

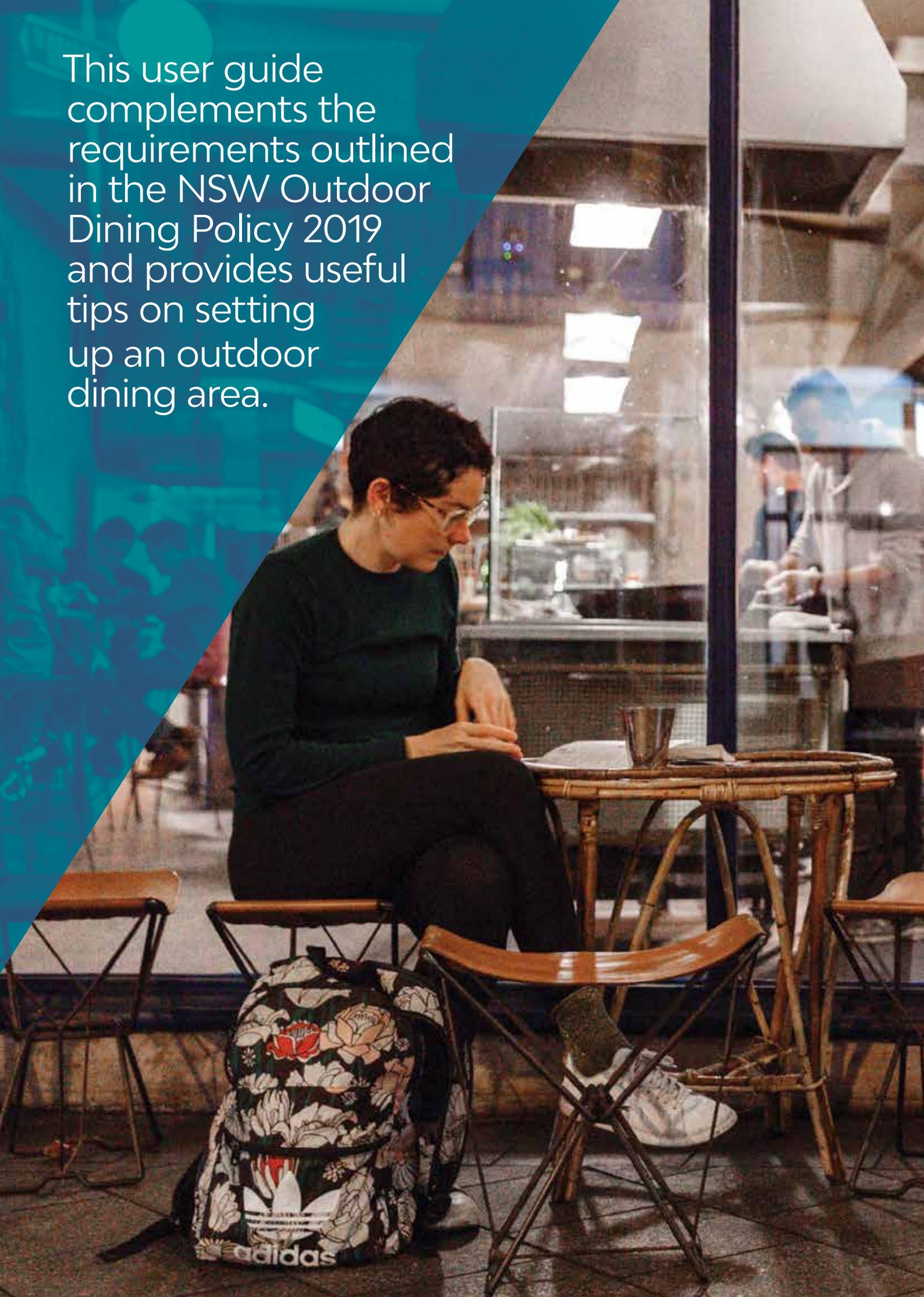
NSW Outdoor Dining User Guide

2019



Small
Business
Commissioner

This user guide complements the requirements outlined in the NSW Outdoor Dining Policy 2019 and provides useful tips on setting up an outdoor dining area.



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INT19/89368

Introduction

The NSW Government encourages the establishment of outdoor dining areas across the state to create vibrant local communities and additional opportunities for food-based businesses.

