A good mix of activities forms a centre which does have a Village atmosphere.

Objectives

- Continue to use the attributes of this area which make Kirribilli one of Sydney's most charming harbour side areas
 - To take advantage of naturally shaded areas especially in side streets with wider pavements and less traffic.
- To make the most of tight and difficult areas with views or good accessibility through ingenious and well resolved design (Figure 23).



Figure 23 Narrow side street cafés

This café is well designed and provides a long edge of activity to the street.



Figure 24 Innovative solutions

Making the most of a tight street with good views by providing bench seating adjacent to the shop front so that all diners can appreciate the view.



Figure 25 Side streets

Burton Street cafés successfully provide amenity and large outdoor dining areas away from the main street.

7. Blues Point Village

Nestled in the heart of a relatively small-scale residential area which itself is fringed by harbour views. Cafés are concentrated on the eastern side of Blues Point Road, possibly due to the favourable solar aspect and the width of the pavement. The small-scale buildings and street tree planting of honey locusts provide an excellent basic frame in which to create an outdoor dining environment. Picture perfect cafés with dappled light filtering through the trees are further defined by extendable awnings, umbrellas, planters and low screens. These serve to form subtle outdoor rooms where patrons can sit comfortably - “rooms” with no real walls or windows. Many of these cafés are prototypical of what can be achieved by a local café with an outdoor dining area.

The collection of about 6 cafés and a few retail shops together create a synergistic energy which makes Blues Point Village a delightful and notable local recreational dining area. It serves as an extension of the private living environment of the home to provide the opportunity for people to meet outdoors and fraternise within the public domain. The Blues Point Village is also within the McMahons Point South Conservation Area. Most of the buildings in the row of cafés on Blues Point Road contribute to the heritage character of the area. Any outdoor dining area applied for within the conservation area needs to respect the character of the area and the contributory buildings.



Figure 26 Footpath
The building setback from the footpath on Blues Point Road provides the opportunity for outdoor dining areas.



Figure 27 Street café ambience
Blues Point Road epitomises the street café ambience sought by these guidelines. The kerbside footpath is uninterrupted, the outdoor dining is generally within a setback area that makes the footpath read as a wide space, trees and planter boxes define the edge and awnings and canopy define the space overhead. Dining areas for different cafés are located on an uninterrupted ground plane that makes the space feel open and airy - consistent with Sydney's benign climate.



Figure 28 Blues Point Road Café

Key characteristics

- A promenade strip of restaurants/cafés along Blues Point Road with a neighbourhood atmosphere.
- Small scale buildings and landscaping create intimate and friendly conditions.
- The majority of the excellent outdoor dining areas for the Blues Point Cafés are located on private land where the buildings have been set back from the street. This set back is most likely the legacy of what were residential buildings with small front gardens. Further building setbacks should be encouraged to align with the original building setbacks to provide wide pavements to enable further extension of the café and restaurant strip.

Objectives

- To continue to use the low rise built form and scale attributes of this area which promote its convivial, intimate conditions as an alternative local eating place for residents and visitors. Take advantage of:
 - Naturally protected and shaded areas especially using trees
 - Residential architectural scale with landscaping and generally relaxed and pleasant environment.
 - Encourage a sympathetic response to the Conservation Area character buildings and scale
 - Encourage development of wide pavements to enable further extension of the café and restaurant strip where appropriate.
 - Continue to provide a range of canopies and umbrellas to reinforce the relaxed atmosphere and the variety of the streetscape treatments in the building setback areas.



Figure 29 Variety of awnings, umbrellas and trees

The variety is characteristic of Blues Point Rd and should be reinforced. The canopies and umbrellas provide overhead shelter from the sun and give a sense of enclosure.

8. Milsons Point Town Centre

Alfred Street South is flanked on the western side by predominantly high-density residential towers with retail and offices premises at their lower levels. Considering the scale of the buildings and significant resident population in these towers, the general absence of street cafés (and other services) is notable. This absence is possibly brought about by narrow footpaths, unfavourable wind conditions, the lack of trees and competition from Kirribilli. Despite these poor attributes, the Centre has excellent views of the Sydney Harbour Bridge and parts of the Harbour and high levels of pedestrian movements from the railway station down to the Harbour, Olympic Pool and Luna Park.

There is one State Significant Heritage Item - 56 Alfred Street (Camden Villa) listed. Unfortunately, it is visually screened from the street by development.

On the eastern side of Alfred Street is a park adjacent to the North Shore Railway line and elevated roads approach to the Sydney Harbour Bridge. This recently improved park area enjoys afternoon sun and contrasts markedly with the streetscape on the opposite side of the street. Such an area would prove ideal for a specialty kiosk or other café similar to the café area that exists in Hyde

Park located adjacent to or under the Bridge viaduct. Such a café could be incorporated under the bridge approach, thereby minimising its impact on the open space areas of adjacent parklands. Bradfield Park (beneath the Harbour Bridge) would also present a similar opportunity.



Figure 30 Opportunities limited by design
Narrow footpaths generally limit opportunities for street cafés. Some like the example here are restricted to private incidental spaces that have poor access to sun, vegetation and poor amenity.



Figure 31 Tall buildings
Tall buildings can magnify windy conditions on Alfred Street.

Key characteristics

- High residential population and tourist visitors could support more outdoor dining opportunities along Alfred Street;
- Patron comfort compromised by unfavourable wind impacts associated with the prevailing built form.
- Underutilised park areas around the Harbour Bridge pylons and western Railway Station entrances.
- Prevailing topography and open areas between Alfred Street and the Harbour Bridge present high quality views to the Harbour and Sydney City beyond.

Objectives

- Aim to site café spaces in sunny areas, especially for winter sun.
- Explore possibilities to use either the undercroft of the freeway and rail approaches to the bridge or special pavilion buildings adjacent to its wall for café space and licensed dining areas adjacent.
- Improve the pedestrian environment along the western side of Alfred Street to improve its activation.

9. Neutral Bay Town Centre

At Neutral Bay, Military Road present a challenging pedestrian environment due to heavy levels of vehicular traffic. A few existing cafés have provided outdoor dining areas along the property line away from the road for safety and comfort, whilst others are located indoors . Side streets perpendicular to the main traffic flow provide good opportunities for outdoor dining. To the north side of Military Road, the Grosvenor Lane Council car park with mature shade trees serves as a focus for higher amenity activities. Cafés mainly have seating on their own property.

