

# STREAMLINED OUTDOOR DINING APPROVALS

A GUIDE FOR NSW COUNCILS



October 2021



# Introduction

With restrictions easing under the Reopening NSW roadmap, there is a tremendous opportunity for businesses to expand their trade, create jobs, and stimulate local economies.

A streamlined application process for outdoor dining was successfully trialled for 12 months starting in The Rocks in October 2020, rolling out to all councils from December 2020.

Councils can make the most of this opportunity by identifying areas within their towns, such as central business districts and high streets, where outdoor dining is appropriate and encourage businesses to consider using these areas for outdoor dining purposes.

Councils can also explore how outdoor dining area approvals can be fast-tracked by considering the issues associated with approving outdoor dining sites.

This document seeks to help councils participate by explaining:

- changes to processes and how they can support you to expand access to outdoor dining in your community
- what is required of councils to support this process
- This document also includes case studies from the trial.

Following the successful outdoor dining trial, we are changing the planning rules to permanently enable pubs and small bars across the state to implement outdoor dining as exempt development.

This means all pubs and small bars can apply to use the footpath and roads to serve diners alfresco under exempt development. These changes align pubs and small bars with the existing planning rules for cafes and restaurants.

Licensed premises can also continue to apply to temporarily change their liquor licence boundary to include a new outdoor space on footpaths and roads under a fast-track process.

In addition, licensed venues will now be able to apply via a new fast-track process to make their temporary boundary approval permanent. Further details will be provided on the Liquor & Gaming NSW website.

### Small Business Commission outdoor dining pilot program

This process is separate to the [NSW Outdoor Dining Program](#) developed by the NSW Small Business Commission and Service NSW as part of NSW Government’s Making Business Easier program, which streamlines the application process for outdoor dining from businesses in [participating council areas](#). The main points of difference between the two are summarised below:

	NSW Small Business Commission and Service NSW streamlined approval process	New streamlined approvals
<b>Relevant local government areas</b>	Gunnedah Shire, Liverpool Plains Shire, Maitland City, Port Stephens, Queanbeyan-Palerang Regional and Snowy Valleys	All other LGAs*
<b>Duration of approval</b>	Ongoing as per permit requirements (7 years)	Ongoing from October 2021
<b>Applications from businesses</b>	Submitted through Service NSW Business Concierge	Submitted direct to councils or through e-Planning**
<b>Liquor licence boundaries</b>	Provides for expansion of existing boundaries of on premises liquor licence boundaries only, not for new licences	Temporary expansion of boundaries - No community consultation and streamlined L&GNSW approval

\* Exempt and Complying Development (Codes) SEPP changes apply across all LGAs  
 \*\* if council is onboarded to the e-Planning program.

Councils participating in the NSW Small Business Commission Outdoor Dining Program may continue to do so for the time being but may wish to also consider the information provided in this guideline.

## What is the streamlined outdoor dining approval trial process?

The NSW Government has made two key changes to streamline the approval of outdoor dining:

1. Amending the [Exempt and Complying Development \(Codes\) SEPP](#) to permanently bring small bars and pubs into line with existing exempt development provisions for outdoor dining in food and drink premises such as cafés and restaurants. This removes the need for councils to process outdoor dining applications for small bars and pubs as development applications (see section 3 of this guideline for more information).
2. Continuing to offer a fast-track approval process for venues wanting to temporarily extend their licence boundary to include footpaths and public open space. The fee for this has also been waived. Councils will notify Liquor & Gaming NSW (L&GNSW) and NSW Police when they receive an outdoor dining application which needs a liquor licence boundary extension. Once Council has approved the outdoor dining application in consultation with NSW Police, L&GNSW can finalise the temporary boundary extension and apply it to the liquor licence (see section 3 of this guideline for more information). Venues may also be able to use a [pop-up-licence](#) if that option suitable for their venue.

**Note:** Permanent liquor licence boundary changes are not eligible for the streamlined process.

## How does the streamlined outdoor dining process work?

**Note:** The following process overview assumes the application received by council is exempt development under the provisions in the Exempt and Complying Development (Codes) SEPP.

