

GUIDELINES

Guidelines Name	Outdoor Dining Permit Guidelines
Related Policy	Outdoor Dining / Street Traders Policy
Department / Officer	Property Team
Dates Reviewed	July 2017 plus amendment from September 2017 OC5892017, OC5912017
Attachments	Outdoor Dining Application form

OUTDOOR DINING PERMIT- GUIDELINES

Pursuant to Section 222 Local Government Act 1999

1. SCOPE

These Guidelines covers objects and furniture intruding on to the public footpath space for the purpose of outdoor dining by a business that are not subject to other Council policies or local government regulations. These guidelines should be read in conjunction with the Outdoor Dining / Street Traders Policy.

2. METHODOLOGY

Each site is unique and may have its own opportunities and constraints, including differing width footpaths and the presence of trees, driveways, rubbish bins and other street furniture. Council's guidelines are structured to enable a merit based assessment of applications that takes in to account these obstacles and enables joint development of solutions that achieve safety and accessibility requirements alongside business needs.

3. DEFINITIONS

Outdoor Dining: use of the public footpath or a public space for the purpose of extending the seating space of an adjacent business whose main function is the provision of food and/or beverage to the public

The definition of Outdoor Dining does not include parklets

Public Footpaths: are defined as all footpaths and malls which are intended to provide public pedestrian access and are under the care and control of Council

Objects: any other related outdoor dining items apart from tables and chairs, including café barriers, umbrellas, planter boxes etc.

Property boundary: the building frontage

Footpath clearance: refers to the distance between a building frontage or property boundary and the inner extremities of an outdoor dining area (including ALL associated items such as umbrellas, tables and chairs, planter boxes etc) when being used by patrons

Kerb setbacks: refer to the distance between the outer extremities of an outdoor dining area and other infrastructure items such as the kerb, street trees, public street furniture, and adjoining outdoor dining areas

Enclosures: vertical structures positioned to enclose an outdoor dining area, such as plastic, canvas or glass screens. Usually attached to the veranda or building

Café barriers: moveable barriers approximately 1 metre in height.

4. STRATEGIES FOR EFFECTIVE IMPLEMENTATION

For outdoor dining areas to be approved, applicants will need to meet requirements for public access, circulation (including for people with disabilities) and diner safety.

If a location is deemed unsafe for this activity, approval may not be granted even if the application complies with the policy and guidelines.

Outdoor dining should be directly associated with the business that holds the Outdoor Dining Permit and should only operate when those premises are open for business.

Council needs to ensure that the competing uses in the public realm are balanced and that the public footpath utilisation is in keeping with the City of Victor Harbor's Town Centre Master Plan.

Council will consider applications which may include but not limited to the set criteria as contained within the Outdoor Dining / Street Traders Policy and these Guidelines.

Core guidelines essential to the achievement of the Outdoor Dining / Street Traders Policy objectives include:

- J the need to maintain a clear pedestrian pathway of at least 1.8m width, being between 0.6m and 2.4m from the immediate frontage of the building or property boundary to ensure safety, consistency and legibility for the vision and mobility impaired
- J be located in an area that is considered safe for patrons and avoid locations that are deemed unsuitable
- J commercial uses must not encroach on public use of the footpath or impede access to public seating, other public infrastructure, or major pedestrian crossing point
- J sight lines for road users must be neither compromised or restricted.
- J meet the clearances and setbacks specified in these guidelines for each particular circumstance
- J the number of commercial object/s per premises street frontage allowable will be subject to Council's guidelines being met
- J the objects must be located directly between the business frontage of a permit holder's business premises and the nearest kerb and subject to other design requirements being met
- J meet special Council requirements for surveillance and a security presence under certain circumstances if the dining area has a permit to operate after normal business hours
- J ensure the safety of adjoining buildings is not compromised by restricting access or adding unreasonably to fire potential
- J ensure that all outdoor dining is appropriately authorised with reference to Council's Policy and these Guidelines and any risk to Council is mitigated

The capacity for the number of patrons permitted (seated and standing) at any one time, within an approved outdoor dining area is determined by the maximum number of persons that can be seated at the tables within that approved area and that complies with the recommended spacing between tables in these guidelines.

