

ITEM 3. POST EXHIBITION - OUTDOOR DINING AND DISPLAYS OF GOODS  
ON THE FOOTWAY

FILE NO: S060627-02

**SUMMARY**

The City encourages people to use public land in ways that create interest and activity in the street, encourage visitation, assist local economic development and provide passive surveillance and opportunities for social interaction. These uses can include outdoor dining areas and displays of goods from adjacent shops. Council's Retail Action Plan includes directions to provide opportunities for outdoor dining as part of creating great retail experiences for all residents and visitors, and encouraging social, cultural and economic amenity and vitality. The Open Sydney Strategy and Action Plan 2013-2030 promotes opportunities for a variety of later outdoor dining opportunities away from residential areas.

The public footway is used for many purposes: for access and circulation; leisure; social interaction; and commercial enterprise. The uses and associated infrastructure, such as signage, lighting, seating and so on, are diverse and often compete for limited space with high volumes of pedestrians. These uses also have the potential to adversely affect access, amenity and the aesthetic character of streets. The City's policies and guidelines for the use of public space encourage beneficial uses of public space and help manage potential impacts.

The City's draft Policies and Guidelines for outdoor dining and displays of goods on footways encourage desirable economic and social activity in the street and manage potential impacts on neighbours and pedestrians. Following a review of Council's existing policies for outdoor dining and other commercial activities on footways, Council placed on public exhibition:

- (a) the draft Outdoor Dining Policy,
- (b) the draft Outdoor Dining Guidelines;
- (c) the draft Outdoor Dining Action Plan; and
- (d) the draft Local Approvals Policy for the Display of Goods.

Twenty four submissions were received during the public exhibition. The primary issue raised during exhibition related to ensuring pedestrians who are blind or have low vision have the opportunity for safe and dignified access on Council's footways. Other issues raised included reducing fees for operators, protecting neighbourhood amenity and permitting outdoor dining in Martin Place.

No significant changes are proposed to the draft Policies, Guidelines and Action Plan as a result of the submissions. Minor amendments have been made to the draft Policies and Guidelines to respond to issues raised during public exhibition, and as a result of issues raised in the assessment of outdoor dining applications. They are shown as ***bold italics*** for insertions and ~~striketrough text~~ for deletions at Attachments B through to E. The issues are discussed in more detail at Attachment A.

Council cannot adopt the Local Approvals Policy for the Display of Goods until additional legislated steps have been taken. These steps can only be taken after Council has considered the submissions that are the subject of this report, including concurrences from the Office of Local Government and Roads and Maritime Services. Council will also need to amend Sydney Local Environmental Plan 2012 to exempt displays from the need for development consent.

This report recommends that Council adopt the revised Outdoor Dining Policy and Guidelines and endorse the Outdoor Dining Action Plan. It recommends that Council endorse the Local Approvals Policy for the Display of Goods, and resolve to undertake the steps needed to finalise it for adoption, noting that once these steps have been undertaken the Local Approvals Policy will be reported back to Council for adoption.

### **RECOMMENDATION**

It is resolved that:

- (A) Council note the matters raised during the public exhibition, shown at Attachment A to the subject report;
- (B) Council adopt the Outdoor Dining Policy and Outdoor Dining Guidelines, as amended and shown at Attachments B and C, respectively to the subject report;
- (C) Council note that, if adopted, the Outdoor Dining Policy and the Outdoor Dining Guidelines will rescind and replace Council's Outdoor Café Policy 2001 in the area to which it applies;
- (D) authority be delegated to the Chief Executive Officer to make any minor variations to correct drafting errors in the Outdoor Dining Policy and Outdoor Dining Guidelines prior to finalisation;
- (E) Council endorse the Outdoor Dining Action Plan, shown at Attachment D to the subject report, and request that the Chief Executive Officer report back to Council on the implementation of the Outdoor Dining Action Plan;
- (F) Council amend the register of Delegations from the Council to the Chief Executive Officer to align the approvals delegation and the owner's consent delegation with the maximum seven year approval period in the Outdoor Dining Policy at Attachment B;
- (G) Council, noting the matters raised during public exhibition, endorse the Local Approvals Policy for the Display of Goods, as amended and shown at Attachment E to the subject report, and:
  - (i) seek concurrence from the Office of Local Government for the exemptions set out in Part 1 of the draft Local Approvals Policy in accordance with the *Local Government Act 1993*; and
  - (ii) seek concurrence from Roads and Maritime Services to issue a general approval under the *Roads Act 1993* for the use of the footway;
- (H) Council approve the Planning Proposal: Sydney Local Environmental Plan 2012 – Exempt Development – Displays of Goods on the Public Footway, shown at Attachment F to the subject report:

- (i) for submission to the Greater Sydney Commission with a request for a Gateway Determination; and
  - (ii) for public authority consultation and public exhibition in accordance with the Gateway Determination;
- (I) Council seek authority from the Greater Sydney Commission to exercise the delegation of the Greater Sydney Commission for all of the functions under section 59 of the *Environmental Planning and Assessment Act 1979* to make the local environmental plan to put into effect Planning Proposal: Sydney Local Environmental Plan 2012 – Exempt Development – Displays of Goods on the Public Footway;
- (J) authority be delegated to the Chief Executive Officer to make any minor variations to the Planning Proposal: Sydney Local Environmental Plan 2012 – Exempt Development – Displays of Goods on the Public Footway following receipt of the Gateway Determination; and
- (K) Council note that the Local Approvals Policy for the Display of Goods will be reported back to Council for adoption on completion of the steps outlined in clause (F) and following exhibition of the planning proposal referred to in clause (G).

## **ATTACHMENTS**

**Attachment A:** Response to submissions

**Attachment B:** Outdoor Dining Policy (as amended)

**Attachment C:** Outdoor Dining Guidelines (as amended)

**Attachment D:** Outdoor Dining Action Plan (as amended)

**Attachment E:** Local Approvals Policy for the Display of Goods (as amended)

**Attachment F:** Planning Proposal: Sydney LEP 2012 – Exempt Development – Displays of Goods on the Footway

**BACKGROUND**

1. Active and busy public places are an important part of Sydney's public character and central to the attractiveness and success of our City. The use of public space for outdoor dining and displays of goods from shops can contribute to the economic and social vitality of the City.
2. The City uses policies and guidelines to encourage beneficial uses of the public domain and to manage the potential impacts to pedestrians and neighbours. Following a review of existing policies, the City prepared revised draft Policies and Guidelines for the use of the public footway for outdoor dining and displays of goods.
3. These benefits include interest and activity in the street, opportunities for casual social interaction, passive surveillance to improve public safety and increased local economic development.
4. Uses such as outdoor dining and displays of goods from shops on public land also have the potential to adversely affect pedestrian access, neighbourhood amenity and the aesthetic character of streets. These impacts can compromise the primary functions of public land and cause conflict with broader public benefits.
5. The main changes proposed in the draft Policies, Guidelines and Action Plan are:
  - (a) acknowledgment of the impact that obstacles on the footway can have for pedestrians who are blind or have low vision;
  - (b) mandating that a clear path of travel must be provided and maintained at all times, and that it must be consistent for each street block;
  - (c) longer approval periods for outdoor dining up to a maximum of seven years, depending on circumstances;
  - (d) reducing the proportion of outdoor dining applications which are notified for public exhibition;
  - (e) new special guidelines to permit outdoor dining in Martin Place;
  - (f) an operator and customer education and awareness program to highlight access considerations;
  - (f) further investigation into kerbside seating and environmental cues to assist navigation; and
  - (g) permitting retail businesses outside Central Sydney to display goods on the footway, without approval, providing certain criteria are met.
6. This report discusses Council's consideration of submissions received during the exhibition of:
  - (a) a draft Outdoor Dining Policy, Guidelines and Action Plan; and
  - (b) a draft Local Approvals Policy for the Display of Goods.