1. Council identifies areas suitable for outdoor dining (in consultation with local businesses and the community), and how they can streamline their own processes.
2. Council receives an application for outdoor dining from a business (either directly or via the e-Planning platform if the council has been onboarded to this function of e-Planning).
3. If a temporary liquor licence boundary change is needed on a footpath or road, council notifies L&GNSW and NSW Police.
  - a. NSW Police do their compliance checks and advise council and L&GNSW of the outcome.
  - b. L&GNSW does compliance checks on the venue and advises council and NSW Police of the outcome.
4. Council completes its approvals under section 125 of the *Roads Act 1993* and/or section 68 of the *Local Government Act 1993* and advises L&GNSW of this approval.
5. L&GNSW finalises the temporary liquor licence boundary change.
6. Venues are advised that their application has been successful (via e-Planning if being used or through normal council notification processes).
  - a. L&GNSW will work with each council on how the liquor licence component is communicated to successful venues.
7. Venues start outdoor dining as approved.

# 1. Roles and responsibilities

## What is the role of councils in approving outdoor dining under the trial?

- Councils are responsible for:
  - Issuing an outdoor dining approval (typically referred to as a “permit”) under section 125 of the *Roads Act 1993* and section 68 of the *Local Government Act 1993*.
  - Notifying NSW Police and L&GNSW when an outdoor dining application is received which requires a temporary change of boundary for the liquor licence.
  - Consulting with NSW Police prior to sending the completed outdoor dining application to L&GNSW for a temporary change of licence boundary approval.
  - Obtaining agreement from Transport for NSW for any proposal that involves use of a footpath on a classified road.
  - Ensure venues comply with any outdoor dining permit requirements and relevant legislation.
- More information about the streamlined outdoor dining approval process is in section 2.

