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## 1 Introduction

This document provides responses to a range of local government enquires as councils progressively ease COVID-19 restrictions in line with public health orders and is for guidance only. Decisions on whether to open a facility or service remains a matter for individual councils.

Even if a service or facility is able to remain open, councils should as much as possible implement and maintain social distancing requirements and good hygiene practices consistent with NSW Government advice.

For more information please visit the [NSW Government](#) and [NSW Health](#) websites.

## 2 Overview of current restrictions

On 1 July 2020 a new Public Health Order came into effect – the [Public Health \(COVID-19 Restrictions on Gathering and Movement\) Order \(No 4\) 2020](#) (the Order). The Order replaces Orders Nos 1-3, which are now repealed.

### 2.1 Premises and activities that are not permitted to open or occur

Importantly, the Order states that a person must not participate in an outdoor public gathering of more than 20 people unless that person or gathering falls within an exception to the rule. Further detail is provided on this requirement below under *outdoor public gatherings*.

The Order also states that no premises may be used for the purpose of a nightclub or for the purpose of a music festival (as defined in the *Music Festivals Act 2019*) including a music festival attended by fewer than 2,000 people.

### 2.2 Premises and activities that must follow restrictions

The Order has been simplified and provides for restrictions that apply across NSW, including the following two key rules:

1. premises and activities that must have a COVID-19 Safety Plan, and

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2. premises and activities with restrictions on numbers of people on premises and in gatherings

The Order also continues to provide that the Minister for Health and Medical Research directs that an employer must allow an employee to work at the employee's place of residence if it is reasonably practicable to do so.

To ensure compliance with the new Order, each council should:

1. identify premises and activities for which they are responsible and those which are regulated by authorised officers of councils,
2. identify whether they can open/operate and any restrictions that apply, taking into account key definitions and exemptions, and
3. take steps to comply with those restrictions, including by reviewing relevant COVID-Safe Plans to check for any recent changes.

### 3. COVID-19 Safety Plans

The occupier of premises of a type listed in Schedule 1 to the Order **must** develop and comply with a COVID-19 Safety Plan. This includes, but is not limited to, the following premises likely to be of interest to councils:

- caravan parks and camping grounds,
- community centres and function centres,
- food and drink premises, food courts, pubs, small bars, registered clubs and markets,
- information and education facilities, including libraries, museums, galleries and visitor information centres,
- public indoor and outdoor swimming pools,
- markets,
- indoor recreation facilities, and
- major recreation facilities.

The occupier of premises, or part of premises, means the owner, or any other person entitled to occupy those premises (or part of premises) to the exclusion of the owner.

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Templates for COVID-19 Safety Plans are available [here](#). Councils should check for updates to these Plans regularly.

### 3.1 Community sporting activities

In addition, the Order requires that the organiser of a **community sporting activity** (including training sessions) that involve a gathering of more than 20 participants must develop and comply with a COVID-19 Safety Plan (Plan).

For this purpose, participants to be counted include people engaged in the activity, officials and spectators. The Order states that the ‘organiser’ responsible for complying with this requirement is:

- the public officer, for an activity conducted by or on behalf of a registered incorporated association, or
- the Chief Executive Officer, for an activity conducted by any other entity, or
- in all other cases, the person who made the arrangements for the activity.

The Order also requires that a gathering for a community sporting activity involve no more than 500 participants (see further below).

### 3.2 Content and keeping of all COVID-19 Safety Plans

Each COVID-19 Safety Plan must address the matters required by the COVID-19 safety checklist approved for that type of premises by the Chief Health Officer and published on the NSW Government website [here](#). If no checklist has been published for the relevant type of premises, the general checklist that applies to all other industries must be followed.

A copy of the Plan must be kept on the premises and made available for inspection by an authorised officer, if requested.

## **4. Numbers of people on premises and in gatherings**

Under the Order most premises are required to comply with “the 4m<sup>2</sup> rule” – this means that the occupier of the premises must now allow persons on the premises if the size of the premises is not sufficient to ensure that there is at least 4m<sup>2</sup> of space for each person there.

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The occupier of premises, or part of premises, means the owner, or any other person entitled to occupy those premises (or part of premises) to the exclusion of the owner.

In calculating the space available for each person on the premises, the following areas are to be included:

- for premises with less than or equal to 200m<sup>2</sup> of floor space – the entire premises, and
- for premises with more than 200m<sup>2</sup> of floor space – only those areas open to the public.

The following persons are not to be included in any space calculations:

- any person engaged in work on the premises, including a charity volunteer
- if the premises are food and drink premises, any person ordering or collecting food or drink to consume off the premises.

The types of premises set out below **do not** need to comply with the 4m<sup>2</sup> rule. Further relevant directions in the Order about the number of people allowed on these specific types of premises are also set out for each type of premises.

