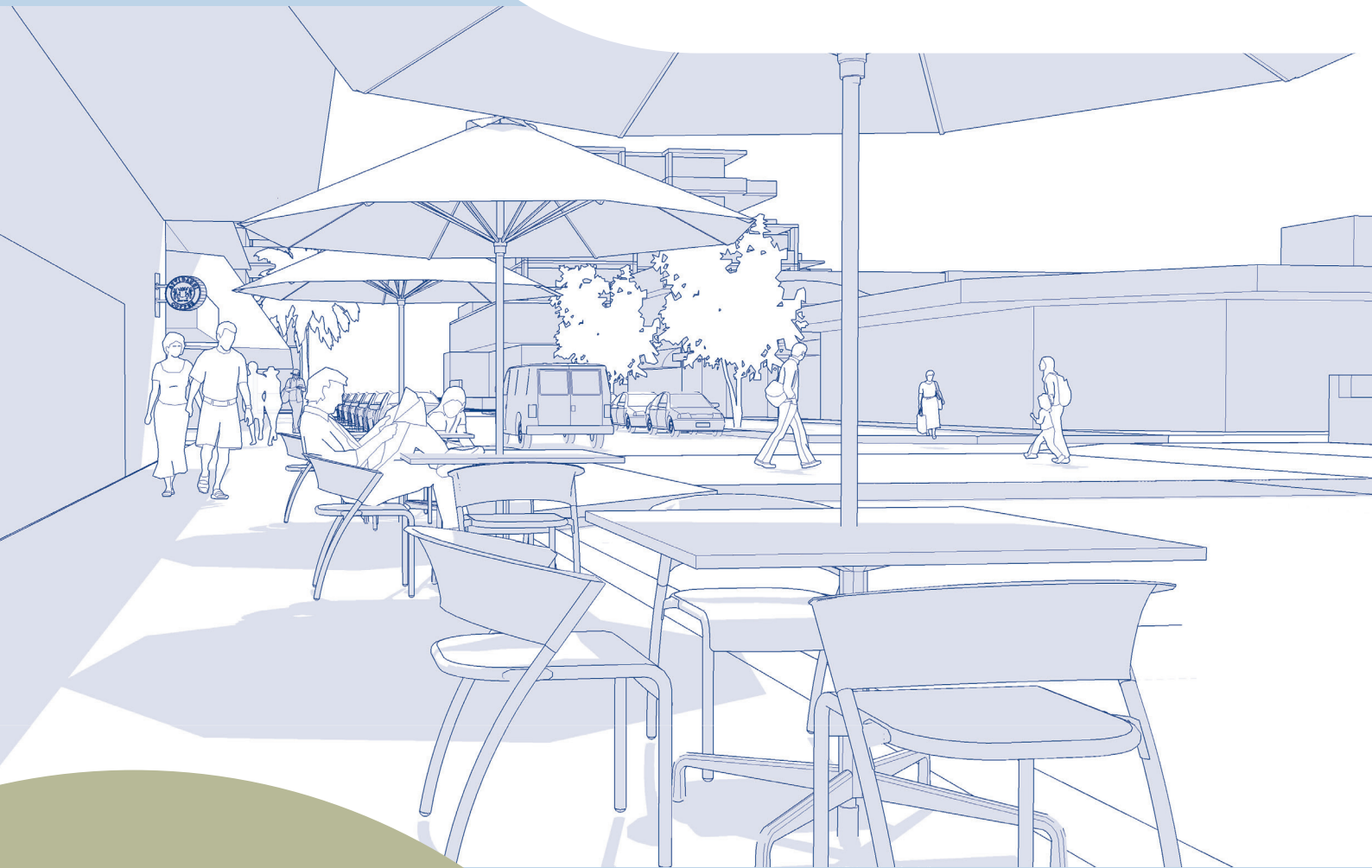


# Outdoor Trading Specification





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# 1. Specification Objectives

- 1.1. The Objectives of this Specification are to:
  - 1.1.1. Facilitate the creation of a vibrant atmosphere in appropriate areas;
  - 1.1.2. Facilitate improvements to street vitality, amenity, and economic viability;
  - 1.1.3. Ensure equitable and safe movement for a broad range of users; and
  - 1.1.4. Set out the requirements for businesses that are seeking approval to:
    - (a) Expand their trade onto Council's Road Reserve or in a public place adjacent to the fixed business premises; and/or
    - (b) Install structures within their approved Outdoor Trading Area.

# 2. Specification Scope

- 2.1. Outdoor Trading includes outdoor dining areas and street vending associated with fixed businesses adjacent to the trading area on Council's Road Reserve and in a public place adjacent to the fixed business premises.
- 2.2. The Specification applies to the Central Coast Council Local Government Area (**LGA**).
- 2.3. The Specification covers businesses who are seeking to:
  - 2.3.1. Expand their trade onto Council's Road Reserve or in a public place adjacent to the fixed business premise; and/or
  - 2.3.2. Install structures (temporary and fixed) within their approved Outdoor Trading Area.
- 2.4. The Specification does not cover the following activities:
  - 2.4.1. Mobile vendors or stalls not associated with adjacent fixed business premises;
  - 2.4.2. Fixed structures attached to the main building façade which require approval under the Environmental Planning and Assessment Act 1979 (**EPA Act**);
  - 2.4.3. Outdoor dining located within the private property boundary which may require approval under the EPA Act; and
  - 2.4.4. The use of footpaths for raffles, fundraising, canvassing and similar activities.

# 3. Specification Statement

- 3.1. Outdoor Trading Areas on Council's Road Reserve and on public land require approval from Council under the Local Government Act 1993 (**LG Act**) and the Roads Act 1993 (**Roads Act**).
- 3.2. The primary approval is for the Outdoor Trading Area. This includes:
  - 3.2.1. Outdoor Dining (approval includes chairs and tables only); and
  - 3.2.2. Street Vending (approval includes display racks/stands only).

