

# Outdoor Trading

February 2020

# Table of Contents

<b>Part A Preliminary .....</b>	<b>1</b>
1 Purpose .....	1
2 Scope .....	1
<b>Part B Application .....</b>	<b>2</b>
3 Applying for an ODT area .....	2
4 Fees for application .....	3
<b>Part C Exemptions from permit.....</b>	<b>4</b>
5 Exemption from permit for A-frame signs.....	4
6 Exemption from permit for flags .....	4
<b>Part D Permit.....</b>	<b>5</b>
7 Factors considered when assessing applications for a permit.....	5
8 RMS concurrence.....	7
9 Conditions of a permit.....	7
10 Renewing a permit.....	8
11 Transferring a permit .....	8
<b>Part E Insurance .....</b>	<b>9</b>
12 Indemnity.....	9
13 Notification of Claims .....	9
<b>Part F Non-compliance .....</b>	<b>10</b>
14 No permit.....	10
15 Breach of permit .....	10
16 Dispute Handling .....	10
<b>Part G Other .....</b>	<b>11</b>
17 Cleanliness and maintenance.....	11
18 Smoking in outdoor trading areas used for outdoor dining purposes.....	11
19 Dogs in Outdoor Dining Areas .....	11
20 Crime Prevention.....	11

<b>Part H Definitions.....</b>	<b>12</b>
21 Definitions.....	12
<b>Annexure A - Locational Guidelines .....</b>	<b>13</b>
Locational Guidelines .....	13
<b>Annexure B - Placement Guidelines .....</b>	<b>14</b>
Placement Guidelines.....	14
<b>Annexure C - Articles Placed Within Area Guidelines Generally .....</b>	<b>17</b>
Articles Placed Within Area Generally .....	17
<b>Annexure D - Articles Placed Within Area Guidelines – A-Frame Signs.....</b>	<b>18</b>
A-Frame Signs.....	18
<b>Annexure E - Articles Placed Within Area Guidelines – Flags including Tear Drop Flags .....</b>	<b>19</b>
Flag structures including tear drop flags .....	19
<b>Annexure F - Barrier Image .....</b>	<b>20</b>
Barriers (café) safety screening .....	20
<b>Document Control.....</b>	<b>21</b>

# Part A Preliminary

## 1 Purpose

- 1.1 Facilitate the creation of a vibrant cosmopolitan trade atmosphere in appropriate areas of the city and surrounding suburbs.
- 1.2 Ensure an equitable and safe throughway is maintained on footways for pedestrians including the vision impaired, users of mobility aids – wheelchairs and scooters.
- 1.3 Facilitate the appropriate use of footways and public areas for the purposes of outdoor trading and dining activities including the use of free standing A-frame signage and flags to promote and activate business.
- 1.4 Facilitate improvement to the street vitality, amenity and economic viability.
- 1.5 Provide opportunities for shop owners, residents and visitors to benefit from pedestrian circulation.
- 1.6 Provide requirements and guidelines to inform the regulation of outdoor trading activities to avoid nuisance, obstruction, endangerment or inconvenience to the public and residential neighbourhoods.

## 2 Scope

- 2.1 The policy applies to all applications for ‘outdoor trading’ (ODT) on footways within the local government area. A ‘footway’ is that part of a road as is set aside or formed as a path or way for pedestrian traffic (whether or not it may also be used by bicycle traffic). A footway does not include a ‘Classified Road’.

ODT comprises premises wanting to operate a footway restaurant or offering goods for sale and requires a permit in accordance with Section 125 of the Roads Act 1993.

This policy does not apply to mobile food vending vehicles and anyone seeking approval to operate a mobile food vending vehicle must apply to CN for a permit in accordance with CN’s Mobile Food Vending Vehicles Policy.

This policy does not apply to other activities wanting to be conducted on a roadway or in any other public place e.g. public park, and any person wishing to undertake those activities should contact CN and seek advice about the appropriate permit process.

- 2.2 Applications for Permanent Structures require separate approval in addition to meeting the requirements of this policy (refer to clause 4-3 3.3 for more information).
- 2.3 Some provisions from the NSW Government Small Commissioners NSW Outdoor Dining Policy 2019 have been incorporated into this policy and in the event that there is an inconsistency between each policy, CN’s Outdoor Trading Policy takes precedence.
- 2.4 The information in this policy outlines the requirements CN considers when assessing and approving ODT applications and regulating ODT activities.

