



Outdoor Dining Policy

To encourage outdoor dining that enhances the amenity of public spaces and promotes social activity.

Outdoor Dining Policy



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1. Where this policy applies

This policy applies to land that is:

- a. Situated within a business centre
- b. Used as a public footpath, space or park
- c. Proposed to be used for outdoor dining in association with an adjoining food and drink premises (such as a cafe, restaurant or take away food store).



2. Our objectives

To encourage outdoor dining facilities that:

- a. Help to create attractive, vibrant and safe public spaces
- b. Provide easy and safe access for all users
- c. Maintain good visibility on roadways for pedestrians and motorists
- d. Enable public surveillance of streets and public spaces
- e. Comprise of high quality, durable and easily maintained furniture and accessories
- f. Are kept clean and well maintained at all times.

3. Approvals and licences

3.1 Approval from Blacktown City	<p>Section 125 of <i>The Roads Act 1993</i> enables restaurant dining on footways, subject to approval by the local council. For footways of a classified road, an approval can only be granted with the agreement of the Roads and Maritime Service.</p> <p>In some circumstances, an application for outdoor dining may be referred to the Blacktown Local Traffic Committee for comment.</p> <p>All outdoor dining will require an ‘outdoor dining approval’ from Blacktown City.</p> <p>This policy provides guidance for the preparation and consideration of outdoor dining applications. All applications will be considered on their merits.</p>
3.2 Must display approval	<p>Operators must display their outdoor dining approval notice in a prominent position and make it available to authorised Blacktown City officers on request. A copy of the licence agreement should also be kept on the premises.</p> <p>Authorised Blacktown City officers may order the removal of any items on the footway that are not:</p> <ol style="list-style-type: none">Part of the outdoor dining approvalPermitted under another approval or policy of Blacktown City.
3.3 The approval	<p>The approval will be for 3 years, with an option for it to be extended, subject to negotiation with Blacktown City. The approval will include conditions that must be complied with such as:</p> <ol style="list-style-type: none">The payment of a refundable security bond (refer to Blacktown City’s Goods and Services Pricing Schedule) to cover any damage to the footpathThe approved area must be kept clean at all timesFood and drinks must be prepared inside the premises.
3.4 Licence and fee	<p>When an outdoor dining approval is issued, a licence agreement will be entered into between Blacktown City and the outdoor dining operator. The licence agreement will stipulate an annual rental fee for the outdoor dining area. Annual per square metre base rental fees can be found in Blacktown City’s Goods and Services Pricing Schedule (in the section titled ‘Use of footpath areas’).</p>



3.5

Serving
alcohol

Where outdoor dining is proposed in association with a pub or small bar, a development application must also be submitted.

If the outdoor dining area relates to an already licenced premises, an application to amend the area that licence applies to must be made to the Office of Liquor, Gaming and Racing.

Applications for outdoor dining involving the serving of alcohol (including in Alcohol Free Zones) will be referred to the local police for comment. If approved, conditions will be imposed to ensure that:

- a. The outdoor dining area is clearly delineated and controlled
- b. Alcohol may only be served with food.

3.6

Change of
operator

Legislation requires approvals for outdoor dining to be granted to the operator of the business.

When the operator of a business with an outdoor dining approval changes, the approval is no longer valid. The new operator will need to obtain a new outdoor dining approval.

3.7

Revoking,
suspending or
amending an
outdoor dining
approval

Blacktown City can revoke, suspend or amend an outdoor dining approval if:

- c. The conditions of the approval are breached
- d. The use of the footpath compromises public safety or access
- e. The footpath is needed for public works
- f. The footpath is needed for a special event
- g. There has been an increase in pedestrian use of the footpath.