**Note:** The most common location for outdoor trading is outside of retail outlets, restaurants, cafes and other food premises.
- 3.3. Where appropriate, a business may apply for additional approval to supplement their primary approval. The supplementary approvals are for:
  - 3.3.1. Removable structures (including pot plants and moveable umbrellas); and
  - 3.3.2. Fixed weather protection structures.

- 3.4.** The Specification is separated into 3 key parts:
- 3.4.1. The Specification section which sets out the objectives, application requirements and factors that will be considered in the assessment/regulation of an Outdoor Trading Area;
  - 3.4.2. The Requirements that must be satisfied for:
    - (a) an Outdoor Trading Area (Appendix 1).
    - (b) temporary and fixed structures (Appendix 2); and
  - 3.4.3. Accessibility Statement (Appendix 3).
- 3.5.** The Specification has adopted the principles of Council's Universal Design Guidelines to meet the needs of the broadest range of users in our community, to the greatest extent reasonably possible. An accessibility statement is provided in Appendix 3. The statement:
- 3.5.1. Outlines the key considerations Council has applied to achieve the objectives of the Universal Design Guidelines in the Specification; and
  - 3.5.2. Requires applicants to include details of how they have addressed accessibility for a broad range of users within the proposed Outdoor Trading Area.

## 4. Transitional Arrangements

- 4.1. Transitional arrangements will require all existing Outdoor Trading Areas, including those delivered by Council, to comply with the Specification over time.
- 4.2. Council will consider the timeframe to require the replacement of any existing structures on a case by case basis.

## 5. Lodging an Application

- 5.1. All applications are to be lodged electronically using Council's electronic form which is available from Council's website at [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)
- 5.2. All applications must include:
  - 5.2.1. A completed Outdoor Trading Area application form;
  - 5.2.2. A site plan;
    - Note:** Site plans must include:
      - (a) Location and size (measurements in metres) of proposed area with proposed furniture.
      - (b) Pedestrian zones with access width (measurements in metres)
      - (c) Setback distance from kerb
      - (d) Relevant streets and street names
      - (e) Dimensions of the business premises and frontage dimensions
      - (f) Locations of existing disabled parking, pedestrian crossings, drop kerbs, loading zones, bus stops, fixed features or public assets (e.g. trees, hydrants, signs, telephone booths, public seatings) within 5m of proposed Outdoor Trading Area.
  - 5.2.3. Payment of relevant fees;
  - 5.2.4. A copy of current Public Liability Insurance with a limit of not less than \$20,000,000 identifying Central Coast Council' as an 'Interested Party'; and
  - 5.2.5. A completed Accessibility Statement.
- 5.3. Where a structure is proposed in an Outdoor Trading Area, approval for the placement of the structure (in addition to the approval for the Outdoor Trading Area) is required.

- 5.4.** In addition to the details provided in clause 4.2, applications for a fixed structure in an Outdoor Trading Area must include:
- 5.4.1. Plans and elevations of the outdoor structure, including any fixing details;
  - 5.4.2. For any fixed structure, a copy of the engineering certification of the design including any fixing/footing details;
  - 5.4.3. Where utility services are located within the footpath, a Water and Sewer application and engineer's footing design must be submitted for the proposed works.
- 5.5.** Prior to lodging an application, it is recommended that applicants contact Council's Environmental Health Officer to ensure they have the required plans, details, insurance certificates, fees and, for fixed structures, engineering certification.
- 5.6.** Prior to submitting an application to Council, applicants must self-assess the application against the following to ensure all requirements, including clearance distances from street infrastructure and essential services, have been complied with.
- 5.6.1. Applications for Outdoor Trading Areas must be assessed against:
    - (a) Appendix 1 - Controls – Outdoor Trading Areas; and
    - (b) Appendix 3 – Accessibility Statement.
  - 5.6.2. Applications for Structures within an Outdoor Trading Areas must be assessed against:
    - (a) Appendix 2 - Controls – Outdoor Trading Structures; and
    - (b) Appendix 3 – Accessibility Statement.
- 5.7.** Council recommends the applicant consult with surrounding business prior to lodging an application.

## **6. Fees**

- 6.1.** Council's Fees and Charges are reviewed annually. Adopted and draft fees and charges schedules are accessible at Council's website: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)
- 6.2.** An application fee will be payable, and an additional application fee is charged for all structures. If approved, a rental fee based on the surface area of the Outdoor Trading Area will also be payable.

## **7. Factors Considered When Assessing Applications and Inspecting Outdoor Trading Areas**

- 7.1.** Council will consider the following factors when assessing applications and inspecting Outdoor Trading Areas:
- 7.1.1. Legislation and compliance (including the LG Act, the Roads Act; the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, the Work Health and Safety Act 2011, the Disability Discrimination Act 1992 (Cth) and Australia's Strategy for Protecting Crowded Places from Terrorism 2023);
  - 7.1.2. Any current Development Application conditions;
  - 7.1.3. Location and site suitability (including minimum distances, neighbours, road reserve/public space width and function, location of existing permanent structures/infrastructure and sign posted zones, proximity to other Outdoor Trading Areas);
  - 7.1.4. Safety (including public safety, road safety, accessibility, line of sight and the management of animals);
  - 7.1.5. Amenity (including local character, attractiveness, local vitality);
  - 7.1.6. Function (including design of space, furniture, fixtures, daily operations);

7.1.7. Council's requirements set out in Appendix 1 and 2 (as relevant); and

7.1.8. Accessibility statement (lodged in accordance with Appendix 3).

7.2. Council will assess applications for alternative placement, for example 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 Specification. Alternative placement arrangements must be consistent with other businesses operating in the same area. Staggering of Outdoor Trading Areas will not be supported.

7.3. Council will consider the need to balance public safety against business needs and amenity considerations in the assessment of the application.

7.4. Council will refuse an application where it does not meet the minimum requirements in this Specification or there is a risk to public health and safety.

## 8. Transport for NSW Concurrence

8.1. An application for an Outdoor Trading Area on a classified state road or adjacent to traffic control signals is prohibited without concurrence from Transport for NSW (**TfNSW**). Council will seek the concurrence from TfNSW after an application is made by forwarding the application to TfNSW for consideration and approval.