To the south side of Military Road on Yeo Street between Wycombe and Rangers Roads, wide pavements and mature street trees provide good conditions for relaxed cafés in a safe setting. There are cafés on Rangers Road near Military Road with outdoor dining areas which are rather exposed to the elements and traffic. Only a few heritage listed buildings are located in the Neutral Bay Town Centre but the Cremorne Conservation Area is immediately adjacent at the corner of Yeo Street and Wycombe Road. The conservation area can be used as a design reference for future development in the Centre.



Figure 32 Traffic artery

Difficult traffic conditions lead to constraints to siting of café seating to ensure separation of patrons from traffic.



Figure 33 Rear lane example 1

Chaos café is a “friendly” café which enjoys a northerly aspect and an outlook over the Neutral Bay carpark with its mature plane trees.



Figure 34 Rear lane example 2

This café makes good use of an otherwise small space.

Key Characteristics

- Amenity of Military Road is impacted on by high vehicular traffic.
- Council’s Grosvenor Lane at-grade car park with its mature plane trees is the focus of the Neutral Bay Town Centre. Most retail, commercial, service and cafés are located around or close to the parking under trees.
- The public domain is progressively being upgraded.

Objectives

- Continue to use the attributes of this area which make it a busy attraction both for entertainment and convenience shopping.
- Use the parking area as a green outlook and focus on the public domain with café and display activity to provide for better amenity
 - Make the most of natural light and sun especially in the winter
 - Make the most of shade in the summer
 - Make the most of the cosmopolitan atmosphere
 - Maintain pedestrian/human scale
 - Avoid conflict with heavy vehicular traffic especially commuter traffic and delivery vehicles
- Encourage creative opportunities for cafés which enliven underutilised areas, take advantage of good orientation and provide welcome respites for local residents and workers.
- Encourage a sympathetic response to the Conservation Area’s character buildings and use them for inspiration in order to create more interesting building stock with higher amenity in the future.
- Use umbrellas to join spaces between tree canopies to enhance shade protection during summer months and inclement weather.

10. Cremorne Town Centre

The footpaths alongside Military Road provide a challenging environment for café's and goods display areas due to very high levels of through traffic. In Cremorne the best opportunities for outdoor dining have been provided by street closures and on the streets and lanes to the rear of Military Road. Cremorne Plaza, an old street closure is very successful as it is fully pedestrianised and the public domain is devoted to an excellent example of landscaping including mature shade trees (Plane Trees). Within this highly favourable environment several cafés providing complementary services thrive. Further to the east, Spofforth Street is closed to the north of Military Road and provides a good opportunity for outdoor dining. The area is well defined by 3 storey buildings of some character and a well thought through landscape plan provides an excellent opportunity for outdoor dining areas.

By contrast, close by on Parraween Street where the footpaths are narrow and a great deal of servicing occurs, there are a few small cafés that work well. The cafés are well patronised and as the street does not carry much vehicular traffic the close kerbside seating is comfortable for people. People seem to like to perch on the informal seating which creates a "time out" atmosphere good for de-stressing or relaxing. These types of cafés appeal to customers and should be encouraged elsewhere.

The Cremorne Orpheum Picture Theatre is an important attraction in the midst of the cafés and restaurants mentioned on the north side of Military Road. The cinema complex generates a great deal of visitation and works synergistically with the cafés and restaurants. Convenience shopping is mostly on the south side of Military Road. The Cremorne Orpheum is the only heritage building in the Cremorne Town Centre. Outdoor dining in or around the building needs to respond to its character and style.



Figure 35 Street closure

This street closure is pedestrian and street café friendly.



Figure 36 Small street café

A small street café in Parraween Street takes advantage of low pedestrian flows with little or no impact.



Figure 37 Public domain landscaping
The landscaping in Cremorne Plaza provides amenity for diners away from the traffic artery of Military Road.



Figure 38 Cremorne Plaza
Exceptional quality of the public domain.

Key characteristics

- As Military Road experiences heavy traffic, café activity tends to be within the side streets or away from the main street;
- Cremorne Plaza and Langley Place landscaped areas provide welcome respites, offering relaxed outdoor dining environments under well established trees; and
- Innovative outdoor cafés add activity to back streets.

Objectives

- To continue to use the attributes of this area which make it an attraction for entertainment (Cremorne Orpheum Picture Theatre and restaurants) and convenience shopping
 - Make the most of natural light and winter sun, with shade in the summer
 - Enhance the cosmopolitan atmosphere with innovative furniture and designs/layout of café's in available public spaces
 - Provide protection from heavy vehicular traffic;
- Encourage creative opportunities for cafés which enliven underutilised areas, take advantage of good orientation and provide welcome respites for local residents and workers; and
- Continue to follow the urban design frame work used at Cremorne Plaza which has made it so successful over the years.

11. Waverton Village Centre

The Waverton Village Centre comprises about 8 retail businesses on Balls Head Road around the Waverton Rail Station which is, a generator (of visitation) in retail terms. There are several eating and food supply businesses but the main outdoor dining in a public area is in front of the Botanica Garden Café.

There is a vista of Sydney Harbour at the end of Balls Head Road. The Waverton Village Centre is within the Bay Road Conservation Area. Any outdoor dining applied for within the conservation area needs to respect the character of the area through appropriate street furniture selection.

Key characteristics

- A secluded collection of retail activity around a railway station in a purely residential area.
- An island of very old cabbage tree palms and a distant view of the water of Sydney Harbour
- The Botanica Garden Café on the main street provides a break in the residential streetscape with its shopfront and outdoor dining.

Objectives

- Continue to use the attributes of this area which make it special and provide services to the local community.
 - To take advantage of the natural amenity of the location e.g. quiet, green, distant view of the water
 - Residential area with landscaping and generally more relaxed and pleasant environments.
- Encourage creative opportunities for cafés which enliven underutilised areas, take advantage of good orientation and provide welcome respites for local residents and workers.

12. Other isolated locations

Locations which are not included in the above areas are best addressed by reviewing section 2 of this schedule, North Sydney Civic Neighbourhood which deals with isolated café and restaurant locations. Section 11, Waverton Village Centre is also relevant as it deals with a remote location and isolated cafés.