4. Location and access requirements

4.1 Placement	Outdoor dining will be considered on footpaths immediately in front of a food and drink premises (such as a café, restaurant or food shop) where they do not impede other footpath users.
4.2 Clear view lines	An outdoor dining area may be restricted, where it obstructs the ability of pedestrians to see oncoming traffic and/or the ability motorists to observe pedestrian movements.
4.3 Minimum footpath widths	<p>Minimum footpath widths must be provided for the clear passage of pedestrians. The width of unobstructed footpath must be at least:</p> <ul style="list-style-type: none"> a. 1.8 metres in the Blacktown CBD b. 1.5 metres in all other business centres
4.4 Items and functions that must not be obstructed	<p>Outdoor dining facilities should not obstruct:</p> <ul style="list-style-type: none"> a. Designated fire exits and fire hydrants b. Emergency access areas/routes c. Water, electricity or sewer infrastructure or access to that infrastructure d. Power and light poles e. Public rubbish bins f. Post office boxes g. Pedestrian or vehicular movement

5. Furniture and accessories

Outdoor dining facilities should make a positive contribution to the streetscape. They should complement neighbouring businesses and enhance the appearance and vibrancy of the location.

This can be achieved through the careful choice and placement of perimeter barricades, dining furniture, shade structures, lighting and heating.

An outdoor dining approval can be amended to factor in additional items (eg. heaters) should they be proposed after the approval is obtained.



5.1

Furniture

All outdoor furniture should:

- a. Be of the same 'family group', to ensure visual unity and to enhance of the streetscape
- b. Be of commercial quality to withstand the wear of outdoor commercial use
- c. Be capable of being easily:
 - Stacked or folded for storage outside of trading hours (unless otherwise permitted)
 - Moved to enable maintenance and cleaning of the pavement
- d. Not contain parts that are likely to damage the pavement
- e. Not create a potential hazard to pedestrians or patrons
- f. Not have reflective surfaces
- g. Not be white in colour as this is likely to rapidly discolour.

5.2

Perimeter barricades

Low height barrier screens and planter boxes may be used to define the perimeters of an outdoor dining area, but should be kept to a minimum.