## 9. Conditions of Approval

9.1. It is the responsibility of the Business to comply with all the conditions of approval, including outdoor trading hours.

## 10. Non-compliance/Breach of Approval

10.1. Outdoor Trading Areas will be assessed for compliance by Council officers during routine audits and/or when concerns are submitted to Council.

10.2. The use of an Outdoor Trading Area without a valid approval or not in accordance with the conditions of an approval is an offence and may result in the commencement of regulatory action as outlined in Council's Regulatory Policy.

## 11. Amending/Revoking an Approval

11.1. Despite any provisions of this Specification, Council may amend or revoke any approval to meet legislative requirements or altered circumstances at specific sites at any time. This includes when there are concerns for safety, new infrastructure is installed or where access is required to services or utilities.

## 12. Approval is not Transferrable

12.1. Outdoor Trading approvals cannot be transferred. Regardless of the approval expiration date, an approval lapses when an existing business is sold to a new proprietor, the outdoor trading operator's business ceases to trade, or when a new business begins operating at a property where a prior approval existed.

12.2. Where a fixed structure has been installed, the business must remove all structures installed and undertake any rectification works within 21 days of the cessation of the use or trade, the sale of the business or the expiration/revocation of the Outdoor Trading Area approval. If the business owner does not undertake the works; they will be responsible for the payment of the full costs incurred by Council.

## 13. Transfer of Fixed Structure Approvals

13.1. In the event that a fixed structure approval has not expired and the original applicant wishes to transfer ownership of the fixed structure to a new proprietor, the new proprietor must submit a request to council to maintain the fixed structure. This request will only be considered where the previous business supports the transfer, the approval has not expired, the structure is well maintained, and the new applicant has applied for and obtained a new outdoor trading approval which includes the area occupied for the structure. If the new business's approval is of an area less than the footprint of the structure, the structure is to be removed as per clause 12.2.

**Note:** To avoid any doubt:

- (a) If Council has not granted approval to transfer ownership of a fixed structure to the new proprietor, prior to the cessation of the original use or trade, or the sale of the business, then the fixed structure must be removed by the original business.
- (b) It is at Council's discretion whether approval will be granted for the transfer of ownership of a fixed structure to a new proprietor.

## 14. Renewing an Approval

- 14.1. Approvals may be renewed. Any application for renewal must be lodged 4 weeks prior to the expiration date.
- 14.2. Council will notify existing operators of the upcoming expiration of an existing Outdoor Trading approval and invite operators to renew their approval.
- 14.3. Operators will be required to advise Council whether they intend to renew their Outdoor Trading Area or allow it to expire. If renewed, the approval is valid for another 3 years.

## 15. Insurance

### Public Liability Insurance

- 15.1. A copy of current Public Liability Insurance with a limit of not less than \$20,000,000 identifying 'Central Coast Council' as an 'Interested Party' must be submitted with any application for an Outdoor Trading Area. The business must maintain the public liability insurance with a minimum value of \$20,000,000 for the duration of the approval period. Each year the owner/operator must forward a Certificate of Currency for their Public Liability to Council.
- 15.2. Where a structure is included within an Outdoor Trading Area, it is the responsibility of the business to confirm the structure is covered by the insurance policy.

### Indemnity

15.3. Council requires the business to have the following included on the Certificate of Currency for the Insurance:

"The business indemnifies, holds harmless and releases Central Coast 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 Outdoor Trading, including, or in connection with:

- (a) 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;
- (b) Any default by the applicant/operator and;
- (c) The use or occupation of the Outdoor Trading Area except to the extent caused or contributed to by the act, omission, neglect or willful default of Council."



### Notification of Claims

15.4. The business must immediately notify Council should any insurance claim be made against them.

## 16. Dispute Resolution

16.1. Any disputes arising from the operation of an Outdoor Trading Area can be reported, investigated and managed in compliance with Council's Regulatory Policy.

## 17. Responsibilities

### Compliance, monitoring and review

17.1. This Specification will be reviewed at least once every four years to evaluate its continuing effectiveness and alignment with relevant legislation and government policy.

### Records management

17.2. Staff must maintain all records relevant to administering this Specification in accordance with Council's Information and Records Management Policy.

## 18. Specification Definitions

<b>Act</b>	means the <i>Local Government Act 1993</i> (NSW)
<b>Council</b>	means Central Coast Council
<b>Outdoor Trading Area</b>	a part of the road reserve or public place approved by Council for the display and sale of articles (street vending) or food and/or beverage consumption (outdoor dining) in association with an adjacent fixed business.
<b>Public Place</b>	means, for the purposes of this specification, Council owned or managed land that is accessible to the general public but excludes land within the road reserve.
<b>Road Reserve</b>	The part of a public road that is set aside or formed as a path for pedestrian traffic (whether it is also used by bicycle traffic or not).
<b>TfNSW</b>	means Transport for NSW

