

# INNER WEST

Inner West Council 2022/2023

## Interim Outdoor Dining Guidelines

These guidelines are temporary measures in place to support food and drink premises through COVID-19 restrictions



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## Application of these guidelines

These interim guidelines are in place to support eligible food and drink premises through ongoing COVID restrictions and help reduce the risk of spreading COVID-19. They are to be utilised by eligible food and drink premises (see definition in relevant section) looking to expand outdoor dining areas onto the footpath, and in limited circumstances, onto the road space.

These guidelines have been formulated under Section 125 of the Roads Act 1993, and relate to use of public footpaths and kerbside road space for outdoor dining purposes only. Use of private land, parks and other areas are not relevant to these guidelines.

## General outdoor dining area objectives and provisions

*Application: These objectives and provisions apply to all outdoor dining applications*

### Objectives

Outdoor dining areas must:

- A. Be safe and protected from vehicles and cyclists
- B. Allow for the footpath to be shared with pedestrians and road users
- C. Be accessible and not compromise accessibility
- D. Not unreasonably impact on neighbourhood amenity
- E. Be attractive and well maintained
- F. Contribute positively to the streetscape

### Outdoor dining furniture

1. Outdoor dining areas may accommodate the following furniture:
  - a. Tables
  - b. Chairs
  - c. Planter boxes or pot plants
  - d. Outdoor heaters
  - e. Astro turf
  - f. Outdoor rugs
  - g. Dividers
  - h. Umbrellas (see clause 6 below)
2. Outdoor furniture is to be high quality, clean, undamaged, level, sturdy, safe and visually appealing.
3. Furniture may only be located within the approved outdoor dining area(s).
4. Benches are not to be used for seating as they limit participation for wheelchair users
5. Dividers are not permitted to be more than 900mm high from the ground.

6. Umbrellas must:
  - a. Have a minimum clearance of 2.1m from the underside of the umbrella to the ground
  - b. Not have heaters mounted to the underside of the canopy
  - c. Not be located beneath an awning
  - d. Be adequately weighted down
  - e. Be collapsed and/or brought in during windy weather
  - f. Not extend over the roadway, or where use of the road is part of the outdoor dining approval, not beyond the installed barriers.

### **Length of Approval**

7. Use of the footpath or road space has a maximum approval timeframe of 6 months under these interim guidelines.
8. Prior to the approval period ending, businesses must re-apply for the outdoor dining area.
9. Council may at any time terminate or temporarily suspend the approval under any of the following circumstances:
  - a. Safety issues
  - b. Accessibility issues
  - c. Non-compliance with the outdoor dining licence and associated conditions
  - d. Council requiring the space for other purposes
  - e. Unforeseen issues with the use of the outdoor dining area
  - f. Access for maintenance or works to the public domain
  - g. Requests from Police, Transport for NSW, Liquor and Gaming, or other external state agencies to cease use of the outdoor dining area

### **Public Liability Insurance**

10. Public liability insurance up to value of \$20,000,000 must be obtained by the operator/proprietor and remain active whilst the outdoor dining area is in use. The policy must cover any action that may arise as a result of the use of the footway. The policy shall:
  - a. Indemnify Council against any claims
  - b. Identify Inner West Council as an 'Interested Party' on the Policy
  - c. Specify the materials to be used on the footpath/road space
  - d. Clearly state commencement and expiry dates

If the insurance policy lapses during the outdoor dining licence period, use of the outdoor dining area must cease immediately.

## Footpath Specific Provisions

*The following provisions are specific to outdoor dining applications located on the footpath*

### Limitations

11. In many circumstances, outdoor dining on the footpath will not be possible. This may be due to the following:
  - a. Limited footpath space
  - b. High pedestrian traffic
  - c. Designation of a shared zone
  - d. Existing street furniture and other fixtures, infrastructure and utilities on the footpath
  - e. Classified roads where Transport for NSW does not support footpath dining due to safety concerns
  - f. Other issues identified by Council staff during assessment

