

Policy Name	Outdoor Dining
Policy Number	CA06
Responsible Section	Design Construction and Transport
Responsible Department	City Assets
Date Last Adopted	9 March 2021
Date of Next Review	March 2024
Applicable Legislation	<p>Commonwealth Legislation: Disability Discrimination Act 1992</p> <p>Related Documents: Australian Human Rights Commission;</p> <ul style="list-style-type: none"> • Advisory Note on streetscape, public outdoor areas, fixtures, fittings and furniture • Access to premises <p>Austrroads Part 6A Australian Standard 1428</p> <p>State Government Legislation: Planning, Development and Infrastructure Act 2016 Development Regulations 2008 Local Government Act 1999 Retail & Commercial Leases Act 1995</p>
Related Governance Documents	<p>Outdoor Dining Guidelines Council Policy - Sale of Goods on Council Land Application for Outdoor Dining Authorisation and Permit for Outdoor Dining Standard Operating Procedure - Outdoor Café Licences By-Law 4 City of Port Adelaide Enfield Schedule of fees and charges</p>
City Plan Theme	<p>Economy Placemaking Community</p>

1. PURPOSE/OBJECTIVE

Council's City Plan strives to support the economy of our city and seeks to enable businesses to trade in ways which attract locals and visitors to the area. Outdoor dining allows restaurants, cafes and other food and beverage retailers to use part of the footpath directly outside their businesses to expand their offerings. It helps to activate streets and public places and brings vitality and business opportunities to the City of Port Adelaide Enfield. Council supports Outdoor Dining wherever possible and appropriate.

This Policy outlines Council's responsibility and powers to maintain the safety, accessibility and function of footpaths and must balance the needs of all users, including, patrons, pedestrians and vehicle occupants.

This Policy is provided to help ensure that outdoor dining is established, operated and maintained in appropriate locations and in an appropriate manner.

2. SCOPE

This policy sets out Council's support for Outdoor Dining and the conditions under which Council will issue approvals for outdoor dining. This Policy applies to all applications for outdoor dining in the City of Port Adelaide Enfield.

This policy has been prepared pursuant to the following legislation:

- Authorisation and Permit in accordance with Section 221 and 222 of the *Local Government Act 1999* and By-Law 4.

3. POLICY

3.1 Key Principles

- We will work collaboratively with the community, including businesses, to identify and assess risk and maximise opportunities for safe and enjoyable dining and a prosperous economy.
- Effective management and good design are essential to maximise outdoor dining opportunities and to ensure the public, particularly those with limited mobility, can safely use and enjoy public spaces.
- Each application for an Outdoor Dining Permit will be considered on its merits.
- Consideration will be given as to whether the Outdoor Dining has any negative impacts on other surrounding land uses such as residential and if so, how the design of the Outdoor Dining area mitigates these impacts.
- Outdoor dining should be undertaken in a manner that ensures accessible footpaths, contributes to environmental sustainability, creates a safe and clean outdoor space, minimises unnecessary noise and nuisance, and maintains social amenity in this public space.

3.2 Outdoor Dining Assessment

When determining an application for an Outdoor Dining, we will consider the appropriateness of the application against this Policy, any relevant legislative requirements and any other relevant policy documents, including our Outdoor Dining Guidelines.

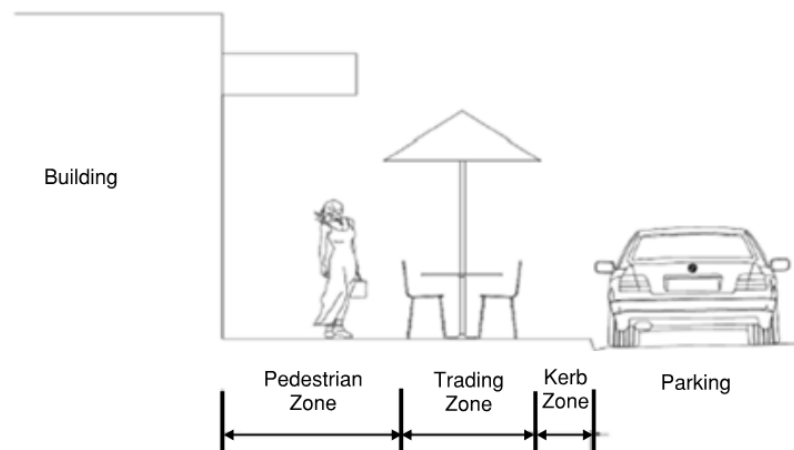
Our assessment of each Outdoor Dining Permit will also consider:

- The contribution that the proposed Outdoor Dining will make to the vitality and character of the area in which it is proposed
- Public safety, including the safety of persons in outdoor dining areas, pedestrians and vehicle occupants
- A risk assessment to determine whether safety devices such as Energy Absorbing Bollards (EABs) are required
- The maintenance of the pedestrian thoroughfare as the primary purpose of the footpath and the retention of a consistent and predictable clear path of travel for all footpath users, including those with limited mobility or visual impairment
- How the design of the Outdoor Dining area contributes to the character and appearance of the street and area in which it is located.

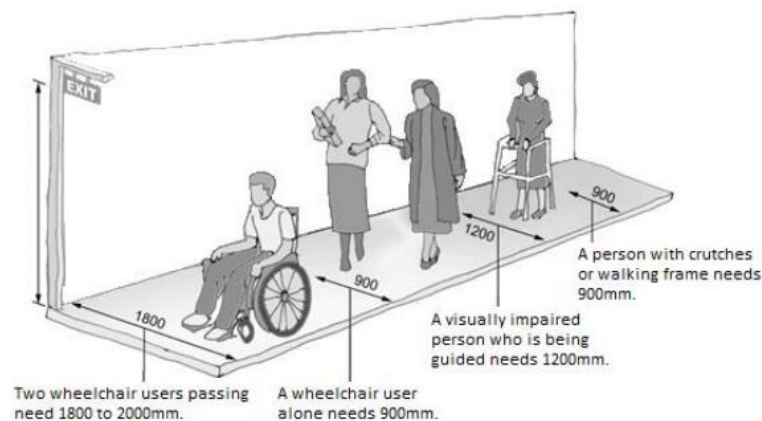
3.3 Footpath Zones

For the purpose of this Policy, Council footpaths are predominantly divided into three zones (refer to definitions for further details)




1. Pedestrian Zone
2. Trading Zone
3. Kerb Zone and these zones are detailed as the following:



Width of footpath:



Width of Footpath Zones

Total Footpath Width	Less than 2.5 metres wide	Less than 3.1 metres wide	3.1 metres and wider	5 metres and wider
Pedestrian Zone 	<p style="text-align: center;">Outdoor Dining prohibited</p> <p style="text-align: center;">In some areas it may be impractical to locate Outdoor Dining</p>	<p>Minimum of 1.8m from the property line towards the kerb</p> <p>This is to allow two wheelchairs to pass comfortably</p>	<p>Minimum 2m from property line towards the kerb</p> <p>This is to allow two wheelchairs and groups of pedestrians to pass comfortably</p>	<p>Minimum 2.5m from property line towards the kerb</p> <p>This is to allow two wheelchairs and large groups of pedestrians to pass comfortably in high activity areas</p>
Trading Zone 		<p>Remaining area once pedestrian and kerb zones are identified</p> <p>Narrow benches and narrow seating should only be considered</p> <p>If trading zone exceeds 10m a 1.5m gap must be provided and 750mm (375mm each) between adjoining trading zones</p>	<p>Remaining area once pedestrian and kerb zones are identified</p> <p>If trading zone exceeds 10m a 1.5m gap must be provided and 750mm (375mm each) between adjoining trading zones</p>	<p>Remaining area once pedestrian and kerb zones are identified</p> <p>If trading zone exceeds 10m a 1.5m gap must be provided and 750mm (375mm each) between adjoining trading zones</p>
Kerb Zone 		<p>Minimum 600mm from the face of kerb where, parallel parking / no parking / wheel stops exists</p> <p>Minimum 900mm from the face of kerb where angle parking exists</p>	<p>Minimum 600mm from the face of kerb where, parallel parking / no parking / wheel stops exists</p> <p>Minimum 900mm from the face of kerb where angle parking exists</p>	<p>Minimum 600mm from the face of kerb where, parallel parking / no parking / wheel stops exists</p> <p>Minimum 900mm from the face of kerb where angle parking exists</p>

* Please note certain locations have special criteria and setback requirements based on a variety of considerations. These considerations include access, pedestrian demand, urban design outcomes and safety impacts. Any measurements that vary from the above will be reviewed under extenuating circumstances and applied to the conditions of approval. In some areas it may be impractical to locate Outdoor Dining.