## 19. Specification Administration

<b>Business Group</b>	Planning and Environment
<b>Responsible Officer</b>	Unit Manager, Strategic Planning
<b>Associated Procedure (if any, reference document(s) number(s))</b>	Nil
<b>Specification Review Date</b>	Four years from date of adoption unless legislated otherwise
<b>File Number / Document Number</b>	D15870381
<b>Relevant Legislation (reference specific sections)</b>	<p>This Specification supports Council's compliance with the following legislation:</p> <ul style="list-style-type: none"> <li>• <a href="#">Companion Animals Act 1998 (Section 59 and 60)</a></li> <li>• <a href="#">Companion Animals Amendment (Footway Dining Areas) Act 2010 (Section 14A)</a></li> <li>• <a href="#">Disability Discrimination Act 1992 (Sections 23, 24 and 29A)</a></li> <li>• <a href="#">Food Act 2003</a></li> <li>• <a href="#">Liquor Act 2007</a></li> <li>• <a href="#">Local Government Act 1993</a></li> <li>• <a href="#">Roads Act 1993 (Sections 125, 126, 127, 137A, 138, 139A, 139C, 139D, 139E and 141)</a></li> <li>• <a href="#">Smoke Free Environment Act 2000</a></li> <li>• <a href="#">Work Health and Safety Act and Regulations 2011.</a></li> </ul> <p><i>The Roads Act 1993 and the Local Government Act 1993 require that a person shall not carry out any activity on a public road or place without the approval of Council. The Roads Act 1993 enables Council, as a road authority, to grant approval for limited use of Council's road reserve (including footpaths and roadways) which form part of a public road.</i></p> <p><i>Sections 125, 126 and 127 of the Roads Act 1993 allow Council to grant approval for the use of a road reserve in association with an adjacent food or drink premises (being premises in which food is regularly supplied on sale to the public for consumption on the premises), as long as this use is not taken to constitute a public nuisance and does not give rise to an offence against the Roads Act or any other legislation.</i></p> <p><i>Sections 137A, 138, 139A, 139C, 139D and 139E and 141 of the Roads Act 1993 allow Council to grant approval for use of a road reserve for street vending, as long as the use does not constitute a public nuisance and does not give rise to an offence against the Roads Act or any other legislation.</i></p>
<b>Relevant Codes</b>	<a href="#">National Construction Code 2022</a>
<b>Relevant desired outcome or objectives as per Council's Delivery Program</b>	<p>Theme 1: Belonging <b>Goal B: Creativity, connection and local identity</b></p> <p>B-A2: Celebrate and continue to create opportunities for inclusion where all people feel welcome and participate in community life. B-B4: Activate spaces and places to complement activity around town centres, foreshores, lakes and green spaces for families, community and visitors.</p> <p>Theme 4: Responsible <b>Goal G: Good governance and great partnerships</b></p> <p>R-G4: Serve the community by providing great customer experience, value for money and quality services.</p>

<b>Related Policies / Protocols / Procedures / Documents (reference document numbers)</b>	<ul style="list-style-type: none"> <li>• Local Approvals Policy (TBA)</li> <li>• Information and Records Management Policy (D14025241)</li> <li>• Code of Conduct (D15487987)</li> <li>• Universal Design Guidelines</li> <li>• Regulatory Policy (D15787667)</li> </ul> <a href="https://www.centralcoast.nsw.gov.au/about-council/council/forms-and-publications/policies">https://www.centralcoast.nsw.gov.au/about-council/council/forms-and-publications/policies</a>
<b>Superseded Policy</b>	The document supersedes "Guidelines for Business Use of Public Footpath Policy A5.09, 2010" of the former Gosford City Council and "Policy for Outdoor Eating Areas 2014" of the former Wyong Shire Council.

## 20. Specification Authorisations

No.	Authorised Function	Authorised Business Unit / Role(s)
1	Authorise assessment, inspection and compliance of Outdoor Trading Areas in accordance with this Specification	<i>Environmental Compliance Services  Level 4 Unit Managers  Level 3 Section Managers  Level 2 Senior Environmental Health Officers  Level 1 Environmental Health Officers</i>

## 21. Specification History

Revision	Date Approved / Authority	Description Of Changes
1	TBA	TBA by Responsible Officer

## 22. Appendices

Appendix 1: Controls – Outdoor Trading Area

Appendix 2: Controls – Outdoor Trading Structures

Appendix 3: Accessibility Statement

## 23. Appendix 1: Controls – Outdoor Trading Area

23.1. The criteria outlined in this appendix must be complied with for any Outdoor Trading Area.

- (a) An Outdoor Trading Area will only be permitted on roads/streets with a speed limit of 60km per hour or less.
- (b) An Outdoor Trading Area must be fully paved or sealed for its full width. Council will not permit applicants to undertake these works, it must be existing.
- (c) An Outdoor Trading Area will not be supported where it is adjacent a pedestrian crossing, bus stop, loading zone, drop kerb or disabled parking space.

**Note:** Council reserves the right to revoke an approval if any of the above features are installed after an Outdoor Trading Area has been approved.

- (d) A minimum of 2 metres is to be maintained between an Outdoor Trading Area and any pedestrian crossing, bus stop, loading zone, drop kerb or disabled parking space.
- (e) A minimum of 1 metre is to be maintained between an Outdoor Trading Area and street trees (Figure 1), street furniture (not associated with the business) and streetlights.