### Location

12. Outdoor dining areas must be located on the footpath in front of the premises unless written consent has been obtained from the adjoining land occupiers. Outdoor dining in front of neighbouring residential uses is not permitted.
13. Footpath dining areas are to be located along the kerbside of the footpath, maintaining a 1.5m clear path of travel between the building line and the outdoor dining area.
14. There are some areas of the Inner West that have historically permitted outdoor dining areas against the building line. In these instances, proposed outdoor dining areas located against the building line may be considered if:
  - a. The pattern of activity is well established (unapproved footpath activity is not to be considered as part of this pattern)
  - b. There is low pedestrian activity
  - c. Pedestrian 'pinch points' are not created and there are adequate passing areas
  - d. The site is on a classified road and an outdoor dining area towards the kerb is not possible
15. Council aims to create a straight path of travel along footpaths that does not meander between shopfronts and the kerb.
16. A minimum 600mm clearance must be maintained between the kerb and the outdoor dining area. This does not apply if adjacent an outdoor dining area on the road space.
17. Outdoor dining areas must be viewable from within the premises to ensure they can be monitored at all times.

**Note:** *Council staff may request amendments to the location of the outdoor dining area due to contextual and accessibility factors. All applications will undergo an assessment based on merit and are subject to the provision of suitable documentation and information.*

## Path of travel

18. Council aims to create a straight path of travel along footpaths so that footpath users are not required to meander between shopfronts and the kerb.
19. A minimum clearance of 1.5m must be maintained at all times for a path of travel.
20. The path of travel is to be measured from the edge of the outdoor dining area(s) to any obstruction or object on the footpath. Obstructions and objects on the footpath may include, but are not limited to:
  - e. Kerbs
  - f. Nature strips
  - g. Street trees\*
  - h. Garden beds
  - i. Pylons\*
  - j. Fixed street furniture\*
  - k. Fences\*
  - l. Bollards\*
  - m. Electrical and communication cabinets\*
  - n. Bins
  - o. Bicycle parking
  - p. Parking meters (if not operational\*)
  - q. Telegraph poles\*
  - r. Light poles\*
  - s. Water fountains
  - t. Decorative elements\*
  - u. Other fixed objects that Council considers an obstruction

They do not include:

- v. Single poles for parking and traffic signs\*
  - w. Awning or balcony support structures\*
21. Obstructions and objects listed above with an asterisk (\*) may be located within outdoor dining areas.

## Road space specific provisions

*The following provisions are specific to outdoor dining applications located on road space.*

### Limitations

22. Road space unsuitable for temporary conversion to an outdoor dining area includes:

- a. Bus stops or bus zones
- b. Roads with speed limits of more than 50km/hr
- c. Clearways
- d. Parking for Australia Post, police, fire, ambulance, or car share
- e. State/classified roads (see Appendix 2 for a list of these roads and possible exceptions)
- f. Loading zones
- g. Taxi zones
- h. No stopping zones
- i. Bike lanes
- j. Accessible parking
- k. Spaces with in-road street fire hydrants
- l. Kerbside within 10m of an intersection
- m. Parking in front of a residence

23. Potentially suitable road space includes:

- a. Unrestricted kerbside parking
- b. Timed parking, whether metered or unmetered
- c. Motorbike parking
- d. Residential permit parking (so long as the space is not directly in front of a residence)
- e. Drop off/pick up zoned parking
- f. No parking zones

### Safety

24. Outdoor dining areas on the road space will only be supported by Council where it is considered safe.

25. There must be at least 300mm clearance maintained between the external face of the barriers base and the passing traffic.

26. A 500mm safety clearance must be maintained at all times within the outdoor dining area between the internal face of the barriers base and any outdoor dining furniture.

27. Patrons within the road space outdoor dining area not to stand within 500mm of the barriers and are not to sit on or lean against the barriers.

## **Location**

28. Outdoor dining areas on road space should be adjacent the premises, including the kerbside adjacent the front, rear and side boundaries.
29. In some circumstances, extending in front of an adjacent premises is acceptable if:
  - a. The applying premises does not have opportunity for outdoor dining directly in front of their premises
  - b. The proposed outdoor dining area is viewable from within the premises and can be effectively managed
  - c. The adjoining premises has opted not to apply for outdoor dining on the road space, or they are not eligible to

## **Sharing road space outdoor dining areas between businesses**

30. In some circumstances, sharing a road space between businesses will be permitted. This is especially relevant for a space in front of an adjoining café and restaurant, where the café may only require it for day-time hours, and the restaurant during the evening.
31. Coordination between businesses on their outdoor dining applications is required to facilitate this. If this cannot be coordinated, the premises that is more directly in front of the converted road space will prevail.

