



# OUTDOOR DINING AND GOODS ON FOOTPATH POLICY

D2-06

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**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) emphasise the need for high quality design while allowing for flexibility in design and appearance to better relate to the individual charter of different localities and development;
- d) facilitate improvement to the street activation, vitality, amenity and economic viability of North Sydney's commercial areas;
- e) provide opportunities for shop owners and residents to benefit from pedestrian circulation;
- f) set a high standard for public safety and avoid disruption to pedestrian movement; and
- g) maintain a high quality Public Domain within the North Sydney local government area.

1.2 The objectives of this Policy are:

- 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 must contribute positively to the streetscape character;
- c) Outdoor dining areas and footpath trading activities must be compatible with other community uses of the public space; and
- d) Outdoor dining and footpath trading areas must be safe and accessible for all users.

## 2. ELIGIBILITY

2.1 This Policy applies anywhere in the North Sydney local government area where there are shops and restaurants operating with development consent within all land use zones of the *North Sydney Local Environment Plan 2001*.

### 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 roadways or other thoroughfares intended predominantly for vehicular traffic or privately owned arcades or plazas.
- 3.2 Outdoor Dining Area - means an area which is the portion of a café, restaurant, take away food shop or other premises directly in front of the premises and on Council owned land where food is served.
- 3.3 Permitted Area - means the site of the footpath/plaza/public area for which a permit 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 shop, restaurant, café, take away food or drink premises or tavern/pub (or a development application lodged concurrently for a shop, restaurant, café, takeaway food or drink premises or tavern/pub, where such are permissible with development consent) located on land owned by the Council or being 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, barriers, planters, umbrellas, heaters and the like.
- 4.1.3 Outdoor display of goods, including on land being 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 above.
- 4.1.5 Other outdoor dining areas or goods display locations 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.

4.1.6 Outdoor dining areas for licensed premises under the *Liquor Act 1982*. Where it is intended to serve alcohol a license may also be required to be issued by the relevant authority under the Liquor Act.

4.2 Application process - Council will use this Policy (Appendix A) to assess all applications for the commercial use of footpath, plazas or public areas. Before applying applicants must read the conditions within the Permit for an Outdoor Dining or Goods on Display in a Public Place Application Form.

In determining 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 permit of display of goods permit. Following the trial period, Council may vary design, operations and conditions if an approved permit on renewal (or revoke the permit if it is deemed by Council to be an unsuitable site).

4.3 Exempt and complying development - where applications are partly or fully on private land then development consent is required unless the proposed use is listed in the Exempt and Complying Development provisions of the *North Sydney Local Environment Plan* (refer to Appendix A).

4.4 Outdoor dining areas may not be appropriate in civic or ceremonial spaces. They are not permitted 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, in residential areas, 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 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.

## 5. RESPONSIBILITY/ACCOUNTABILITY

5.1 Council's Engineering and Property Services Division is responsible for the provision and management of Outdoor Dining or Goods on Display in a Public Place permits, including processing applications.

5.2 Council’s Ranger and Parking Services Department is responsible for enforcement of permits.

**6. RELATED POLICIES/DOCUMENTS/LEGISLATION**

The Policy should be read in conjunction with the following Council policies and documents:

- Compliance and Enforcement Policy
- Development Control Plan
- Local Environment Plan

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

- Roads Act 1993
- Building Code of Australia
- Liquor Act 1982
- Local Government Act 1993

<b>Version</b>	<b>Date Approved</b>	<b>Approved by</b>	<b>Resolution No.</b>	<b>Review Date</b>
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2	16 February 2009	Council	61	2012/13
3	18 February 2013	Council	61	2016/17
4	25 June 2018	Council	214	2020/21

**APPENDIX A**

**Outdoor Dining and Goods on Footpath Policy Guidelines**