# Part B Application

## 3 Applying for an ODT area

- 3.1 Application for outdoor trading area –footways
  - 3.1.1 Applicants seeking a permit for an outdoor trading area must complete and submit an *Application for Outdoor Trading Form*.
  - 3.1.2 Application forms are available from the CN Customer Enquiry Centre at 12 Stewart Avenue, Newcastle West or CN's website - [www.newcastle.nsw.gov.au](http://www.newcastle.nsw.gov.au).
  - 3.1.3 Prior to submitting an application to undertake ODT, applicants must self-assess the proposed outdoor trading area against the five requirement areas outlined in Table 1, and ensure clearance distances from existing street infrastructure as identified in Table 2 and clearance distances from essential services as identified in Table 3 are complied with.
  - 3.1.4. All applications must include a completed application ODT form, a site plan and a copy of current Public Liability Insurance with a limit of not less than \$20,000,000 identifying 'Newcastle City Council' as an 'Interested Party' which complies with clause 13 below, and all applicants/operators are to indemnify CN as set out in clause 12 below.
- 3.2 Application for ODT area – Permanent Structures.
  - 3.2.1 If an ODT area is to involve a Permanent Structure, approval for placement of the structure, in addition to approval under this policy is required. Applicants seeking approval for ODT areas involving a Permanent Structure should contact CN's Infrastructure Services on (02) 4974 2000 to discuss the application.
- 3.3 Lodging applications
  - 3.3.1 ODT applications may be lodged at the CN Customer Enquiry Centre in person, by email at [mail@ncc.nsw.gov.au](mailto:mail@ncc.nsw.gov.au).
- 3.4 Prior to lodging an application for an ODT area, it is recommended that applicants contact CN's Customer Enquiry Centre to ensure they have the required plans, details and insurance certificates prior to submission to CN and to clarify whether any one-off fee may apply.
- 3.5 An application to renew an existing permit should be lodged a minimum of four weeks prior to the expiry of the existing permit.

## 4 Fees for application

- 4.1 There are no application or annual fees applied to applications for ODT areas.
- 4.2 There is a 'one off' fee charged for the installation of permanent markers within the footway identifying the boundaries of the approved ODT area. This fee only applies to new applications where an ODT has not been previously operated.
- 4.3 CN's Fees and Charges are reviewed annually. Current adopted and draft fees and charges schedules are accessible at CN's website [www.newcastle.nsw.gov.au](http://www.newcastle.nsw.gov.au)

# Part C Exemptions from permit

## 5 Exemption from permit for A-frame signs

- 5.1 Subject to clause 8, a permit is not required for placement of a single A-Frame sign where it is placed:
  - 5.1.1 in accordance with the Locational Guidelines at Annexure A and;
  - 5.1.2 in accordance with the Placement Guidelines at Annexure B and;
  - 5.1.3 is a single sign that specifically conforms to the Articles Placed Within Area Guidelines – A-Frame Signs at Annexure D; and
  - 5.1.4 that single sign is placed separately from any other articles, is placed kerbside and not obstructing the Pedestrian Zone or is placed in an approved outdoor trading area.

## 6 Exemption from permit for flags

- 6.1 Subject to clause 8, a permit is not required for placement of flags where they are placed:
  - 6.1.1 in accordance with the Locational Guidelines at Annexure A and;
  - 6.1.2 in accordance with the Placement Guidelines at Annexure B and;
  - 6.1.3 with no more than three flags that specifically conform to the Articles Placed Within Area Guidelines – Flags including Tear Drop flags at Annexure E and;
  - 6.1.4 separately from any other articles, are placed kerbside and not obstructing a Pedestrian Zone or are placed in an approved ODT area.

# Part D Permit

## 7 Factors considered when assessing applications for a permit

- 7.1 CN will consider the following factors when assessing all applications for permits for an ODT area subject to clause 8:
  - 7.1.1 The *Local Government Act 1993* (NSW), *Roads Act 1993* (NSW); *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (NSW), *Work Health and Safety Act 2011* (NSW), *Disability Discrimination Act 1992* (Cth), *Australia's Strategy for Protecting Crowded Places from Terrorism*.
  - 7.1.2 any current Development Application conditions.;
  - 7.1.3 CN's guidelines contained in Annexures A, B, C, D, E and F as appropriate;
  - 7.1.4 the provision of a continuous path of travel minimum 1.8m in width for pedestrians within the footway to ensure equitable access, disability inclusiveness as identified in Annexure B – Placement Guidelines
  - 7.1.5 the proximity of other outdoor trading areas;
  - 7.1.6 the frequency of use of the footway;
  - 7.1.7 the features of the footway including the width and construction; placement of existing Permanent Structures – CN rubbish bins, seats, bus stop shelters, post office box and the like;
  - 7.1.8 footway construction and condition;
  - 7.1.9 traffic considerations including pedestrian and customer safety issues;
  - 7.1.10 traffic considerations including areas adjacent to the road kerb or within existing sign posted zones relating to bus stops, taxi stands, parking for disabled and the like;
  - 7.1.11 applications for ODT liquor licensing approval require review by CN's Licensed Premises Reference Group (LPRG). The LPRG is comprised of representatives from CN, NSW Police Force, Liquor & Gaming NSW, NSW Health and assess all ODT applications associated with licensed premises;
  - 7.1.12 the ability of the premises to comply with this Policy.
- 7.2 CN will assess applications for alternative placement e.g. against the building alignment, where the applicant can demonstrate that, on the merits of the individual case, the alternative arrangement will better achieve the purposes of this Policy. Consideration is to be given to the need to balance public safety against business needs and amenity considerations. Refer to the Disability Discrimination Act 1992 (Cth) sections 23, 24 and 29A.
- 7.3 Alternative placement arrangements must be consistent with other business operating ODT in the same area. Staggering of ODT is not permitted.