The objectives of any café and restaurant proposals in isolated areas of North Sydney are as follows:

Objectives

- Use the attributes of the area which make it special and provide services to the local community.
 - To take advantage of the natural amenity of the location e.g. quiet, green, distant view of the water or a park
 - Residential areas with landscaping and generally more relaxed and pleasant environments.
- To encourage the use of canopies, umbrellas and planters to define outdoor dining areas for cafés.
- To provide protection for patrons using screens and barriers
- To minimise potential impact to any neighbouring residential development.

Encourage creative opportunities for cafés which enliven underutilised areas, take advantage of good orientation and provide welcome respites for local residents and workers.

13. Mainstreet Streetscape Strategies

Where a main street streetscape strategy has been adopted by the Council that includes design objectives and details for the public domain, the provisions of that strategy shall take precedence over the provisions of this policy, where the provisions of this policy are inconsistent with the adopted strategy.

Identified main street streetscape strategy areas are currently within (but are not limited to) the following localities:

- Cammeray
- North Sydney Central Business District
- Crows Nest
- Kirribilli
- Neutral Bay
- St Leonards
- Waverton
- Wollstonecraft

Council should be consulted prior to embarking on any design work for outdoor dining or goods display area relating to main street areas within these localities.

SCHEDULE 2 EXISTING CONDITIONS PLAN REQUIREMENTS

The Plan of Existing Site Conditions needs to show (but is not limited to):

- The front wall of the premises to which the outdoor dining or goods display area belongs;
- The windows of the front wall and how they open out;
- Front entrance doors and the way in which they open;
- The extent of any verandah or canopy/awning overhang;
- Location of street trees within 10m of the outdoor dining or goods display area. Show the extent of tree canopy over the proposed outdoor dining or goods display area with an estimate of the canopy line;
- The boundary line between the adjacent properties;
- The extension of the boundary line between the adjacent properties to the kerb at an angle perpendicular to the kerb alignment;
- Exit doors and stairways;
- Adjacent building entrances and stairways within 2 metres of the property boundary;
- Intersections with streets or lanes within 20 metres;
- The location of outdoor dining or goods display areas within 20 metres of the site; and
- Changes in grade or levels (Note: that the drainage cross fall from the property boundary to the kerb is not required to be shown).

The following street infrastructure within 10 metres of the proposed area are to be included on the plan of Existing Site Conditions:

- trees and tree plots/grates;
- public street furniture (seating, rubbish bins, bicycle hoops, bollards);
- parking fixtures (signs and meters);
- above ground utilities (phone boxes, bus stop and shelters, fire hydrants, light/telegraph poles, telecommunication switch boxes and Australia Post boxes);
- Postal access for buildings and tenancies;
- directional signs; and
- distance and direction to any residential buildings within 50 metres (if any).

Any other features which may affect the layout or performance of an outdoor dining or goods display area should also be shown.

Photographs of Existing Site Conditions

Photographs of existing site conditions need to accompany the Plan of Existing Site Conditions showing:

- Façade of the building to which the proposed outdoor dining or goods display area relates.
- Side view (along the street) of the area where outdoor dining or goods display area is proposed.
- Distant views of both of the above views to show the context of the proposed outdoor dining or goods display area including adjacent buildings and neighbouring conditions (e.g. photographs of street frontages taken looking along the frontages).

Photograph specifications: Minimum 2.1 mega pixels (preferable 3.1 mega pixels). Hard copies at minimum A5 size for each photograph and a CD of the same images are to be supplied with the Permit Application.

SCHEDULE 3 SETBACK AND SIGHTLINES CRITERIA

Setbacks from objects in the public domain are required for safety and amenity to ensure that outdoor dining or goods display areas add to the benefit of the community and do not detract or inconvenience the use of the area. Minimum setbacks from obstacles, boundaries and kerbs are required in order to ensure fire safety conditions are always met and to enable the convenient movement of people through the public domain, including people who have a mobility impairment.

By looking at the Existing Conditions and applying the setback and clearance distances, the area which is available for outdoor dining or goods display can be defined. Therefore, the application must address at least the following issues in order to define the available area:

1. Pedestrian way clearance
2. Clearance from objects
3. Other clearances including street intersection sightlines, kerb setbacks, and other outdoor dining and goods display area separation.
4. Construction zones

Pedestrian way clearance

The minimum clearance allowed for pedestrian movements varies for safety reasons and with the concerns of other users.

In areas with heavy pedestrian traffic and heavy vehicular traffic (such as roads affected by clearway restrictions) for safety reasons the minimum footpath clearance is 2m (Table 1) which allows two children's strollers/ prams or two mobility aids to pass.

Roads and Maritime Services designated roads and busy roads affected by clearway restrictions generally require 2m minimum setback from the kerb. These roads include:

- Pacific Highway
- Falcon Street and Military Road
- Miller Street
- Approaches to entrances of railway and metro stations

For quieter areas where both pedestrian and vehicular traffic is lower, 1.5m clearance for pedestrians is needed - this allows passing by sequencing or waiting until the other person/stroller has passed. This type of queuing is well understood by people and is commonly used by pedestrians, cyclists and vehicular movements. The minimum distance of 1.5m can be reduced subject to assessment of pedestrian or vehicular traffic or mitigating circumstances identified by the assessing Council officer (refer to Table 1).

Table 1 Clearance for pedestrians. Where A is a kerb and B is an object not listed in Table 2						
	High Traffic Risk*		Medium Traffic Risk [#]		Low Traffic risk ⁺	
	A	B	A	B	A	B
High Pedestrian Traffic	3.0	2.5	2.5	2.0	2.5	2.0
Medium pedestrian traffic	2.5	2.0	2.0	1.5	2.0	1.5
Low pedestrian risk	2.0	1.5	1.5	1.0	1.2	1.0

*** High traffic risk**

- high volume
- high speed
- travel lane adjacent to kerb
- requires vehicle protection to separate outdoor dining from traffic lane if outdoor dining is adjacent to kerb

Medium traffic risk

- medium volume
- medium speed
- parking adjacent to kerb
- requires fence to separate outdoor dining from traffic if outdoor dining is adjacent to kerb

+ Low traffic risk

- low volume
- low speed
- parking adjacent to kerb
- requires minor planters to separate outdoor dining from traffic

The clearances are those considered desirable. Council shall assess each situation on its merits. However, Table 2 shall be regarded as the absolute minimum clearance in all circumstances.

