

1.5 ENHANCED OUTDOOR DINING

Responsible Director: Peter Panagakos

RECOMMENDATION*That Council:*

1. *Notes that enhanced outdoor dining opportunities on footpaths, roads and reserves were temporary measures (primarily funded by the State Government, with Council also resolving to waive associated costs) that have been available over the 2020/21 and 21/22 financial years.*
2. *Since the easing/removal of the pandemic restrictions that affected hospitality traders, trading has increased steadily in Activity Centres.*
3. *Notes that the enhanced outdoor dining areas continue to be vacant or have little use most of the time and are most popular on Thursday, Friday and Saturday nights.*
4. *Notes that the permits issued by Council for temporary enhanced dining are due to expire on 30 June 2022.*
5. *Resolves that with the return to more normal trading arrangements, the easing/removal of restrictions and announcements by Government that future lockdowns and restrictions are less likely, it is appropriate to return our Activity Centres to their original state, including making these areas available for carparking.*
6. *Directs officers to commence the process (including writing to traders who currently enjoy enhanced outdoor dining areas) advising that Council will not issue further approvals to occupy these areas, and the trader is required to cease trading in these areas on 30 June 2022, and must remove all furniture and other enhancements including structures, marquees and anything else from Council land including but not limited to reserves, roads, carparks and footpaths no later than 31 July 2022 so that the areas may be decommissioned.*
7. *Notes that some traders have made their own commercial decision to further enhance these temporary outdoor dining areas at some cost to them understanding the temporary nature of the occupation.*

8. *Resolves that where a request is made by a trader to continue operating within these areas, or to not remove structures, marquees and other enhancement, that the requirements of Council's footpath trading policy apply, and permits will not be granted to use or occupy Council land unless permitted by the policy. For the avoidance of doubt, Council reinforces that these areas were never intended to be permanent and that these structures, marquees and enhancements must be removed in accordance with point 6 of this resolution.*
9. *Directs that where the requirements of point 6 of this resolution have not been complied with, that officers undertake all the necessary steps and processes to give effect to Council's resolution, including the ultimate removal of any offending structures by Council with all associated costs being borne by the former permit holder.*
10. *Directs officers to write to all traders who will be impacted by the resolution being the holders of enhanced outdoor dining permits to advise them of the dates and processes that will see these areas decommissioned and all structures and enhancements removed no later than 31 July 2022.*

INTRODUCTION

Enhanced outdoor dining was introduced and initially funded as a State Government initiative to assist in the survival of hospitality based businesses. Whilst they were quickly and successfully rolled out, their use has been far more limited and are more popular Thursday, Friday and Saturday nights.

The intention of these areas was to supplement seating capacity numbers that were reduced as a result of restrictions. In the absence of restrictions there is now an increase in overall patron numbers.

Council considered decommissioning of these enhanced areas last year, but with new, and ongoing lockdown periods at that time, the decision was made to retain them. The associated permits that allow them to be used for enhanced outdoor dining are due to expire on June 30, 2022.

There are 26 businesses that utilise enhanced outdoor dining opportunities on a road or carpark. Over the last 3 to 6 months we have seen a steady easing of restrictions and trading beginning to return to normal levels in our Activity Centres. With the State Government stating that future restrictions

and lockdowns are unlikely, it is time for Council to consider the future of these trading arrangements.

This report recommends that trading in these areas ceases by 30 June 2022, and, allowing for the removal of any structures and the like that these areas be decommissioned and returned to their normal state by no later than 31 July 2022.

BACKGROUND

On 14 September 2020 the Premier announced the *Outdoor Eating and Entertainment Package* that provided grants to Local Governments and businesses to “make widespread outdoor dining safe, practical and a reality” over the summer period.

There was a sense of urgency and expectation with the Premier saying:

"We don't want bureaucratic delays. We don't want arguments and debates. We want as many people seated in as quick a time as possible, utilising public space that has never been on offer previously because that is unprecedented because this challenge is absolutely unprecedented"

At the time, and up until late 2021 hospitality trades had been significantly impacted by restrictions and were facing limitations to patron numbers and at times were restricted to take-away service only.