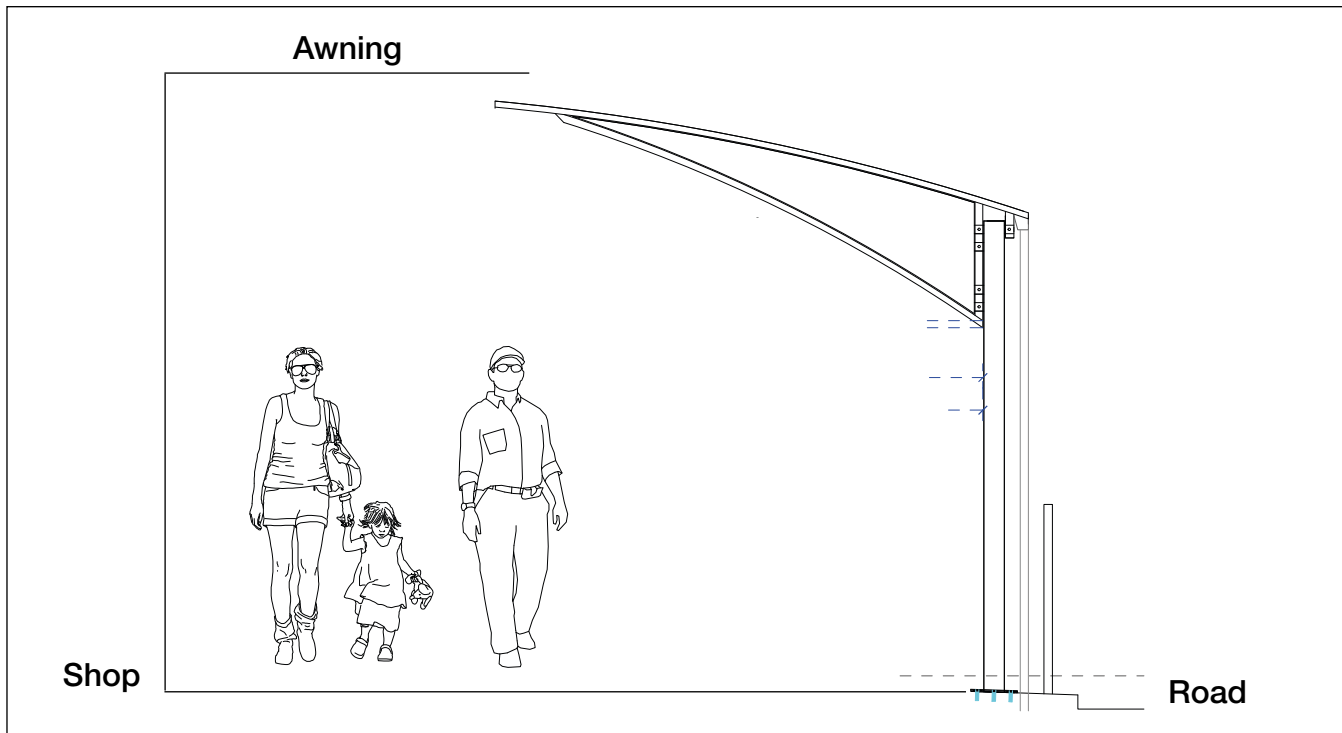


<p>5.2.1</p> <p>Low-height barrier screens</p>	<ol style="list-style-type: none"> Should be capable of being moved from the footpath to overnight storage by one person. Should, if transparent: <ul style="list-style-type: none"> Comply with <i>Australian Standard AS 1428.1 – Design for access and mobility – General Requirements for access – New building work</i> Be clearly marked for the full width with a contrasting line. Should comply with the signage/advertising provisions of this policy (section 6).
<p>5.2.2</p> <p>Planter boxes</p>	<ol style="list-style-type: none"> May be permanent or moveable May be used in open areas, such as plazas or widened sections of a footpath Must be stable and safe (to avoid being knocked down by people or the wind) and be well-maintained Should not exceed 1.2 metres in length and 0.5 metres in height (excluding plants) <p>Note: In the Blacktown CBD, planter boxes will be supplied and maintained by Blacktown City, upon request (for enquiries, contact the Civil and Parks Maintenance section). In other centres planter boxes must be supplied and maintained by the outdoor dining operator.</p>
<p>5.2.3</p> <p>Road safety barriers</p>	<ol style="list-style-type: none"> May be permitted where required for safety reasons. Such barriers must meet the Australian Standard <i>AS/NZS3845:1999 – Road Safety Barrier Systems</i>. May include barricades, safety rails or bollards.

5. Furniture and accessories

5.3 Umbrellas and shade structures	<p>In addition to the requirements listed in section 5.1, umbrellas and shade structures:</p> <ol style="list-style-type: none">May be provided where building awnings do not cover the proposed outdoor dining area.Should be contained within the approved outdoor dining area and not overhang the footpath outside that approved areaShould be no greater in plan dimension than 2.5 metres by 2.5 metresShould have a height clearance of 2.1 metres from the ground for pedestrian movement and safetyShould not include advertising, other than what is referred to in the signage/advertising provisions of this policy (section 6)Should be the same colour as other shade structures in the outdoor dining area.
5.3.1 Portable shade structures	<ol style="list-style-type: none">May be counterweighted or have mechanisms to avoid overturningMust automatically fold/collapse in high winds when not affixed to a permanent base. Details of the wind rating must be provided with the outdoor dining application.
5.3.2 Fixed shade structures	<ol style="list-style-type: none">May be permitted where it can be demonstrated that:<ul style="list-style-type: none">The structure will be safeThe structure will not detrimentally affect the amenity of the street/space for pedestriansFull insurance and indemnity for the shade structure/s will be carried by the outdoor dining operatorWill be installed, repaired and removed by the outdoor dining operatorWhere 2 or more shade structures are adjacent to each other they may be joined or linkedMay include down pipes and guttersApproval may be withdrawn if structures are unsafe or detract from pedestrian amenity when the area is not in use. In such instances, all costs associated with the removal of the structure/s will be the responsibility of the outdoor dining operator.