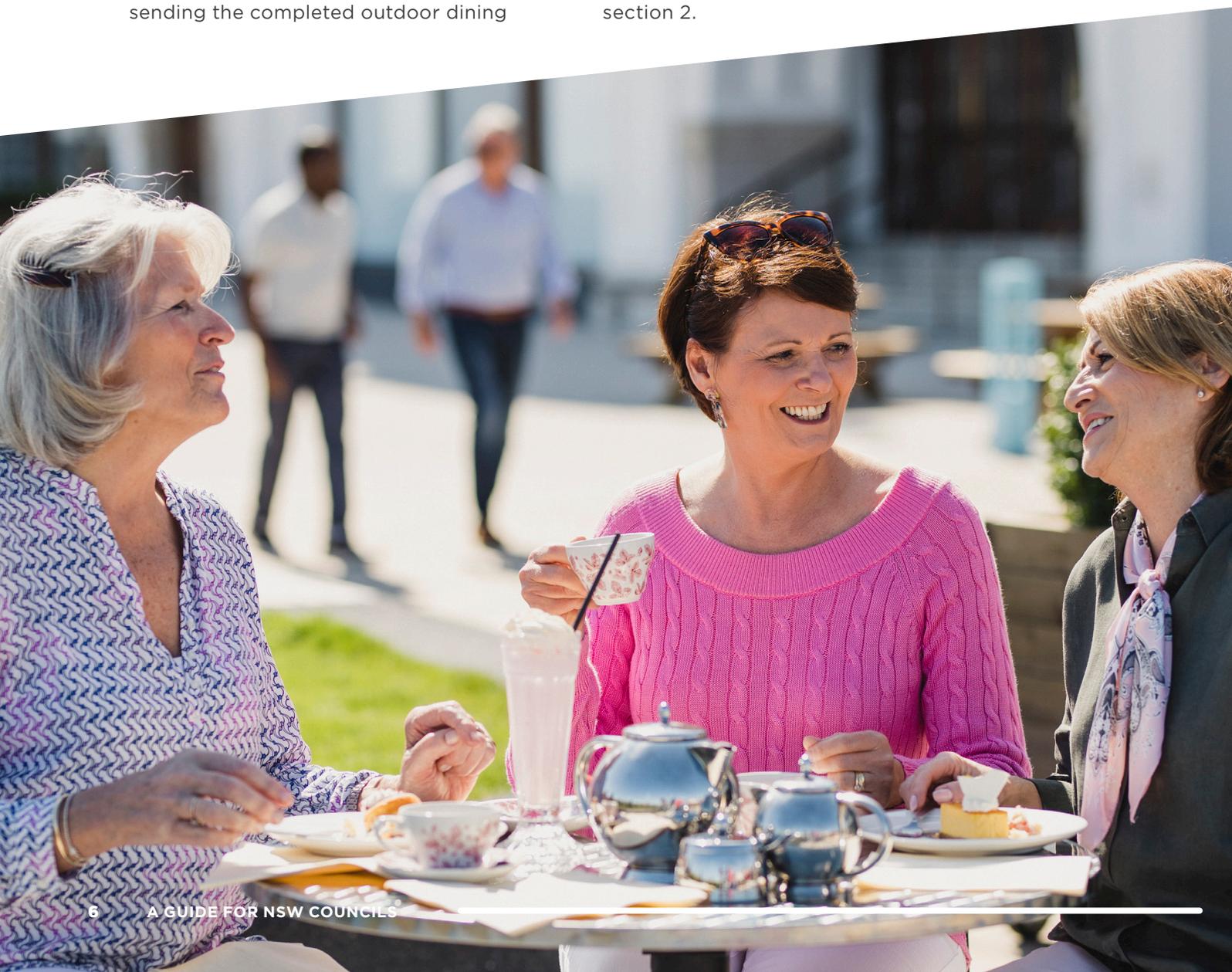


Figure 1: What NSW Government agencies are involved in the streamlined approval of outdoor dining?

Agency	Responsibility in approval process
<a href="#"><u>Liquor &amp; Gaming NSW (L&amp;GNSW)</u></a>	<ul style="list-style-type: none"> <li>Assesses and approves extending liquor licence boundaries for outdoor dining. Also monitors compliance with liquor laws and licence requirements.</li> </ul>
<a href="#"><u>NSW Police</u></a>	<ul style="list-style-type: none"> <li>Support of liquor licence boundary changes.</li> </ul>
<a href="#"><u>Transport for NSW</u></a>	<ul style="list-style-type: none"> <li>Agreement is needed from TfNSW for outdoor dining on/adjacent to a <a href="#"><u>classified road</u></a> under section 125 of the <i>Roads Act 1993</i> or under section 166 of the <i>Liquor Act 2007</i>.</li> </ul>
<a href="#"><u>Office of Local Government</u></a>	<ul style="list-style-type: none"> <li>Administers the Local Government Act 1993 (covering approvals under section 68, community land plans of management, alcohol free zones and alcohol prohibited areas, and fees and charges).</li> <li>Engaging with councils.</li> </ul>
<a href="#"><u>Department of Planning, Industry and Environment (DPIE)</u></a>	<ul style="list-style-type: none"> <li>DPIE administers:                             <ul style="list-style-type: none"> <li>The <a href="#"><u>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</u></a>* which enables outdoor dining as exempt development.</li> <li>e-Planning Program - a digital service has been developed on the NSW Planning Portal that enables councils to receive and determine outdoor dining permit applications online. This digital service will only be available in those local government areas where councils have chosen to adopt it. Councils will be able to use this service to refer applications to the relevant consent authority, be it Liquor &amp; Gaming, NSW Police or TfNSW Roads and Maritime.</li> </ul> </li> </ul>

\* For lawful food and drink premises. We have amended the [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) (Codes SEPP) to make the exempt development pathway for outdoor dining available to small bars and pubs permanently.

Councils or Place Management NSW (the managers of The Rocks and Darling Harbour) will continue to assess applications for outdoor dining against their outdoor dining policies.

Outdoor dining under an awning must comply with the requirements for awnings set out in BP1.1 and BP1.2 of Volume 1 of the Building Code of Australia.

**Note:** While the [Small Business Commission](#) does not have a direct role in the new streamlined outdoor dining process it is running a separate Outdoor Dining Program with the approval process coordinated through the [Service NSW](#) Business Concierge. Any council queries should be directed to their Service NSW Council Relationship Manager.

## 2. Planning for outdoor dining

### What councils need to know

- Councils can help streamline outdoor dining permit approvals by identifying areas appropriate for new or expanded outdoor dining and encouraging businesses in these areas to come on board. If this work is done up front, the individual venue applications can be considered more quickly.
- Many councils have identified appropriate outdoor dining areas in plans and strategies such as outdoor dining policies, footpath activation plans and place management plans. Other appropriate areas may be identified in a council's development control plan or Local Strategic Planning Statement.
- Councils that don't have these plans are encouraged to work with local businesses and communities to identify appropriate outdoor dining areas and interested businesses.
- The NSW Government acknowledges that identification of sites and locations for outdoor dining is a complex process. For example, in some places the footpath may be too narrow or roads too busy to provide enough space for safe outdoor dining and pedestrian use.
- Location assessments by councils need to consider a range of factors at each potential site, including footpath width, alternative parking locations, possibility of street closures, noise and a range of other amenity issues.
- By identifying appropriate spaces for outdoor dining and starting consultation early, councils can help speed up their approval processes for businesses and communities.