Clearance from objects

Table 2 provides the minimum clearance required to specific objects of street infrastructure (refer to Table 1 for general requirements where object is not listed). Note that the Council may consider the ability to relocate certain items at the proponent's cost.

Table 2 Clearance from existing street infrastructure	
Object	Min Clearance from object
General <ul style="list-style-type: none"> – trees and tree plots – front of public seating – rubbish bins – bicycle hoops – parking signs – parking meters – phone boxes – bus stop shelters 	900mm

Table 2 Clearance from existing street infrastructure	
Object	Min Clearance from object
Essential Services <ul style="list-style-type: none"> – fire hydrants – hose reel cupboards – fire exit doors – fire equipment stores – substations – switchboards – communication pole – hose reel cupboard 	
Other infrastructure in the public domain: <ul style="list-style-type: none"> – Bollards – Way finding signs – Back of public seating 	500mm

Other required clearances

Table 3 describes clearances from street intersections, water's edge setback and clearances between outdoor dining areas of different cafés.

The sightlines which need to be observed for traffic and pedestrian safety are shown in Diagrams 1 and 2.

Table 3 Other clearances	
Other Clearances	Minimum clearance
At Street intersections, from the building corner (note sightline angle of 45° is to be observed)	45° sightline angle (see diagrams 1 and 2)
Where seating is shared with a road (no kerb or street closure)	4 metres
Water's edge to provide uninterrupted access to the harbour	2 metres
Clearances between adjoining outdoor cafés with no separation screen	250mm

Construction Zones

Construction Zones are essential to maintain buildings, services, roads and footpaths. A 3m setback is required within a construction zone from existing outdoor dining and goods display permit areas to protect patrons from possible danger, nuisance and noise. Note: that construction zones are generally a temporary feature and may be granted by the Council at any time, at its discretion.

Schedule 3 Setback and sightlines criteria

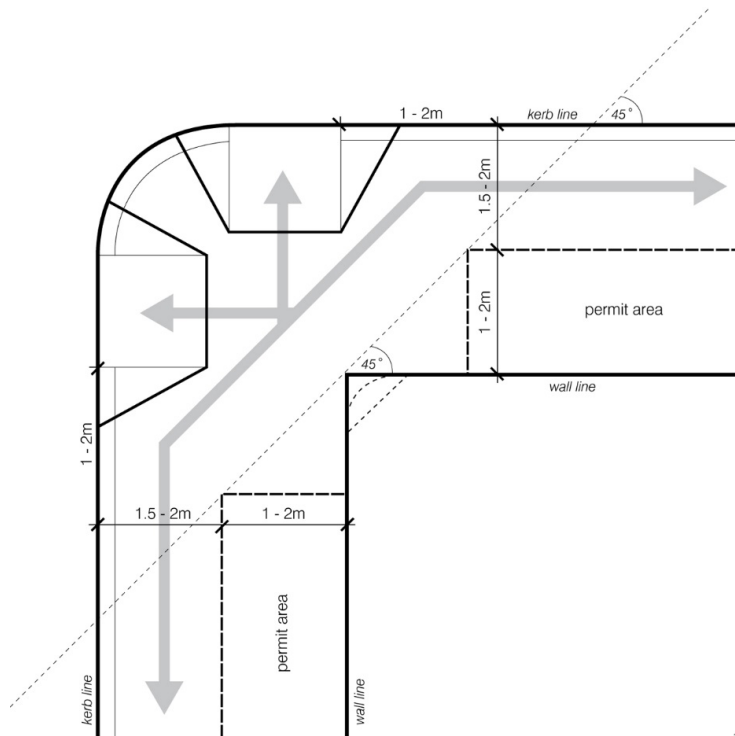


Diagram 1

Corner Sight Lines

Corner cafe safety sight lines for tables adjacent premises.

- alignment, nominal dimensions and minimum clearance for pedestrian traffic
- generally for classified arterial roads with high vehicle traffic volumes and moderate to high pedestrian traffic

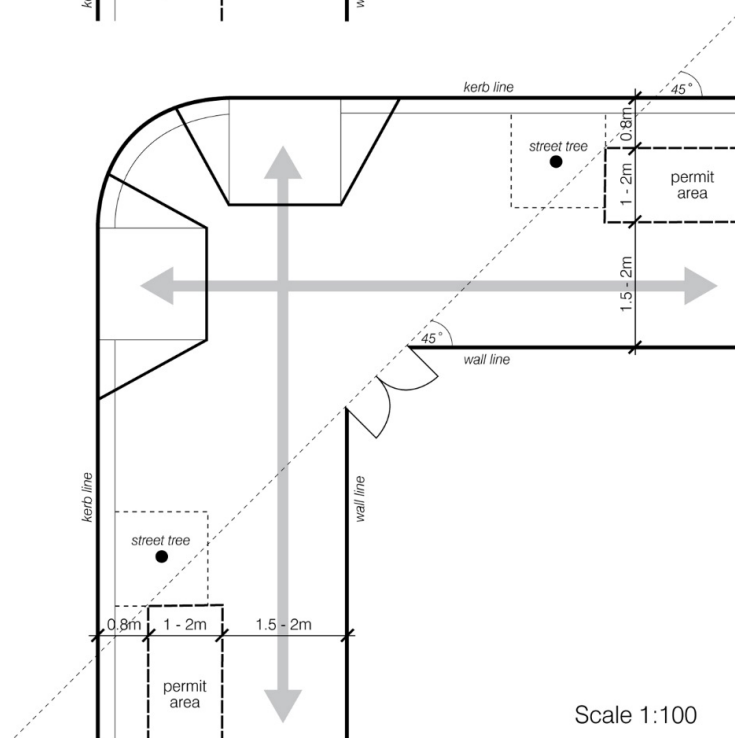


Diagram 2

Corner Sight Lines

Corner cafe safety sight lines for tables near the kerb.

- alignment, nominal dimensions and minimum clearance for pedestrian traffic. Dependent on pedestrian traffic

Scale 1:100

SCHEDULE 4 LAYOUT CRITERIA

Layout diagrams for outdoor dining area alternatives are included in this document to indicate the types of seating layout arrangements and spacing desired by Council to ensure safety and convenience for users of the public domain.