To make it easier for more food business owners to offer outdoor dining, the NSW Small Business Commission developed the NSW Outdoor Dining Policy 2019 to streamline and simplify the application process.

This user guide applies to all applications for outdoor dining next to roads or in public places within local government areas across NSW that have adopted the NSW Outdoor Dining policy. Check the Easy to do Business website www.mybusiness.service.nsw.gov.au/crsb/od to find out if your area is included.

This guide contains useful tips that will help you, as owner of an existing restaurant, café or food-based business, to decide whether outdoor dining is an appropriate and feasible addition to your business. This guide also provides advice on planning, designing and operating any proposed outdoor dining activities.



Approval process

A new, simple and easy streamlined process will allow restaurants, cafés and food-based businesses to activate the external areas of their businesses by operating outdoor dining activities within public spaces. This includes providing furniture and fixtures for the enjoyment of diners. In applying for outdoor dining approval, you will be asked to consider the following:

1

POLICY

Review the NSW Outdoor Dining Policy 2019 to determine if your site is suitable and you are able to meet the permit requirements

2

USER GUIDE

Read this guide to find tips to help the planning of your outdoor dining area

3

APPLICATION

Self-determine that you can meet the requirements in the policy and this guide and, if so, receive a permit to operate

Outdoor dining permit requirements

For further guidance on the specific requirements under these categories, please see the NSW Outdoor Dining Policy 2019.

Category		Key considerations
1	<p>Location/site suitability</p> <p>Facilitate the appropriate use of footpaths and public places for outdoor dining activities.</p>	<ul style="list-style-type: none"> • Minimum distances • Neighbours
2	<p>Safety</p> <p>Maintain an equitable and safe thoroughfare around outdoor dining areas for all users.</p>	<ul style="list-style-type: none"> • Public safety, including road safety • Accessibility • Line of sight • Management of animals • Engagement with public
3	<p>Amenity</p> <p>Facilitate improvement to the local character, street vitality and economic viability.</p>	<ul style="list-style-type: none"> • Local character • Attractiveness • Local vitality
4	<p>Function</p> <p>Ensure the design, furniture, fixtures and day-to-day requirements of the outdoor dining space reflect the local area.</p>	<ul style="list-style-type: none"> • Design of space • Furniture • Fixtures • Daily operations
5	<p>Legal and compliance</p> <p>Ensure that the management of outdoor dining activities avoids nuisance, endangerment or inconvenience to neighbours and the general public.</p> <p>Address public liability and manage risks, and ensure compliance with state legislation including liquor laws.</p>	<ul style="list-style-type: none"> • Noise • Waste • Operational conditions • Council inspections • Insurance • Compliance with legislation

Location

Objective: Facilitate the appropriate use of footpaths and public places for the purpose of outdoor dining activities.

Where should I place my furniture—kerbside or wall-side?

The example in the top-left image shows the footpath is wide and can accommodate furniture against the kerb. In the bottom-left image the footpath is narrow and furniture can only be placed against the wall. Also check any Local Street Guide that applies to the local area to ensure you meet specific Council requirements.



Kerbside

Matching your neighbours' outdoor dining location

If businesses on either side of yours are already using kerbside or wall-side outdoor dining, arrange your area to match.



Wall-side

Things to consider

1

Physical location of outdoor dining area

The location should provide a comfortable, attractive and relaxing environment for patrons. Ensure your expanded area complements existing activities in the area.

Be aware of the existing condition of the land (footpath, plaza, public space) on which you are seeking approval for outdoor dining operations.

2

Minimum distances required

Each outdoor dining area will be subject to unique local conditions and setback requirements. Refer to the table on page 6 that outlines minimum clearances.

4

Expansion in front of neighbouring business frontages

You're allowed to expand into an adjoining business by up to 50% if you have their approval. This isn't allowed if you have an on-premises liquor license and are changing your boundaries to serve liquor outdoors. If you are intending to start serving liquor outdoors, your outdoor dining must remain within your business frontage.