### Issues to consider when identifying outdoor dining sites

- Councils should be mindful of the latest COVID-19 [Public Health Order](#) requirements when considering appropriate outdoor dining locations.
- While aimed primarily at business owners, the [Small Business Commission's Outdoor Dining Policy and User Guide](#) contains useful information which may help councils identify appropriate outdoor dining locations, including:
  1. **Location/site suitability:** facilitating the appropriate use of footpaths and public space for outdoor dining activities (i.e. minimum distances, neighbours, whether access to utilities such as fire hydrants will be impacted, etc).
  2. **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).
  3. **Amenity:** facilitating improvement to the local character, street vitality, attractiveness and economic viability.
  4. **Function:** ensuring the design of space, furniture, fixtures and day-to-day requirements of the outdoor dining space reflect the local area.
  5. **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).

## Consultation with local businesses, communities and NSW Police

- Councils have a high-level of expertise in community engagement and are well placed to lead consultation processes to identify appropriate areas for expanded outdoor dining.
- Consultation may focus on issues such as:
  - Gauging the interest of businesses in developing new or expanding existing outdoor dining.
  - Community views on the appropriateness of expanded outdoor dining, particularly in high-profile, high-traffic, heritage areas or areas near residential properties.
  - Whether factors such as the need for future footpath or roadworks in the area may impact on potential outdoor dining sites.
  - Whether any current or planned Alcohol Free Zones (AFZs) or Alcohol Prohibited Areas may impact on the appropriateness of an area for outdoor dining.
- Councils that have recently conducted consultation on outdoor dining have reported success in using engagement methods such as: online surveys, workshops with interested businesses and the community, and exhibition of potential outdoor dining areas for comment. See the case studies in section 4 of this guide for further information.
- Consultation at the planning stage can also help expedite the application process for specific sites by identifying and mitigating problems that could arise during their operation.
- Councils should also ensure the standard terms of liquor licences and temporarily extended liquor licence boundaries are understood by businesses, as this is a key requirement in the temporary extension process administered by L&GNSW.

## Developing an outdoor dining policy

- Many councils have a local policy on footpath and outdoor dining to help inform their decision making. Those councils that do not are strongly encouraged to prepare a local policy to provide a framework for coordinating requests and approvals to use footpaths, roadways or other public spaces for non-commercial and commercial activities like outdoor dining. Each council is responsible for deciding what requirements should be included in their local policy.
- Such policies may be adopted as standalone policy under the Local Government Act or as part of a local approvals policy.
- The NSW Small Business Commission has developed a [Policy, User Guide and Council On-boarding Pack](#) as part of their Outdoor Dining program. These documents may provide helpful guidance to help councils get ready for streamlined outdoor dining approvals.
- The Small Business Commission guide provides councils with the option to create a Local Street Guide, setting out any specific requirements such as colours for heritage areas.

## What do these changes mean for businesses?

These changes mean it's easier, faster and cheaper for businesses to focus on recovering from the pandemic.

All venues must seek landowner or council approval in line with the council's outdoor dining policies and guidelines, other approvals are also needed under the Roads Act 1993, the Local Government Act 1993 and any changes

to liquor licences issued under the Liquor Act 2007.

Consent authorities (usually councils) can approve outdoor dining more quickly and at a lower cost to pub and bar owners. To help speed up the application process, the department has also created an online platform on the planning portal that allow councils to receive an online lodgement for outdoor dining.

### New temporary alfresco dining measures

NSW Government is supporting councils and businesses to bounce back by changing the rules for alfresco dining on public and private land - to include parks, registered clubs and open spaces.

Hospitality providers will have an easier application process. Similar to the outdoor dining trial, they will be able to apply to setup alfresco dining as [exempt development](#) with landowner's consent. These temporary measures will run until 18 April 2022.

What do these temporary measures mean:

- Existing food and drinks premises can use adjacent sites such as carparks or open space to serve food and drinks.
- Councils can allow popup outdoor venues to serve food and drinks on public land.
- Registered clubs can temporarily repurpose up to 50% or a maximum of 300m<sup>2</sup> of their outdoor spaces, such as car parks, or bowling greens to serve food and drinks.