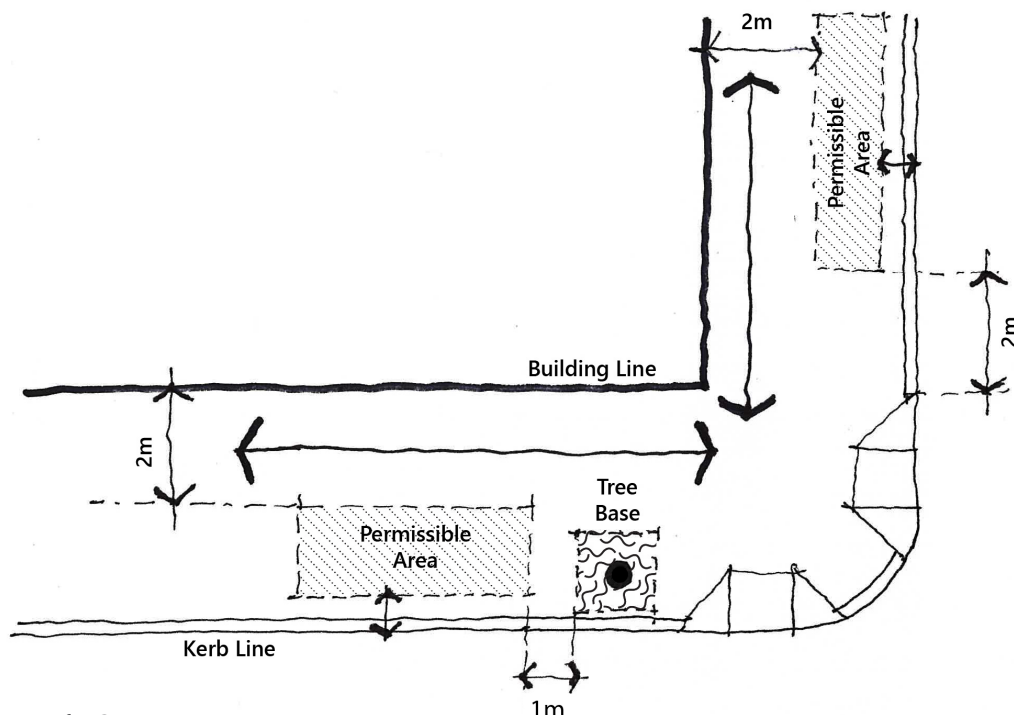
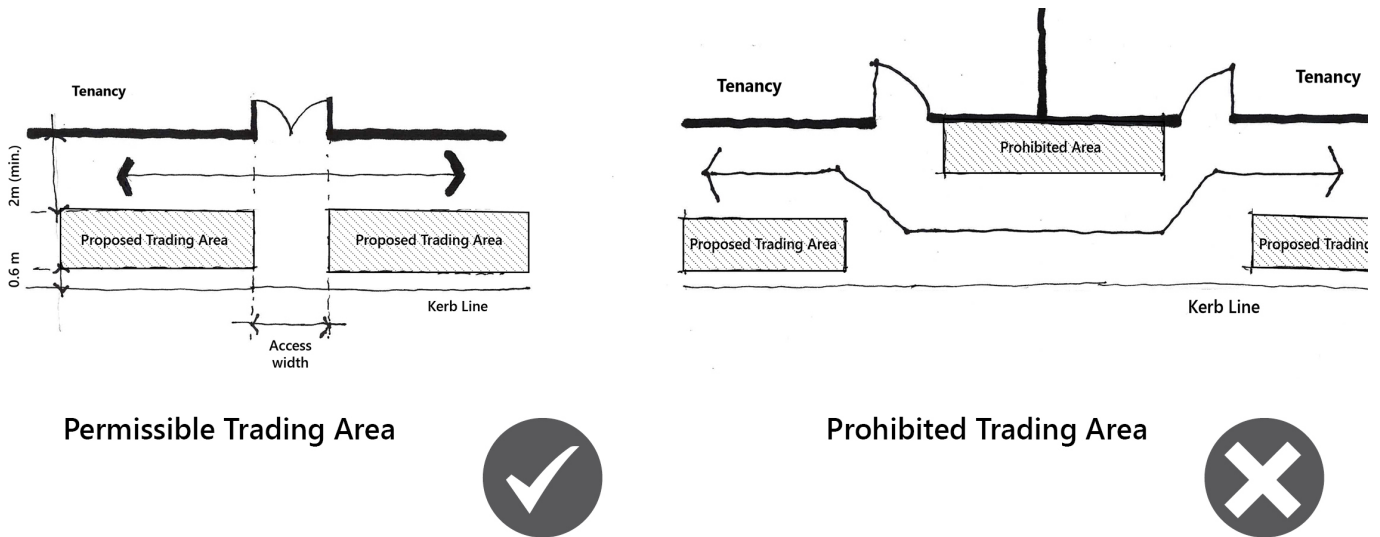


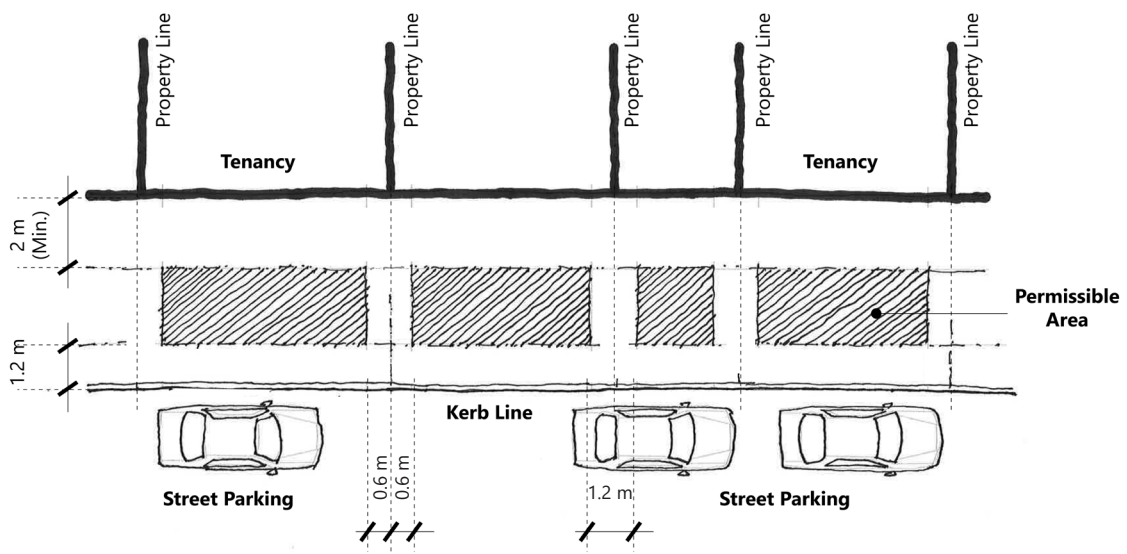
Figure 1: Clearance for Street Trees

- (f) Where multiple businesses are operating Outdoor Trading Areas there must be a consistent pedestrian footpath maintained and an uninterrupted line of sight must be maintained (Figure 2).
- (g) There must be a minimum width of 2 metres of unobstructed footpath provided outside of the Outdoor Trading Area (Figure 2).
- (h) Where there is no street parking adjacent, there must be a minimum setback of 0.6 metres from any kerb to the Outdoor Trading Area. (Figure 2).