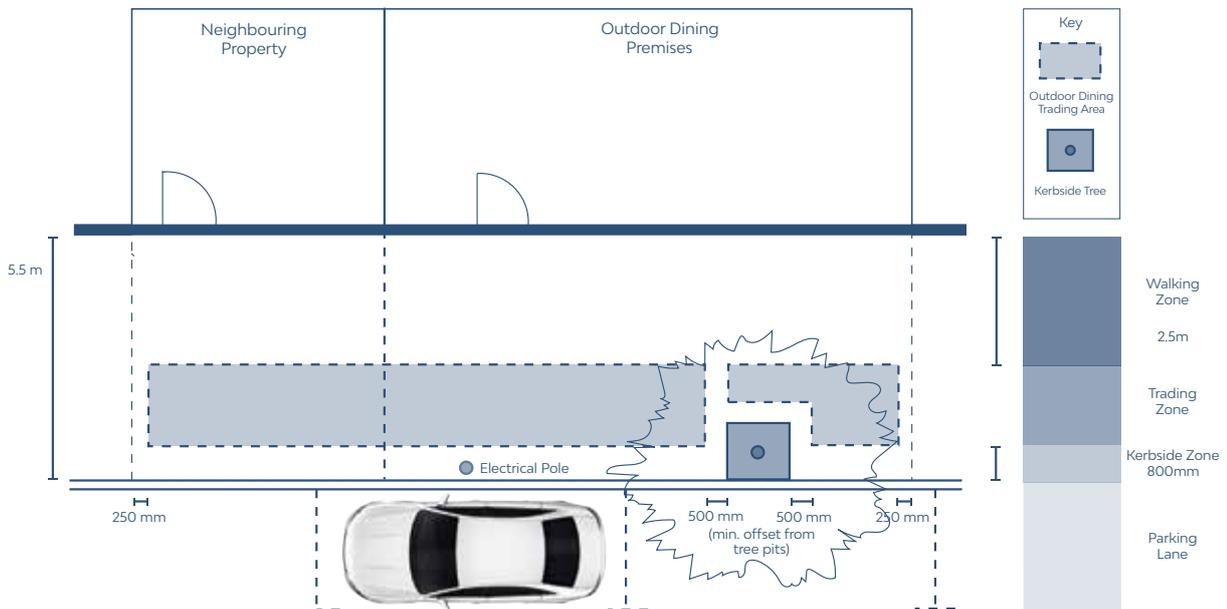
Restrictions

- Do not establish your outdoor dining area in a location that interrupts existing activities in the area.
- Do not establish outdoor dining on uneven ground/pavement/ public space or on a poor pavement surface, i.e. gravel, unsealed pavement.
- Do not encroach on the minimum setback distances outlined on page 6.