Registered clubs are located across the state to readily support more access to safe spaces for people to dine. These measures are part of the NSW Government's efforts to support businesses and communities recover from the pandemic, as vaccination rates increase.

All sites will be subject to development standards to manage environmental impacts such as hours of operation, patron capacity, safety and waste management. If it's a licensed premise, Liquor and Gaming NSW

will also apply conditions to the additional outdoor dining space.

- Note - licensed premises will still need to apply to Liquor and Gaming NSW to have their liquor license boundary temporarily extended to include the new outdoor space.
- Venues must meet the specified development requirements in the Codes SEPP relating to location, noise and access. Food and drink premises must not contravene an existing condition of the most recent development consent, other than a complying development certificate, that relates to hours of operation, maximum capacity of patrons, waste management, food safety and pollution control. For more information on the requirements for public and private land, please refer to [subdivision 20B of the Codes SEPP](#).
- Outdoor dining at registered clubs includes additional requirements that limit the use to a maximum 50% of the outdoor area and other measures to ensure that disabled parking and accessible paths of travel are not impacted. For more information on the requirements for registered clubs please refer to [subdivision 20C](#).

The changes are supported by equivalent changes by Liquor & Gaming NSW to apply fast-tracked approval for temporary changes to liquor license boundaries.

### 3. The outdoor dining approval process

#### What councils need to know about the approval process

- All businesses who want to offer outdoor dining must have approval from their local council (often called an outdoor dining permit).
- We have amended the [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) (Codes SEPP) to make the exempt development pathway for outdoor dining available to small bars and pubs permanently.
- This means that in most circumstances a council outdoor dining permit is the only approval required. If the venue has a liquor licence, liquor licence boundary changes will need to be approved as well.
- Councils are encouraged to consider how they can streamline their outdoor dining approval processes, for example by fast tracking applications in areas identified as appropriate for outdoor dining.
- Councils have existing processes for approving outdoor dining permit applications but they will be able to use the e-Planning online portal to help streamline processes. When a venue applies through e-Planning, council, L&GNSW and NSW Police will all be notified of the application and will be able to manage the application electronically – saving everyone time.
- If the outdoor dining is in relation to a licensed premise, Councils will need to notify Liquor and Gaming NSW and NSW Police of the change to trigger the fast-track temporary change of liquor licence boundary approval process.
- Councils participating in the Small Business Commission's Outdoor Dining program please note, for the time being Service NSW will continue to refer decision-ready outdoor dining applications from that program to you. Please contact your Service NSW Customer Relationship Manager if you have any queries.

**Figure 2: What council approvals are typically required for outdoor dining?**

<b>Section 125 of the Roads Act 1993</b>	Yes (if outdoor dining occurs on footpath or road)
<b>Section 68 Local Govt Act approval</b>	Yes (if outdoor dining occurs on footpath)
<b>Local Government Act Plan of Management (POM)</b>	Outdoor dining must be authorised in an adopted POM if it occurs on community land or on a Council managed Crown reserve
<b>Development consent</b>	No. Outdoor dining is exempt development under the Codes SEPP for food and drink premises, pubs and small bars

**Note:** Approval from Liquor & Gaming NSW is required if an onsite liquor licence or extension of existing licence is being sought.

Agreement is required from Transport for NSW for any outdoor dining proposals that intend to use a footpath on a classified road.

## Roads Act 1993 (Roads Act)

A Roads Authority (normally local Councils) must issue an approval under Section 125 of the *Roads Act 1993* in relation to footway AI fresco dining on the road reserve. The Authority must obtain agreement from Transport for NSW for any proposals that intend to make use of a footpath on a classified road.

## Local Government Act 1993 (LG Act)

- **Section 68 approval:** is required from the local council for certain activities to be carried out on council or public owned land. The activities include engaging in a trade or business to expose items for sale on or near a road.
- **Plans of management (POMs) for community land:** Outdoor dining on community land (not footpaths), such as a park or reserve requires approval under the *Local Government Act 1993*, through an express authorisation in a POM adopted by a local council. OLG's [Public Land Management Practice Note](#) provides more information on the POM adoption process.
- **Alcohol Free Zones (AFZ) and Alcohol Prohibited Areas (APAs):** The *Local Government Act 1993* provides powers for local councils to establish AFZs and APAs to promote the safe use of roads, footpaths and public car parks without interference from anti-social behaviour caused by public drinkers. OLG has published [guidelines](#) for councils that are considering establishing or re-establishing an AFZ, as well as providing advice about councils' responsibilities under legislation.
- **Note:** When a council issues a permit for outdoor dining in an AFZ, it must impose conditions on the licensee (eg restaurant operator) about the requirements of the AFZ, including clear delineation (ie. cordoning off the area) and control of the licensed area from the AFZ.

