

# OUTDOOR EATING FACILITY GUIDELINES

## PURPOSE

The purpose of these guidelines is to provide information on the application requirements to establish an Outdoor Eating Facility in the Shire and the Shire's requirements in the practical operation of such a facility.

In terms of the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, a 'Facility' means, an outdoor eating facility or establishment on any part of a public place in which tables, chairs and other structures are provided for the purpose of the supply of food or drink to the public or the consumption of food or drink by the public but does not include such a facility or establishment on private land.

## APPLICATION REQUIREMENTS

A Permit must be obtained prior to the establishment of an Outdoor Eating Facility. An application for an Outdoor Eating Facility Permit will only be considered where the proposed facility forms part of an adjoining registered food business.

To apply for a permit, a completed application form is to be forwarded to the Shire, together with:

1. Plans (to scale) and specifications of the proposed facility and its relationship with the food business showing:
  - a) the position of tables, chairs and other structures in the proposed facility;
  - b) the location and dimensions of the proposed facility.
2. A colour photograph or brochure that clearly depicts the tables, chairs and other structures proposed to be used.
3. Certification of Public Indemnity Insurance to the value of ten million dollars.

Applicants are to indicate if they intend to serve alcohol to patrons within the facility, or if they intend to permit the consumption of BYO alcohol. The applicant is responsible for obtaining the necessary approvals pursuant to the Liquor Licensing Act. The hours of sale of alcohol shall not exceed those approved by the Council, or the associated Liquor Licence.

Applications which propose the conversion of car parking will require consultation with adjoining business operators to the satisfaction of the Shire. Such proposals will be only be considered in areas with high level of pedestrian activity and where appropriate alternative parking is available to the satisfaction of the Shire.

## PUBLIC LIABILITY INSURANCE

All applicants are required to obtain public liability insurance for not less than ten million dollars (\$10,000,000) in respect of any one event to provide indemnity in respect to both injury to persons and damage to property.

A copy of the Certificate of Currency is to be provided to the Shire prior to the issuing of a permit and the Shire is to be advised of any changes to the policy that may affect the facility.

A permit to operate a facility is automatically suspended if this insurance lapses, is not renewed, or is cancelled.

### **DESIGN CONSIDERATIONS**

An Outdoor Eating Facility shall be designed and constructed to:

- ensure users have adequate protection and separation from passing vehicle traffic with visible safety barriers at least 1m high to the outside (road) edge;
- ensure adequate sightlines to the street are maintained;
- be accessible for people with prams, wheelchairs and mobility scooters and the like;
- be designed as a temporary structure that can be removed within a 24-hour period;
- not cause damage to the footpath, trees or other Shire property;
- be easily recognisable as 'no smoking' public open space and shall not include business logos nor advertising; and
- be well designed and constructed, using high quality materials that are durable, attractive and non-slip.

### **PERMITS**

Each permit is valid from the date of issue until the following 30th day of June. The Shire can review the operation of a facility at any time to determine whether renewal for a further twelve (12) month period should be approved. As part of the review, the Shire will consider the need to amend any existing permit conditions, or to add further conditions deemed necessary to ensure its satisfactory operation.

Where it is proposed that a permit is to be cancelled, the permit holder will receive written notice of the cancellation.

A permit cannot be transferred as it is issued in the name of the applicant, not the premises. A new permit is required on the change of the proprietor of a food business.

### **GENERAL PERMIT HOLDER CONDITIONS**

- The permit holder shall ensure that the facility is kept in a clean and sanitary condition to the satisfaction of the Shire.
- The permit holder shall not, without the prior approval of the Shire, cause or permit the operation of any amplifiers, sound equipment or sound instrument, or have any entertainment within the facility.
- The establishment and use of a facility should not conflict with, or inconvenience other retail and commercial activities, or obstruct the views of, or impede access to and egress from, adjacent properties. Where the Shire believes that such problems may arise, it may consult with the owners and/or occupiers of the affected premises before reaching a decision on an application.
- Pedestrian movement down the footpath should be safe and unobstructed. All objects and furniture for dining must not obstruct pedestrian movement to the satisfaction of the Shire.

- If the facility infrastructure is provided by the proponent, the proponent shall be responsible for removal and decommissioning of facility infrastructure that is no longer required or supported.

### **ENFORCEMENT**

Where a routine inspection reveals a breach of the permit, the permit holder will be advised verbally that a breach has occurred and will be given verbal directions to comply with the local law provisions and conditions of the permit.

Where a breach of the local law provisions or a condition of a permit is observed for a second time, the permit holder will be given written notice to remedy the breach and will be advised that a further breach may result in legal action as well as revocation of the permit.

Where a third breach for the same breach has occurred, revocation of the permit and legal action will commence in accordance with the enforcement provisions of the local law.

A permit to operate a facility is automatically suspended if this public liability insurance lapses, is not renewed, or is cancelled.