Table 1: Factors to be considered when determining outdoor trading areas

Category		Key Considerations
1	<p><b>Location / site suitability</b></p> <p>Facilitate the appropriate use of footpaths and public places for outdoor trading activities</p>	<ul style="list-style-type: none"> <li>- Minimum distances</li> <li>- Neighbours</li> </ul>
2	<p><b>Safety</b></p> <p>Maintain an equitable and safe thoroughfare around outdoor trading areas for all users.</p>	<ul style="list-style-type: none"> <li>- Public safety, including road safety</li> <li>- Accessibility</li> <li>- Line of sight</li> <li>- Management of animals</li> <li>- Engagement with public</li> </ul>
3	<p><b>Amenity</b></p> <p>Facilitate improvement to the local character, street vitality and economic viability</p>	<ul style="list-style-type: none"> <li>- Local character</li> <li>- Attractiveness</li> <li>- Local vitality</li> </ul>
4	<p><b>Function</b></p> <p>Ensure the design, furniture, fixtures and day-to-day requirements of the outdoor trading space reflect the local area.</p>	<ul style="list-style-type: none"> <li>- Design of space</li> <li>- Furniture</li> <li>- Fixtures</li> <li>- Daily operations</li> </ul>
5	<p><b>Legal and compliance</b></p> <p>Ensure that the management of outdoor trading activities avoids nuisance, endangerment or inconvenience to neighbours and the general public.</p> <p>Address public liability and manage risks, and ensure compliance with state legislation including liquor laws.</p>	<ul style="list-style-type: none"> <li>- Noise</li> <li>- Waste</li> <li>- Operational conditions</li> <li>- Council inspections</li> <li>- Insurance</li> <li>- Compliance with legislation</li> </ul>



Table 2: Clearances from existing street infrastructure

Object	Minimum clearance from object
Fire Hydrants	1 metre
Exit doors	
Litter bins	
Public seats	
Pay phones	
Bicycle hoops	
Parking metres	
Tram stop shelters	
Bus stop shelters	
Tree plots	
Bollards	
Poles	
Other similar objects	

Table 3: Clearances from essential services

Object	Minimum clearance from object
Substations	1 metre
Fire exit doors	
Switch boards	
Hose reel cupboards	
Fire equipment stores	
Boosters	
Fire hydrants/fire plugs	
Communication poles	

## 8 RMS concurrence

- 8.1 An application for an ODT area on a Classified State Road with a speed limit of 60km/hr or adjacent to traffic control signals is prohibited without concurrence from the NSW Roads and Maritime Service (RMS). CN will seek this concurrence from RMS after an application is made by forwarding the application to RMS for consideration and approval.

## 9 Conditions of a permit

- 9.1 It is the responsibility of the ODT operator to meet all of the conditions of a permit which may include operating hours. ODT operating hours are clearly identified in the ODT permit.
- 9.2 A permit may be revoked by CN at any time for failure to comply with any condition of the permit.
- 9.3 Expiration of the permit will require lodgement of a new application.
- 9.4 CN may revoke or suspend a permit if access is required to the footway.
- 9.5 A permit lapses if the outdoor trading operator's business ceases to trade.

- 9.7 Despite any provisions of this Policy, CN may amend or revoke any permit to meet legislative requirements or altered circumstances at specific sites at any time. When there are concerns for safety, or where access is required to services or utilities located with.

## **10 Renewing a permit**

- 10.1 Permits may be renewed at the expiration period or a maximum of 3 years.
- 10.2 CN will notify existing operators of the upcoming expiration of an existing ODT permit and invite operators to renew their ODT permit.
- 10.3 Operators will be required to advise CN whether they intend to renew their ODT or allow it to expire. If renewed, the ODT permit is valid for another 3 years.

## **11 Transferring a permit**

- 11.1 ODT permits cannot be transferred when an existing business is sold to a new proprietor or when a new business begins operating at a property where a prior permit existed. A new application must be completed and lodged with CN at the Customer Enquiry Centre or via email [mail@ncc.nsw.gov.au](mailto:mail@ncc.nsw.gov.au).

# Part E Insurance

## 12 Indemnity

12.1 The applicant / operator of an ODT permit indemnifies, holds harmless and releases Newcastle City Council, its officers, members, directors, employees, consultants, agents, contractors, and other representatives from all claims, actions, damages, losses, costs, expenses, incurred or in connection with the ODT, including, or in connection with:-

- i. Any damage, or loss, injury or death caused or contributed to by the omission, neglect or default by the applicant/operator, their servants, employees or agents;
- ii. Any default by the applicant/operator and;
- iii. The use or occupation of the ODT.

Except to the extent caused or contributed to by the act, omission, neglect or willful default of CN.

## 13 Notification of Claims

13.1 The applicant / operator is required to submit a copy of their current Public Liability Certificate of currency to CN, prior to the placement of furniture within the approved outdoor trading area. A Certificate of Currency is required to be furnished with each renewal.

13.2 The operator of an ODT area must immediately notify CN should any claim be made against them.

13.3 Operators must at all times have continuous Public Liability Insurance.

# Part F Non-compliance

## 14 No permit

14.1 The use of an ODT area without a valid permit or not in accordance with the conditions of a permit is an offence and may result in the commencement of regulatory action as outlined in CN's Compliance and Enforcement Policy.

## 15 Breach of permit

15.1 The use of an ODT area will be reviewed if the use is not in accordance with the permit requirements.

15.2 CN will send out a notification of the review process to the ODT operator requesting representations within seven days of receiving the notification.

15.3 Following review of any representations and evidence gathered, CN may terminate the permit or otherwise cause the permit to lapse with one month's notice in writing.

## 16 Dispute Resolution

16.1 Any disputes arising from the operation of an ODT can be reported, investigated and managed in compliance with CN's Customer Complaints Handling Policy.