3.4 Fees and permits

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

In accordance with Councils COVID19 Recovery Framework:

With social distancing measures in place, it has become increasingly difficult for cafes and restaurants to operate as they did pre COVID-19. As a result there will be increasing demand for outdoor dining. We will support businesses by waiving outdoor dining fees for this financial year (2020-2021).

This provision will be revised at the end of 2020-2021 financial year to determine if this will continue.

- To use public land or footpath for outdoor dining a business must hold a valid Outdoor Dining Permit.
- Any applicable Outdoor Dining Permits fees are in accordance with Council's Schedule of Fees and Charges.
- We will monitor Outdoor Dining, compliance with Outdoor Dining Permits and undertake enforcement action when appropriate.
- We may revoke an Outdoor Dining Permit where there are continuing unresolved, substantiated breaches of that permit.

3.5 Safety Devices (e.g. Bollards)

If a risk assessment determines that Energy Absorbing Bollards are required it is the responsibility of the applicant to pay for any required safety devices.

The current Outdoor Dining Policy and associated guidelines require businesses who seek outdoor dining permits in high risk areas to fund their own safety devices (e.g. bollards). The requirement for the location, number and type bollards will be determined by a suitably qualified Traffic Officer. There are three types of bollards currently being used:

- Energy Absorbing Bollards (EABs protect the driver and outdoor dining patrons as it absorbs the impact used for higher speed locations)
- Fixed bollards (used for lower speed areas only these do not protect the driver and accordingly their use should be limited).
- Timber bollards (these are Jarrah with a stainless cap. They are used for streetscape purposes and to prevent vehicles motorists parking on the footpath only).

We may negotiate a payment plan with an applicant to help spread the cost of any required safety devices over a longer period of time.

- Option 1 – 1/3 of the cost of safety device installation as a deposit/upfront payment with the remaining amount paid in monthly payments over two years.
- Option 2 – No up-front cost, instead the total costs are paid annually over five years (high annual payments) on top of the Outdoor Dining Permit fee.
- The Chief Executive Officer may consider alternative payment arrangements or financial support depending on the circumstances using available funds from the Council's budget.

- Council may fund the creation of outdoor dining areas via the provision of infrastructure, including safety bollards, where it can be demonstrated that multiple business will benefit from upgrading a particular public space or precinct
- If there is a known financial risk this may impact on the payment terms.

3.6 Guidelines

Guidelines for outdoor dining have been prepared to implement the policy objectives and provide further information in the process. The Guidelines must be read in conjunction with this Policy.

4. ROLES AND RESPONSIBILITIES

The Manager Construction, Design and Transport is responsible for the implementation and management of the policy. This section clarifies the individual responsibilities for the day to day administration of the policy.

5. DEFINITIONS

Accessible – having features to enable use by people with a disability.

Outdoor Dining - is the use of the public footpath or other public land for the purpose of expanding the seating space of businesses whose main activity is the provision of food and/or beverages.

Energy Absorbing Bollard - means bollards designed to perform under load in accordance with the requirements specified in the Roadside Dining Protection Guidelines, published by the Department for Infrastructure and Transport.

Footpath – has the same meaning as “road” under the Local Government Act 1999.

Road – a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicle or pedestrians or both and includes - (a) a bridge, viaduct or subway; or (b) an alley, laneway or walkway.

Kerb Zone - A minimum buffer of clear footpath must be provided from the kerb to allow for access to and from parked vehicles, including loading zones. Where there is a disabled parking bay, the setback from the kerb will need to be greater. This area of the footpath must be kept free from any items or structures at all times.

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Trading Zone – This is the only area of the footpath where the placement of goods, Café furniture and ancillary items may be authorised.

Pedestrian Zone – The continuous accessible path of travel should extend from the property line with no obstructions or projects, in order to provide the best possible guidance line for all users, including people with a vision impairment.