7. Submission responses were both positive and negative towards aspects of the draft policy and guidelines, and to outdoor dining in general. A minority of submissions directly addressed the changes being proposed as part of the draft Policies, Guidelines and Action Plan, while others commented on outdoor dining in a more general way.
8. The primary issue arising from the submissions is the accessibility of the footway for pedestrians who are blind or have low vision. Submissions from Vision Australia, Guide Dogs NSW and Blind Citizens Australia say that the draft policies and guidelines are potentially discriminatory under the *Disability Discrimination Act 1992*, by not requiring all outdoor dining to be moved away from the building line.

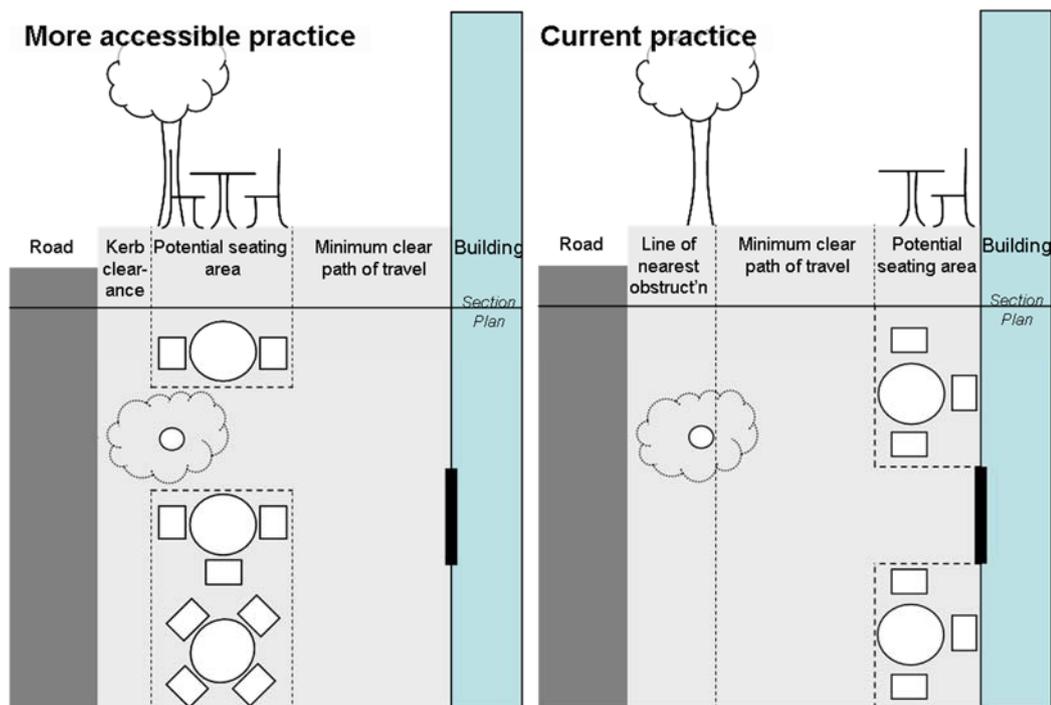
### **PUBLIC CONSULTATION**

9. The draft Policies, Guidelines and Action Plan were placed on public exhibition in accordance with the *Local Government Act 1993*, which requires a minimum exhibition period of 42 days, and the publication of newspaper advertisements before the start and close of the exhibition. Exhibition began on 3 November 2015 and finished on 18 December 2015, a total of 45 days outside the holiday season.
10. The public exhibition materials were available at the City's One Stop Shop and each of the four neighbourhood service centres for the duration of the exhibition period. They were also placed on the Sydney Your Say website in standard digital, accessible word and audio versions. Braille copies were available on request and at the One Stop Shop and Customs House. There were a total of 223 documents downloads from Sydney Your Say during the exhibition period. The City distributed a Sydney Your Say and a City Business email newsletter advising of the exhibition, with a combined subscription of 5,200.
11. The City received 24 submissions, with two from residents' groups, three from businesses and 13 from individual residents. Where the same individual resident made multiple submissions, these have been counted as one submission. Another seven submissions came from organisations including two business groups, one government agency, the Returned Services League of NSW and one each from Vision Australia, Guide Dogs NSW and Blind Citizens Australia.
12. Key issues raised include:
  - (a) ensuring the accessibility of the footways for pedestrians who are blind or have low vision;
  - (b) possible loss of neighbourhood amenity for local residents from increased outdoor dining;
  - (c) outdoor dining in Martin Place and other areas of special heritage significance; and
  - (d) reducing or eliminating fees to encourage further outdoor dining.
13. Several other issues were raised along with suggestions for minor amendments to the documents. Submissions are summarised and addressed in the Consultation Report at Attachment A. The major points are addressed in the following paragraphs of this report.

ISSUES

Accessibility for pedestrians who are blind or have low vision

14. Vision Australia, Guide Dogs NSW and Blind Citizens Australia are concerned about the impact of these polices on access for pedestrians who are blind or have low vision. The submissions say that outdoor dining furniture placed against the building line causes an obstruction, preventing safe and dignified access to the footway for pedestrians who are blind or have low vision, and is potentially discriminatory under the *Disability Discrimination Act 1992*.
15. For pedestrians who are blind or have low vision and where a building line is available, a clear building line provides the best opportunity for wayfinding and navigation along footways. The building line helps by picking up on the colour and luminance contrast provided by the solid bulk of a building wall, or by using a long cane to pick out the building line as a 'shore line'. For this to be effective, the building line must be free of obstructions, including benches, lamp-posts and outdoor dining furniture. Figure 1 compares two footway arrangements, the first with outdoor dining towards the kerb, the second with outdoor dining along the building line.