## **Minimum depth of outdoor dining area**

32. To be allocated road space, the outdoor dining area must result in a minimum depth of 1.2m. This must consider the installation of concrete barriers within the confines of the parking space(s) and that it does not impede the safe passing of road traffic.

## **Accessibility**

33. 900mm wide ramps must be installed to make every outdoor dining area on the road space accessible.
34. Multiple ramps may be required to ensure each table in the outdoor dining area is accessible.
35. Benches are not to be used for seating.
36. An obstruction free 900mm squared landing at the base of the ramp must be maintained at all times to ensure wheelchair users can effectively manoeuvre around the space.

## **Decorating concrete barriers**

37. The outdoor dining licence holder may decorate the on-road concrete barriers, so long as:
  - a. Decorations do not include advertising or business identification.



- b. They do not contain material that discriminates against or vilifies any person or group or is offensive or sexually explicit.
- c. Wrapping and sticking decorations to barriers are the only permitted methods of decorating them. Any installation must be easily removable and the barriers should be able to be made good with minimal effort.

## Cost

38. Council has a limited budget to temporarily re-allocate road space to outdoor dining areas. To distribute the budget effectively, with emphasis on those places most in need of outdoor space, Council will consider the amount of outdoor space on your site (private land). For example, a pub with a large courtyard relative to indoor space would not be eligible, whilst a restaurant with no outdoor space would warrant consideration of having road space allocated.
39. For premises that are not eligible for Council funded temporary road space allocation, although the kerbside road space is eligible for outdoor dining, there is scope for the business to pay for barriers and ramps to be installed. Council will approach businesses after they have submitted their application where this is the case.

**Note:** Approval from Council's traffic committee is required for all road space allocation to temporary outdoor dining areas. The safety of people dining in the space will be their priority in any decision-making.

## Submission requirements

Re-allocating parking spaces and other limited kerbside road space and the footpath for outdoor dining is a complex task that requires specific details from business operators.

Firstly, it must be determined if the footpath and/or road space adjacent the food and drink premises is eligible for outdoor dining. Clauses 11, 22 and 23 of these guidelines list the circumstances where outdoor dining may be possible and where it is prohibited. Further to this, consideration must be given to the safety, useability and appropriateness of the space for outdoor dining.

Below is a list of the details Council requires for an application:

### General details

The outdoor dining application must be completed and include:

- Applicant details
- Businesses details
- The existing development consent number for the use of the premises
- The proposed hours of operation (must align with development consent conditions to a maximum of 10pm) for the outdoor dining area
- The total area (square meters) of the footpath and/or road space to be used for outdoor dining

- Liquor licence details, and Temporary Change of Boundaries Form (refer to 'Liquor Licence Details heading below)
- Details of coordination with adjoining businesses (refer to 'Coordination with adjoining businesses' heading below)
- Site plan (refer to 'Site plan' heading below)

## **Liquor Licence details**

If the subject premises has a liquor licence and would like to serve alcohol in the proposed outdoor dining area, this must be made clear on the application form. The *Liquor Licence Application: Temporary Change of Boundaries Form* must also be submitted with the outdoor dining application. Council will send this form to Liquor and Gaming NSW to seek their support for the application. If deemed acceptable, Liquor and Gaming will issue their approval subsequent to any outdoor dining licence approved by Council.

## **Coordination with adjoining businesses**

Re-allocating road space for outdoor dining comes at significant cost to Council. To roll out new outdoor dining spaces efficiently, Council require applications to be coordinated between adjoining food and drink businesses.

If you are seeking outdoor dining on the road space, and an adjoining business is an eligible food and drink premises, you must evidence coordination with the adjoining business as part of your application. This will either result in a joint application between adjoining business, or evidence that coordination with an adjoining business was attempted, but they were either not interested or do not intend to apply likewise. If your food and drink business is part of a row, coordination with all businesses in that row is required.

## **Road space re-allocation approval process**

Once an application is received to allocate road space as an outdoor dining area, Council will triage the application, assessing it against these interim guidelines. If considered appropriate to progress, Council will refer to the relevant State agencies as well as Council's traffic committee. This committee will assess the application from the perspective of traffic and other related safety considerations.