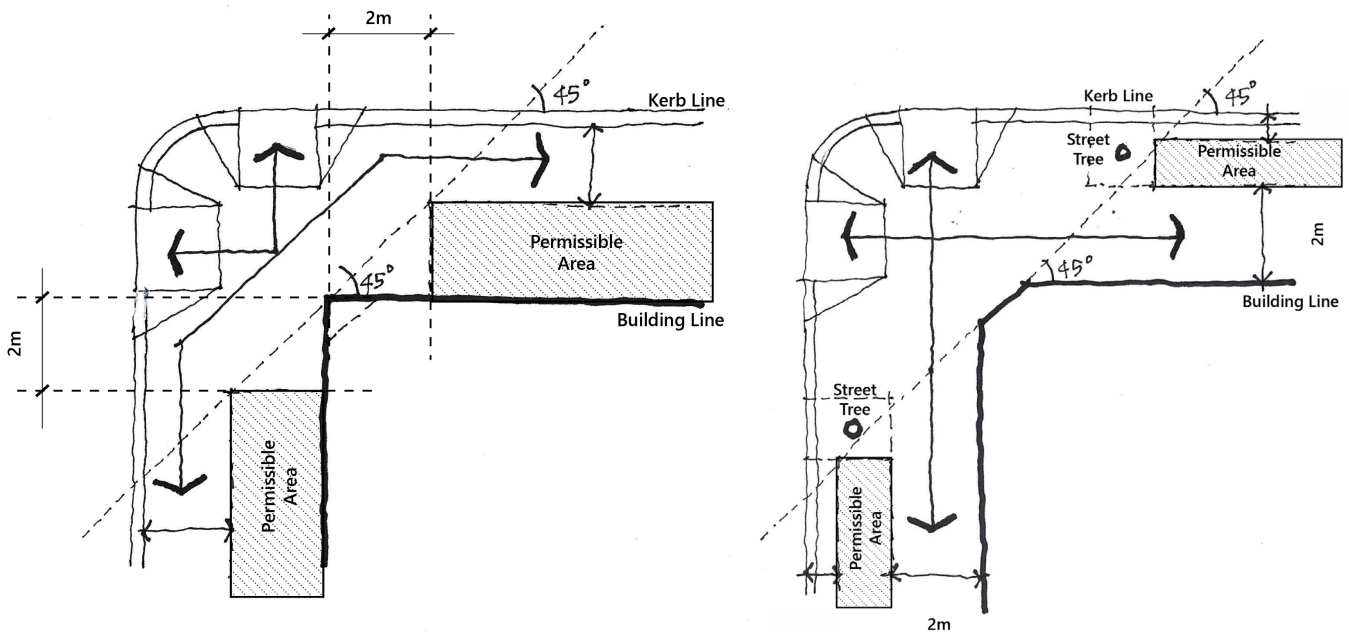
**Figure 2:** Unobstructed travel path and uninterrupted line of sight

- (i) Where there is street parking adjacent, there must be a minimum setback of:
  - i. 1.2 metres between any kerb and the Outdoor Trading Area to allow for the opening of car doors and safe exiting of and entry to vehicles, and,
  - ii. 0.6 metres from the alignment of the side boundary of the property to the Outdoor Trading Area (Figure 3).



**Figure 3:** Kerb-side Access

- (j) On street corners, Outdoor Trading Areas must be setback a minimum of 2 metres from the alignment of the corner of any building (Figure 4) unless it is demonstrated that there will be no adverse impacts on the safety of pedestrians and road users. A merit-based assessment will be undertaken to determine if the location is suitable for Outdoor Trading.



**Figure 4:** Corner Sight Lines

- (k) Where both a ground floor business and an above ground floor business apply for an Outdoor Trading Area, preference will be given to the ground floor business, subject to their application complying with the Specification.
- Note:** Where an above ground floor business has an existing Outdoor Trading Area approval, any assessment of a renewal application will consider whether an application has been sought from the ground floor business.
- (l) To ensure accessibility within an Outdoor Trading Area is not impeded, an appropriate separation distance must be provided between any furniture or display racks/stands located within the Outdoor Trading Area.
- (m) All furniture, fittings, equipment, and display stands/racks must:
- i. Be included in the application and approved;
  - ii. Be wholly contained within the approved Outdoor Trading Area;
  - iii. Be securely anchored;
  - iv. Be removed from the Outdoor Trading Area outside of trading hours;
  - v. Be designed for outdoor use, durable, well-maintained, and safe for users with no sharp edges or hinges;
  - vi. Be easily carried indoors outside of trading hours, where located on a road reserve;
  - vii. Be easily carried indoors outside of trading hours, where located within a public place, except where Council agrees to allow fixed or heavy furniture;
  - viii. Not damage the footpath or Council property.
- Note:** The Business is to bear the cost of all pavement repairs carried out by Council which have been caused by Outdoor Trading activities.
- (n) Any lighting erected must be LED warm white diffused light. Coloured, flashing or strobe effect lighting is prohibited.
- (o) No flooring is permitted within the Outdoor Trading Area.
- (p) Signage (including menu boards) are prohibited within an Outdoor Trading Area.
- (q) An Outdoor Trading Area must be maintained in a clean and tidy condition at all times. Environmentally sound methods of cleaning and maintaining the area must be used.
- (r) An 'assistance animal' is permitted in an Outdoor Trading Area in accordance with the *Disability Discrimination Act 1992* (Cth).

## 23.2. Additional Controls – Outdoor Trading Area (Outdoor Dining)

- (a) No liquor is to be sold or served from the Outdoor Trading Area except where the correct Development Application consent is held and an appropriate liquor licence is obtained from the licencing authority (NSW Office of Liquor and Gaming).