**Figure 1: Sections and plans of a typical footway with outdoor seating located along the kerbside (the Vision Australia preference) and building line (similar to current practice).**

16. The submissions from Vision Australia, Guide Dogs NSW and Blind Citizens Australia request that Council amend the draft Outdoor Dining Policy and Guidelines to require all outdoor dining furniture to be placed away from the building and against the kerb. This would leave the building line free to provide the best option for safe and dignified navigation of the City's footways. Guide Dogs NSW request that, where outdoor dining cannot be moved to the kerb, then it should not occur at all.

17. In Australia and internationally, there are a variety of approaches to this issue, shaped by a combination of pavement widths, pedestrian volumes and local practices. Melbourne is notable for wide footpaths and having its outdoor dining kerbside. In Sydney, some councils express a preference for kerbside dining, but allow dining to be along the building line provided pedestrian movement and access to shop entrances is not impeded. Some councils express no preference and accept seating on the building line. Internationally, the overwhelming approach is to have outdoor dining along the building line. In the Sydney Local Government Area, the established practice is for a flexible location of the outdoor dining area, with the historical practice for locating outdoor dining along the building line.
18. Vision Australia's submission refers to the *Disability Discrimination Act 1992*, *Disability Access to Premises Standards 2010*, and the *Australian Standard AS1428 - Design for access and Mobility Part 2: Enhanced and additional requirements – buildings and facilities*. The submission states that, for footways, the *Australian Standard AS1428 - Design for access and Mobility Part 2: Enhanced and additional requirements – buildings and facilities* stipulates a clear path of travel of a minimum 1.8 metre width must be provided next to the building line, and that street furniture must be outside of this clearance area.
19. In developing the policies and guidelines, the City has considered the legislation and standards referred to by Vision Australia. The *Disability Discrimination Act 1992* requires that building owners and public authorities not discriminate in providing access to premises. Guidance on how to implement the *Disability Discrimination Act 1992* is contained in the *Disability - Access to Premises Standards 2010*, but this only applies to buildings and specifically excludes footways. The Australian Standard *AS1428 – Design for Access and Mobility* addresses new building work in Part 1, and has enhanced and additional requirements for buildings and facilities in Part 2. None of these documents specifies the location of a clear path of travel on public footways.
20. The City has also considered the advice published by the Australian Human Rights Commission. The Australian Human Rights Commission advises that the clear path of travel should “extend from the property line with no obstructions or projections in order to provide the best possible guidance line for all users including people with a vision impairment”. However, the Commission also acknowledges that local governments must make decisions on footways ‘based on the needs of local communities, local conditions, historical practice and any unique heritage or environmental issues’ (<https://www.humanrights.gov.au/frequently-asked-questions-access-premises>).
21. A clear path of travel along the building line is good for wayfinding, but has implications for other desirable uses that bring character and activity to the City's streets. The City's footways are generally narrow with high pedestrian volumes. This is especially so on some high streets, for example, King Street Newtown and Glebe Point Road. Locating outdoor dining on the kerbside may give rise to workplace and public safety concerns where wait-staff are crossing the pavement carrying hot food and drinks, especially in busy pedestrian areas. Kerbside dining requires an additional clearance from the kerb itself, to allow drivers to enter and exit parked cars and even larger clearances for loading zones. The location of permanent street furniture at the kerbside, including trees, bike rings, bus stops, bins and lights, has the effect of limiting either the space available for pedestrian movement or dining and can increase footway congestion. The kerbside zone is outside of the shade provided by awnings, and during rain angled awnings often drain to this area.