If approved by the traffic committee, Council will issue an on-site notice indicating that the road space will be converted to an outdoor dining associated with a food and drink premises. A contractor hired by Council (or the operator, see clauses 38 & 39 above) will then install barriers and the required accessibility ramps. Kerbside parking signage will then be changed to indicate the space is now a 'NO STOPPING' zone.

## **Site plan**

Critical to a valid application is a site plan with the required level of detail for Council officers to make an assessment on the eligibility of footpaths and road space for outdoor dining areas. A scaled site plan drawn to a professional standard must be submitted with the outdoor dining application.

The following key information MUST be shown on all plans:

- A base plan identifying building footprints and the kerb

- An accurate annotation of the width of the footpath
- Shaded area identifying the proposed outdoor dining area
- Identification of all objects, obstructions, and furniture on the street. Most potential items are listed under clause 20 of these guidelines.
- Identify the entrance and all windows to the subject premises. It must be demonstrated that the outdoor dining area can be seen and effectively managed from within the premises
- Clear indication that a 1.5m wide, obstruction free path of travel is maintained along the footpath
- The names of adjacent businesses and where relevant, their approved outdoor dining areas
- Outdoor dining areas proposed on the road space must show the following:
  - Width of the road
  - Width and length of the proposed outdoor dining area on the road space
  - Width and length of the standard barriers to be installed (see Appendix 1 for standard barrier sizes)
  - Indication of the safety distances required between the external face of the barriers and passing traffic, as well between the internal face of the barrier and the outdoor dining furniture (see clauses 25 and 26 above)
  - There are limited types of concrete barriers that can be utilised to protect on road outdoor dining areas. Details of these are provided in Appendix 1 of these guidelines.

During the assessment process, Council may request amendments to the proposed outdoor dining area.

## Standard Conditions

The following is list of standard conditions that will be applied to outdoor dining licences. These may be edited to suit a particular situation, and additional discretionary conditions may also be included to address particular issues.

### **Outdoor dining licence inclusions**

An outdoor dining licence will include:

- Date of issue
- Name and address of businesses
- Outdoor dining licence number
- Footpath and/or road space outdoor dining
- Square meters of space allocated on the footpath and road space for outdoor dining

- Site plan with outdoor dining area indicated
- Outdoor dining licence expiry date
- A list of conditions

## **General Conditions for all outdoor dining**

- **Public Liability Insurance**

The applicant must maintain and bear the cost for a Public Liability Insurance policy for the amount of \$20 million. The policy must cover any action that may arise as a result of the use of the outdoor dining areas. The policy shall indemnify Council against any claim and Inner West Council must be recognised on the Policy as an 'Interested Party'. The Insurance Policy must clearly show commencement and expiry dates.

VERY IMPORTANT – PLEASE NOTE

If the relevant insurance policy lapses during the 'approved license period', all items must be removed from the outdoor dining area.

- **Outdoor dining licence on display at all times**

The applicant must display a copy of their outdoor dining licence at the front of their premises. It must be viewable to any member of the public, Council officers and other relevant authorities at any time.

- **Hours of operation**

Maximum hours of operation for approved outdoor dining areas are between 8am and 10pm, 7 days per week. Hour of operation further restricted than this under the premise's development consent prevail otherwise.

- **Storage of furnishings**

All outdoor dining furnishings are to be brought in before the closing time identified in the hours of operation condition above.

- **Interim outdoor dining guidelines**

The outdoor dining area(s) approved under this licence are to be operated in accordance with the Interim outdoor dining guidelines available on Council's website. This includes compliance when the interim guidelines are amended.

- **Sale and consumption of alcohol**

Alcohol may only be sold/served in accordance with the premises liquor licence.

- **Outdoor dining area is to be kept clean and tidy.**

It is the licence holder's responsibility to keep the outdoor dining area clean and tidy at all times. This includes the regular removal of rubbish, debris, discarded items, spills, vermin, vandalism, and graffiti.

- **Outdoor furnishings**

Outdoor furniture is to be high quality, well maintained and built for purpose. All furniture should be visually attractive and clean. Chairs, tables, umbrellas, and barriers should be sturdy, level, and safe.