Exempt premises	Key definitions and relevant, specific directions on numbers of people
a place of residence	See sections 11-14 of the Order for further information about visitors, weddings, funerals and memorial services at residential premises.
a caravan park or camping ground	The Order provides that <ul style="list-style-type: none"><li>• a caravan park means land (including a camping ground) on which caravans and/or other moveable dwellings are, or are to be, installed or placed, and</li></ul>

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	<ul style="list-style-type: none"> <li>a camping ground means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short-term use, but does not include a caravan park.</li> </ul>
a holiday home or short-term rental	The occupier of any premises may not allow those premises to be used for the purpose of a holiday home or short-term rental for more than 20 people unless all of those persons are from the same household.
a major recreation facility	<p>The occupier of a major recreation facility must not allow people, other than people engaged in work (including a charity volunteer), to be on those premises unless:</p> <p>1a - admission to the premises is by way of a ticket and each person is assigned to a seating area, <b>and</b></p> <p>1b - the total number of people is either 25% of the premises' capacity or 10,000 people, whichever is fewer</p> <p><b>OR</b></p> <p>2a - admission is limited to a maximum number of 500 people, <b>and</b></p> <p>2b - the size of the premises is sufficient to ensure there is at least 4m<sup>2</sup> of space for each person on the premises.</p> <p>If a type of premises that is required to have a COVID-19 Plan (such as food and drink premises) is within a major recreation facility, the occupier of those premises must not allow persons to be on the premises unless the size of the premises is sufficient to ensure there is at least 4m<sup>2</sup> of space for each person on the premises.</p>

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<p>a gathering for a funeral or memorial service held at a place of public worship, a funeral home or a crematorium, where 50 or more people are on the premises</p>	<p>The occupiers of a place of public worship, a funeral home or a crematorium must not allow more than 50 persons to be on the premises for a funeral or memorial service, or a gathering immediately afterwards, if the size of the premises is not sufficient to allow at least 4m<sup>2</sup> for each person on the premises.</p>
<p>a gathering referred to in Schedule 2 of the Order</p>	<p>Councils should consult the full list of exempt gatherings in Schedule 2 of the Order. Key gatherings that may be relevant to councils include:</p> <ul style="list-style-type: none"> <li>• a gathering at an office building, farm, factory, warehouse, commercial fishing operation or mining or construction site or on a commercial vessel (excluding vessels providing tours or hosting functions) that is necessary for the normal operation of the tenants of those premises</li> <li>• a gathering at a supermarket, market that predominantly sells food, grocery store or shopping centre (but not a retail store in a shopping centre that is not a supermarket, market that predominantly sells food or grocery store) that is necessary for the normal business of that premises</li> <li>• a gathering to provide a service to assist vulnerable members of the public, including, for example, a food bank or a service providing for the needs of homeless persons</li> <li>• a gathering at premises necessary to provide the services of an early education and care facility</li> <li>• a gathering at a disability or aged care facility necessary for the normal business of the facility, and</li> </ul>

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	<ul style="list-style-type: none"> <li>• a gathering for emergency services purposes, including provision of training by an emergency service.</li> <li>• a gathering at an outdoor space for the purposes of transiting through the place Example. Pitt St Mall</li> </ul>
certain vessels where there are 50 or fewer people on the vessel.	<p>This includes vessels used for commercial diving and snorkelling tours or for commercial whale, dolphin or marine animal watching tours (Item 27, Schedule 1 of the Order).</p> <p>Note: These types of vessels must have a COVID-19 Safety Plan unless there are 50 or fewer people on the vessel.</p>

## 4.1 Outdoor public gatherings

The Order states that a person must not participate in an outdoor public gathering of more than 20 people unless that person or gathering falls within an exception to the rule. These exceptions are:

- a gathering on premises for which a COVID-19 Safety Plan is required
- a *community sporting activity* for which a COVID-19 Safety Plan is required (this must involve no more than 500 participants)
- a gathering listed in Schedule 2 to the Order (noting that these gatherings are also exempt from “the 4m<sup>2</sup> rule”)
- a gathering of people who are all from the same household
- a gathering for a wedding, funeral, memorial service or a religious service (or a gathering immediately afterwards)
- a gathering to move to a new place of residence or a business moving to new premises
- a gathering to provide emergency assistance to a person or people
- a gathering necessary to allow a person to fulfil a legal obligation
- a gathering of people on real property to enable people to view or inspect that property for the purpose of sale or lease, and
- a gathering of people at a display home or display premises to enable people to view or inspect the home or premises for the purposes of sale or lease of real property.



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The number of people to be counted for this purpose at an outdoor public gathering does **not** include:

- any person engaged in work, including a charity volunteer, or
- any person providing care or assistance to vulnerable people.

## 5. The role of councils

Councils are not responsible for enforcing the Order but are responsible for managing public areas and facilities for which they are responsible. This means that councils are responsible for enforcing closure orders or any conditions placed on use of a public area or facility, even if that is for the purposes of protecting public health. They should work with their Police Local Area Command in implementation of any restrictions.

It is a matter for each council to determine whether or not to open any outdoor spaces for which they are responsible and any conditions that apply to their use. Councils should exercise caution in applying any additional conditions that are not strictly required to ensure that the Public Health Order is complied with. If council applies any further conditions, those conditions must be within council's powers and enforced by council's authorised compliance and enforcement officers.