With the easing and removal of restrictions we are seeing patron numbers returning, and they will continue to increase back to normal numbers.

DISCUSSION

With the onset of the Covid19 pandemic, hospitality businesses were hit hard with restrictions that at times meant some businesses were unable to operate or at the very least, trade was limited to those who could provide takeaway service.

As restrictions eased, the State Government actively encouraged Councils to make footpaths, roadways and other areas available to hospitality business who would be allowed to resume trade but with limitations on the number of patrons that could be accommodated both indoors and outdoors.

For Monash this mainly resulted in traders being able to extend service on footpaths next to adjacent businesses. For some others, parts of the road usually set aside for car parking were re-purposed to accommodate outdoor dining. Other areas included car parks and a reserve. It is safe to say that when looking across the Municipality, the minority of food based traders (26 on road or in carparks) are still using these enhanced trading areas, and their greatest utilisation is on Thursday, Friday and Saturday nights. The remaining time, they sit idle and often without anyone utilising them.

Officers have previously reported that some non-hospitality traders have expressed concern that the ongoing occupation of these spaces is detrimental to their businesses given the loss of much valued parking opportunities. Some traders have also raised concerns that streetscapes are compromised by the presence of marquees and that their business are obscured from view.

Similarly, officers had been advised that complaints from residents about the impact of the loss of parking opportunities and that the extensive use of marquees and their appearance is detrimental to the amenity of the area had been received.

Occupation of these areas has been allowed via a permit issued under the provisions of Local Law No.3 – Community Amenity. These permits expire on 30 June 2022. The situation we are in today is far different from the uncertain situation that existed some 6 to 9 months ago when Council last considered this issue.

In the absence of any other funding or direction from the State, understanding that further lockdowns are unlikely, it is felt that the time for our Activity Centres to return to their normal operating situation has come.

As Council and the traders would be aware, it was always intended that outdoor dining on roads and other areas was a temporary measure. The permits that have been issued have only been on a limited time basis, and during discussions and communication with the traders it was made clear that these arrangements were temporary and in place for the period that the State Government funding was available.

Council in September of last year decided to allow these enhanced trading opportunities to continue, free of charge, primarily as a result of further restrictions and lockdowns that were introduced. The situation today as detailed in this report is very different, and with the Activity Centres beginning to return to some normality, it is timely for Council to return these areas to their primary use.

Having regard to the limited utilisation of these enhanced areas balanced against the reduction in car parking numbers and the ongoing visual impact that they are having on our Activity Centre streetscapes it is now time to consider the processes required to decommission trading areas that occupy roads, reserves and car parks.

CONSULTATION

Enhanced outdoor dining was an extraordinary measure introduced without community consultation to deliver a state-wide effort designed to support the reopening of hospitality businesses over the summer period.

Given the program was the subject of grant funding to support temporary measures it is not necessary to consult on bringing it to close. Nevertheless officers will work closely with affected traders to ensure that the removal of sites is coordinated with them.

FINANCIAL IMPLICATIONS

Sufficient funding has been retained from the State Government grant to facilitate the decommissioning of these areas, which is essentially the removal and return of all the hired barriers.

CONCLUSION

Enhanced outdoor dining on roadsides and other areas was introduced to support the reopening of hospitality businesses over the summer period.

Council agreed to suspend fees and charges including for barrier hire with permits issuing for a further 12 months. These permits are due to expire on 30 June 2022.

It is recommended that officers commence the processes required to decommission enhanced outdoor dining areas that are on Council land (excluding normal footpath trading arrangements on footpaths outside a business) where trading would cease by 30 June 2022 and marquees and any other enhancements would be removed no later than 31 July 2022 to allow for the barriers to be removed and the areas decommissioned.

The report and its recommendations do not affect the normal annual application process for footpath trading permits, where they and any additional footpath area that a trader may wish to utilise will follow the normal process under Council's footpath trading policy.