

OUTDOOR DINING GUIDELINES

Guideline No. 6240.001.I.N

1 Purpose

These guidelines are intended to assist both external and internal parties in applying for and assessing an application for an outdoor dining application within the Darwin municipality. This document is to be read in conjunction with, and meet the objectives of the City of Darwin Policy 0011.100.E.R Outdoor Dining.

Outdoor dining applications will only be considered on road reserves and public places that are under the care and control of City of Darwin.

2 Scope

The objective is to provide an interesting, vibrant, active and safe environment for pedestrian traffic and other street activity. Outdoor dining areas contribute significantly to street and park life by providing a space to sit and relax, to observe activity in the street and to meet and socialise.

Council encourages applicants to produce innovative ways of achieving the stated objectives and acknowledges that these may sit outside the more traditional planning and architectural approaches. In these instances, Council is open to considering (and encourages) well-presented cases, during pre-application consultation, having due regard to the outcome of any public consultation undertaken and the orderly and proper planning of the locality.

3 Guideline Statement

- a) Outdoor dining areas shall only be approved where they are directly associated with an adjacent food establishment or business.
- b) Council may consider outdoor dining which occurs away from the business after considering any submitted special circumstances and approvals from adjacent business owners.
- c) The business owner is to provide public liability insurance of \$20 million and list City of Darwin as an interested party within their public liability insurance policy.
- d) The permit holder shall at all times indemnify City of Darwin and keep it indemnified against all actions, proceedings, accounts claims and demands whatsoever on the part of any person or persons and from all costs, damages, expenses, losses and other claims and liabilities which may arise out of, or be incidental to the operation of the outdoor dining area.
- e) Applications for dining within on-street car parks are to provide certified traffic management plans taking into consideration hostile vehicle mitigation.
- f) All outdoor dining areas are to be kept clean at all times.
- g) Outdoor dining permits do NOT permit the holder to prepare food in the public realm.
- h) Adequate toilet facilities must be accessible during hours of operation in accordance with the Building Code of Australia. Toilets for licensed outdoor dining areas are NOT to be provided in the public realm.
- i) Sight-impaired persons require the use of shopfronts as a guide. Shopfronts are to be kept clear of tables, seating, advertising signs, and other street furniture as per the *Disability Discrimination Act 1992* (Cth). Outdoor dining (licensed) applications proposing to modify the footpath must incorporate a continuous path of travel past the dining area for pedestrians.
- j) Umbrellas and plants must maintain a clearance of 2.1 metres above the footpath to allow for pedestrian head clearance, safety and access.
- k) It is the responsibility of the applicant to ensure that any umbrellas included in an application are adequately secured to ensure they do not become a safety hazard and do not contain any advertising.

6240.001.I.N Outdoor Dining Guideline		Responsible Officer: GM Innovation, Growth and Development Services	
Version	Adoption Date	History	Next Review Date
1	dd/mm/yy		



OUTDOOR DINING GUIDELINES

Guideline No. 6240.001.I.N

- l) Crime Prevention through Environmental Design principles and Universal Design principles must be applied to all design proposals to ensure that community safety is maintained, and that the street is accessible to people of all ages and abilities.
- m) Connection to services if required will be at the expense of the applicant and be designed to Australian Standards to Council's approval.

3.1 Licensed Outdoor Dining

Licensed outdoor dining requires approval from Licensing NT prior to the serving of alcohol on City of Darwin road reserves. Applications to the Liquor Commission cannot be made without Council's written authorisation as land owner.

The consumption of alcohol in the public realm is only permitted where meals are served, and during licensed hours.

Outdoor dining areas contained on Council land must comply with the requirements of the *Tobacco Control Act 2002* (NT) and *Tobacco Control Regulations 2002* (NT).

3.2 Design

3.2.1 Footpath Dining

- New licensed areas will be integrated into the footpath with existing or new built canopies and street trees.
- Non-licensed dining must take into account existing or new built canopies and street trees.
- An assessment of pedestrian volumes will be made in line with the Austroads Guideto Road Design, resulting in a minimum pedestrian clearance of between 2 to 2.4 metres. This excludes high volume pedestrian areas in Mitchell Street which is to provide a three metre minimum clearance. Refer to the section - *specific criteria for special areas in the Darwin city centre*, below.
- 500 millimetres from street furniture and tree plots or planters and 1 metre from publicseats, payphones, litter bins, bicycle hoops, water bubblers, etc.
- 600 millimetres as long as the dining area causes no interference to or from disabledparking bays, access to parked vehicles or access to loading zones. Council has theright to increase this distance at any time for any reason.
- 300 millimetres for outdoor dining (licensed) areas in which a permanent fence or bollards have been proposed.
- In addition there must be an unobstructed path measuring 1.5 metres at both ends ofthe outdoor dining area to allow passing space for wheelchairs and access to the footpath.
- Where outdoor dining areas are located next to bus stops, the minimum distance between the face of the kerb and the outdoor dining area must be 1.5 metres.
- Permanent structures may be considered with submitted special merits.
- Outdoor dining furniture is to be of a high standard in appearance and style and requires approval by City of Darwin before use.
- Screens of any sort are not permitted to be used for non-licensed outdoor areas.
- Barriers including planter boxes may be considered on a case-by-case basis and judged according to available space, urban character, street activities and traffic conditions for licensed outdoor dining areas only.
- Umbrellas may be used only where there are no built canopies or tree canopies providing adequate shade and weather protection.