5. OPERATIONAL GUIDELINES

An Outdoor Dining Permit does not confer on the permit holder any exclusive right, entitlement or proprietary interest in the Permit area and does not derogate from Council's powers under the *Local Government Act 1999* or any other legislation.

5.1 Amenity and Appearance

Outdoor dining areas need to relate to its location, by protecting and enhancing the urban, heritage and streetscape appearance and character of the surroundings. Consideration should be given as to provide a comfortable environment for patrons through protection from the wind, sun, rain and exposure to vehicular traffic.

5.2 Outdoor Dining Associated with Heritage Buildings

The design and location of outdoor dining areas adjacent to or near heritage places must be compatible with the heritage significance of the place so as not to detract from that significance. Any permanent structures will need development approval and may need to be referred to Department Environment & Heritage for approval.

5.3 Location and Positioning of Outdoor Dining Furniture

Outdoor dining will be considered on footpaths where there is adequate footpath space to accommodate it, while not compromising pedestrian access and other streetscape activities, circulation requirements, resting places and traffic safety.

Existing items for public use including public signage, street trees, seats, rubbish bins, and light poles take precedence over commercial uses of footpaths.

Umbrella and screens are not to obstruct views of the main areas of street activities and significant sight lines to important landmarks, landscapes and structures in the street.

Screens, blinds and planter boxes must not be placed where they present a barrier and subsequent danger to pedestrians crossing the street or kerbside usage by motorists.

Outdoor dining items must be positioned so as not to unreasonably restrict access to service covers or interfere with existing services.

The placement of outdoor dining furniture is to be made with Council's approval. As with all outdoor dining operations, all items should be positioned within the permitted boundaries for outdoor dining (which may be defined by markers on the pavement) and remain there as part of the permit holder's responsibility.

Relevant location and siting considerations include:

-) pedestrian and vehicular traffic, queuing and other waiting areas
-) access to public street furniture such as seats, bicycle parking, drinking fountains, rubbish bins, telephone booths and post boxes
-) the safety, interests and concerns of particular groups already using a street
-) access to services, infrastructure, ramps and building entrances
-) set backs from intersections of major streets to ensure patron's safety and unobstructed pedestrian movement at crossing points.

Outdoor Dining areas are not permitted in the following locations and situations:

- J adjacent to designated disabled parking spaces
- J adjacent to bus stops and taxi zones
- J adjacent to a loading zone unless sufficient width (ie. Minimum 900mm) is available for unloading onto sack trolleys and for goods delivery to premises.

An outdoor dining area must:

- J be located directly outside the associated business premises
- J be within the area defined by a perpendicular extension from each side boundary of the premises, between the property line and the kerb
- J be located along the kerb
- J allow a minimum of 1.8m pedestrian corridor to ensure unobstructed movement for all user groups, including the visual and mobility impaired
- J not obstruct or impede a vehicle door when opened, provided that the vehicle is parked lawfully on the carriageway.

The Permit Holder must not without prior approval from Council or delegate:

- J secure any tables, chairs or any objects associated with the outdoor dining activities to the footpath, veranda posts or other existing structures
- J enclose the permit area with café barriers, blinds awnings, banners, planter boxes or similar structures.

5.4 Accessibility

Council strongly encourages the consideration of accessibility for people with disabilities and /or mobility challenges including those with wheelchairs and vision impairment when setting up an outdoor dining area. This will help make the space attractive to all patrons including older people and families with children and prams. It is suggested that at least some of the outdoor dining furniture meets the following criteria:

- J a surface height of between 750mm and 850mm
- J a seating height of between 450mm and 520mm
- J positioned so a wheelchair user can access the table without impeding the pedestrian zone.

Further ways to make your outdoor dining more appealing include:

- J menus in large font and easy to read
- J copies of menus that can be read at the table and not just on a menu board
- J crockery that is easy to hold
- J use of contrasting colours for the furniture to the area around it, enabling the vision impaired to navigate the space.

5.5 Extension of Outdoor Dining Beyond Permit Holder's Boundary

Extension of outdoor dining beyond the principle premises is dependent on permission being granted from the operator **and** the property owner of the adjacent business and should that permission be withdrawn or the adjacent business change operation, outdoor dining must be removed from this area immediately.

Where an outdoor dining area has been granted permission to extend along the footpath, the permit holder must take responsibility for any liability issues which arise and that are associated with the outdoor dining area.

