

## General Conditions

### Use and occupation

1. The Permit authorises the Permit Holder to occupy and use the Outdoor Dining Area for the purposes of outdoor dining activities associated with the Premises, the Shire's Outdoor Dining Guidelines and in accordance with this permit.
2. This permit does not authorise the preparation of food or drink within the Outdoor Dining Area.
3. The use and occupation of the Outdoor Dining Area must be in accordance with the Approved Site Plan, and must be kept within the boundaries of the Outdoor Dining Area.
4. The construction and installation of parklet equipment must be carried out in accordance with any additional permits and requirements of Council.
5. The Permit Holder is responsible for the maintenance, repair, and operation of the Outdoor Dining Area and must maintain the Outdoor Dining Area, including all furniture, screens, vegetation, floor coverings, ramps and other chattels and structures, in a good, clean, and tidy condition. This includes keeping the Outdoor Dining Area and the immediate surrounding area free from litter, debris, graffiti, and food waste at all times.
6. The Permit Holder must ensure that the footpath, roads, bicycle paths, ramps, fire hydrants, and other paths of travel remain clear and are not obstructed in any way by the outdoor dining activities. This includes maintenance of lines of sight for drivers and cyclists using adjacent roads and paths.
7. The Permit Holder must ensure that the 'buffer zone', as shown on the Approved Site Plan, remains clear at all times and is not occupied.
8. A ramp compliant with the *Disability and Discrimination Act 1992* must be provided for access to the Outdoor Dining Area.
9. The Permit Holder must keep the Outdoor Dining Area free of hazards, including slipping and tripping hazards, and ensure

that the Outdoor Dining Area is safe for all persons.

10. Furniture, screens, planter boxes must not display advertising material, other than a business name or logo on screens only, of a size up to 20 per cent of the screen area.
11. Any furniture or temporary infrastructure that is not affixed to the concrete blocks or bollards (supplied by Council) must be removed from the Outdoor Dining Area and the use of the Outdoor Dining area must cease at the close of business of the Premises or such earlier time notified by Council.
12. Parklet fencing must remain in place until the Shire supplied bollards/blocks are removed.
13. Temporary screens, including planter boxes and any vegetation forming a screen, must not be higher than 1.2 metres above ground level, or in the case of fixed screens, not higher than 1.5 metres above ground level.

### Amenity and surrounding areas

14. The Permit Holder must ensure that the use and occupation of the Outdoor Dining Area does not detrimentally impact the amenity of the surrounding area or cause a nuisance, whether by noise, including patron noise, odour, waste, the consumption of liquor, or any other manner.
15. The Permit Holder must ensure that drainage of the Outdoor Dining Area is maintained.
16. The Outdoor Dining Area is an 'outdoor dining area' for the purposes of the *Tobacco Act 1987* and the Permit Holder must ensure that it is smoke-free.
17. The Permit Holder must implement all necessary and approved traffic management measures in installing, altering, and removing structures and furniture in the Outdoor Dining Area.

### Council assets

18. The Permit Holder must secure or attach their barriers or fencing to the provided concrete blocks or bollards. No other

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infrastructure can be attached for fixed to any other Council assets. All structures and furniture must be capable of easy removal.

19. Access to Council assets, drainage infrastructure, and other services must be made available to Council and its agents immediately upon request.
20. Bollards, barriers, traffic treatments, and any other structure or asset provided or installed by Council remain the property of Council and must be maintained by the Permit Holder and must not be damaged or removed.
21. The Permit Holder must, at the Permit Holder's own expense and to the reasonable satisfaction of the Council, repair and make good any and all damage to Council's assets, public infrastructure, or the road caused by any act or default of the Permit Holder, its servants or agents.
22. The Permit Holder must, as soon as practicable, notify Council of any material or permanent damage or serious malfunction of any infrastructure, asset, or service of or to the Outdoor Dining Area.

## Other laws and regulations

23. The permit holder must, and must ensure its employees and agents, comply with the Outdoor Dining Guidelines, the Commercial Activities on Footpaths Policy (if applicable), the General Purposes Local Law 2012, and all other applicable legal requirements, including the Occupational Health and Safety Act 2004, Planning and Environment Act 1987, the Liquor Control Reform Act 1988, and Environment Protection Act 1970.
24. The permit holder must maintain and comply with a COVID Safe Plan and comply with all guidelines, regulations, and standards of the Victorian Department of Health and Human Services.
25. The permit holder must obtain all licences, consents, permits, and approvals for the use, operation, and occupation of the Outdoor Dining Area and ensure that all applicable licences,

consents, permits, and approvals are complied with at all times.

## Liability and indemnity

26. The Permit Holder agrees and accepts that it occupies and uses the Outdoor Dining Area at the permit holder's own risk.
27. The Permit Holder must, at all times, hold and maintain public liability insurance, including third party property damage cover, with respect to its outdoor dining activities under which the limit of liability for a single claim is not less than \$20 million.
28. The public liability insurance must name Mornington Peninsula Shire as an interested party.
29. The Permit Holder releases Council from any claim or demand which the Permit Holder may have in relation to any loss, damage, injury or illness sustained or incurred by the Permit Holder, arising from or relating to the use or occupation of the Outdoor Dining Area or the exercise of the rights and obligations under this Permit.
30. The Permit Holder indemnifies Council, its servants and agents against all actions, claims, demands, expenses, and damages whatsoever which may be brought, made or claimed against Council, its servants or agents arising from or relating to the use or occupation of the Outdoor Dining Area or the exercise of the rights and obligations under this Permit.

## Administration

31. Council may, without notice, amend, suspend, or cancel this Permit or the Outdoor Dining Program in its entirety, for any reason the Council considers appropriate. The Permit Holder will not be entitled to any payment, compensation or damages of any kind whatsoever from Council.
32. This Permit is not transferrable and cannot be assigned. If the Premises is sold or sub-leased, this permit becomes invalid.

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33. The Permit Holder must keep a hard copy of this Permit on the premises at all times.
34. This Permit expires on the date specified in this Permit.

## Compliance with the *Commercial Activities on Footpaths Policy 2008*

35. The Permit Holder, its employees and agents, must comply with the *Commercial Activities on Footpaths Policy 2008*.