Location

Appropriate location determination

Permissible outdoor dining clearances



Maintaining line of sight at intersections

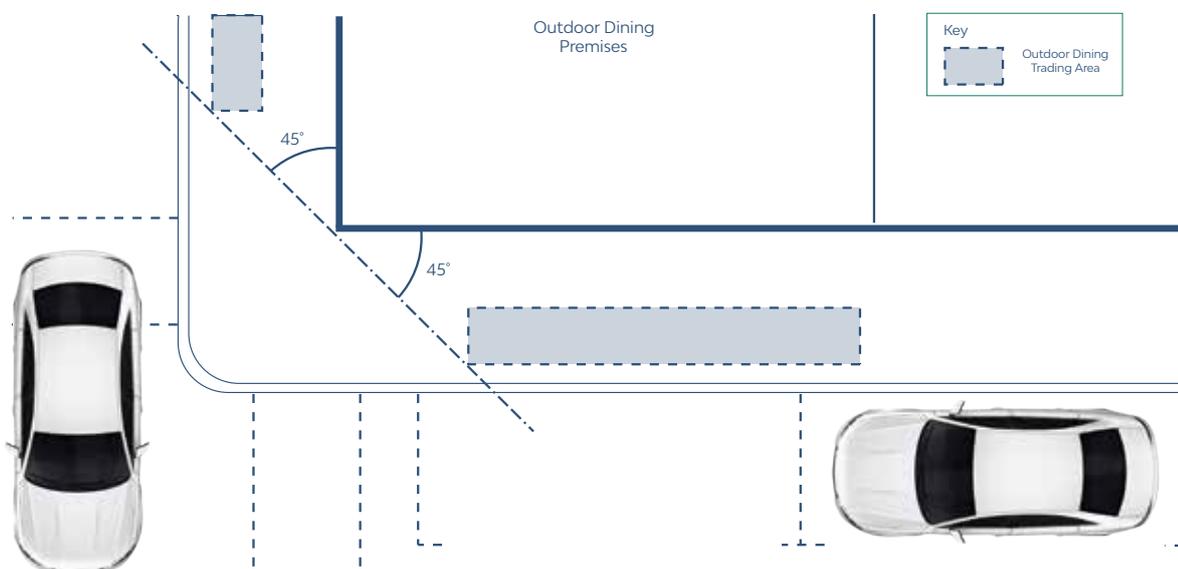


Table 1: Minimum pedestrian clearances from outdoor dining

Footpath width	Pedestrian clearance
Less than 3.5 metres	1.8 metres
3.5-4.5 metres	2.0 metres
More than 4.5 metres	2.5 metres

Table 2: Clearances from existing street infrastructure

Object	Minimum clearance from object
Fire Hydrants	1 metre
Exit doors	
Litter bins	
Public seats	
Pay phones	
Bicycle hoops	
Parking metres	
Tram stop shelters	0.5 metres
Bus stop shelters	
Tree plots	
Bollards	
Poles	
Other similar objects	

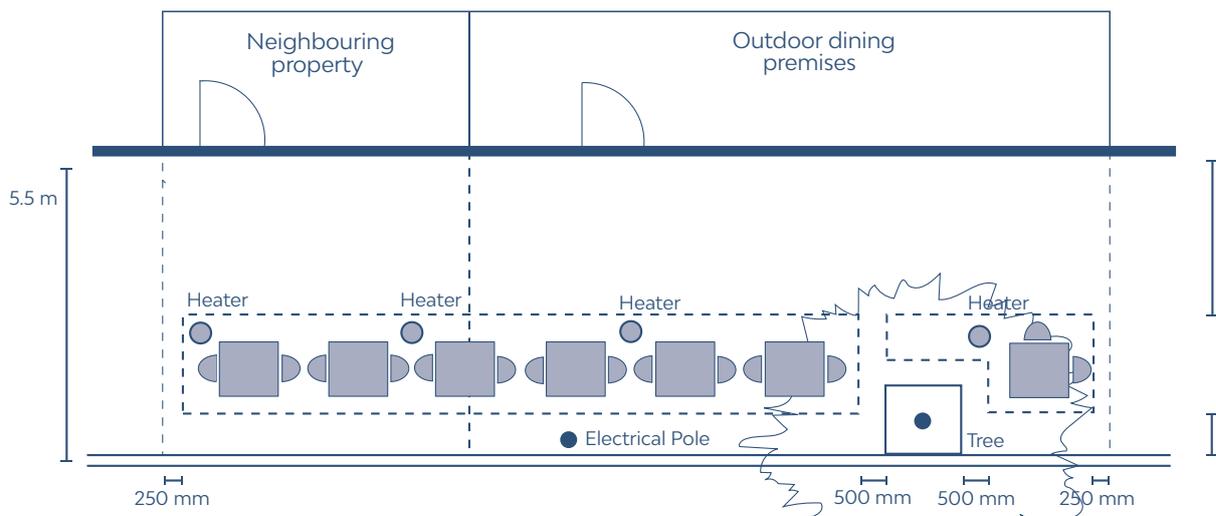
Table 3: Clearances from essential services

Object	Minimum clearance from object
Substations	1 metre
Fire exit doors	
Switch boards	
Hose reel cupboards	
Fire equipment stores	
Boosters	
Fire hydrants/fire plugs	
Communication poles	

Table 4: Minimum distance from face of kerb to outdoor dining

Parking restrictions	Minimum setback for kerb
Parallel parking conditions	0.8 metres
Loading zones	0.9 metres
No stopping	1 metre
90°, 60°, 45° angle parking	1.2 metres
Disabled parking	2.4 metres
Taxi stops	
Bus stops	
Tram stops	

Example site plan



Location Thoroughfares



1. When determining the setback clearance for your outdoor dining area, measure the width of the footpath from the kerb to building line and ensure that you're adhering to mandatory location requirements.
2. Be mindful that people with a disability or mobility issues may be using your outdoor dining area—ensure that your area is accessible.
3. Keep in mind that existing activities will operate around your outdoor dining area, and avoid disrupting or preventing these.

Safety

Objective: Ensure an equitable and safe environment is maintained for outdoor dining areas for all users.





Things to consider

1

Accessibility

Outdoor dining areas should allow sufficient accessibility for all public space users, including the young, the elderly and those less able.