5.6 Tables and Chairs

Tables and chairs should be located and placed in a way that creates a functional and inviting dining environment. Sufficient room should be left between tables so as to allow ease of movement, both for patrons and waiters.

The following principles apply:

-) tables, chairs and any related outdoor dining objects must be located within the licensed outdoor dining area.
-) tables and chairs must be set back from the kerb or from Energy Absorbing Bollards in accordance with the distances stated in tables below
-) chairs should be placed so as not to back onto the roadway and 'delineation' or moveable café barriers may be required to prevent patrons and chairs falling over onto the roadway (barriers subject to Council approval)
-) tables and chairs must be set back from existing infrastructure, including street trees, lights, public furniture etc.

A space of four (4) square metres is considered appropriate for a typically dimensioned table and four chairs (2m x 2m) and a distance of 400mm should be allowed between adjoining ensembles.

Outdoor dining items should be fit for purpose and of a high standard in materials and durability. Tables and chairs should be lightweight to allow easy handling, however must also meet appropriate safety standards including being windproof. Round tables are considered more appropriate in the public realm than square forms as they do not present sharp edges and can accommodate a more flexible seating arrangement.

It is the responsibility of the permit holder to keep all outdoor furniture items, the outdoor dining area and immediate footpath area clean, tidy and in good repair at all times.

Applications may be submitted for the installation of fixed furniture. All requests will be assessed on an individual basis and will need approval from Council's Environment and Infrastructure team to determine if the location would be suitable, before the application is assessed by the Property Team. New outdoor dining areas may also need development approval.

5.7 Seating, preparation of food

The preparation of food and/or drink must not occur in the Permit Area.

The Permit Holder must ensure that at all times:

-) all food and drink supplied in the Permit Area is only served to patrons who are seated at tables **(unless exempt through Permit Holders Liquor Licence);**
-) all patrons consuming food and drink in the Permit Area are seated **(unless exempt through Permit Holders Liquor Licence);** and

crockery, cutlery and glassware is only provided to patrons in the Permit Area in connection with the service of food and/or drink and that such crockery cutlery and/or glassware is removed immediately upon the departure of the patron.

5.8 Footpath Clearances

For the purpose of these guidelines, 'footpath clearance' refers to the distance between a building frontage or property boundary and the inner extremities of an outdoor dining area (including all associated items such as umbrellas, tables and chairs, planter boxes etc) when being used by patrons.

The Council requires a minimum clear width of footpath to be maintained between the immediate front of the building and the licenced area. This space cannot be used to store tables, chairs, planter boxes, displays or any other item.

The outdoor dining area must **not** be located directly against the building façade.

Footpath clearance measurements are to be taken from the edge of the building or property boundary to the back of the chair (at a distance out from the table to equate with someone seated in the chair).

Footpath clearance	Minimum 2400mm	All locations
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5.9 Setbacks

For the purpose of these guidelines, 'setbacks' refer to the distance between the outer extremities of an outdoor dining area and other infrastructure items such as the kerb, street trees, public street furniture, and adjoining outdoor dining areas.

Kerbside setbacks have been specified in order to allow for safe access, servicing and maintenance of the items, as well as providing sufficient movement between outdoor dining areas and to ensure the safety of the patrons.

Kerbside setback measurements are to be taken from the back of the kerb to the back of the chair (at a distance out from the table to equate with someone seated in the chair).