Permit area alignment:

Adjacent to Shopfronts

Generally, for standard width footpaths (i.e. up to 3.6 metre wide) it is preferable to have outdoor dining areas adjacent to the street wall of the adjacent food and drink premises in order to:

- avoid the interruption to passing pedestrian traffic by table-waiting staff;
- separate people seated in outdoor dining areas from parked cars/moving vehicles/exhaust fumes for safety and amenity;
- more strongly connect the outdoor dining area with the food and drink premises.

Refer to Diagrams 3, 4 and 5 of this Schedule for layouts of outdoor dining by the café wall.

Adjacent to street kerb

There are several areas in North Sydney where pedestrian movement is by the premises' street wall and the outdoor dining area is adjacent to the kerb. These are mostly generated by special situations which have resulted in a special response by the North Sydney Council by widening the footpath. These include the following:

- Willoughby Road, Crows Nest - where specially designed outdoor dining areas are on widened footpaths, there are deep solid planters between the carriage way and the outdoor dining area, there is a narrowing of the carriageway to reduce and slow traffic and there is often a significant change in level along the slope of the street between the outdoor dining area and the carriageway for protection from traffic.
- At St Leonards - Council has designated and specially designed outdoor dining areas on widened footpaths of Atchison Street.

Refer to Diagrams 6, 7 and 8 of this Schedule for layouts of outdoor dining areas located away from the premises' street wall.

Other special circumstances that dictate similar responses may be encountered elsewhere. Where such special circumstances apply each case will be determined on its merits.

Similarly, separating goods display areas from a shopfront with a thoroughfare is generally to be avoided.

Special layouts and specifically designed furniture are permissible in situations where these are warranted, for example integrated table seating for narrow sloping pavements (such as at Kirribilli - see the example photograph in Schedule 1 for the Kirribilli Locality Character Statement). If specifically designed furniture is to be proposed full details and specifications are to be submitted or an example provided of a similar item that has already been actually fabricated and used in similar circumstances (testimonials from a public authority may also be provided) to aid assessment. Safety and stability are essential qualities.

Schedule 4 Layout criteria

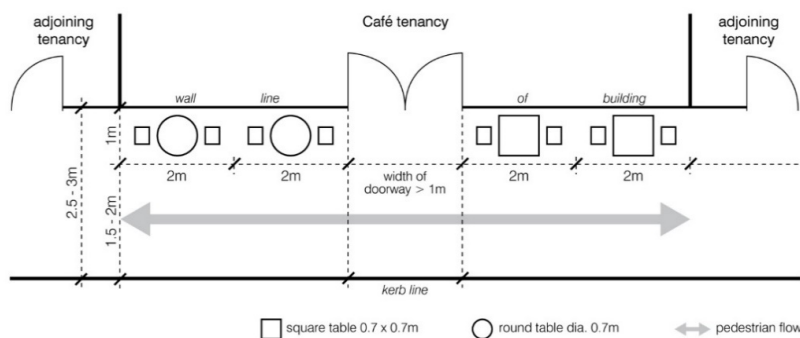


Diagram 3

2 person tables adjacent premises.

- alignment and minimum clearance for pedestrian traffic
- nominal dimensions for furniture layout with 2 chairs per table
- preferred pedestrian way 1.5 - 2m but variable in low vehicle traffic / light pedestrian traffic to 0.9m

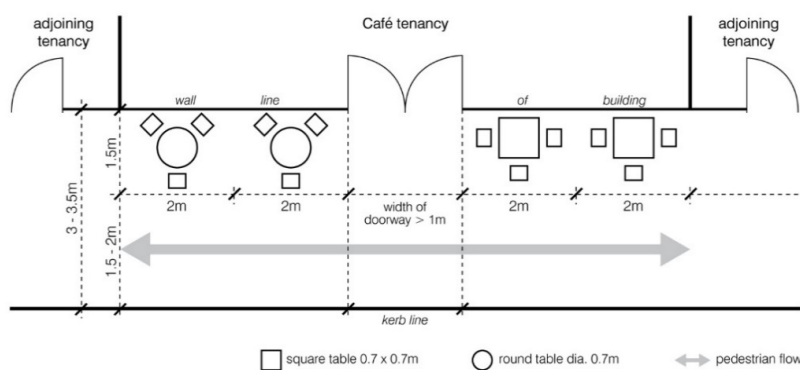


Diagram 4

3 person tables adjacent premises - 3+ person table.

- alignment and minimum clearance for pedestrian traffic
- nominal dimensions for furniture layout with 3 chairs per table

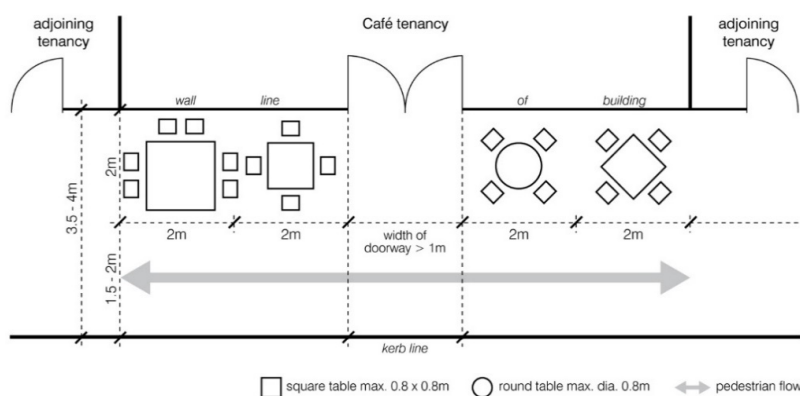


Diagram 5

4 person tables adjacent premises.

- alignment and minimum clearance for pedestrian traffic
- nominal dimensions for furniture layout with 4 chairs per table

SCHEDULE 5 FURNITURE EXAMPLES

The following sheets provide a range of furniture examples suitable for this Policy in terms of design quality and commercial standard for the high wear and tear of outdoor use by the public.