- **Umbrellas**

Umbrellas are to have a minimum clearance of 2.1m between the underside of the umbrella and the floor. They must be adequately weighted down and are to be collapsed and brought in during windy weather.

The safety of umbrellas is the sole responsibility of the outdoor dining licence holder. Umbrellas must not overhang the road or if located on an approved road space outdoor dining area, they must not overhang the allocated outdoor dining area.

- **Amenity**

It is the outdoor dining licence holder's responsibility to ensure that sound levels coming from patrons in your outdoor dining area are reasonable and do not impact on the amenity of nearby residences.

- **No smoking**

Smoking is prohibited in all outdoor dining areas.

- **Path of travel**

Regardless of the approved outdoor dining area plan, a 1.5m wide obstruction free path of travel must be maintained at all times along the footpath.

- **Access as required**

Use of the outdoor dining area must not obstruct access for Council, any statutory authority, or any other person under the authorisation of Council to carry out maintenance, repairs, or replacement of public works and utility services such as, electrical power, communication cabling, water, sewer, stormwater, or the like. Use of the outdoor dining area can resume when declared acceptable to do so.

- **Revocation or suspension of outdoor dining licence**

Council may at any time revoke or suspend an outdoor dining licence by giving seven days written notice. If Council identify a health or safety issue, the licence can be suspended or revoked immediately.

- **Health Orders**

Operation of the outdoor dining area must be in accordance with any federal and NSW Government public health orders.

## **Road space specific conditions**

- **Road safety clearance**

A 500mm clearance must be maintained at all times between the internal face of the barrier and any outdoor dining furniture. No person at any time should be located within this 500mm clearance. Sitting on or leaning against the barriers is prohibited. A sign must be maintained on the barrier indicating this.

- **Accessibility of tables**

All tables within any road space outdoor dining area must be accessible to wheelchair users at all times. Bench seats are not permitted.

- **Ramps**

A minimum clearance radius of 900mm squared is to be maintained around the top and base of each ramp installed to access outdoor dining areas on the road space.

- **Decorating barriers**

The outdoor dining licence holder may decorate the on-road concrete barriers, so long as:

- Decorations do not include advertising or business identification
- They do not contain material that discriminates against or vilifies any person or group, or is offensive or sexually explicit.
- Wrapping and sticking decorations to barriers is the only permitted method of decorating them. Any installation must be easily removable and the barriers should be able to be made good with minimal effort.

## Definitions

### **Outdoor Dining Area**

The area on the footpath or road space approved by Council for the consumption of food and drinks associated with a food and drink premises.

### **Road Space**

Any part of the road that is for the movement or parking of vehicles, unless otherwise converted to an outdoor dining area.

### **Path of travel**

An obstruction free passage on the footpath of at least 1.5m wide that must be maintained at all times.

### **Eligible food and drink premises**

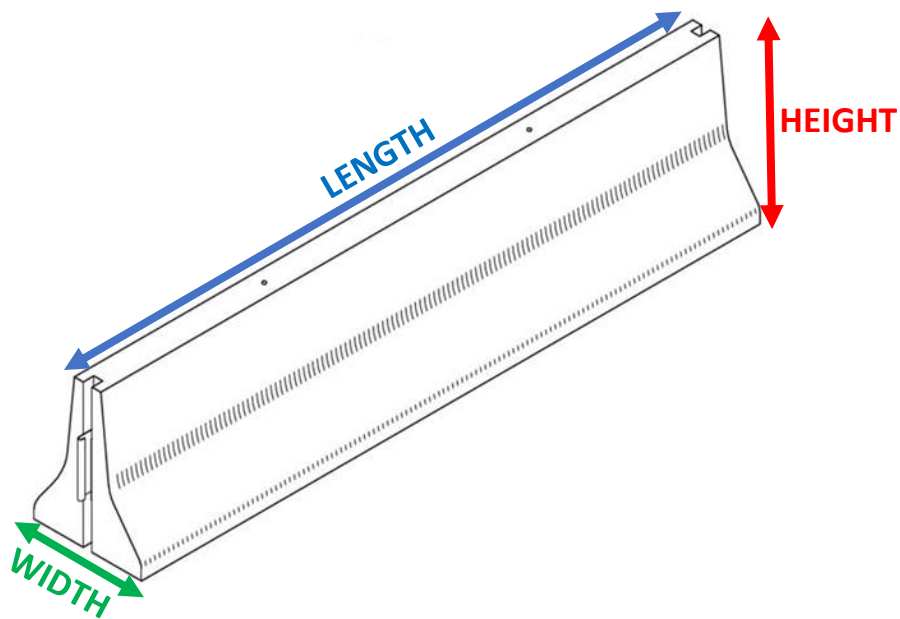
A lawful food and drink business that primarily involves the sale of food and/or drink products for consumption on site.