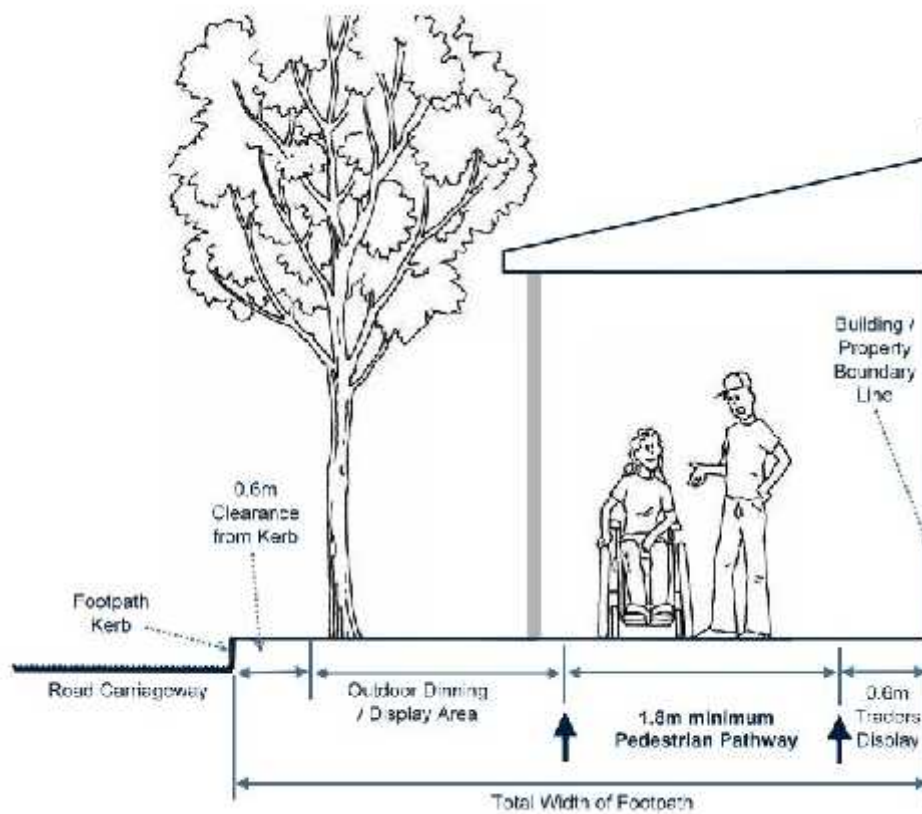
A buffer of clear footpath must be provided from the kerb to allow access to and from parked vehicles, including loading zones.

Kerbside setback	*Circulation routes and low speed environments	Location where *EAB is required
Parallel parking bay	600mm	900mm
Angel parking space	900mm	900mm

**the distances indicated in the table above are for normal circulation and low speed (40km/hr or less) environments.*

** EAB – energy absorbing bollard*

Major circulation routes setbacks will be determined on an individual basis and may be required to be a 900mm setback.



Other Outdoor Dining Area Setbacks

<p>From Intersections</p>	<p>Are measured from the corner of the corner building. A minimum setback of 2000mm is required at intersections of local streets, 2500mm at intersections of major and minor circulation routes with local streets, and 3000mm is required at intersections of major and minor circulation routes</p>
<p>Side Setbacks</p>	<p>Setbacks from edges of Building Frontages (property lines) - a 375mm setback from the side boundary of each building frontage. Side setbacks apply to all premises - even where there is no adjoining outdoor dining area to ensure access to parking and other infrastructure.</p>
<p>Between Outdoor Dining areas</p>	<p>The minimum setback between adjacent outdoor dining areas is 750mm, made up of the minimum setback from side boundaries of 375mm for each side. Where an outdoor dining area exceeds 12m in length, a 1200mm space in the centre is required and a 3000mm space is required if the outdoor dining area exceeds 15m in length.</p>
<p>From Existing Infrastructure</p>	<p>One metre is required from infrastructure items - such as a seat, litter bin, light pole, fire hydrant, telephone box and post box, or street tree.</p>
<p>From Public Transport Stops</p>	<p>Needs to be 10m from the edge of a public transport zone to protect patrons from exhaust fumes and buses 'overlapping' the footpath and to allow free movement to and from public transport vehicles.</p>

Access to Underground Infrastructure	Underground infrastructure includes service openings to sewerage and electricity lines, and must not be obstructed by permanent structures such as fixed ground awnings and umbrellas, or glass screens. Permanent outdoor dining items should be set back from such infrastructure by at least 1m to allow safe access and maintenance. Removable tables and chairs may be placed over such items.
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All conditions subject to the approval by Council according to individual site conditions.

5.10 Safety – Energy Absorbing Bollards

Energy Absorbing Bollards (EAB's) may be required at outdoor dining locations to provide additional safety protection for patrons.

If determined that EAB's are required, Council will nominate the specific type and design with the cost of supply and installation (by Council) to be borne by the permit applicant.

5.11 Enclosures

Enclosures can assist in delineating an outdoor dining area and prevent incidents such as moveable items encroaching onto adjoining areas. However, the proliferation of canvas and / or glass screens may result in a visual clutter that separates the street space from the footpath space.