# Part G Other

## 17 Cleanliness and maintenance

- 17.1 The ODT area must be maintained in a clean and tidy condition at all times.
- 17.2 Environmentally sound methods of cleaning and maintaining the ODT area must be used.
- 17.3 An 'assistance animal' is permitted in an ODT area in accordance with the *Disability Discrimination Act 1992* (Cth). Animals are otherwise only permitted in accordance with the *Companion Animals Act 1998* (NSW).
- 17.4 An ODT area must be paved or sealed for its full width. The permit holder is to bear the cost of all pavement repairs carried out by CN which have been caused by outdoor trading activities.

## 18 Smoking in outdoor trading areas used for outdoor dining purposes

- 18.1 Smoking in or adjacent to an ODT area is prohibited when an ODT area is used for the purpose of providing outdoor dining.
- 18.2 Where dining operates in an ODT area, the operator must display No Smoking signage within the ODT area and abide by the *Smoke-free Environment Act 2000* (NSW).

## 19 Dogs in Outdoor Dining Areas

- 19.1 A dog, except a restricted or declared dangerous or menacing dog, is allowed in the ODT area of a cafe or restaurant with the cafe or restaurant owner's consent and in accordance with the *Companion Animals Act 1998* (NSW) s14A. Certain restrictions apply:
  - 19.1.1 the ODT area must not be enclosed and must be accessible without the requirement to pass through an enclosed area;
  - 19.1.2 the dog must be on a leash at all times;
  - 19.1.3 the dog may be provided with drink, but not food;
  - 19.1.4 the dog must be on the ground at all times.

## 20 Crime Prevention

- 20.1 Operators of the business with an approved ODT area are encouraged to provide a notice advising patrons to secure their bags or valuables while using an ODT area particularly when an ODT area is used for the purpose of providing outdoor dining.

# Part H Definitions

## 21 Definitions

- 21.1 **A-frame sign** – upright, rigid supporting frame with two flat connected panels at the top in the form of a triangle or an inverted V. Refer Annexure D.
- 21.2 **Barriers (café)** – safety screening - refer Annexure F.
- 21.3 **City of Newcastle (CN)** means Newcastle City Council.
- 21.4 **Flag Structure** – pole, staff or similar article with a piece of cloth or bunting displaying a design, symbolic colours or patterns. Refer Annexure E.
- 21.5 **Permanent Structure** – any article not intended to be moved around frequently and would be difficult to move without mechanical and other assistance.
- 21.6 **ODT Operator** – the entity that exercises management and control over an ODT area used for the purpose of outdoor dining.
- 21.7 **Outdoor Trading Area (ODT)** –a part of the footway , utilised on a temporary basis for commercial activities which may include the display of articles, signs, goods, food or beverages for consumption or display in association with an adjacent approved business.
- 21.8 **Pedestrian Zone** – unobstructed access area of at least 1.8m.

Unless stated otherwise, a reference to a clause is a reference to a clause of the policy.

# Annexure A - Locational Guidelines

## Locational Guidelines

### A.1 Associated premises

A.1.1 An ODT area will only be considered by CN where:

A.1.1.1 it is in association with an adjacent approved business premises

A.1.1.2 the applicant is the owner/proprietor of that business premises.

### A.2 Site requirements

A.2.1 An ODT area is only appropriate where:

A.2.1.1 the public space is wide enough to accommodate the ODT area while still maintaining a clear pathway of travel minimum 1.8m in width for all pedestrians including those who use mobility aids and;

A.2.1.2 the ground surface of the ODT area is suitably constructed and sufficiently level to accommodate proposed articles and enable the area to be used safely and without inconvenience to pedestrians or vehicles and;

A.2.1.3 there is no unreasonable hazard to pedestrians, users of trading areas or vehicular traffic.

### A.3 Neighbourhood amenity

A.3.1 The location and operation of ODT areas must take into consideration the amenity of neighbours and other users of public areas.

A.3.2 Applications submitted within a residential zone will be publicly notified in accordance with the provisions of Newcastle Development Control Plan 2012 Section 8.00 Public Participation.