**Note:**

- (a) Consumption of alcohol in alcohol free zones is permitted where the licence has an appropriate liquor licence. The Outdoor Trading Area will revert to an alcohol-free zone outside of trading hours.
- (b) Council reserves the right to prohibit the consumption of alcohol in an Outdoor Trading Area if there are risks to public health and safety or if there are nuisance concerns.
- (b) Moveable barriers which enclose the Outdoor Trading Area will only be supported where there is a licence under the Liquor Act 2007 (**the Liquor Act**) to serve alcohol in the Outdoor Trading Area.
- (c) Moveable barriers (only permitted where associated with a licence under the Liquor Act) must:
- i. Be included in the application and approved;
  - ii. Be wholly contained within the approved Outdoor Trading Area;
  - iii. Be securely anchored;
  - iv. Must not incorporate any signage or graphics;
  - v. Be removed from the Outdoor Trading Area outside of trading hours;
  - vi. Be designed for outdoor use, durable, well-maintained, safe for users with no sharp edges or hinges, and be easily carried indoor outside of trading hours; and
  - vii. Not damage the footpath or Council property.
- (d) Noise emitted must not exceed 5db above background noise levels. The Business must monitor and control noise to acceptable levels. Live music is not permitted in an Outdoor Trading Area. Amplified music is permitted provided it is recorded music and played at no more than 5db(A) above background noise level.
- (e) Smoking is prohibited in accordance with the Smoke Free Environment Act 2000. The operator must display No Smoking signage within the area and abide by the Smoke Free Environment Act 2000.
- (f) Tabletop and freestanding heaters are prohibited as they are a safety and accessibility concern.
- (g) A dog, except a restricted or declared dangerous or menacing dog, is allowed in the Outdoor Trading Area with the café or restaurant owner's consent and in accordance with Section 14A of the Companion Animals Act 1998. Certain restrictions apply:
- i. The dog must be under effective control of a competent person and on a chain, cord or leash at all times;
  - ii. The dog may be provided with drink, but not food; and
  - iii. The dog must be on the ground at all times.
- (h) Licensees with an approved Outdoor Trading Area are encouraged to provide a notice advising patrons to secure their bags or valuables.
- (i) The approved location of any furniture must be clearly indicated on the Display Notice, which must be attached to the shopfront window.

### 23.3. Additional Controls – Outdoor Trading Area (Street Vending)

- (a) Only approved stock will be permitted to be displayed within the Outdoor Trading Area.

**Note:**

- (a) Materials unsuitable for street vending include, but are not limited to: whitegoods, electrical items, boxes and crates, tools and construction materials, hazardous or potentially hazardous products, heat sensitive stock, other large stock.
  - (b) The variability of weather and risk of theft/vandalism are to be considered by an applicant when determining if a street vending area is appropriate for their business. Council will not financially compensate a business for loss of stock due to the use of an Outdoor Trading Area.
- (b) All stock and display racks/stands must be wholly contained within the Outdoor Trading Area.
- (c) Display racks and stands must be suitably weighted down to prevent overturning by customers or the wind and must not be on wheels without secure locking mechanisms.
- (d) The approved location of any display racks/stands must be clearly indicated on the Display Notice, which must be attached to the shopfront window.



## 24. Appendix 2: Controls – Outdoor Trading Structures

### 24.1. Temporary Structures (includes moveable umbrellas and planter boxes)

- (a) All moveable umbrellas and planter boxes must:
  - i. Be shown on the site plan as each individual item;
  - ii. Be wholly contained within the approved Outdoor Trading Area;
  - iii. Be securely anchored;
  - iv. Be removed from the Outdoor Trading Area outside of trading hours;
  - v. Be designed for outdoor use, durable, well maintained, safe for users with no edges or hinges and be easily carried indoors outside of trading hours;
  - vi. Not damage the footpath or Council property.
- (b) Moveable umbrellas must:
  - i. Have a single supporting post;
  - ii. Be at least 2.2 metres in height, for safety purposes;
  - iii. Not have any advertising or branding.
- (c) Marquees and tent like structures will not be permitted.

### 24.2. Fixed Structures

- (a) Any application for a fixed structure must include drawings, including footing and fixing details, and certification by a structural engineer.
- (b) Fixing methods that create trip hazards will not be approved. All applications for fixed structures will also be subject to approval from Council's Water and Sewer Section. Where required, fixed structures (either in part or entirety) may be removed for any Council or third party works. Any rectification works are to be at the proponent's full cost.
- (c) The business must have a minimum building frontage of 4.5 metres, where the fixed structure is proposed on a road reserve;
  - Note:** Smaller frontage widths will only be considered for fixed structures where proposed on a public place;
- (d) Must be a vergola style structure (Figure 5);
- (e) The structure must be wholly contained within the approved Outdoor Trading Area and there must be a minimum width of 2.5 metres of unobstructed footpath provided to a fixed structure contained within an Outdoor Trading Area (Figure 6).



Figure 5: Vergola structure

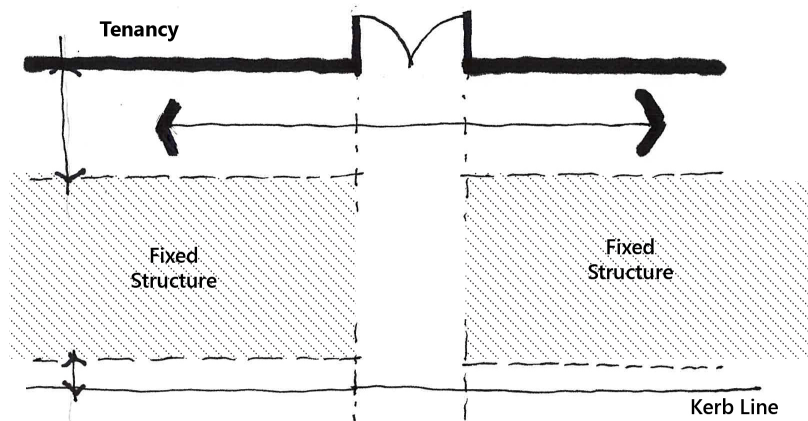


Figure 6: Clearance for Fixed Structures

- (f) The roof is to be of steel or aluminium finish. It must not include lining boards or insulation on the underside of the roof.  
**Note:** Fabric or canvas must not be installed in any portion of the roof.
- (g) If located within 200 metres of the ocean, the structure must be finished with non-corrosive paint or powder-coating.
- (h) The roof must be flat in profile.  
**Note:** Minimum pitch to achieve required fall for stormwater purposes is permitted.
- (i) No fixed roofs are permitted. Operable louver roofs are to be provided. Louvers must be in open position when the Outdoor Trading Area is not in use.