Furniture Projects



- Commercial quality furniture
- Durable



- High grade UV resistant
- Water Drainage hole in chair seat



- Suitable for outdoor use
- Easily maintained



- UV resistant chairs
- Durable finishes



- Easily cleaned
- Stackable chairs



- Suitage for usage
- Commercial quality

Note: All timber to be recycled and/or plantation timber

Tables



- Suitable for outdoor use
- Durable



- Sturdy
- Stable



- Flip top
- Easily stored



- Stackable
- Commercial grade



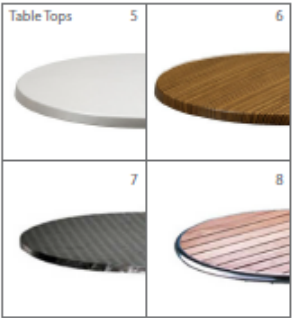
- 1 Compact Laminate
2 Solid Jarrah Slat
3 Solid Timber
4 Teak with Al. Edge



- UV resistant
- Stackable



- Folding table - commercial quality
- Easily stored



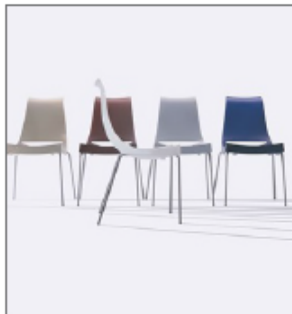
- 5 Pre Fabricated Resin - Silver
6 Pre Fabricated Resin - Timber
7 Stainless Steel Ring Spun
8 Teak with Al. Edge



- Timber slatted top suitable for outdoor use

Note: All timber to be recycled and/or plantation timber

Chairs



- Easily cleaned & maintained
- Commercial Quality



- Wicker UV resistant with wire reinforcement
- Non - porous wicker



- Folding chairs to be safe & sturdy
- Easily stored



- Feet 'Glides' for floor protection & anti slip



- Drainage hole in rear of seat
- High grade UV resistant



- Stackable
- Polypropylene with glass fibre for strength



- Hardwood sealed plantation timber slats suitable for outdoor conditions
- Aluminium frame with all joints fully welded for strength



- Anodised aluminium
- All componentry suitable for outdoor use
- Commercial Grade / No Sub - standard imitations



- Hardwood suitable for outdoor use
- Suitable in light winds

Note: All timber to be recycled and/or plantation timber

Stools



- Stainless steel frame
- Jarrah slatted top



- Stackable
- Polypropylene with glass fibre added for strength



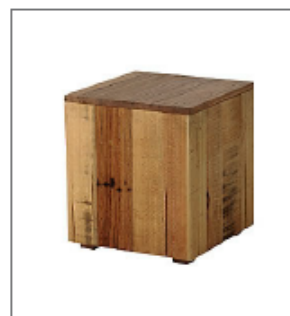
- Easily cleaned & maintained
- High grade UV resistant



- Interlinking design
- Recyclable & UV resistant material



- Resilient Polyethylene
- Stable Design



- Recycled timber
- Commercial quality construction

Note: All timber to be recycled and/or plantation timber

Planters



- Individual Pots - able to move & store



Umbrellas



- Fade resistant covers
- High strength frames



- Excellent water resistance
- Mould & mildew resistant



- Commercial quality

Note: All timber to be recycled and/or plantation timber

Heaters



- Heavy duty cast iron
- Wind resistant weighted base



- Wheels for easy mobility
- Safety shut off



- Commercial quality

Barriers



- Attractive site screening
- Clear wind / weather barrier



- Stable
- Discrete Graphics



- Laced on vinyl barriers
- No sharp edges

Note: All timber to be recycled and/or plantation timber

SCHEDULE 6 LOGOS

Identification and promotional logos can add colour and vitality to the streetscape and are encouraged in a controlled manner.

Logos can only be placed on outdoor umbrellas, canopies, screens and menu pedestal boards and are subject to the following criteria:

- Only identify the business or products that are a core part of the business's activities and are supplied by the business to the public;
- Only one product and one business identification name for each food and drink premises or business;
- A minor and integral element of the furniture design and does not have an excessive visual impact on the streetscape;
- Only displayed on every alternate screen panel screen or umbrella at a maximum; and
- Covers less than 33% of the surface area of the screen panel.

The following identifies some unacceptable use of logos:

- Logos on outdoor furniture are not to be illuminated by neon or other spot lighting;
- Advertising is not permitted on any item within the outdoor dining or goods display area unless development consent has first been obtained;
- Private business advertising is not permitted on any Council street furniture and public infrastructure; and
- Where roll down blinds or screens are permitted no logo is allowed on transparent or roll down weather proofing blinds.

Submission details

Graphic artwork or an accurate photo of a logo or business name proposed is to be submitted with the application and illustrations showing the position and how the logo is to be applied.

SCHEDULE 7 PERMIT PLAN REQUIREMENTS

The Permit Plan illustrates the proposal and provides the set out details of the application. It should be prepared at a scale 1:100 or 1:50 and be based upon the details provided from:

- the plan of existing conditions (Schedule 2)
- the area defined using the setback criteria (Schedule 3)
- the selected outdoor furniture (examples in Schedule 5)

The Permit Plan is to include a scale drawing(s) that shows:

- The plan of existing conditions as base information
- All setbacks marked
- The layout of tables and chairs to scale and alternative layouts
- Location and specification of outdoor heaters
- Location and specification of outdoor lighting
- Location of goods display furniture
- Outdoor location of the menu(s)
- Location of planter boxes drawn to scale
- Specification of planter box(es) and plant species
- Location of screens drawn to scale
- Location of umbrellas and awnings drawn to scale
- Logo details (business identification logo or see the Logo criteria in Schedule 6)

SCHEDULE 8 OPERATIONS PLAN REQUIREMENTS

An **Operations Plan** addressing the following items is required to be submitted with an application:

- **Trading hours** - Proposed trading hours are to be specified and must not exceed the approved operating hours to any development consent issued for the associated business. Trading hours outside those approved may only be altered with development consent of Council.
- **Furniture storage** - The area where outdoor furniture is to be stored is to be shown on a plan of the interior of the business or storage area. This includes, stackable chairs, tables, menu boards, gas heaters and the like as well as display tables etc.
- **Staffing levels** - The number of staff available during the nominated hours to manage the outdoor area is to be specified. Include any casual staff available who will be waiting on or managing the outdoor dining areas during nominated busy periods.
- **Toilet facilities** - The applicant must specify access to existing or proposed toilet facilities that may reasonably be available for use. Each case will be considered against the minimum requirements specified in the *Building Code of Australia*.
- **Cleaning program** - One of the most critical aspects of using the public domain for the outdoor dining or goods display is the management procedures that will keep the area as clean as it would be if the areas were not there. The outdoor pavement is to be kept free and clean of all food or container spillages at all times. The pavement needs to be washed down on a weekly basis. Lack of adequate maintenance may cause a permit to be revoked.
- **Waste disposal** - Increased waste generated by the proposed outdoor dining or goods display area is to be estimated. All waste is required to be placed directly to 220 litre sulo bins unless the business uses a dedicated skip. Waste disposal using plastic bags is prohibited. Significant increases in capacity of a food and drink premises may require additional bin capacity or extra garbage pickups. Each case will be considered on their merits.
- **Non-Smoking** - All outdoor dining areas on Council-owned land are non-smoking and food and drink premises can be fined if their customers do not comply with the ban. For more information refer to Council's *Smoking in Public Places Policy* available from Council's website.
- **Pigeon and other pest management** - Some areas experience a pigeon problem. Clearing tables immediately people leave will avoid pigeons from feeding on table scraps. Prompt cleaning of spillages and clearing of tables will avoid encouragement of other vermin. The avoidance of situations that attract such pests are an obligation of the permit holder in order maintain acceptable standards of public hygiene and to comply with the health regulations.

