

# Outdoor Dining Permit Conditions

The permit holder must, and must ensure its employees and agents, comply with the Outdoor Dining Guidelines.

Please make sure you read and understand the [Outdoor Dining Guidelines on our website](#).

## **General Conditions** Use and occupation

1. The Outdoor Dining permit authorises the permit holder to occupy and use the Outdoor Dining Area for the purposes of outdoor dining activities associated with the Premises in accordance with this permit. This permit does not authorise the preparation of food or drink within the Outdoor Dining Area.
2. The use and occupation of the Outdoor Dining Area must be in accordance with the approved plans and must be kept within the boundaries of the Outdoor Dining Area.
3. The construction and installation of parklet equipment must be carried out in accordance with all additional permits and requirements of Council.
4. 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.
5. 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.
6. The permit holder must ensure that the 'buffer zone', as shown on the approved plans, remains clear at all times and is not occupied.
7. A ramp compliant with the Disability and Discrimination Act 1992 must be provided for access to the Outdoor Dining Area.
8. 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.
9. 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.
10. All furniture and temporary screens 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.

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11. 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

12. 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.
13. The permit holder must ensure that drainage of the Outdoor Dining Area is maintained.
14. 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.
15. The permit holder must implement all necessary and approved traffic management measures in installing, altering, and removing structures and furniture

## Council assets

16. The Outdoor Dining Permit authorises works to be undertaken on the road and Council land by Council and its agents only. The permit holder must not undertake any works or alterations to Council's works without a permit under clause 9 of the *General Purpose Local Law 2012* and the prior written approval of Council in accordance with the requirements set out in the Outdoor Dining Guidelines.
17. The permit holder must not attach any structures or furniture to the road or footpath. All structures and furniture must be capable of easy removal.
18. Access to Council assets, drainage infrastructure, and other services must be made available to Council and its agents upon request.
19. 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.
20. The permit holder must, at the permit holder's own expense and to the reasonable satisfaction of the Council, repair and make good all damage caused by any act or default of the permit holder, its servants or agents to Council's assets, public infrastructure, or the road.
21. 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

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22. 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.
23. 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.
24. 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.

## Risk

25. The permit holder agrees and accepts that it occupies and uses the Outdoor Dining Area at the permit holder's own risk.
26. 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.
27. 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.
28. 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

29. The permit holder acknowledges and agrees that this permit is issued as part of a trial only. Council may, without notice, amend, suspend, or cancel this permit on terms and for reasons as Council considers appropriate. The permit holder will not be entitled to any payment, compensation or damages of any kind whatsoever from Council.
30. This permit is not transferrable and cannot be assigned. If the Premises is sold or sub-leased, this permit becomes invalid.
31. The permit holder must keep a hard copy of this permit on the premises at all times.
32. This permit expires on the date specified on this permit.

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## Commercial Activities on Footpaths Policy

For footpath trade, as above, the permit holder must, and must ensure its employees and agents, comply also with the Commercial Activities on Footpaths Policy. Please make sure that you read and understand the [Commercial Activity on Footpaths Policy on our website](#).

### Core conditions

1. The minimum footpath width required to undertake a commercial activity is 2.5 metres wide (allowing 0.7m width for the kerbside zone and 1.8m for the pedestrian zone).
2. The minimum width of the pedestrian zone shall be 1.8m and the minimum width of the kerbside zone shall be 0.7m
3. Commercial activities shall be placed on the road side of the Commercial Activities Zone. Any unutilised space within the Commercial Activities Zone must be left clear for pedestrian access
4. All furniture, furnishings and equipment must be placed along the road side of the footpath at all times that they are on the footpath – even in inclement weather
5. Where an officer of the Shire or the relevant road authority deems that there is a safety risk due to the undertaking of a commercial activity on a street corner no commercial activities will be permitted
6. No commercial activity may be placed directly adjacent to a designated access car parking space, bus stop, formalised pedestrian crossing, loading zone or fire hydrant
7. Advertising area on screens shall be restricted to the business name or logo, or the key product (eg. The brand of coffee or mineral water that is available at that business that is subsidising the cost of the screens). This must not exceed 20% of the total area of each screen
8. Temporary screens may not be greater than 1.2m in height and fixed screens may not be greater than 1.5m in height
9. Planter boxes may not display advertising material
10. Permits for commercial activities must be displayed prominently at the front of the business
11. If you are applying for a liquor license or a permanent structure on the footpath, you need to include a copy of your license or lease, along with the associated planning permit.

Note: No A-frame signs, including menu board, can be displayed with outdoor dining facilities.

## Declaration and acknowledgement

# Outdoor Dining Permit Conditions



I declare that the information that I have provided in this application is true and correct. If granted an Outdoor Dining Permit, I agree to comply with the conditions of use in association with that permit including but not limited to:

12. I have read and understood the Outdoor Dining Guidelines and the General Conditions of Outdoor Dining Permit listed above; and
13. I will abide by the conditions outlined in the Outdoor Dining Guidelines and the permit issued to me;
14. I will notify the Mornington Peninsula Shire Council of any discrepancies regarding the Outdoor Dining Permit approval and current use of the outdoor cafe area.
15. I will notify the Mornington Peninsula Shire Council of any changes to my contact details.
16. I will ensure that the permit is not sold, transferred or assigned to another party and will be solely used for purposes as stated.
17. I agree that all permits are non-refundable. I acknowledge information found to be false in support of this application will result in my permit being cancelled.