2

Minimise anti-social behaviour

The key to safer places is to improve the quality of the environment and minimise the opportunity for crime.

Promote accessible places that encourage a feeling of safety and community participation.

If trading at night, it is vital to provide adequate lighting to create a feeling of ambience and increase the visibility of the outdoor area.

3

Animals

Animals are permitted in outdoor dining areas but must be on leashes, suitably restrained and be on the ground at all times. Prominently display a sign if you decide to prohibit or restrict animals.

4

Emergencies

In the event of an emergency, immediate access to your outdoor dining area may be needed, so consider furniture and fixtures that are easy to remove if necessary.

5

Line of sight

If your outdoor dining area is established next to or in close proximity to an intersection, you must maintain a clear line of sight for vehicles and pedestrians.

The minimum setback is an angle of 45° from the corner of the building; a minimum distance of 2.5 metres must be maintained.

6

Furniture removal

No furniture is to be left on the footpath after hours. It must be stored somewhere inside your premises.

Restrictions

- Do not have an outdoor dining area that compromises the ability of the general public to access existing street and public furniture.
- You cannot move existing street furniture.
- You cannot allow unrestrained animals in your outdoor area.
- Your outdoor dining area cannot obstruct the vision of vehicle drivers nor prevent them from having a clear line of sight.

Safety Accessibility

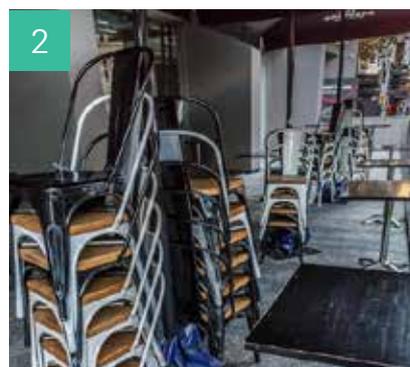


1. Over 4 million people in Australia experience disability.¹ That's around 1 in 5 Australians. People with disability, as well as their friends, relations and colleagues, constitute a significant group of consumers.
2. Consider how people with a disability may enter and maneuver around your outdoor dining area and ensure there is enough space for someone to sit comfortably at a table in a wheelchair or mobility scooter.
3. Uneven pavers can create a trip hazard for those less able. You should contact your local council to have the issue fixed.
4. Ensure you provide adequate lighting for those with vision impairment.
5. Consider using large font sizes on menus.
6. Following these tips will not only reduce the likelihood of discrimination complaints against your business, but will also increase your access to the market, and benefit the community, through greater economic participation of people with disability.

¹Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings, 2012* ABS cat no 4430.0 (2013).

Safety

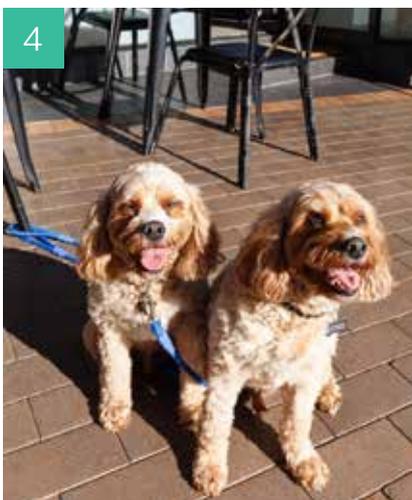
General tips



1. Durable and well-designed furniture makes storage easier.
2. Stackable outdoor furniture ensures you can easily and neatly store it after hours, as nothing can be left on the footpath.
3. You must determine accurate setbacks and clear line of sight (if at an intersection) to determine if you can locate your outdoor dining area outside your business.

Safety

Pets



1. Providing fresh water and a drinking bowl for pets provides added customer service.
2. If you allow animals, remember to monitor their behaviour, especially if children are using your outdoor dining area. Ensure unruly or aggressive animals are not posing a threat to other patrons.
3. Dogs are permitted in outdoor dining areas but must be on leashes, suitably restrained and be on the ground at all time.
4. Be aware of the way customers restrain their pets. Some dogs will easily be able to pull a chair down the street if excited.
5. Provide signage and practical solutions for customers to restrain dogs when entering the cafe to use the amenities or order food.



Amenity

Objective: Improve the local character, street vitality, amenity and economic viability.