Complete enclosure of an outdoor dining area is **not** permitted. However, barriers, screens or blinds **may** be approved if considered already a part of the heritage of the building. Full height screens must be in the form of glass screens. Development approval is required and will be assessed on location specific pedestrian and traffic requirements and a design that complements the existing building and street character.

5.12 Plastic Blinds

Plastic blinds can assist in providing temporary weather protection for patrons, however can have a detrimental impact on the character, quality, safety and function of the streetscape.

Council may support the submission of development applications for the upgrade of existing plastic blinds, however is unlikely to approve new installations. All requests will be assessed on an individual basis.

Plastic blinds should complement existing verandas and canopies, but not as a full enclosure. They are not permitted where fixed glass screens are used.

Existing plastic blinds must meet the following requirements:

-) must be positioned so as to allow for pedestrian amenity, including refuge from traffic
-) must not inhibit traffic sight lines
-) the minimum distance from the kerb line must be 600mm
-) must be fixed firmly in position when down to avoid excessive 'flapping'. Ground level restraints must be designed and constructed so as to avoid hazardous situations
-) must be rolled up or removed outside trading hours or if the weather does not warrant their use
-) must have a clearly marked contrasting colour strip on the blind at approx. 1.4m above the footpath for the vision-impaired pedestrians
-) must be made of high quality visually permeable material, not coloured or decorated

- J plastic blinds must be kept in good condition and not allowed to become marked or opaque. Blinds that are not in good repair must be removed or replaced at the outdoor dining operator's expense.

5.13 Café Screens / Barriers

Café screens / barriers can assist in delineating an outdoor dining area. Council approval of freestanding removable canvas or metal screens will be considered on a case by case basis. Assessment will be based on the available space, existing built form, streetscape character, street activity and traffic condition requirements.

Where it is appropriate to install a café screen / barrier, they must be:

- J positioned as to allow for pedestrian amenity and access, including refuge from traffic
- J positioned parallel to the kerb
- J a minimum distance of 600mm from the kerb and 1000mm from public infrastructure
- J removed after trading hours
- J should not be more than 1000mm high and 1200mm long
- J must be securely weighted to the footpath during periods of use without creating a trip hazard or impeding pedestrian movement.

Permanent café screens/ barriers may be considered at locations where traffic conditions requires protection for the patrons. But only when the adjoining footpath space allows for outdoor dining.

Free pedestrian movement must be maintained and an allowance of 1500mm gap is required for each 10 metres.

5.14 Other Outdoor Dining Objects

All outdoor dining related objects including but not limited to planter boxes and umbrellas must be detailed on the outdoor dining application form so the area as a whole can be assessed against these guidelines. The objects must be not pose a safety risk to pedestrians from the actual object or how they are secured to the footpath.

5.14.1 **Removable Umbrellas** – may be used to provide shelter from the weather when existing verandas, canopies or trees are inadequate. The placement of umbrellas must:

- J be properly weighted on the pavement during use without creating a trip hazard or impeding pedestrian movement
- J have a central support post
- J be made of high quality material and of neutral colours
- J must not obstruct CCTV lines of sight
- J umbrella canopy edges must be set back 300mm minimum from the kerb as not to conflict with moving traffic.
- J Umbrellas must maintain a minimum vertical clearance from the lowest point of the canopy to the footpath of 2100mm.

5.14.2 **Planter Boxes** – may be used to define the outdoor dining areas as well as contributing to the colour and vibrancy of the street. The placement of planter boxes must:

- J be located on the perimeter of the outdoor dining area, allowing for a minimum 600mm setback from the kerb
- J allow for pedestrians to move between objects and a minimum distance of 1000mm is required from existing infrastructure objects including access covers

-) be constructed of durable material adequate to meet functional requirements including resistance to vandalism and impact from pedestrians
-) be designed and placed so the overflow of watering does not discharge into the storm water system, stain the pavement or cause a safety hazard to pedestrians.

5.14.3 **Gas Heaters** – may be temporarily located within the outdoor dining area to provide additional comfort for patrons during trading hours. They must be placed where they do not pose a safety or fire hazard, including in close proximity to plastic blinds.

Gas heaters must be self-contained and free standing but securely fixed and stable. They must conform with the appropriate Industry Safety Standards.