SCHEDULE 9 INDEMNITY AND PUBLIC LIABILITY INSURANCE

Evidence of public liability insurance for \$10 Million, (or \$20 Million within State Road Areas) is required with the Permit Application. Suitable documentation is to be provided in accordance with the conditions of the grant of a Permit in the form of an acceptable Certificate of Currency for Public Liability Insurance as well as an indemnity form completed at the time of lodgement of a Permit Application.

EXAMPLE

EXZ insurance brokers

Certificate of Currency

Jo Bloggs
Architect
YYY111
Draw4U Pty Ltd

Date: 13/03/08
Ref No:

Insured: Enzo’s Coffee Lounge Pty Ltd
T/as Enzo’s Coffee Lounge

We act as insurance brokers for the above client and at their request confirm the existence and currency of the following insurance subject to the limitations, exclusions, definitions and conditions of the insurance policy wording:

Class: Ludlow Entry Plus
Policy No: ABC-1234-5678
Period: 01/02/08 – 01/02/09
Covering: Public and Products Liability
Including Cross Liability
Sum Insured: \$20,000,000
Situation: At and from shop 2 and Storage Area
123 Café Crescent
NORTH SYDNEY NSW 2060

Interested Parties: Roads and Maritime Services

Insurer: Ludlow General Insurance
Per Cent 100.0000

Note: This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This confirmation does not amend, extend or alter the coverage afforded by the policy/policies. Should the abovementioned contract of insurance be cancelled, assigned or changed during the above policy period in such manner as to affect this document, no obligation to inform the holder of this document is accepted by XYZ Insurance Brokers.

XYZ Insurance Brokers
22 Yippee Road, Ensworth NSW

SCHEDULE 10 LANDOWNER'S CONSENT

Where the proposal is to provide outdoor dining or display of goods in front of a neighbouring business or property, written consent of the owner and/or the occupier of the adjoining premises is required to be submitted with the Permit Application Form.

SCHEDULE 11 EXEMPT DEVELOPMENT

Where proposals are partly or fully on private land then development consent is required unless the proposed use satisfies the “exempt development” criteria for outdoor dining under the Codes SEPP or the criteria for goods display under NSLEP 2013. Regardless of whether development consent is required or not, proposals for outdoor dining or goods display that are partly or fully on a public road (including a footpath) a Permit under this Policy is needed.

Exempt Development Provisions**Outdoor Dining**

A proposal for outdoor dining may be “exempt development” provided it satisfies all the requirements outlined in clauses 1.15, 1.16, 1.16A and subdivision 20A to Division 1 to Part 2 of the Codes SEPP.

A copy of the Codes SEPP can be found at the following link:

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572>

Goods Display

A proposal for the display of goods may be “exempt development” provided it satisfies the requirements outlined in clauses 3.1 and 3.2 and Schedule 2 of NSLEP 2013.

A copy of NSLEP 2013 can be found at the following link:

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2013-0411>



OUTDOOR DINING AND GOODS ON FOOTPATH POLICY

D2-06

Page 1 of 7

Policy Owner: Director Engineering and Property Services

Category: 2. Our Built Infrastructure

1. STATEMENT OF INTENT

1.1 The purpose of this Policy is to:

- a) encourage outdoor dining in the North Sydney local government area;
- b) facilitate the appropriate use of footpaths, plazas and public areas for the purposes of outdoor dining areas and other footpath trading activities in the North Sydney local government area;
- c) manage the extent of commercial activities on footpaths such that priority is given to maintaining safe pedestrian movement;
- d) emphasise the need for high quality design while allowing for flexibility in design and appearance to better relate to the individual character of different localities and development;
- e) facilitate improvement to the street activation, vitality, amenity and economic viability of North Sydney's commercial areas;
- f) provide opportunities for business owners whilst balancing the need to provide adequate and safe pedestrian circulation;
- g) set a high standard for public safety and avoid disruption to pedestrian movement; and
- h) maintain a high quality Public Domain within the North Sydney local government area.

1.2 The objectives of this Policy are to ensure:

- a) the appropriate use of footpaths, plazas and public areas for outdoor dining areas and footpath trading activities;
- b) outdoor dining areas and footpath trading activities contribute positively to the streetscape character;
- c) outdoor dining areas and footpath trading activities are compatible with other community uses of the public space; and
- d) outdoor dining and footpath trading areas are safe and accessible for all users.

2. ELIGIBILITY

2.1 This Policy applies anywhere in the North Sydney local government area where "business premises", "office premises", or "retail premises" as defined under North Sydney Local Environmental Plan (NSLEP) 2013 are operating with

Re-adopted by Council ... 2023

OUTDOOR DINING AND GOODS DISPLAY ON FOOTPATH POLICY Page 2 of 7

- development consent or are permissible with development consent under NSLEP 2013.
- 2.2 The definition of “retail premises” under NSLEP 2013 incorporates, but is not limited to, the following land use terms:
- “Food and drink premises”; which includes:
 - “restaurant or café”
 - “takeaway food premises”
 - “pub”
 - “small bar”
 - “neighbourhood shops”
 - “shops”

3. DEFINITIONS

- 3.1 ***Footpaths and Public Places*** - means any area such as a footpath, plaza, park or other space owned, operated or managed by Council and used for pedestrian movement or recreation by the community. It does not include carriageways or other thoroughfares intended predominantly for vehicular traffic or privately owned arcades or plazas.
- 3.2 ***Outdoor Dining Area*** - means an external area associated with a “food or drink premises” as defined under NSLEP 2013, which is located directly in front of the premises and on Council owned land where food is served.
- 3.3 ***Outdoor Goods Display Area*** – means an external area associated with a “business premises”, “office premises” or “retail premises” as defined under NSLEP 2013, which is located directly in front of the premises and on Council owned land where goods associated with the business is displayed.
- 3.4 ***Permit Area*** - means the site of the footpath/plaza/public area for which a permit and/or development consent for commercial activity has been granted.