- (j) The structure must be white in colour and of matte finish. No other colours will be permitted.
- (k) The structure must have a maximum height of 2.4 metres above finished ground level, as measured from the underside of the structure.
- Note:** Uniformity of height (with other vergola structures) across the streetscape must be maintained. Council staff discretion may be used to ensure uniformity.
- (l) Posts must not exceed 100mm x 100mm in size, unless a structural engineering certificate is submitted, certifying that a larger post size is necessary to support the structure.
- (m) Where utility services are located within the Outdoor Trading Area, the footing design must be to an engineer's specification.
- (n) Downpipes must be integrated with the posts and all rainwater must be directed to the road drainage system or a suitable garden bed.
- (o) The structure must be removed, and pavement restored at the full cost of the business if:
- i. the approval expires/is revoked.
  - ii. the use ceases, or
  - iii. the business is sold.
- Note:** The only exception to this requirement will be where Council has granted approval for ownership of the structure to be transferred to new proprietor in accordance with section 13.1.
- (p) The following accessories are permitted with approval. However, all items are to be secured to the structure or placed inside the business premises out of trading hours.
- i. Side weather protection (i.e. roll down or retractable blinds) must be:
    - Of transparent material, and
    - Fully retracted/rolled up or removed outside of trading hours.
  - ii. Any electrical/ gas heating, electrical lighting and cabling erected must:
    - Be securely fixed, located within the structure and a minimum of 2.2 metres above the footpath;
    - Not be placed where they pose a safety or fire hazard;
    - Be turned off when not in use;
    - Be installed by a qualified contractor. A certificate of compliance must be submitted to Council;
    - For gas heating, comply with Australian Standard AS/NZ 1596:2008.
    - For the cabling connection be:
      - Installed below ground level; or
      - If any portion is located above the structures roof line, be appropriately encased to reduce visual impact.
- (q) The following are prohibited on any fixed structures:
- i. Any fixed screening barriers erected on any side of the structure;
 

**Note:** This excludes weather protection referred to in (p) above.
  - ii. Security grills;
  - iii. Signage.
 

**Note:** Any signage on awnings or shopfronts requires a development application and is subject to the Central Coast LEP 2022 and DCP 2022.

## 25. Appendix 3 - Accessibility Statement

The Outdoor Trading Specification has been prepared based on the principles contained within Council's Universal Design Guidelines to meet the needs of the broadest range of users in our community to the greatest extent reasonably possible. This has included minimising visual and physical clutter and giving consideration to clearances in and around Outdoor Trading Areas.

Section 1 outlines the measures Council has implemented to incorporate the principles of the Universal Design Guidelines.

Section 2 requires applicants to provide a statement advising the measures that they have implemented to make their Outdoor Trading Area accessible to a broad range of users including people with disabilities so they too can enjoy the area.

### Section 1 – Council measures

Council has implemented the following into the Outdoor Trading Area Specification to ensure Outdoor Trading Areas, road reserves and public spaces are accessible to a broad range of users.

#### Clearance Distances

Minimum clearance distances have been specified to ensure Outdoor Trading Areas do not obstruct pedestrian movements and Continuous Paths of Accessible Travel (CAPT). This includes ensuring there is an unobstructed area for pedestrian movements:

- i. adjacent to the shopfront to allow pedestrians to move freely, including when they are passing other pedestrians, using mobility equipment, pushing prams or making deliveries;
- ii. along the kerb when exiting/entering adjacent parked vehicles so that people can have safe refuge off the road, including when they have prams or mobility aids;
- iii. between adjacent Outdoor Trading Areas when it is adjacent to parking so that pedestrians, including those with mobility needs, aren't forced to travel increased distances when exiting/ entering vehicles.

Within Outdoor Trading Areas, it has been specified that appropriate clearances are to be provided between furniture or display stands/racks. This is necessary to ensure that patrons (including those with prams or mobility aids) of the Outdoor Trading Areas can move comfortably and safely within the area without disrupting other patrons.

#### Physical and Visual Clutter

Freestanding heaters and signage are prohibited within Outdoor Trading Areas. This will reduce the number of obstructions that could impede comfortable/safe movement of patrons, including those with mobility aids. Additionally, prohibiting signage will reduce visual clutter making the area easier to navigate for people with sensory/over stimulation sensitivity (and will also reduce the perception of privatisation of the public domain).

#### Lighting

Any lighting to be erected in association with an Outdoor Trading Area has been specified to be LED warm diffused lighting only to provide a comfortable environment for patrons and pedestrians passing, including those with sensory/over stimulation sensitivity.



## Section 2 – Applicant Statement

- (a) The applicant is to provide a statement confirming the measures they have implemented to make their Outdoor Trading Area accessible.
- (b) The statement is to include:
  - i. Mandatory Requirements:

A statement specifying how they have complied with the mandatory requirements of the Specification, including those matters specified in Section 1 of this Appendix.
  - ii. Discretionary Requirements  

A statement outlining any additional measures the applicant has/will implement to improve the accessibility of the Outdoor Trading Area, where it incorporates outdoor dining.

**Note:** The applicant’s statement is not required to address the discretionary requirements, where it is for street vending purposes only.

Examples could include:

- i. Table selection (design and height) – to allow access for wheelchair users.
- ii. Chair selection (design and height) – chairs with arms could benefit people with mobility needs.
- iii. Having designated tables which could be allocated to people with mobility needs (similar to designated seats on buses/trains). This could include having no chair/ seat provided on one side of the table for wheelchair access.
- iv. Use of QR codes or table orders – so people with mobility needs aren’t required to travel to a counter to place an order.
- v. Are menus simple to read and in colour contrasted font?
- vi. Are dog water bowls available for any assistance/companion dogs?
- vii. Are highchairs available for young children?
- viii. Are the accessible measures you have implemented promoted on your website, social platforms, etc to actively attract people with disabilities?





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