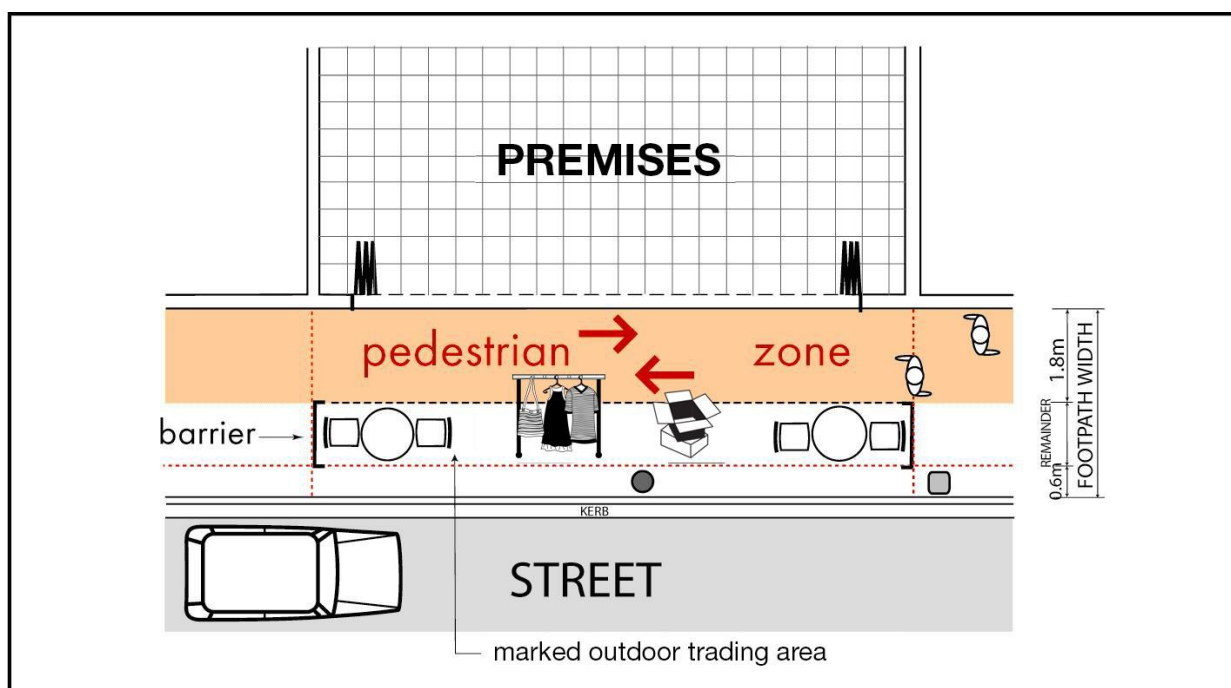
# Annexure B - Placement Guidelines

## Placement Guidelines

- B.1 Placement and defining ODT areas;
  - B.1.1 An ODT area is to be clearly marked and operated within the approved area (as determined by CN) only.
  - B.1.2 The boundary markers of the ODT area shall be installed and maintained by CN after a permit is granted and are subject to a one-off fee as identified in clause 4.2.
  - B.1.3 ODT areas will only be approved immediately adjacent to the business to which it relates.
  - B.1.4 ODT areas must be located so that the proprietor is able to supervise activities in the area from within the premises.
  - B.1.5 ODT must consider and comply where possible with 'Australia's Strategy for Protecting Crowded Places from Terrorism'.
- B.2 Access requirements.
- B.3 An ODT area must:
  - B.3.1 provide an unobstructed pedestrian path of travel along the footway
  - B.3.2 preferably be located adjacent to the road kerb, generally in accordance with Figure 1, to optimise pedestrian access. Where this is not possible, CN will consider the circumstances referred to in clause 7.2 & 7.3
  - B.3.3 maintain a minimum clear width of 1.8m exclusive of any obstruction or street fixtures (e.g. seats, bench, tree, rubbish bin, pole) from the property boundary towards the roadway to provide access for pedestrians using a mobility aid. In special circumstances (e.g. high volume pedestrian or traffic areas, such as near busy intersections) greater widths may be required.
  - B.3.4 where vehicles are permitted to park against the kerb, be at least 0.6m from the kerb edge to provide a safety buffer from vehicles and to enable passengers to alight from and access parked vehicles
  - B.3.5 provide a suitable barrier (temporary, framed fabric style or planter box style or a suitable contrast to the surrounds to be visible at all times) aligned at each end of the ODT area with the outdoor trading boundaries as depicted in Figure 2 and referred to in Annexure F.
  - B.3.6 not inhibit access to public utilities such as fire hydrants, access holes, inspection chambers, telephone and electricity underground cables, water service pipes and the like
  - B.3.7 where situated at a street intersection corner, be designed to reflect how the appropriate principles in AustRoads Guide to Traffic Engineering Practice – Part 5 and the RMS's Road Design Guide have been applied to the intersection typology and traffic calming infrastructure in order to maximise public safety. Refer to Figure 2. At some locations reduced setbacks may be permitted having regard to the sight lines present at the location.
  - B.3.8 provide adequate clear zone provision to the trading area in accordance with the RMS's *Road Design Guide* where relevant.
  - B.3.9 not be located adjacent to the road kerb or within existing sign posted zones relating to bus stops, taxi stands, parking for disabled and the like.