## Crown Lands Management 2016 (CLM Act)

- Outdoor dining on Crown land requires an approval under the CLM Act. The approval type and approver will vary depending on who is managing the land.
- Where a council manages the Crown reserve in question, outdoor dining will usually be required to be expressly authorised in a POM for Crown Reserves managed by NSW councils (as it would on community land under the LG Act). The OLG has published [guidelines on developing POMs for Crown reserves](#).
- Where a non-council Crown land manager is responsible for the land, council should seek advice from [DPIE - Crown Lands](#) as to approval requirements.

## State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)

- A footway or a public open space associated with lawful food and drink premises may be used as an outdoor dining area without development consent (known as exempt development) if it meets the standards set out in the Codes SEPP.
- The outdoor footpath and outdoor dining area must comply with the following standards:
  - the food or drink premises the outdoor dining is connected to must have approval to operate
  - the outdoor area must be carried out in accordance with any an approval under section 125 of the *Roads Act 1993* and any approval under section 68 of the *Local Government Act 1993*.
  - if under an awning, the awning complies with the requirements set out in BP1.1 and BP1.2 of Volume 1 of the Building Code of Australia.



### Outdoor dining as exempt development

- Development consent under the Environmental Planning and Assessment Act 1979 has typically been required for footway dining areas associated with small bars or pubs.
- However, in October 2021, the NSW Government implemented permanent amendments to the Codes SEPP to allow existing small bars and pubs across NSW to undertake outdoor dining as exempt development, in line with existing exemptions for food and drink premises such as cafes, restaurants and other appropriate venues.
- This means that existing cafes, restaurants, pubs and small bars will not have to submit a development application to council for outdoor dining. Instead they are only required to apply to council for an outdoor dining permit to use the footpath or public space and have their liquor licence boundaries changed (if applicable).

## Approvals for temporary changes to liquor licence boundaries

- A liquor licence is needed for food and beverage venues to sell and serve alcohol. L&GNSW is responsible for liquor licensing and compliance.
- Council needs to notify L&GNSW and NSW Police when an outdoor dining application is received that requires a temporary change of licence boundary. Consultation with NSW Police by council is required before the completed temporary liquor licence boundary change application form is assessed by L&GNSW.
- L&GNSW will review the completed form to verify that the Council has ensured the terms of liquor licences and temporary extended liquor licence boundaries are understood by the venue, including:
  - i. Food must be available to patrons within the outdoor dining area at all times that the area is operating
  - ii. A copy of the approved plan of the licensed boundary must be made immediately available for inspection by a police officer, council officer or Liquor and Gaming inspector upon request.
  - iii. The licensee must not increase the patron capacity which applied to the licensed premises before this approval was granted.
  - iv. Despite any other trading hours on the license, trading hours in the alfresco dining area may not exceed 10pm Sunday to Thursday or 12am Friday and Saturday.
  - v. This temporary change to boundary may be revoked at any time by the Council/ Landholder or L&GNSW.
  - vi. The consumption of liquor may only occur when patrons are seated.
  - vii. The licensee may sell alcohol from the indoor area of the premises to patrons using the temporary outdoor dining area provided that the Licensee ensures drinks are only consumed within the licenced areas.
- **Note:** Councils can access a copy of the temporary liquor licence boundary change

form by emailing: [individual.licensing@liquorandgaming.nsw.gov.au](mailto:individual.licensing@liquorandgaming.nsw.gov.au)

- Council should also consider whether there is any history of community complaint or serious incidents related to alcohol consumption in venues in the area.

## Rollover approvals from temporary to permanent changes to liquor license boundaries.

A new fast-tracked process for licensed premises to make their temporary boundary approvals permanent will be available soon. More information will be available on the [Liquor & Gaming website](#).

For all other permanent changes to a liquor license boundary, venues will need to go through the normal process.