5.14.4 **Cash Registers** and **Dumbwaiters** in association with outdoor dining areas are not permitted on the public footpath.

5.15 Permanent Structures

Permanent structures such as umbrellas, sails, awnings, gazebos or canopies are discouraged. However, they may be used in locations where the footpath is at least 6 metres wide and in which no verandas, canopies of street trees provide adequate shelter over the outdoor dining area.

They may be used to delineate an activity 'node' such as a gathering place, and are considered most likely to be acceptable in larger public spaces.

Permanent structures must be designed and constructed to engineering standards and will require development approval.

5.16 Toilets

The provision of toilets are regulated by the *National Construction Code* and requires sanitary facilities to be provided if the premises (including outdoor dining) accommodates more than 20 persons.

Liquor Licensing laws stipulate that if a Liquor Licence is held, the provision of toilets for patrons is mandatory, regardless of seating capacity.

5.17 Alcohol and Liquor Licence

Liquor may only be served to patrons in the outdoor dining area pursuant to a valid liquor licence. All food and drink supplied in the Permit area must only be served to patrons who are seated at tables (unless exempt through the Permit Holders Liquor Licence).

Outdoor Dining Permit applicants are required to advise Council at the time of application if they also intend to apply for a Liquor Licence. An approved Outdoor Dining Permit and Council consent is required before application can be made to the Consumer and Business Services.

5.18 Smoking

Smoking is banned in outdoor dining areas in South Australia under section 52 of the *Tobacco Products Regulation Act 1997*.

Signs indicating the outdoor area is smoke free must be displayed in such numbers and positions of prominence that are likely to be seen by people within the area.

Note: Other outdoor areas and snack food are not included in the ban. Therefore pre-packaged food of a kind generally intended to be consumed between meals i.e. potato crisps, nuts, chocolate bars and pre-packaged biscuits (not sandwiches and hot chips) can be consumed in outdoor areas where smoking is allowed.

Smoking and drinking (including coffee and other hot drinks) can occur in the same outdoor area as long as the area is not an outdoor dining area.

Smoking areas may be permitted under certain conditions - refer to *Tobacco Products Regulation Act 1997* and Tobacco Products (Smoking Bans in Public Areas – Longer Term) Regulations 2012 for details.

5.19 Dogs

Dogs may be permitted at the discretion of the outdoor dining operator, if they are under the control of the pet owner and not disturbing other patrons and not being fed within the outdoor dining area.

5.20 Entertainment

Entertainment, amplified and/or live music in outdoor dining areas require Council approval. Factors taken into consideration by the Council will include whether the volume is at a suitably low level so as to not cause nuisance to the occupiers of nearby land.

5.21 Lighting

Adequate lighting must be provided where outdoor dining occurs outside daylight hours, to ensure safety and amenity for patrons and pedestrians. It is the permit holder's responsibility to provide additional lighting. All details for extra lighting is to be submitted to Council for approval. No freestanding lighting will be permitted. All external electrical works are to be undertaken by a qualified electrician.

5.22 Advertising within the Outdoor Dining Area

Signage and advertising should be designed to improve and complement the amenity of the premises.

Advertising on outdoor dining items such as umbrellas and canvas screens, in the form of a well-designed business name or business logo is permitted for up to 10% of the total space available on each object. Commercial advertising in the form of product logos used or sold by the premises may be used, but must not exceed the 10% maximum space permitted on each object.

Third party advertising that is unrelated to the business is not permitted on outdoor dining objects or placed within the outdoor dining area.

Advertising must not be illuminated or animated. Glass screens should not contain coloured advertising. Frosted glass appearance for advertising is preferred.

Free standing signs placed on the footpath, such as A-frames (also called moveable signs or sandwich boards) restrict pedestrian movement and represent a potential hazard in areas of high pedestrian volume. A-frame signs should only be placed in outdoor dining areas if the recommended spacing between outdoor furniture is not compromised. Alternatives may include feather / flags or boards mounted flush with the building frontage. Depending on size or other features may require development approval.

5.23 Markers

Use of an outdoor dining area including its furniture, plants and planter boxes, must be contained within its approved boundaries. These may be designated by pavement markers that will be installed by Council officers. Tactile pavers must not be used.

5.24 Cleaning

The permit holder shall at all times keep the permit area and all approved furniture and equipment clean and free from litter and waste material and shall ensure that no waste enters the storm water system.