Things to consider

1

Look and feel

Ensure your outdoor dining area is attractive. Develop a simple high-quality outcome that suits the function of your business and the design of the street. The layout should be sensitive to and enhance existing urban character, cultural significance and street quality.

2

Design principles and local character

If you are located in a heritage precinct it is essential that you consult your Council's Local Street Guide, which will outline any local requirements relating to physical characteristics.

Amenity Greenery



1. If you have planter boxes in your outdoor dining area, make sure they receive enough sunlight and water.
2. You may wish to consult a specialist when selecting plants for planter boxes.
3. Plants can have a functional effect and small herb gardens suit planter boxes.
4. Flowering plants add colour and ambience.

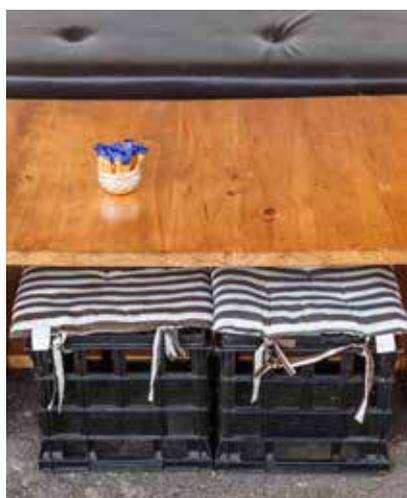


Amenity Branding



1. The shopfront and outdoor dining area should express the character of the business and create the impression that you are open for business and customers are welcome.
2. An outdoor dining area can reflect the internal and external look and feel of your business.
3. Quality outdoor furniture adds character and attracts customers.

Amenity Furniture



1. The style and colour of the tables and chairs are part of the overall visual merchandising and branding of your business.
2. Consider how any furniture complements your business and the look and feel of the overall street.

Function

Objective: Ensure the design of the outdoor dining space, furniture, fixtures and day-to-day requirements reflect the local area.



Things to consider

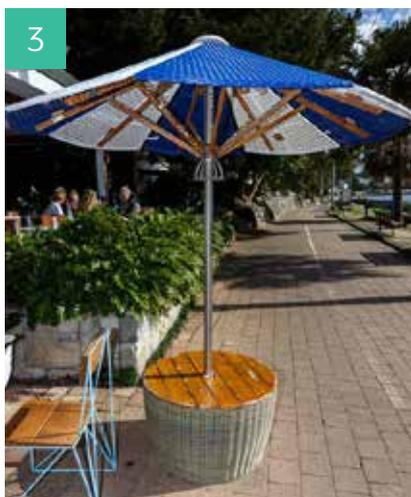
1	Cleanliness <p>Furniture in the outdoor dining area should be maintained in a clean and orderly condition. Regularly clean footpaths.</p>
2	Seasonal weather <p>Accommodate environmental and weather conditions without requiring the addition of infrastructure that encloses the area.</p>
3	Advertising <p>Names or logos may be displayed on umbrellas and barriers. Advertising shouldn't be displayed on tables and chairs.</p>
4	Furniture <p>Furniture should be weatherproof and designed for commercial outdoor use. The number of tables and chairs placed within an outdoor dining area must allow unobstructed access and circulation for patrons and staff. Store all tables, chairs and other furniture inside your premises outside of business hours.</p>
5	Umbrellas <p>Only use umbrellas where existing shelter such as verandahs, awnings, canopies and trees is not available. All umbrellas must be semi-fixed to the footpath. Umbrellas must have a minimum width of 1.2 metres.</p>
6	Temporary screens <p>The maximum standard height for a screen is 1.2 metres. Canvas screens should be made of a material that can withstand sun and rain exposure over prolonged periods. Glass screens must use laminated glass with a minimum thickness of 10.38 millimetres in accordance with the standard safety requirements. Poles must be 48 millimetre-diameter extruded aluminium. Screens must be properly secured in the pavement to prevent blowing over in strong winds.</p>

Restrictions

- Sharp edges, glass tables or furniture with moving parts present a potential hazard to patrons and pedestrians and must not be used.
- Umbrellas are not permitted where a building awning exists at typical ground floor height and covers most of the footpath to within a 1 metre setback from the kerb line.
- Do not place chairs with their backs to the road if there are no barriers in place.
- Screens must not exceed the maximum height of 1.2 metres.
- Damaged or faulty heaters must not be used.

