

Introduction

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

In terms of the Town's Trading In 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 a registered food business and the proposal complies with Policy 4.4.5 - Trading in Public Places.

A permit is valid from the date of issue until the end of that financial year. Applications for the renewal of a permit are mailed to permit holders at the start of each financial year.

To apply for a permit, a completed application form is to be forwarded to the Town, 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 others structures in the proposed facility;
 - (b) the location and dimensions of the proposed facility.
2. A site plan (to scale) of the proposed facility showing all footpaths, public facilities, public places, streets and street alignments within 30 metres of the food premises.
3. A colour photograph or brochure that clearly depicts the tables, chairs and other structures proposed to be used.
4. 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.

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 Town prior to the issuing of a permit and the Town 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.

Tables, chairs and other structures

Tables, chairs and other structures shall abut the front of the food business and cannot be fixed or remain in position without written approval. In some circumstances and where specifically requested by the applicant, fixing may be considered where there are benefits to the public and the Town but only subject to detailed conditions about the method of fixing and the costs of any subsequent removal and restoration being borne by the permit holder. In such circumstances, a Development Approval is required.

Tables and chairs or any other structures must remain stable to ensure that they are not blown over or dislodged under windy conditions. Provision must be made for the storage of the tables, chairs and other structures within the premises at the end of normal trading hours, unless approved otherwise.

In accordance with Policy 4.4.5, tables, chairs and other structures can only be placed in the designated area that abuts the food business. Pedestrian access of at least 2.5 metres is to be maintained as shown in Drawings E S010203 and E S010204.

The Town may require the boundary of the facility area to be demarcated where appropriate.

Umbrellas must conform to the following:

- (a) the clearance from the footpath to the underside of the rim shall be at least 2.1 metres;
- (b) the diameter must not exceed the maximum width of the facility.
- (c) where holes in the footpath are used to house and secure umbrella poles, the holes shall be plugged or capped flush with the footpath surface outside of the normal operating hours of a facility, and at all times when umbrellas are not used.

Where a facility is to be operated during hours of darkness, the facility is to be well lit and all electrical wiring is to conform with the requirements of Western Power so as not to cause or present a risk to the public.

Cleanliness and refuse disposal

The permit holder shall ensure that the facility is kept in a clean and sanitary condition to the satisfaction of the Town. Adequate provisions must be made within the facility for patrons to easily dispose of any rubbish.

Noise

The permit holder shall not, without the prior approval of the Town, cause or permit the operation of any amplifiers, sound equipment or sound instrument, or have any entertainment within the facility.

Access, egress and amenity

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 Town 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.

Upgrading of public areas

If a proposed facility requires the widening of, or alteration to, an existing footpath, so as to comply with the requirements shown in Drawings E S010203 and E S010204, the cost of such works, if approved by Technical Services, shall be borne by the applicant.

Traffic sight lines

In accordance with Policy 4.4.5, an outdoor eating facility is not permitted to obstruct sight lines for either vehicles or pedestrians, both at road junctions and at vehicles access crossovers, as shown on Drawings E S010203 and E S010204 attached to this guide.

A facility is not permitted to obstruct access from the footpath to kerbside parking, or a loading zone.

Public works

Where works are to be undertaken to any road reserve, foot path or any other area or structure, an authorised person acting on behalf of a Government Department, instrumentally of the Crown or the Town, may direct that the facility be removed for the period of those works and not be re-instated until those works are completed. No compensation shall be payable for any disruption caused by such works.

Permits

Each permit is valid from the date of issue until the following 30th day of June. The Town 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 Town 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.

Administration

The Council will enforce the provisions of the Trading In Public Places Local Law relating to outdoor eating facility's in the following manner:

- 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.