22. Streets with clearways and bus lanes, such as Oxford Street, are only able to have outdoor dining along the building line, as dining areas cannot be located kerbside where there are adjacent clearways or bus lanes. The submissions are clear that, where outdoor dining cannot be kerbside because of clearways and bus lanes, then it should not be allowed.
23. The ideal wayfinding solution cannot be consistently implemented without affecting other desirable uses on City streets, including the loss of outdoor dining on streets such as King Street and Oxford Street. A loss of outdoor dining will have a negative effect on essential aspects of Sydney's public character, including social interaction, visitation, passive surveillance and interest and activity on the street.
24. The City agrees that a clear path of travel is essential for all pedestrians. The Policy and Guidelines refer to the *Disability Discrimination Act 1992* as a guiding piece of legislation and acknowledge the preference of pedestrians who are blind or have low vision for outdoor dining to be on the kerbside. The Policy and Guidelines do not express a preference for outdoor dining to be along the building line or kerbside.
25. The Policy and Guidelines require that a clear path of travel is provided and maintained, to allow for safe, dignified and equitable access to the footway for all users. They also stipulate that the clear path of travel must be in a consistent location for each street block and be predictable to allow for planning of journeys. They assist wayfinding and navigation, while also providing the opportunity for a range of desirable uses on the footway.
26. The location of outdoor dining areas will be subject to the surrounding context, with the primary consideration to provide a consistent and predictable clear path of travel. Other considerations will include the location of street infrastructure, the presence of bus lanes and clearways, pedestrian and traffic speeds and volumes, and local topography. No outdoor dining area should impede the existing clear path of travel in any way.
27. As a consequence of feedback received during public exhibition, we propose to change the Outdoor Dining Policy to commit Council to work with all stakeholders to implement best practice wayfinding for stakeholders who are blind or have low vision. This change is shown in bold italics at Attachment B. Initially, this will involve implementing the actions in the Action Plan shown at Attachment D. There are no other changes to the Policy or Guidelines.

### **Outdoor Dining Action Plan**

28. In addition to the draft Policy and Guidelines, which acknowledge the importance of a clear path of travel, the City exhibited a draft Outdoor Dining Action Plan to promote and improve safe, equitable and dignified access on the public footway. The draft Action Plan contains actions which respond to suggestions made during recent stakeholder engagement, particularly with the City's Inclusion (Disability) Advisory Panel. The Action Plan is a program for working with stakeholders to improve wayfinding on the City's footways.
29. While submissions from Vision Australia and Guide Dogs NSW note that the Action Plan has a role to play in improving wayfinding, they say that it cannot be a substitute for having a clear path of travel along the building line. The approach to the location of outdoor dining has been discussed previously.