- Council must complete its section 125 of the *Roads Act 1993* and/or section 68 of the *Local Government Act 1993* approvals and advise L&GNSW of this approval before the temporary boundary change will be processed by L&GNSW.
- Note - where Council approval is not required for the new outdoor dining space (ie the new temporary alfresco measures under the Codes SEPP), the licensed venue will need to apply directly to Liquor and Gaming NSW for a temporary change in their liquor licence boundary. More information can be found on the [Liquor & Gaming NSW website](#).
- L&GNSW will process the temporary licence boundary application form and update the licence boundary to include the new outdoor space.
- When a licence is issued venues need to comply with liquor licence conditions and any other conditions that specifically apply to the outdoor area.
- Depending on the venue, L&GNSW may ask a venue to update its Plan of Management to include how it will manage an outdoor area.
- L&GNSW is responsible for the enforcement of liquor licence conditions.

## Can a council revoke an outdoor dining permit?

- A council can typically revoke, suspend or amend a permit for footway trading if:
  - the conditions of approval are breached;
  - the use of the footway area for footway trading is causing public safety or public access to be compromised;
  - the footway area is needed for public works;
  - the footway area is needed for a special event; or
  - the footway area is needed to manage an increase in pedestrians.
- Where Council decides to revoke, suspend, or amend a permit for footway trading, the approval holder should be given notice of Councils intention and an opportunity to make representations to Council.

## Fees and charges

- Councils can charge fees for their outdoor dining applications. Please note Liquor & Gaming NSW is continuing to waive fees for temporary changes to liquor licence boundaries to support business recovery. If you are setting, changing or waiving fees for outdoor dining applications, you need to take section 608 of the Local Government Act, and your council's revenue policy in the yearly Operational Plan into account. **Councils must give the public at least 28 days' notice if a new, amended or waived fee is being proposed.**
- Set fees should reflect the costs incurred by council and may include:
  - application fees (e.g. for a standard outdoor dining permit or development application)
  - bond/security deposit.

## Monitoring and compliance of outdoor dining permits

Monitoring venues for compliance with outdoor dining permit conditions is a critical step to ensure that a business is meeting its obligations and the outdoor dining experience is meeting its desired outcomes.

Councils should ensure that their enforcement officers are monitoring the following:

- Location – keeping outdoor furniture within nominated site areas and meeting the location requirements of the interim policy
- COVID Safety – having a COVID Safety Plan and complying with that plan as well as current Public Health Orders.
- Safety – managing the flow of customers, staff and general public to ensure there are no obstructions of the footpath or roadway and addressing the need for customers to restrain pets at all times
- Amenity – fulfilling the requirements of any local council policies and ensuring outdoor dining areas make a positive contribution to the amenity of the surrounding areas
- Function – maintaining outdoor furniture to ensure it is in safe working order (including 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 regarding the service of alcohol, as well as maintaining current public liability insurance at the level required by Council.

## Fast tracking the approval of permit applications in appropriate areas

- Councils can decide how they review and process outdoor dining applications.
- Councils are encouraged to adopt local processes to fast track application assessment for new or expanded outdoor dining located in a pre-identified outdoor dining area.
- Councils can start this process by:
  - Identifying suitable areas and engaging the community to help prepare for assessing business applications.
  - Adopting or updating relevant policies and activation plans.
  - Providing information to businesses in those areas and on your website.
  - Reviewing internal processes to enable fast tracked approvals.
- To help streamline liquor licence boundary approvals, councils should check the mandatory criteria in the liquor licence boundary change form is included in any application form / checklist.
- Councils can access a copy of the liquor licence boundary change form by emailing: [individual.licensing@liquorandgaming.nsw.gov.au](mailto:individual.licensing@liquorandgaming.nsw.gov.au)

### B. Waiving public consultation processes under limited circumstances

- Public consultation is a key part of any outdoor dining approval process. However, in certain circumstances it may be appropriate to waive public consultation including:
  - If prior public consultation has taken place with affected residents and businesses at the outdoor dining planning stage
  - If other relevant public consultation has recently occurred (e.g. through a roads reallocation process).
  - If the proposal is considered very low impact (e.g. the scale of outdoor dining is small).

