

MAKING OUTDOOR DINING APPROVALS EASIER

2020

What can councils do to encourage outdoor dining?



Summer is coming and outdoor spaces are being opened up for alfresco dining just in time for the warmer weather.

Outdoor dining is a great way for food and beverage businesses to extend their seating in a COVID Safe way and create much needed jobs and stimulus for the NSW economy.

The NSW Government is making it easier for businesses to use public spaces to increase outdoor dining options for customers.



As [COVID-19 restrictions](#) ease, the Government is encouraging councils to support local businesses to take advantage of outdoor dining or expand existing outdoor dining where appropriate by:

- identifying areas within your towns, central business districts and high streets where outdoor dining could occur or expand, and
- examine how you can streamline outdoor dining area approvals while ensuring public amenity and safety.

The information in this document is designed to assist NSW councils in their initial thinking on this initiative before further guidance becomes available in the coming weeks.

Streamlined processes for outdoor dining

The NSW Government is reducing red tape to allow food and beverage businesses to offer outdoor dining through a streamlined processes.

A 12-month trial of a streamlined application process for outdoor dining started in The Rocks on 16 October 2020, with a City of Sydney trial starting shortly and state-wide roll out to follow.

Liquor & Gaming NSW is working with Place Management NSW (the landowner for The Rocks), the City of Sydney and NSW Police to approve applications.

The Department of Planning, Industry and Environment is proposing to amend the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) to allow outdoor dining as exempt

development for small bars and pubs in all NSW local government areas. The proposal aims to facilitate outdoor dining by extending the existing exempt development pathway which is currently in place for outdoor dining in cafes and restaurants, to include small bars and pubs.

This means that existing pubs and small bars will not have to submit a development application to council for outdoor dining. Instead they would apply to council for an outdoor dining permit to use the footpath or public space. Councils will continue to assess applications for outdoor dining permits in line with their policies and issue approvals under the Local Government Act 1993 and Roads Act 1993. The licence for the outdoor dining area would also need to be aligned by Liquor & Gaming NSW and venues must comply with any licence conditions under the Liquor Act 2007.

The proposed amendment is currently on exhibition until 8 November 2020.

More information about the outdoor dining trial, what venues need to do to be able to serve alcohol and how to be COVID Safe, is available on the NSW Government website.

The Office of Local Government (OLG) is preparing information and guidance to support councils across NSW interested in participating in the streamlined outdoor dining process. OLG is working with the NSW Small Business Commissioner (SBC) to ensure that the upcoming guidance material for councils aligns with and builds on the [SBC's outdoor dining pilot program tools and resources](#).



What type of outdoor dining can benefit from streamlined processes?

Streamlined processes make it quicker for approved food and beverage based businesses to expand their **existing** dining activities outdoors onto public land adjacent to their premises. For example, approved food and beverage venues may want to extend their seating outside by using public spaces, walkways or parking bays.

All venues participating will need to have an updated [COVID-19 safety plan](#) in place and follow the latest [Public Health Orders](#). Businesses serving alcohol will need to have a liquor licence.

Venues will also need to comply with their usual liquor licence conditions in the outdoor area, any conditions that specifically apply to that area and abide by the same regulatory obligations.

New outdoor dining premises and pop-up type events won't be able to use this streamlined process.

Councils are encouraged to consider how you can streamline your processes, in particular by focusing on identifying areas appropriate for expansion of outdoor or alfresco dining.

It is recognised that not all areas are appropriate for outdoor dining, for example due to amenity, capacity or road/pedestrian traffic issues. But by identifying appropriate spaces and starting consultation now, you can help speed up your council approval processes.





What can councils do now?

STEP 1: Councils should review local plans and strategies to identify areas appropriate for new or expanded outdoor dining and encourage businesses in these areas to come on board.

Many councils have identified appropriate outdoor dining areas in plans and strategies such as outdoor dining policies, footpath activation plans and place management plans.

Councils that have not done so are encouraged to work with local businesses and communities to identify appropriate outdoor dining areas and interested businesses.

STEP 2: Consider the issues related to outdoor dining approvals.

In addition to the latest [Public Health Orders](#), councils are encouraged to consider the issues associated with approving outdoor dining sites. While aimed primarily at business owners, the [Small Business Commissioner's Outdoor Dining Policy and User Guide](#) contains useful information which may assist councils, including the following key considerations:

- 01 Location/site suitability:** facilitating the appropriate use of footpaths and public places for outdoor dining activities (i.e. minimum distances, neighbours, etc).
- 02 Safety:** maintaining an equitable and safe thoroughfare around outdoor dining areas for all users (i.e. public safety road safety, accessibility, line of sight, management of animals, engagement with public, etc).
- 03 Amenity:** facilitating improvement to the local character, street vitality, attractiveness and economic viability.
- 04 Function:** ensuring the design of space, furniture, fixtures and day-to-day requirements of the outdoor dining space reflect the local area (ie: design of space, furniture, fixtures, daily operations etc).
- 05 Legal and compliance:** ensuring that the management of outdoor dining activities avoids nuisance, endangerment or inconvenience to neighbours and the general public. Addressing public liability, managing risks and ensuring compliance with state legislation (i.e. liquor laws, noise, waste, operational conditions, council inspections, insurance, etc).

STEP 3: Review the upcoming OLG guidance and express interest in streamlining processes for outdoor dining in identified areas.

OLG will be publishing further guidance in the coming weeks to provide councils with more information about how they can make the outdoor dining approval process quicker and easier for business owners, in areas identified as being appropriate for outdoor dining.

Councils who would like to express an interest or want more information should contact their Office of Local Government Council Engagement Manager at olg@olg.nsw.gov.au or by phone on 02 4428 4100.