30. The Action Plan contains an action to investigate alternative wayfinding methods in instances where the building line is not available as a shore line. A similar approach has been proposed in the draft *Australian Standard 1428 Design for access and mobility Part 4.2 Wayfinding*, recently on public exhibition. The Action Plan will improve access for people who are blind or have low vision. The report recommends Council endorse the Action Plan and begin working with stakeholders to implement the actions.

#### **Outdoor dining and neighbourhood amenity**

31. Some submissions express concern that the draft Policy and Guidelines will lead to an increase in outdoor dining and a loss of residential amenity due to noise and footway congestion. Suggestions include capping outdoor dining approvals to limit their number. Others raise noise and congestion as existing problems.
32. The draft Policy and Guidelines contain provisions to ensure neighbourhood amenity is considered as part of the assessment of applications. These include controlling the hours of operation and the area approved for outdoor dining, with considerations including the potential for noise to nearby residents.

#### **Notification of applications for public exhibition**

33. One submission requests that Council amend the draft Policy and Guidelines to require that all applications for outdoor dining be placed on public exhibition, with notifications sent to surrounding residents and businesses. The current practice is to notify and exhibit all outdoor dining applications as if they were development applications. The requirements for the notification and public exhibition of development applications are in Sydney Development Control Plan 2012.
34. The majority of outdoor dining applications are now classified as exempt development in the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. As exempt development, they do not need a development application, and notification in accordance with Sydney Development Control Plan 2012 is not required. There is no requirement for exempt development, including outdoor dining that is exempt development, to be notified for public exhibition. Outdoor dining will still need a license to occupy public land.
35. If adopted, the Guidelines will set out when a footway application is required to be notified. If a development application is also required, the combined development application and footway application will be notified in accordance with Sydney Development Control Plan 2012.
36. The response rate for outdoor dining notifications is approximately one response for every 1,000 notification letters Council sends. Notification and public exhibition of all outdoor dining applications is a significant cost and time impost on businesses and ratepayers. Reducing the number of applications that are notified for exhibition will improve assessment times and reduce costs for operators.
37. The Guidelines require that higher risk outdoor dining applications be notified and placed on exhibition only where the proposal is for an outdoor dining area:
- (a) greater than 20 square metres in Central Sydney; or
  - (b) greater than 10 square metres outside Central Sydney; or

- (c) with hours of operation before 7am, or after 10pm, outside Central Sydney.
38. Regardless of whether an application is notified, it will still require an approval from Council to operate. Approval will involve assessment of impacts, including noise and footway congestion, against the Outdoor Dining Guidelines before approval is granted. No changes are recommended to the notification and public exhibition provisions proposed in the Draft Policy and Guidelines as a result of submissions.

### **Llankelly Place**

39. Two submissions express concern that the draft Policy and Guideline will increase outdoor dining in Llankelly Place to the detriment of residents and users of the place, and that there has been no consultation with residents and businesses. Llankelly Place has specific guidelines within the draft Policy and Guidelines, which continue an initiative trialled by Council to reduce anti-social behaviour through increased activity in Llankelly Place.
40. The initiative included the reinstatement of Llankelly lights, additional street cleaning, and a trial of expanded areas for outdoor dining. The trial ran for 12 months from January 2014, with the results of consultation reported to Council in December 2014. Council resolved to note that the trial had been successful and should continue. Following that resolution, the trial was extended to January 2016. The Special Place guidelines allow for the outdoor dining measures that were part of the successful trial to be continued.