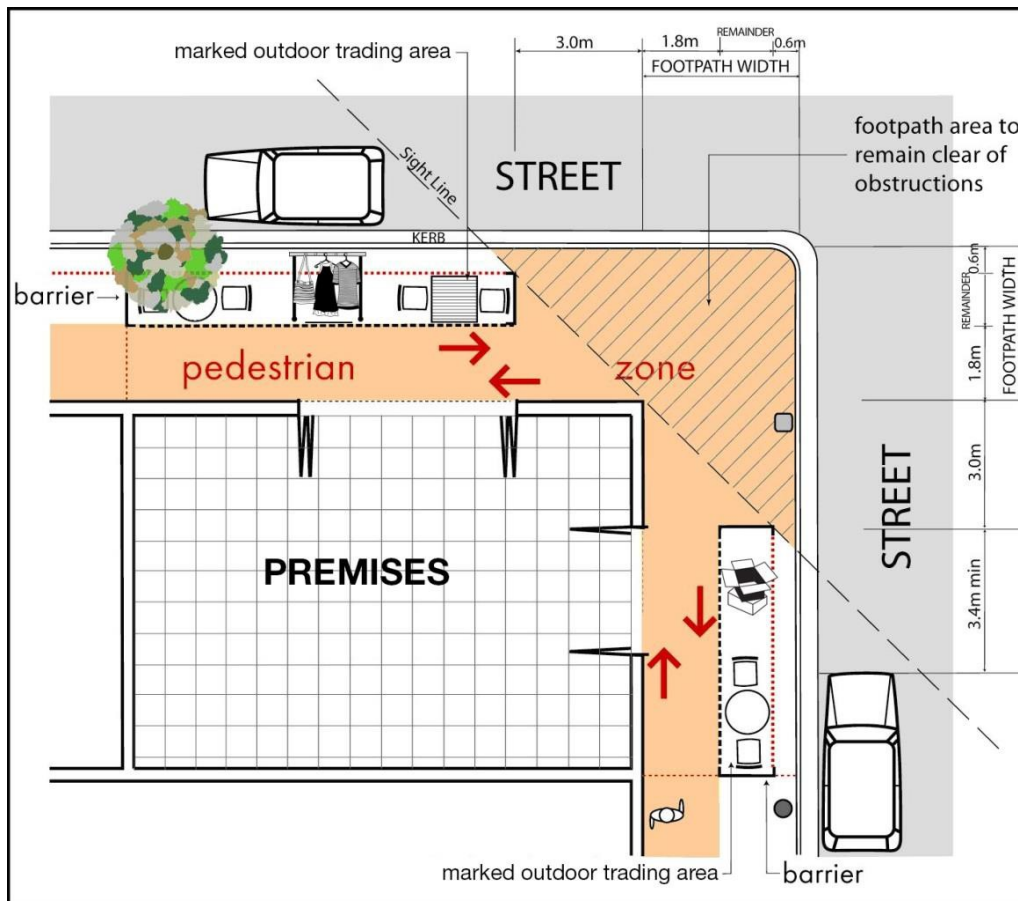
B.3.10 not be located on both sides of the pedestrian access path unless the location has been purpose built to accommodate placement of furniture.



**Figure 1: Preferred ODT location Adjacent to kerb**

Marked ODT area adjacent to the kerb aligned to the respective business.

- i) Minimum pedestrian path of 1.8m.
- ii) Set back 0.6m from kerb.
- iii) All tables, chairs and other outdoor furniture are to be kept in the designated outdoor trading area at all times.



**Figure 2: ODT Adjacent to kerb at corner location**

Marked ODT area adjacent to the kerb at street corner.

- i) Vehicle sight line maintained with nominal 3m setback pending locational circumstances.
- ii) Minimum unobstructed pedestrian path of 1.8m on both street frontages.
- iii) Set back 0.6m from kerb.
- iv) All articles, signs, goods, food or beverages for consumption, display are to be kept in the designated outdoor trading area at all times.

• **Note:** Figure 2 should be read as a guide only. Relevant traffic requirements must be complied with on a site by site basis.

B.3.11 Toilet facilities must be available for patrons at the premises to which it relates when an ODT area is used for the purpose of providing outdoor dining and the combined seating capacity of both internal and ODT areas is greater than 20 places.

**B.4. Consumption of alcohol -**

B.4.1 Alcohol may be supplied or consumed in an ODT area subject to any requirements of the Independent Liquor and Gaming Authority and any approval conditions imposed by CN.

# Annexure C – Articles Placed Within Area Guidelines Generally

## Articles Placed Within Area Generally

- C.1 Articles placed within ODT areas including articles, furniture, tables, chairs, planter boxes, Barriers and menu boards must, at all times, be properly placed and confined within the ODT area and shall not impact upon the safety of other users.
- C.2 Articles placed within ODT area shall not protrude from the area except for flags, umbrellas and shade structures.
- C.3 Items placed in the ODT area must not cause damage to the existing footway or other public infrastructure. The ODT operator is responsible for any damage caused to third parties.
- C.4 It is the responsibility of the business to ensure that patrons do not move furniture or goods from within the boundaries of the outdoor trading area onto the pedestrian path of travel.
- C.5 No article including furniture is to be permanently fastened to the footway without the separate prior approval of CN.
- C.6 Articles or structures not permanently fastened to the footway must be removed from the ODT area upon completion of trading each day.
- C.7 ODT areas on footways and public spaces to which vehicular traffic has access must be protected by approved Barriers. Refer Annexure F
- C.8 Umbrellas and shade structures
  - C.8.1 Umbrellas and shade structures must be anchored to ensure that they are secured to withstand the effects of wind.
  - C.8.2 Umbrellas and shade structures must be positioned to ensure that they will not cause an injury to patrons or pedestrians.
- C.9 Heating devices
  - C.9.1 Free standing heaters located within ODT areas must comply with *Australian Standard AS 4564:2004 (Radiant Gas Heaters for Outdoor Gas non-residential indoor use)* and must be certified by the Australian Gas Association.
  - C.9.2 Heating devices must be contained wholly within the ODT area.
  - C.9.3 Heating devices must be positioned and secured to ensure that they will not cause any injury to patrons or pedestrians. ODT operators are responsible for any damage caused.