Councils could consider erecting signage to remind users of community equipment to continue to observe the social distancing and gathering advice and to remind them of good health and hygiene practices. Users should maintain social distancing, not go out if they are sick, and get tested. NSW Health approved signage in English and various community languages can be downloaded [here](#).

It is also a matter for each council to determine whether or not to open any sporting grounds and facilities for which they are responsible and any conditions that apply to their use.

### 5.1 Indoor public facilities

As noted in section 3 of this document, the occupier of premises of a type listed in Schedule 1 of the Order must develop and comply with a COVID-19 Safety Plan. This includes, but is not limited to, the following indoor public facilities commonly managed by local councils:

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- community centres and function centres
- information and education facilities, including libraries and visitor information centres
- public indoor and outdoor swimming pools
- indoor recreation facilities, and
- major recreation facilities.

As the owner/managers of these facilities councils must ensure that they, or any contracted manager of such a facility, are meeting the relevant requirements of the Public Health Order, including the 4m<sup>2</sup> rule and COVID Safety Plan requirements. Templates for COVID-19 Safety Plans are available [here](#). Councils should check for updates to these Plans from time to time.

## 5.2 Council and committee meetings

The number of people allowed inside indoor venues will be determined by the ‘one person per 4 square metre’ rule, with no upper limit. This includes council and committee meetings and function centres. All activity must be seated only. A circular containing more information will be distributed to councils shortly.

## 5.3 Businesses

Councils play a critical role in protecting the community from the transmission of COVID-19 through ongoing engagement and education of the community.

The NSW Government is requesting that councils build on this by engaging with businesses that need assistance in complying with COVID-19 Public Health Orders.

The NSW Government has developed the COVID Safe Check app, which provides a way for customers to give feedback in real time to businesses and to regulators for action. Office of Local Government (OLG) will refer feedback to the appropriate council based on the location of the business.

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Councils are asked to review the feedback and respond within available resourcing. Site visits to businesses are likely to be the most effective approach. Where possible, councils are asked to take proactive action by providing information to local businesses even if a complaint has not been received. Ultimately, if a business poses a continuing risk and compliance and enforcement action may be required, councils should refer these matters to NSW Police.

A recently distributed circular with more information can be found [here](#). Resources will also be available on the [OLG's COVID-19 webpage](#).

## 6. Records and exchanges of information

The Order makes clear that certain people must provide their *contact details* to the occupier of premises if directed to do so by the occupier. This applies to a person:

- entering premises to attend a wedding, funeral, memorial or religious service (or a gathering immediately afterwards),
- consuming food or drink on premises that are food and drink premises, micro-breweries, small distilleries with a drink on-premises authorisation under the *Liquor Act 2007* or cellar doors,
- entering the premises of a casino, and/or
- entering the premises of a pub, a small bar or a registered club (including a racing club as defined in the *Liquor Act*) unless:
  - the person enters the premises solely for the purpose of collecting food or drink to consume off the premises.

*Contact details* means the person's name **and** their telephone number **or** their email address.

*Occupier of premises* means the owner, or any other person entitled to occupy those premises (or part of premises) to the exclusion of the owner. If a service is conducted in an outdoor public place, the person conducting or otherwise officiating at the service is taken to be the occupier of the premises for the purposes of records and exchanges of information.

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The occupier of premises must require a person to provide that person's contact details unless:

- the person is a member of a discreet group of people who are attending the premises together, **and**
- the occupier obtains contact details from one adult member of the group (for example, the person who made the booking or reservation).

The occupier of premises must also keep, for at least 4 weeks, a record of all contact details provided to them and, on request, provide the record to the Chief Health Officer.

If a person provides their contact details on as the “one adult member of a group” attending premises (as set out above) he or she must, at the request of the Chief Health Officer, provide that Officer with the name and contact details of all other people in the group

## 7. Further advice and support

A number of State agencies and organisations have issued specific guidance to support councils and other organisations to comply with the Public Health Order or are available to answer questions councils may have. For example -

- The [State Library of NSW](#) is working with all NSW public libraries and providing assistance. Please refer to the NSW State Library's Public Library Services for details and contacts.
- The [NSW Food Authority](#) is providing advice and support to councils, including through its Food Regulation Partnership [portal](#) for authorised officers.
- Councils may wish to consider guidance and materials such as [Sport Australia's Return to Sport Toolkit](#) or guidelines issued by bodies such as [Sport NSW](#) to assist in their discussions on community sport. These frameworks need to be considered within the context of local conditions, the requirements of Order and any sport specific guidelines and guidance.
- [NSW Health](#) and [Department of Customer Service](#) offer a range of information and tools.
- Councils may also wish to [contact](#) the Public Health Unit in their Local Health District for up to date advice.

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- In addition, a range of COVID-19 related information and resources are also available from [NSW Planning](#), [Department of Primary Industries](#), [SafeWork NSW](#), the [Water Directorate](#), [NSW Liquor and Gaming](#), and [NSW Fair Trading](#).

Councils are also encouraged to contact their Office of Local Government Council Engagement Manager if they have any further questions.