### **Fees and regulation for outdoor dining**

41. One submission states that the proposed maximum seven year approvals for outdoor dining are too long, and that all approvals should be provisional and subject to regular review. Currently and pending this policy outcome, the majority of approvals issued by the City are for no more than two years, and each renewal is treated as a fresh application. This adds to the time and cost for both operators and for the City. The draft Policy and Guidelines propose that approvals are granted for up to a maximum of seven years, as permitted under the *Roads Act 1993*, to remove unnecessary cost and administrative burdens. A more typical approval period would be 5 years to match with typical commercial lease periods. Instances of non-compliance with approval conditions can be dealt with through the City's compliance processes, which include the ability for the City to suspend or revoke an outdoor dining approval where there is non-compliance. No changes are recommended to the maximum length of approvals proposed in the Draft Policy and Guidelines following exhibition.
42. Three submissions request the Policy and Guidelines allow outdoor dining approvals to be transferred from one owner to another whenever a business changes ownership. While the City understands that this can be an impost on operators and cause some uncertainty for them, the *Roads Act 1993* requires that approval is given to the operator of a business, not to a business or a property. This means that when the operator of the business changes, the approval is no longer valid and a new one is required. The Policy and Guidelines propose that, if there is an existing outdoor dining approval, and that the only change to the approval is the operator, then that application does not need to be notified for public exhibition. This will reduce the cost and time associated with the application.

43. Three submissions have suggested that fees for outdoor dining applications and the rental fees for use of the public footway be either reduced or eliminated. Fees to assess and administer outdoor dining applications are charged to partially recover some of the costs incurred by Council. Rental for the footway area used for outdoor dining is charged in recognition that the area has value to the public and to the business, and to encourage businesses to value their opportunity to use that space for outdoor dining. Not all businesses have the opportunity to add outdoor dining, and it would be inequitable to provide that opportunity to some businesses at no cost. Council reviews and exhibits its fees and charges before the start of each financial year. The policy and guidelines do not set the fees and fees have not been considered as part of the review of the policy.

#### **Outdoor dining in Martin Place and other special precincts**

44. One submission states that outdoor dining should not be allowed on the Cenotaph block of Martin Place, given its significance as a place of commemoration. Another submission asks for fewer restrictions on furniture and advertising for outdoor dining in Martin Place.
45. The draft Policies and Guidelines propose to allow outdoor dining in Martin Place, subject to stringent conditions. These conditions are appropriate, given the unique civic and ceremonial value of the space, and include maintaining a minimum distance from the Cenotaph, removing outdoor dining furniture for ceremonial occasions and restrictions on advertising on furniture. The Returned Services League of NSW submission supports outdoor dining in Martin Place with those conditions applied. Given the support of the Returned Services League, the City considers outdoor dining is appropriate and can positively contribute to the place.
46. One submission requests that Special Place guidelines are developed for Queens Square in Central Sydney, as has been done for Martin Place, to recognise the significance of the place. The Special Place guidelines for Martin Place were developed as part of the City North Public Domain Plan in response to requests from adjoining business owners and the Returned Services League, and to manage the range of uses in Martin Place and ensure the qualities of the outdoor dining offering match its special character, particularly around the Cenotaph. Special Place guidelines are not envisaged for Queens Square at this time, though outdoor dining can be considered and approved under the general requirements of the guidelines if an application is made.

#### **Displays of goods**

47. One submission supports allowing retailers to display goods on the footway, and none opposes. One submission asks that the City confirm whether sandwich boards are permitted on the City's footways. Sandwich boards are advertising structures, not goods displays, and are not permitted to be placed on the City's footways. An amendment is recommended to confirm that sandwich boards are not permitted.

**Other issues**

48. An amendment to the Outdoor Dining Guidelines is recommended so that applications and approvals will no longer include the number of patrons, or the arrangement of patron seating. Instead, the focus will be on the size and location of the outdoor dining area. To understand the potential for impacts from outdoor dining, the assessment of applications will assume one patron for each square metre of outdoor dining area. This is consistent with the applications for outdoor dining received and assessed by the City. This recommended change will reduce the complexity of the application and assessment process.
49. This change has required a number of minor amendments throughout the Outdoor Dining Guidelines, including the requirements for public notification for outdoor dining applications. Previously, notification was proposed for applications based on patron numbers. This has been amended so that notification is required based on the size of an outdoor dining area, assuming one patron for each square metre. Applications for an area greater than 20 square metres in Central Sydney, or 10 square metres outside Central Sydney, will require public notification.
50. Following exhibition, changes are recommended to Section 5 of the Outdoor Dining Guidelines to emphasise the temporary nature of outdoor dining furniture, and to provide further guidance on umbrella and barrier design. These changes will reduce the visual impact of outdoor dining furniture.