5. Furniture and accessories



Example of a fixed under awning shade structure

5.3.3

Inground sockets

Sockets for portable and fixed shade structures:

- Should be flush with or below the paving. Above ground sockets are not permitted.
- May only be fixed into the paving or sub-base with approval.
- Must be certified by a structural engineer from the National Engineering Register (NER). The engineer is required to certify the design and construction of the socket and structure and its ability to withstand extreme weather conditions.
- Require a road opening permit from Blacktown City (to install the appropriate footing). This is subject to a separate application and fee.





5. Furniture and accessories

5.4 Enclosure screens for weather protection	<ul style="list-style-type: none">a. May be installed for use during bad weatherb. Must not fully enclose the outdoor dining area. A maximum of 3 sides plus the roof may be enclosed.c. Should be:<ul style="list-style-type: none">• Contemporary in design and use high quality materials• Clear, transparent and colourless. Opaque screens are not permitted• Kept in good condition• Raised or removed during fine weather• Raised or removed when weather conditions beyond the capacity of the structure are encountered (eg. high wind conditions).
5.5 Lighting	<ul style="list-style-type: none">a. Must comply with Australian Standards:<ul style="list-style-type: none">• <i>AS/NZS 1158 - Road Lighting</i>• <i>AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting</i>b. Coloured or programmable lighting is not permitted.
5.6 Heating	<p>To ensure the safety and amenity of patrons and the general public, any heating proposed for use in an outdoor dining area must:</p> <ul style="list-style-type: none">a. Comply with Australian Standards:<ul style="list-style-type: none">• <i>AS/NZS 1596-2014 - The storage and handling of LP gas</i>• <i>AS 4656-2004 – Radiant gas heaters for outdoor and non-residential indoor use</i>b. Be certified by the Australian Gas Associationc. Be contained wholly within the outdoor dining area, and be positioned and secured to ensure that it will not cause any injury to patrons or pedestriansd. Possess automatic turn off devices in the event of overturninge. Be able to be removed from the approved outdoor dining areaf. Have direct access to gas mains and/or electrical sockets (electrical extension cords must not create a trip hazard). <p>All costs in providing outdoor heating are the responsibility of outdoor dining operator.</p>

6. Signage/advertising



6.1

Fixed signage

Is not permitted in outdoor dining areas.

6.2

Other signage

Other signage:

- a. Is only allowed on shade structures and perimeter barricades
- b. Cannot exceed 1 sign per umbrella/perimeter barricade and must relate to the business or an associated product. For example, a café may have umbrellas or perimeter barricades which advertise its business name or the products (eg. coffee, drinks) sold at the premises.
- c. Should relate to only 1 product or business name in each outdoor eating area
- d. Should be a minor design element and comprise no more than one-third of the surface area of the shade structure or barricade.

7. Public health and safety

7.1 Public liability insurance	<p>Outdoor dining operators must have public liability insurance with a minimum cover of \$10 million. The policy must specify Blacktown City as an interested party.</p> <p>The operator will need to provide Blacktown City with a certificate of currency:</p> <ol style="list-style-type: none">Prior to the issue of an outdoor dining licence agreementEvery year after that.
7.2 Cleanliness	<p>Operators are responsible for ensuring that:</p> <ol style="list-style-type: none">The area in front of their premises and the outdoor dining area are kept clean, safe and tidy. The area should be swept and any stains removed after close of business each day.All furniture is:<ul style="list-style-type: none">Kept neat, tidy and clean when in useRemoved from the footpath area after close of businessDebris is not swept or hosed into the gutter. This is a pollution offence and penalties may applyWaste bins provided on the footway by the operator are:<ul style="list-style-type: none">Covered so as not to attract birds or verminCleaned to ensure no odours are producedRemoved after close of businessEmptied into the approved waste collection facility provided for the premises. Waste must not be disposed of in street litter bins.
7.3 Food handling and hygiene	<p>Any approved outdoor dining area is subject to the <i>Food Act 2003</i> and <i>Australia New Zealand Food Standards Code</i>.</p> <p>Food and drink should be prepared inside the premises.</p> <p>Operators should actively discourage patrons from feeding birds within the outdoor dining area.</p>