# Annexure D - Articles Placed Within Area Guidelines – A-Frame Signs

## A-Frame Signs

- D.1 A-frame signs must not exceed 1100mm high when open x 600mm wide x 600mm deep. (When open, signs are required not have a base footprint exceeding 600mm x 600mm).
- D.2 A-frame signs must be sturdy and unable to fall or be blown over and must be constructed of suitable durable materials.
- D.3 A-frame signs must not have protruding or moving parts when displayed.
- D.4 A-frame signs must not have flashing lights or any elements that can reflect light or dazzle.
- D.5 A-frame signs must not display offensive content.
- D.6 A-frame sign content must relate to the associated business.
- D.7 A-frame sign must be positioned outside the associated business.
- D.8 Where the A-Frame sign is located in a Heritage Conservation Area as defined in the Newcastle *Local Environmental Plan 2012* (LEP), the sign must only display business identification information in accordance with the provisions of *State Environmental Planning Policy No 64*.
- D.9 A-Frame signs must not cause an obstruction to Pedestrian Zones and are to be placed kerbside or within an ODT area.

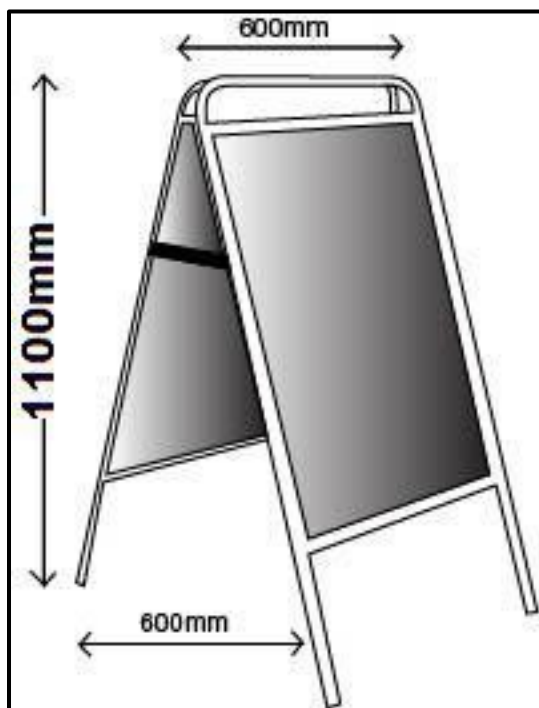
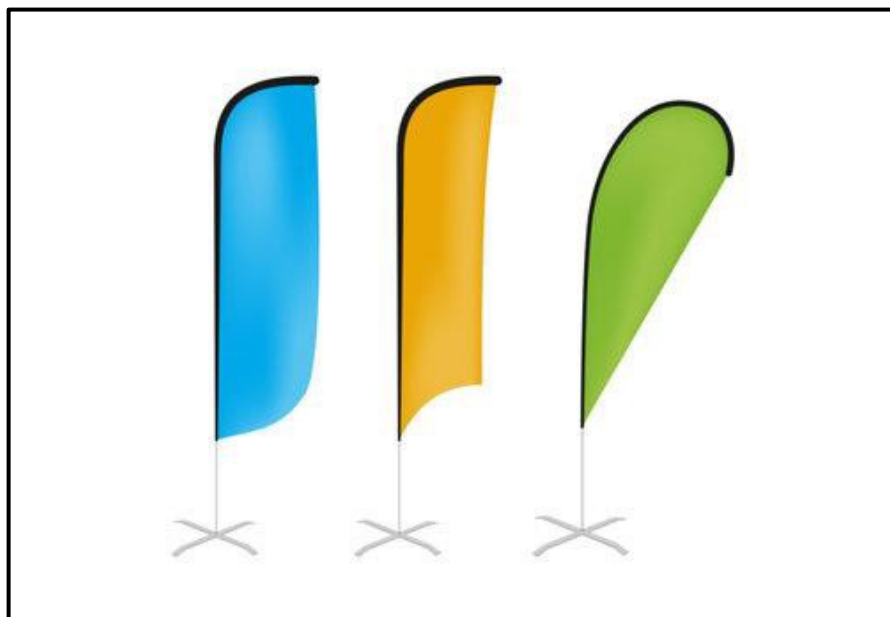


Figure 3: A-frame sign maximum dimensions

# Annexure E - Articles Placed Within Area Guidelines – Flags including Tear Drop Flags

## Flag structures including tear drop flags

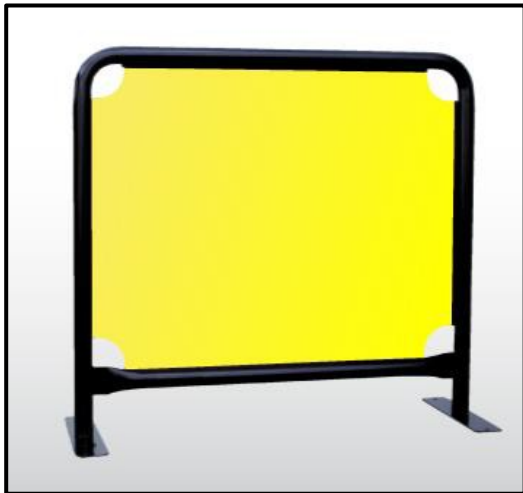
- E.1 Flag structures must not exceed 2.5m high or the height of adjacent awnings or similar structures within a 10m radius, whichever is lower, and must not have a width exceeding 600mm at any point or in any direction.
- E.2 Flag structures must be free standing or in a base or holder that does not exceed 1100mm high x 600mm wide x 600mm deep and must not penetrate or have any associated part that penetrates the ground.
- E.3 Flag structures must be sturdy and unable to fall or be blown over and must be constructed of suitable durable materials.
- E.4 Flag structures and flags must not have any elements that can reflect light or dazzle.
- E.5 Flags must not display offensive content.
- E.6 Flag content must relate to the associated business.
- E.7 Flags must be positioned outside the associated business.
- E.8 Where the flag is located in a Heritage Conservation Area as defined in the *Newcastle Local Environmental Plan 2012 (LEP)*, the sign must only display business identification information in accordance with the provisions of *State Environmental Planning Policy No 64*.