Function

Weather protection



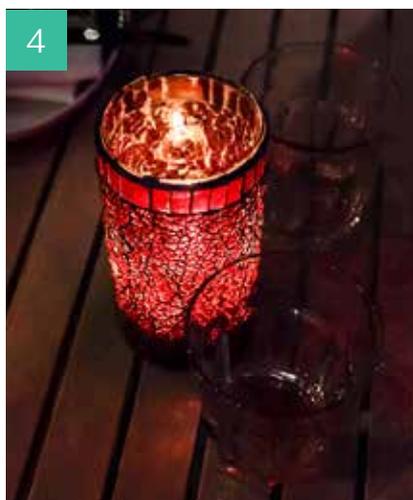
1. You need to manage your outdoor dining area on a day-to-day and long-term basis by keeping it efficient and attractive.
2. It is good customer service to consider the aspect of your outdoor dining area and provide shade in summer and protection from rain.
3. Umbrellas must be durable, the correct size and properly anchored.
4. Close or tie down umbrellas during high winds to ensure public safety.

Function Barriers



1. Barriers must be temporary, robust and not higher than 1.2 metres.
2. Unique barrier ideas can add to the overall ambience of the outdoor dining experience for customers. Keep in mind they must comply with your Council's Local Street Guide.
3. Appropriate barriers offer patrons a sense of enclosure.

Function Lighting



1. Solar lights are long lasting, inexpensive and make a good addition to fixed lighting.
2. Bright, cold-toned light is unwelcoming.
3. Effective lighting creates a more ambient and safe feeling for patrons and adds to the overall amenity of the street environment and commercial centre at night.
4. Lighting greatly influences mood and can entice customers to linger longer.

Function

Heating



1. Weather is unpredictable and you should consider a management plan for inclement weather, seasonal changes and emergency situations.
2. No one wants to sit outside in the cold. Heaters create a warm and inviting atmosphere.
3. Blankets can also accompany heaters, but remember they need to be washed regularly.

Function Storage



1. Attractive and creative storage can be functional as well as adding to the character of the business.
2. Outdoor storage can limit how far your staff need to travel to get some items such as extra napkins and salt and pepper.
3. Creative storage can be used effectively as a visual merchandising tool.



Legal and compliance

Objective: Ensure compliance with state legislation and that the management of outdoor dining activities avoids nuisance, endangerment or inconvenience to the public.





Things to consider

1

Noise and nuisance

While you want to ensure your venue has a vibrant ambience, it is important to make sure that noise and music are appropriately managed. You must be aware of all restrictions regarding volume and time.

2

Rubbish and recycling

Dining venues generate a lot of rubbish. It's important to stay on top of collecting and disposing of bottles, food, and paper waste. Not only does cleanliness help with environmental sustainability, it contributes to the overall aesthetic of your business, and an inviting environment is always more likely to attract customers. Check which waste management requirements you need to follow. These can include:

- the separation of rubbish and recycling
- cleanliness of the venue, bar, and kitchen
- presentation of furniture including screens, umbrellas, tables, and chairs.

3

Compliance

You are responsible for ensuring all legal requirements relevant to your outdoor dining area are met, including:

- the sale and consumption of liquor
- smoking
- patron behavior
- rubbish collection.

Restrictions

- Minimise the use of any speakers, jukeboxes or other loud audio equipment, and restrict their use to indoor areas
- Do not engage live entertainment without first seeking approval from your local Council.

Tips

- The Service NSW website is your one-stop-shop for current and accurate information on all requirements for operators of outdoor dining.
- Have you considered using biodegradable products for things such as water cups or napkins? This could be beneficial for both the environment and your business.
- It's likely that you'll be regularly disposing of glass bottles—make sure you are separating these when discarding waste.
- Check the bathrooms multiple times per day to ensure they are consistently clean and rubbish-free for patrons.

Legal and Compliance

Compliance

In order to ensure a safe and attractive outdoor dining environment, you must comply with all the requirements set out in the NSW Outdoor Dining Policy 2019. Compliance checks will be carried out by your local Council in accordance with their compliance policies and procedures and will, in most circumstances, be done by a Council ranger.