**KEY IMPLICATIONS**

**Strategic Alignment - Sustainable Sydney 2030 Vision**

51. *Sustainable Sydney 2030* is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This report is aligned with the following SS2030 strategic directions and objectives:
  - (a) Direction 5 - A Lively and Engaging City Centre – If adopted, the policy approach in this report would encourage greater activity on the City's streets and public places, through promoting visitation and encouraging visitors to spend more time in the City centre.
  - (b) Direction 6 - Vibrant Local Communities and Economies - If adopted, the proposed approach will encourage additional business in the City, through the simplification and streamlining of application processes. These processes were identified as a major entry barrier by City businesses in consultation as part of the policy review.

**Organisational Impact**

52. If adopted, the draft Policies, Guidelines and Action Plan would reduce the amount of staff time spent on assessing applications for outdoor dining.

**Social / Cultural / Community**

53. If adopted, the draft Policies, Guidelines and Action Plan would lead to an overall improvement in public domain accessibility. The proposed approach does not adopt the preferred position of Vision Australia and others, to leave the building line clear of items and obstructions. However, the proposed approach allows for benefits of outdoor dining to the whole community while insisting on the provision and maintenance of a consistent and reliable clear path of travel. The Action Plan also establishes a series of additional actions to improve accessibility on the City's footways.

**Economic**

54. The Policy and Guidelines will encourage additional business in the City, through the simplification and streamlining of application processes.

**BUDGET IMPLICATIONS**

55. If adopted, the proposed approach will reduce the staff resources dedicated to assessing and administering outdoor dining applications and approvals. An increased focus on monitoring and compliance will require re-prioritisation of existing resources, but overall the impact on staff resources will be neutral.
56. The draft Action Plan will require staff resources and budget for research studies. These can be sourced from existing staff and approved budgets for studies and incorporated into future operational budgets

**RELEVANT LEGISLATION**

57. *Crown Lands Act 1989; Disability Discrimination Act 1992 (Cth); Environmental Planning and Assessment Act 1979; Local Government Act 1993; Roads Act 1993; State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*

**NEXT STEPS**

58. To implement the maximum seven year approval period in the Outdoor Dining Policy, Council will need to amend the register of Delegations from Council to the Chief Executive officer. Two delegations are affected:
- (a) Delegation number 24 under Property, Land Use and Other Matters. This delegation currently allows the Chief Executive Officer to issue approvals for the occupation of public land for a maximum of 5 years; and
  - (b) Delegation number 26 under Property, Land Use and Other Matters. This delegation currently allows the Chief Executive Officer to issue owner's consent for the use of public land up to a period of 3 years.
59. The following steps are required after Council's consideration of the matters raised in submissions, and prior to the adoption and implementation of the Local Approvals Policy for the Display of Goods:
- (a) under the *Local Government Act 1993*, the Local Approvals Policy must be referred to the Office of Local Government for concurrence on that part which provides exemptions for approval;

- (b) under the *Roads Act 1993*, Council must issue a 'general approval' that allows the use of the footway, with concurrence from Roads and Maritime Services required for that approval to extend to classified roads; and
  - (c) under the *Environmental Planning and Assessment Act 1979*, Council must amend the *Sydney Local Environmental Plan 2012* to classify goods displays as exempt from the requirement for development consent.
60. This report requests that Council endorse the Local Approvals Policy in order to complete these steps, and notes that the Local Approvals Policy will be reported back to Council for adoption once these steps have been completed.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(David Fitzpatrick, Senior Planner)