# Annexure F - Barrier Image

## Barriers (café) safety screening

- F.1 Barriers must be free standing or in a base or holder that does not exceed 1100mm high x 600mm wide x 600mm deep and must not penetrate or have any associated part that penetrates the ground.
- F.2 Barriers must be sturdy and unable to fall or be blown over and must be constructed of suitable durable materials.
- F.3 Barriers must not have any elements that can reflect light or dazzle.
- F.4 Barriers must not display offensive content.
- F.5 Barrier content must relate to the associated business.
- F.6 Barriers must only be positioned at each end of an approved ODT area.
- F.7 Barriers must be positioned outside the associated business.



## Document Control

Policy title	Outdoor Trading Policy
Policy owner	Manager, Regulatory, Planning and Assessment
Policy expert/writer	Senior Investigations Officer
Associated Procedure Title (if applicable)	N/A
Procedure owner (if applicable)	N/A
Prepared by	Regulatory, Planning and Assessment Service Unit
Approved by	Council
Date approved	25 February 2020
Policy approval form reference	ECM# 5708092
Commencement Date	25 February 2020
Next revision date (date policy will be revised)	25 February 2022
Termination date	25 February 2023
Version	4
Category	Governance
Keywords	Food, business, display, seating, disability inclusion, access, items for sale, pedestrian, kerbside, sales, footpath, stall, shops, outdoor, trading, dining, liquor license, tear drop, signs, footway , A-frame, alcohol.
Details of previous versions	Version 1 – ECM # 3320575 Version 2 – ECM # 4475248
Legislative amendments	Nil
Relevant strategic direction	Vibrant and Activated Public Places
Relevant strategy	N/a

<p>Relevant legislation/codes (reference specific sections)</p>	<p><i>Local Government Act 1993 (NSW)</i>  S68 approval of Council  Div1 Part E Public Roads S2  Div3 Making and determination of applications for approval  - generally  Part 2 Orders Div1 Giving of Orders S27 obstruction  <i>State Environment Planning Policy (Exempt and Complying Development Codes) 2008 (NSW)</i>  Subdivision 20A Footpaths - outdoor dining  <i>Liquor Act 2007 (NSW)</i>  Part 3 Division 1 S10, S11  Part 3 Division 3A S20C  Part 3 Division 4 - S27 can only sell liquor ancillary to a meal  Part 4 Licensing procedures and relates matters Division 1  <i>Workplace Health and Safety Act 2011 (NSW)</i>  Division 4 Duty of officers, workers and other persons  <i>Disability Discrimination Act 1992 (Cth)</i>  S11 &amp; 29A - Unjustifiable hardship  S23 - Access to premises  S24 Goods, services and facilities  S122 - Liability of persons involved in unlawful acts  <i>Disability Inclusion Act 2014 (NSW)</i>- a local council is an eligible entity and public authority as defined in the Act  Part 1 Div3 Disability inclusion action plans - ODT would form part of this.  <i>Environmental Planning and Assessment Act 1979 (NSW)</i>  <i>Roads Act 1993 (NSW)</i>  S125 Approval to use footway for restaurant purposes  Div 3 S138 Works and Structures  <i>Smoke-free Environment Act 2000 (NSW)</i>  Section 4A  Part 2 Prohibition on smoking in smoke free areas 6A  Smoke free areas - outdoor public places  <i>Companion Animals Act 1998 (NSW)</i>  S14A - Dogs in Outdoor Dining  S59-61 - Assistance Animals  Australian Standard AS1428.2 1992 Design for access and mobility – Enhanced and additional requests – Buildings and Facilities</p>
---	---



Other related policies/ documents/ strategies	<p>Australian Standard AS 4564:2004 (<i>Radiant Gas Heaters Outdoor Gas and non-residential use</i>).</p> <p>Australian Human Rights Commission Guides</p> <p>Advisory note on streetscape, public outdoor areas, fixtures, fittings and furniture</p> <p>CN Customer Complaints Handling Policy</p> <p>CN Compliance and Enforcement Policy</p> <p>CN Mobile Food Vending Vehicles Policy</p> <p>Newcastle Development Control Plan 2012</p> <p>Newcastle Local Environment Plan 2012</p> <p>Public Participation</p> <p>RMS's Road Design</p> <p>AustRoad Guide to Traffic Engineering Practice Part 5</p> <p>Australia's Strategy for Protecting Crowded Places from Terrorism</p>
Related forms	<p>Outdoor Trading Application Form</p> <p>Application for New Infrastructure on a Public Road (Type 2) - Section 138 - Roads Act 1993</p> <p>NDCP Public Participation</p> <p>CN Development Application  <a href="https://www.newcastle.nsw.gov.au/Development/Development-Applications">https://www.newcastle.nsw.gov.au/Development/Development-Applications</a></p>
Required on website	Yes