6240.001.I.N Outdoor Dining Guideline		Responsible Officer: GM Innovation, Growth and Development Services	
Version	Adoption Date	History	Next Review Date
1	dd/mm/yy		



OUTDOOR DINING GUIDELINES

Guideline No. 6240.001.I.N

- Advertising is not permitted without separate approvals.
- Non-licensed outdoor dining permits are for the placement of street furniture for the period of the outdoor dining permit.

3.2.2 On-street car parking bay dining (Parklets)

Taking advantage of the road reserve (public parking) for trade purposes is a privilege not a right. Parklets will only be approved where they are directly associated with an adjacent food establishment or business.

Parklets shall not conflict with, or inconvenience, other adjacent businesses. The area must not extend beyond the limits of the shopfront without the written permission of neighbouring businesses.

Outdoor dining on the footpath is not permitted adjacent a parklet.

Any approval granted for a parklet installation will initially be within the 12 month trial period. Notification of an approval will include a statement that the Council retains absolute discretion in determining whether to approve any subsequent application to renew the approval, and if an approval is renewed it may be for a shorter period than the original approval.

Unless otherwise specified, at the end of a parklet's approval period the parklet must be removed and the road reserve reinstated to the same condition as existed prior to the parklet's installation.

All costs associated with the construction, maintenance and removal of a parklet must be borne by its proponent.

The business will ensure that the parklet is available for use by any member of the public before and after the business trading hours.

A management plan for the parklet that details the applicant's responsibility for the day-to-day management, upkeep and maintenance of the parklet.

In the event that, in the opinion of the Chief Executive Officer, the parklet is not regularly managed in accordance with these guidelines, the Chief Executive Officer may cancel the approval without notice.

3.3.3 Location and Design Requirements (Parklets)

- The design of the proposed parklet is interesting and creative, demonstrates an improvement in the quality of public space, is compatible with the established streetscape character, encourages interaction, provides adequate disability and universal access and maintains or improves public safety in the street.
- The location and design of the parklet is not likely to negatively impact upon the amenity of occupiers in buildings in close proximity to the parklet.
- The proposed parklet would contribute to a diversity of uses in the locality.
- The loss of public parking space(s) caused by the parklet installation would not be significantly detrimental to the parking needs of the immediate locality.
- The maximum number of existing street parking spaces that may be replaced by the proposed parklet should not exceed two. Only the parking space(s) in front of the premises occupied by the person/business proposing the parklet may be proposed for replacement. If the space(s) involved partly overlap the frontage of an adjoining property, the potential impact of the parklet on that property's use and access from the street will be considered in assessing the proposal.
- Adequate lighting is maintained throughout darkness hours.
- Installation of the parklet will not result in the loss of a space that serves a valuable public purpose, such as space for the purpose of public transport, taxis, service vehicles, loading or people with disabilities. Council may consider a variation to this requirement where the

6240.001.I.N Outdoor Dining Guideline		Responsible Officer: GM Innovation, Growth and Development Services	
Version	Adoption Date	History	Next Review Date
1	dd/mm/yy		



OUTDOOR DINING GUIDELINES

Guideline No. 6240.001.I.N

applicant demonstrates that suitable alternative arrangements can be made to compensate for the loss in space.

- The location and design of the parklet will not impede or negatively impact upon pedestrian or vehicular movement or sightlines at road junctions and vehicle access crossovers or impede emergency vehicle movements.
- The parklet proposal demonstrates that it will be constructed in such a manner that it is capable of being removed and the road reserve being reinstated, to the same condition as it was previously to the parklet installation, within a 24 hour period.
- The constructed parklet will not interfere with the functioning, or result in the damage or permanent removal, of existing infrastructure such as hardstand infrastructure (kerbing, paving, crossovers or road drainage), verge trees, lighting, underground services or other services.
- The parklet shall be kept clean of litter, grime and graffiti. The surfaces and area underneath the platform should be cleaned as detailed in the management plan.
- The applicant must keep plants in good health, including watering, weeding, and trimming when necessary.
- All removable items, such as tables, chairs and umbrellas, must be removed after hours.
- It is the responsibility of the applicant to ensure that any umbrellas included in an application are adequately secured to ensure they do not become a safety hazard and do not contain any advertising.
- A bond payment or unconditional bank guarantee to cover the cost of any removal, maintenance or reinstatement works which Council may have to carry out due to default on the part of the applicant.
- Written support for the parklet from adjoining businesses.