### C. Using the e-Planning portal for further streamlined processing

- The NSW Government has rolled out a new e-Planning Digital Service to enable businesses to apply and councils to receive and determine outdoor dining applications via the NSW Planning Portal. Councils can use this digital service to refer applications to L&GNSW, NSW Police and TfNSW –for their input.
- For further information about how to have your Council onboarded to this function of e-Planning, contact the e-Planning Support team at [e-Planning.support@planning.nsw.gov.au](mailto:e-Planning.support@planning.nsw.gov.au)

### Examples of fast tracked assessment processes available to councils include:

#### A. Developing a standardised application form and/or checklist for applicants

- A standardised application form and/or checklist will help applicants provide all necessary information upfront and can significantly streamline the assessment process for councils.
- A council may need information such as:
  - a) a site diagram – including a site overview, access for pedestrians, details of the area to be used for outdoor dining, location of proposed furniture, and details of other street furnishing, trees, rubbish bins, etc.
  - b) photos of the type of furniture to be used
  - c) evidence of public liability insurance covering personal injury and property damage for activities on a public footway and roadway



## 4. Case studies

### City of Sydney's fast-tracking of outdoor dining permit applications commenced 30 November 2020

- To support economic recovery from the COVID-19 pandemic, City of Sydney Council has established a streamlined and integrated process to fast-track the assessment of applications for temporary outdoor dining and to extend existing liquor licence boundaries.
- The Council has developed criteria to support fast-tracking of assessments in consultation with state agencies, including Liquor & Gaming NSW and DPIE, using a risk based approach.
- Applications will be fast-tracked if they meet the following criteria:
  - Application documentation is complete (including a site plan and evidence of public liability insurance).
  - The applicant has a [COVID-19 Safety Plan](#) for the site.
  - The applicant has no current or ongoing compliance matters with the Council or Liquor & Gaming NSW.
  - The applicant meets and agrees to standard terms and conditions of approval set by the Council.
- If an application does not meet one of the above criteria, or if the site in question has unique factors relating to size, scale, impacts, etc, it is not eligible for fast tracked assessment.
- Additionally, the Council has reduced the normal public consultation period from 14 days to 7 days, as set out in its outdoor dining policy for applications over 20 sqm in central Sydney and over 10 sqm in the rest of the LGA. Or, where applications have been subject to previous public consultation as part of road reallocation.
- The Council is also encouraging clusters of businesses to apply online for reallocation of parking spaces for outdoor dining in appropriate areas where traffic conditions permit this. Key aspects of this process are:
  - A dedicated team of Council Traffic Operations, Infrastructure and Business Engagement staff to assist interested businesses.
  - Council conducts a site visit to assess, engage and document requirements.
  - Council provides infrastructure to these areas, including planter boxes, concrete barriers, road stops and artistic works on barriers.
- For more information visit the [City of Sydney website](#).
- For information about the development of the program, please contact Libby Harris on [lharris@cityofsydney.nsw.gov.au](mailto:lharris@cityofsydney.nsw.gov.au).



## Randwick City is assisting local businesses to expand outdoor dining

- The Coogee Bay Road Shared Village project provides more space for outdoor dining as well as additional space to help shoppers and pedestrians practice social distancing.
- The project was prompted by requests for assistance from local businesses affected by a COVID-19 related trading downturn.
- A key component of the project is closing one lane of Coogee Bay Road between Arden and Brook streets to allow for expanded outdoor dining and pedestrian activity.
- In the process of developing the project Randwick City Council:
  - Consulted with local residents and businesses about the project in September 2020. Council conducted a survey which found general support for helping businesses and providing more space for outdoor dining. More than 75% of respondents in favour of the project.
  - Held a number of workshops with local Coogee businesses to discuss the plans and generate ideas for helping local businesses bounce back from COVID-19.
  - Sought the approval of TFNSW Roads and Maritime for the temporary partial road closure.
  - Coordinated the lodgement of outdoor dining licence applications on behalf of all affected business, including approval under the Local Government Act, the Roads Act and for liquor licence boundary extensions.
  - Helped businesses with technical aspects of the application process such as site mapping.
- The Coogee Bay Road Shared Village project will be in place until the end of January 2021, when it will be reviewed.
- This project was partly funded under the NSW Government's [Streets as Shared Spaces Program](#).
- For more information visit the [Randwick City Council website](#).





## **Need further information?**

Councils who would like to express an interest in participating in the streamlined outdoor dining trial or want more information should contact their Office of Local Government Council Engagement Manager at [outdoordining@olg.nsw.gov.au](mailto:outdoordining@olg.nsw.gov.au) or 02 4428 4100.