6 APPLYING FOR A PERMIT

6.1 What the Permit allows

The permit allows for outdoor dining to be undertaken on the footpath space in connection with the adjoining business premises provided it meets the criteria outlined in the Outdoor Dining / Street Traders Policy and these guidelines.

An Outdoor Dining Permit does not grant exclusive use of the footpath, businesses must not display signs that declare the furniture to be available only to customers.

Development approval may be required for new or any extension to existing areas.

6.2 Where to Apply

An application form can be obtained from Council's office or can be downloaded from Council's Website www.victor.sa.gov.au

6.3 How to apply for a new Permit

The following information is required as part of an application for an Outdoor Dining Permit:

- J a completed application form
- J a public liability insurance Certificate of Currency to a minimum value of \$20 million; (against all actions, costs, claims charges and expenses whatsoever to property or persons arising out of or connected with the activities undertaken in respect of the permit). Noting the City of Victor Harbor as an interested party
 - *The Policy must not be allowed to lapse during the period of the Permit.
- J a receipt for payment of fees in accordance with the Council's Schedule of Fees and Charges
- J supporting information including:
 - o a site plan identifying the business premises frontage, the proposed street, footpath clearances and setback
 - o a graphic representation (photograph or drawing) of the proposed outdoor dining furniture and objects showing type of fixture, construction and colours
 - o dimensions of the furniture.

All outdoor dining related objects including but not limited to planter boxes, umbrellas, café screens/ barriers etc. must be detailed on the outdoor dining application form so the area as a whole can be assessed against these guidelines. The objects must be not pose a safety risk to pedestrians from the actual object or how they are secured to the footpath.

6.4 Permit Approval

Approval is granted by Council under delegated authority with reference to Council's Outdoor Dining / Street Traders Policy and these Guidelines. If approved, Council staff will notify the applicant and issue an Outdoor Dining Permit and sticker.

The Permit becomes valid when all of the following has been completed:

- J all information and fees are received and approved
- J an executed permit has been issued to the applicant
- J a permit sticker is affixed to a window adjacent to the entrance of the permit holders business.

Permits are valid for a 12 month period and renewal notices will be sent out by Council. Currently the timeframe is from 1 September until 31 August each year, but may be subject to change.

Permits are not transferable to a new proprietor.

6.5 Schedule of Permit Fees

Fees associated with the issuing of an Outdoor Dining Permit are detailed in the Council's Schedule of Fees and Charges and are reviewed on an annual basis.

6.6 Permit Holder's responsibilities

Permit holders must:

-)] comply with the permit conditions
-)] ensure that outdoor dining objects conform to the criteria specified in the Guidelines
-)] not create a hazard for pedestrians or motorists, particularly during adverse weather conditions.

The permit holder must not cause, suffer or permit any damage to Council land or property. The permit holder is liable to pay Council the costs of making good any damage caused to Council land or property in connection with the outdoor dining activities authorised by the permit. This includes pavement repairs or cleaning that Council considers to be necessary by reason of the permit holders use of the permit area, which Council costs may be recover as a debt from the permit holder.

6.7 Removal or Relocation of Outdoor Dining Furniture

The Council reserves the right to suspend a permit or to require any/all furniture to be relocated or removed, if in the opinion of an authorised / delegated Council Officer:

-)] There is any hazard or obstruction or there is likely to be a hazard or obstruction arising out of the location of the object
-)] Removal is considered necessary to facilitate occasional events such as road or footpath works, parades, festivals, etc. or
-)] If permit conditions are not complied with.

Using a footpath for business purposes without a Permit issued by Council is an offence under the *Section 222 of the Local Government Act 1999* and carries a maximum penalty of \$2,500 or an expiation fee of \$210. Should an area of footpath be used that is outside an approved permit boundary then it is considered to be an offence (no permit). Any continued breach may attract further expiations fines issued at a timeframe set by Council's delegate.

Any breach or continued breach of the permit conditions may result in the Permit being cancelled for the remaining permit period or suspended for a period of time as determined by Council's delegate and after notice has been given in writing to the permit holder pursuant to *Section 225 of the Local Government Act 1999*.

7 LEGISLATION AND COMPLIANCE

Refer Outdoor Dining / Street Traders Policy