Rangers/inspectors will check that you are:

[Location] keeping all your outdoor furniture within your nominated site area and meeting the location requirements of the interim policy

[Safety] managing the flow of your customers, staff and general public to ensure there are no obstructions of the footpath or roadway

[Safety] addressing the need for your customers to restrain pets at all times

[Amenity] fulfilling the requirements of any local street guide and ensuring your outdoor dining area makes a positive contribution to the amenity of the surrounding area

[Function] maintaining your outdoor furniture to ensure it is in safe working order. This includes chairs, tables, umbrellas, heating and lighting

[Legal and compliance] managing waste and recycling, minimising noise at all times, closing at the required time, and fulfilling any obligations you have regarding the service of alcohol, as well as maintaining current public liability insurance at the level required by your Council.



When establishing an outdoor dining area for a business with an existing on-premises (restaurant) licence, you will only be permitted to change the licence boundaries to enable you to serve liquor in the outdoor dining area where:

The restaurant or café has standard trading hours and is only authorised to serve liquor with meals, i.e. no extended trading authorisation (ETA) or primary service authorisation (PSA).

Within the last 12 months, the premise has not been listed under Schedule 4 of the Liquor Act as a Violent Venue or has not incurred a strike under the Three Strikes Scheme.

The business provides consent for Service NSW to notify Liquor & Gaming NSW and the relevant local Council and local police of their application to change the liquor licence boundary.

Where the above criteria is met, the restaurant or café will be provisionally approved to extend the licenced boundary to the outdoor dining area.

Liquor & Gaming NSW will assess the change of boundary application as per existing arrangements for expansion of liquor licence boundary.

If no valid objections are received during consultation, Liquor & Gaming NSW will approve the change of boundary application. If Liquor & Gaming NSW refuse the application in accordance with their existing policies for change of liquor boundary, no alcohol may be consumed in the outdoor dining area.

Any outdoor dining areas that fall within a designated Alcohol Free Zone must be cordoned off.

Venues with liquor licences other than a standard on-premises liquor licence (including, on-premises with PSA or ETA, small bar or hotel) will still be able to apply for an outdoor dining permit under the Outdoor Dining Policy. However, if/when approved, these businesses will not automatically be able to serve liquor on the footpath but will then need to separately apply to Liquor & Gaming NSW to extend their liquor licence boundary to include the footpath (please refer to Liquor & Gaming NSW's website (www.liquorandgaming.nsw.gov.au) for instructions on how to extend a licence boundary.

Conditions of approval

The outdoor dining operations permit

A permit will be issued to each applicant if they satisfy the self-assessment requirements as detailed in the policy and application form. The permit will detail the conditions of approval that apply to the business, its location and the outdoor dining activities.

The permit holder will be responsible for ensuring the outdoor dining area is operated in accordance with the requirements outlined in the policy and complies with the details submitted as part of the application.

The permit is not transferrable. Outdoor dining approvals are given to the operator of a premises, not a business or location.

Commencement of an outdoor dining permit

The applicant will undertake a self-assessment of how their proposed outdoor dining operations meet the five permit requirements outlined in the policy, this user guide and any Local Street Guide issued by the relevant local Council. If the applicant determines that all required obligations can be met, and expects conditions of operations will be fulfilled, then they will provide a signed declaration and a permit will be issued.

The permit holder can then proceed to operate the outdoor dining area in accordance with the conditions in the approval. The permit must be displayed at all times at the place of business or a copy provided when requested by any government department.

Permit period

The permit is valid for seven years from date of issue.

Non-compliance

Local Councils will monitor compliance of outdoor dining activities in their local government areas in accordance with each Council's current compliance policies and processes.

Operating without approval

The use of an outdoor dining area without approval, or not in accordance with an approval, is an offence and may result in the issue of an infringement notice or other regulatory action by the local Council, and, in the latter case, cancellation of the permit.

Failing to remove and reinstate

In the event of the permit holder failing to remove furniture or other property from the outdoor dining area following the lapsing or cancellation of their permit, Council may remove and dispose of such property, at its discretion, if not claimed within 28 days of notification.

In the event of the permit holder failing to remove furniture and/or to reinstate the footpath to its original condition within 14 days from the date of expiration or cancellation of the outdoor dining permit, Council may carry out the works at the permit holder's expense.

Application process

How to apply

To check if your Council is participating and to complete an online application form visit the Service NSW website www.mybusiness.service.nsw.gov.au/crsb/od