4. PROVISIONS

- 4.1 This Policy controls the following activities:
- 4.1.1 Outdoor dining areas associated with an existing or approved “food or drink premises” (or a development application lodged concurrently for a “food and drink premises”, where such land uses are permissible with development consent) located on land owned by the Council or comprises a “road” to which the *Roads Act 1993* applies, or other land under the care control and management of the Council where an existing Plan of Management allows the proposed use.
- 4.1.2 Outdoor dining incorporates the serving of food and/or drink in the public domain and any associated furniture such as seating, tables,

 Re-adopted by Council ... 2023

OUTDOOR DINING AND GOODS DISPLAY ON FOOTPATH POLICY Page 3 of 7

barriers, planters, umbrellas, heaters and the like. It does not include the preparation of food and or drink in the public domain.

- 4.1.3 Outdoor display of goods, on land comprising a “road” to which the *Roads Act 1993* applies.
- 4.1.4 Items and temporary structures, including umbrellas, protective blinds or coverings, heaters (fixed and portable), temporary or removable barriers (screens), safety railings, planters, paving, display racks, tables and chairs associated with either of the activities within clauses 4.1.1, 4.1.2 and 4.1.3 above.
- 4.1.5 Equipment and structures used for the preparation of food and/or beverages within the public domain are not permitted (e.g. food carts, coffee carts, hotdog carts and the like).
- 4.1.6 Use of “A-frame” or “sandwich boards” for advertising of commercial premises on public land is not permitted. An exemption to this requirement may be permitted, but only in relation to the advertising of a temporary event.
- 4.1.7 Other outdoor dining or goods display areas located on any land contiguous with a road or footpath such as within an adjacent colonnade, building undercroft or plaza area that relates to a public road or to other public space, whether or not a permit under the *Roads Act 1993* is required but where development consent may also be required.
- 4.1.8 Outdoor dining areas for licensed premises under the *Liquor Act 2007*. Where it is intended to serve alcohol, a license may also be required to be issued by the relevant authority under the *Liquor Act 2007*.
- 4.2 Application process - Council will use the associated Guidelines forming Appendix A to this Policy to assess all applications for the commercial use of footpath, plazas or public areas. Before applying, applicants must read the conditions within the Permit Application Form for an Outdoor Dining or Goods Display Area in a Public Place.

In determining whether to approve a Permit Application, the decision of Council is final. In some circumstances Council may grant a trial period for up to 12 months to help determine a location’s suitability for an outdoor dining or goods display permit. Following the trial period, Council may vary the design, operations and/or conditions of an approved permit on renewal (or revoke the permit if it is deemed by Council to be an unsuitable site).

- 4.3 Exempt development - where requests for outdoor dining or goods display are partly or fully on private land, then development consent is required unless the proposed use satisfies all of the requirements for “exempt development” under NSLEP 2013 or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP).

Re-adopted by Council ... 2023

OUTDOOR DINING AND GOODS DISPLAY ON FOOTPATH POLICY Page 4 of 7

- 4.4 Outdoor dining or goods display areas may not be appropriate in civic or ceremonial spaces. They will not be approved in potentially hazardous places such as the corners of street intersections or unprotected elevated locations. In elevated locations, eg. a change of level and at the edge of deep water, an outdoor dining permit is only appropriate in conjunction with a suitable safety rail, the design of which shall be subject to Council's approval.
- 4.5 In assessing applications, the most important considerations are pedestrian and vehicular circulation, convenience and safety of patrons and the general public, existing streetscape elements and residential amenity. The ground surface must be suitably constructed and sufficiently level to support a proper layout and safe use of the required furniture and associated circulation areas. To achieve this only minor structures or changes in the footpath will be permitted.
- 4.6 All applications for outdoor dining or goods display areas must show all the existing features and permanent elements of the streetscape and landscape such as planter boxes pavilions, trees, pedestrian lights, bollards etc. Whenever possible, an outdoor dining area should visually relate and compliment the surrounding public domain.
- 4.7 Consideration will be given to the waiver of Outdoor Dining fees in circumstances where Council is carrying out works on footpaths which prevent the Licensee from utilising the licenced area.

5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 Council's Open Space & Infrastructure Division is responsible for the provision and management of Permits for Outdoor Dining or Goods Display Areas in a Public Place, including the processing of applications.
- 5.2 Where applicable, Council's Development Services Department is responsible for issuing a development consent for the use of outdoor dining and display of goods areas.
- 5.3 Council's Ranger & Parking Services Department is responsible for enforcement of permits and development consents.

6. RELATED POLICIES/DOCUMENTS/LEGISLATION

This Policy should be read in conjunction with the following policies and documents (as amended from time to time):

- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008;
- North Sydney Local Environment Plan 2013;

Re-adopted by Council ... 2023

OUTDOOR DINING AND GOODS DISPLAY ON FOOTPATH POLICY Page 5 of 7

- North Sydney Development Control Plan 2013;
- North Sydney Compliance and Enforcement Policy.

The Policy should be read in conjunction with the following documents/legislation:

- Roads Act, 1993;
- Environmental Planning and Assessment Act, 1979;
- Liquor Act, 2007;
- Local Government Act, 1993; and
- Building Code of Australia;

Re-adopted by Council ... 2023

OUTDOOR DINING AND GOODS DISPLAY ON FOOTPATH POLICY Page 6 of 7

Version	Date Approved	Approved by	Resolution No.	Review Date
1	12 May 2008	Council	282	2008/09
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4	25 June 2018	Council	214	2020/21
5	... 2023	Council	...	2024/2025

Re-adopted by Council ... 2023

OUTDOOR DINING AND GOODS DISPLAY ON FOOTPATH POLICY Page 7 of 7

APPENDIX A

Outdoor Dining and Goods on Footpath Policy Guidelines

Re-adopted by Council ... 2023