8. Management and operation

8.1 General operating requirements	<p>In addition the requirements set out above, the outdoor dining operator should:</p> <ol style="list-style-type: none">Take all reasonable precautions to ensure the good conduct of employees and patrons in the outdoor dining areaNot use the outdoor dining area for any other purposeNot use amplified music or sound within the outdoor dining area. The use of the area must not create a nuisance or disturbance to adjoining properties or the public.
8.2 Marking of the area	<p>Blacktown City may mark the boundaries of the approved outdoor dining area. All furniture, including barriers and umbrellas, is to be contained within the marked area.</p> <p>Blacktown City will regularly review and define the area to ensure compliance.</p>
8.3 Bad weather	<p>Blacktown City will not compensate operators in instances where an outdoor dining area cannot be used due to bad weather.</p> <p>Blacktown City will not permit the movement of outdoor dining furniture out of approved outdoor dining areas and into to protected under-awning locations, even in bad weather. This is to ensure that pedestrian access and safety is maintained on the footpath at all times.</p>
8.4 Public assets	<p>The removal/relocation of any Blacktown City assets, such as rubbish bins, existing street furniture and planter boxes is subject to approval and will be at the applicant's cost.</p> <p>The removal/relocation of any other assets, such as Roads and Maritime Service traffic control boxes, Sydney Water drainage/ sewerage pits and Telstra telephone boxes, will not be permitted unless justification of public benefit can be made and approvals obtained from the relevant authorities. Works will be carried out at the applicant's cost.</p> <p>Where public utility providers require access to outdoor dining areas (eg. for maintenance or repair work), those utility providers must:</p> <ol style="list-style-type: none">Obtain a road opening permit from Blacktown CityEnsure that the outdoor dining area is returned to pre-work conditions.



8.5

Footpath reconstruction and nearby works

If Blacktown City requires access to the footpath for redesign or reconstruction at any time during the period of the approval, the approval holder must provide free access to the footpath.

For any planned footpath redesign or reconstruction works that require access to an approved outdoor dining area, Blacktown City will:

- a. Provide the operator with 3 months' notice, in writing
- b. Advise the operator of the expected timeframe of the proposed works
- c. Reduce the outdoor dining licence fee on a pro-rata basis during the planned period of works.

8.6

Smoke-free environments

On 6 July 2015 smoking was banned in commercial outdoor dining areas, under the *Smoke-Free Environment Act 2000*.

Failure to comply with the requirements may lead to the termination of an outdoor dining licence by Blacktown City.

Further details can be found in *NSW Health Smoke-Free Commercial Outdoor Dining - A guide for licenced venues, restaurants and cafes*.

These requirements can be found at:

<http://www.health.nsw.gov.au/tobacco/Pages/outdoor-dining.aspx>.

9. Submitting an application

9.1 Requirements

The following documents are to be submitted when applying for an outdoor dining approval:

- a. A completed 'outdoor dining application form'.
- b. A plan (to scale) showing:
 - Boundaries of the property on which the food and drink premises is located
 - Width of the shop (food and drink premises) and location of openings
 - Boundaries of the proposed outdoor dining area
 - Width of the footpath
 - Surrounding land uses
 - Existing trees
 - Existing infrastructure such as power and light poles, rubbish bins, parking signs, benches.
- c. A description of the proposed outdoor dining area including:
 - Images, or a manufacturer's brochure, showing all proposed furniture and other items (eg. chairs, tables, barriers, lighting, heaters, umbrellas, planter boxes). Images must show dimensions and materials.
 - A plan (to scale) of the proposed layout and orientation of the tables and chairs and other items.
 - Details of the proposed method of attachment/installation of any fixed shade structures.
 - Proposed hours of operation.

9.2 Application fee

The outdoor dining application fee can be found in Blacktown City's Goods and Services Pricing Schedule (in the section titled 'Use of footpath areas').

9.3 Serving of alcohol

Any outdoor dining area where alcohol is proposed to be served requires a separate licence from the Liquor Administration Board, Office of Liquor, Gaming and Racing.



Outdoor Dining Policy

For further information please contact
Blacktown City's Property section

Phone: 9839 6000

Address: 62 Flushcombe Road
Blacktown NSW 248