## Appendix 1 – Standard concrete barrier dimensions

The standard concrete barriers Council will install or accept installation of are known as the DeltaBloc DB 80 F-Shape. These dimensions must be utilised on the submitted scaled site plan of the application.

The barriers come in the following sizes (read in conjunction with the diagram below):

Barrier name	Length (mm)	Width (mm) (widest point at base)	Height (mm)
2m barrier	2000	570	800
4m barrier	4000	570	800
6m barrier	6000	610.2	850



A combination of these barriers can be utilised to form a fully protected outdoor dining area on temporarily re-allocated road space. An artist impression of what the temporary road re-allocation will look like is included below;



Image courtesy of City of Sydney

## Appendix 2 – List of state/classified roads unsuitable for outdoor dining on road space

The following is a list of state/classified roads within Inner West. These roads are not typically suitable for the temporary conversion of kerbside road space into outdoor dining areas. Special circumstances may be considered where there is no clearway and the speed limit is 50km/h or lower. Considerable weight will be given to any comments received from Transport for NSW.

### **Annandale**

- Collins Street (between Alfred Street and Johnston Street)
- Johnston Street
- Parramatta Road

### **Ashfield**

- Milton Street
- Frederick Street
- Liverpool Road
- Elizabeth Street
- Thomas Street
- Parramatta Road
- Victoria Street (between Liverpool Road and Norton Street)
- Norton Street (between Victoria Street and Frederick Street)

### **Balmain**

N/A

### **Balmain East**

N/A

### **Birchgrove**

N/A

### **Camperdown**

- Parramatta Road
- Pyrmont Bridge Road

### **Croydon**

- Liverpool Road
- Parramatta Road
- Thomas Street

### **Dulwich Hill**

- New Canterbury Road
- Old Canterbury Road

### **Enmore**

- Enmore Road
- Stanmore Road

### **Haberfield**

- City West Link
- Dolbroyd Parade
- Ramsay Street
- Marion Street
- Parramatta Road
- Wattle Street

### **Hurlstone Park**

- Old Canterbury Road

### **Leichhardt**

- Darley Road
- Forster Street
- Tebbutt Street
- Marion Street
- Leichhardt Street
- Styles Street
- City West Link
- James Street
- Parramatta Road

### **Lewisham**

- New Canterbury Road
- Old Canterbury Road
- Railway Terrace
- Longport Street
- Parramatta Road
- Cook Street
- Barker Street
- Brown Street



- Hathern Street

#### **Lilyfield**

- Balmain Road
- Perry Street
- Mary Street
- James Street
- City West Link

#### **Marrickville**

- Enmore Road
- Victoria Street (between Enmore Road and Marrickville Road)
- Marrickville Road (between Victoria Street and Illawarra Road)
- Illawarra Road (between Marrickville Road and Wharf Street)
- Sydenham Road
- Buckley Street
- Railway Parade

#### **Newtown**

- King Street
- Enmore Road

#### **Petersham**

- Stanmore Road
- Gordon Street (between Stanmore Road and Railway Terrace)
- Trafalgar Street
- Crystal Street
- Shaw Street
- Livingstone Road
- Crystal Street
- Parramatta Road

#### **Rozelle**

- Balmain Road
- Victoria Road
- The Crescent

#### **Stanmore**

- Parramatta Road
- Stanmore Road

#### **St Peters**

- Canal Road
- Princes Highway
- May Street

- Unwins Bridge Road

#### **Summer Hill**

- Carlton Crescent
- Parramatta Road
- Liverpool Road
- Old Canterbury Road

#### **Sydenham**

- Princes Highway
- Railway Road
- Unwins Bridge Road
- Gleeson Avenue

#### **Tempe**

- Princes Highway
- Unwins Bridge Road