3.3 Specific Criteria for Special Areas in the Darwin City Centre

Some places in the city centre are unique in terms of their role and function and the design precedent already set. For this reason they are singled out for special consideration.

3.3.1 Mitchell Street

Restaurants, pubs and bars, cafes, outdoor dining and the consumption of alcohol in Mitchell Street is a well-established use pattern. A unique arrangement of outdoor bars and dining areas has been established with some lengths of footpath relocated into the parking lanes to facilitate expanded outdoor drinking and eating spaces.

Awnings and/or canopies are to be provided and extend over outdoor dining areas and the public footpath to within 600 millimetres from the kerb line.

Pedestrian Footpath Clearance is to be no less than a minimum of 3 metres between Peel Street and Knuckey Street.

Where an outdoor dining area is located next to a bus stop, the minimum distance between the face of the kerb and the outdoor dining area must be 2.5 metres.

3.3.2 The Mall

The Mall is unique as it is the only section of street, which has been fully pedestrianised in the Darwin city centre. It is effectively the 'urban living room' of the Darwin city centre.

6240.001.I.N Outdoor Dining Guideline		Responsible Officer: GM Innovation, Growth and Development Services	
Version	Adoption Date	History	Next Review Date
1	dd/mm/yy		



OUTDOOR DINING GUIDELINES

Guideline No. 6240.001.I.N

Outdoor dining areas are to be directly associated with an adjacent shop, café, restaurant or bar. No permanent structures are to be included in any proposal.

An emergency vehicle path traverses through The Mall and Council will only approve dining within the emergency vehicle path if the applicant confirms in writing that they will remove all furniture from the area when an emergency vehicle requires access through the area.

A 2.4 metre minimum clearance is required between the shopfront and the dining area in The Mall.

A 1 metre minimum clearance is also required from each side of the tactile strip located within The Mall.

No advertising, planter boxes or moveable signs may be placed in the dining area or pedestrian pathway within The Mall.

3.3.3 Advertising

Any advertising including barriers or umbrellas within the dining area requires a separate application to City of Darwin.

3.4 Fees and Charges

Council sets the fees and charges on 1 July of each year and as such, all dining permits expire on 30 June. The current fees and charges are published on City of Darwin’s website.

In addition to the annual fee, the applicant is responsible for the once-off cost of the preparation of the licence and agreement conditions. City of Darwin prepares non-licensed permits and is at the cost defined within City of Darwin Fees and Charges. External Solicitors prepare the licensed permits, with the applicant responsible for all costs.

3.5 Right to refuse any outdoor dining application

Please note: that as land owner, Council may approve or refuse any outdoor dining application whether or not the application complies with City of Darwin Policy 0011.100.E.R Outdoor Dining. The Council also reserves the right to add any conditions it considers relevant to individual outdoor dining permits.

If an outdoor dining permit has expired or is revoked, the area must be restored to its original condition to the satisfaction of the Chief Executive Officer of City of Darwin and at no cost to Council.

4 Definitions

Licensed is a Liquor Licensed area

Non-licensed means no alcohol can be consumed

6240.001.I.N Outdoor Dining Guideline		Responsible Officer: GM Innovation, Growth and Development Services	
Version	Adoption Date	History	Next Review Date
1	dd/mm/yy		



OUTDOOR DINING GUIDELINES

Guideline No. 6240.001.I.N

5 Legislative References

Local Government Act 2019 (NT)
Disability Discrimination Act 1992 (Cth)
Tobacco Control Act 2002 (NT)
Tobacco Control Regulations 2002 (NT)
 Building Code of Australia

6 Policies / Related Documents

City of Darwin Policy 0011.100.E.R – Outdoor Dining
 Darwin City Centre Master Plan
 City of Darwin Fes & Charges

7 Responsibility / Application

The Strategic Direction Group (SDG) has endorsed this Outdoor Dining Guideline. Any change to the guidelines requires SDG approval prior to implementing any actions.

8 Document Control

6240.001.I.N Outdoor Dining Guideline		Responsible Officer: GM Innovation, Growth and Development Services	
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