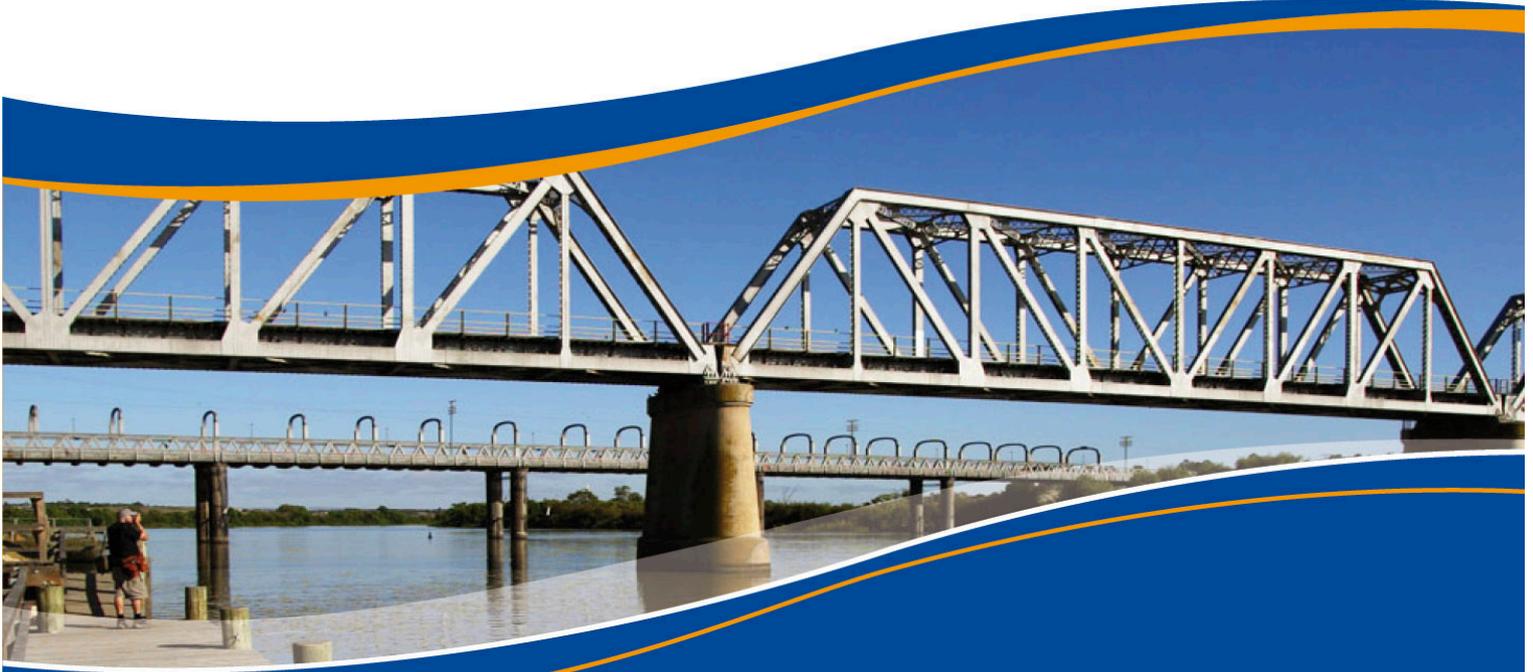




*The Rural City of*  
**MURRAY  
BRIDGE**

*Bridge to Opportunity*



# **Rural City of Murray Bridge Outdoor Dining Guideline and Application Form**

June 2018

*Endorsed by Council on 10 September 2018*



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## 1. STRATEGIC CONTEXT & POLICY POSITION

### STRATEGIC CONTEXT

The Council has a prepared number of Strategic documents, which underpin its revised approach to concerning Outdoor Dining. The Council has the following documents, which are relevant including:

- Community Plan 2016-2032
- Strategic Plan 2016-2020
- Economic Development Strategy 2015-2030
- Riverfront Strategy 2016
- Sturt Reserve Masterplan 2017
- Murray Bridge Council Development Plan

The Community Plan sets out our aspiration to deliver our vision of *Thriving Communities* and sets out our approach under four key strategic themes:

1. Valued Environment
2. Great People and Lifestyle
3. Dynamic Economy
4. Connected Communities

Outdoor dining improvements clearly can help influence two of these as part of our journey of improving the Rural City of Murray Bridge. Our approach to outdoor dining specifically links to:

### Great People and Lifestyle

#### 2.2 Care for the community

*We have vibrant and safe streets and public places.*

#### 2.3 Recreational and cultural pursuits

*The Rural City of Murray Bridge has a variety of open spaces and facilities that provide opportunities for recreation, relaxation and interaction to meet our community's diverse needs.*

### Dynamic Economy

#### 3.4 Tourism is contributing to a diverse economy and creating opportunity

*Our programs and approvals processes generate constant entrepreneurial and creative activity in public spaces*

### POLICY POSITION

The Council adopted a new *Outdoor Dining Policy* in June 2018. This sets out the principles underpinning the Council's approach to outdoor dining in the Rural City of Murray Bridge.

The objective of the Outdoor Dining Policy is:

*"...to encourage the establishment of outdoor dining wherever feasible and appropriate and with minimum effort from businesses."*



The Rural City of Murray Bridge is also committed to activation of the council area and supports the individual expression of each business to help develop a sense of place. As such, each Outdoor Dining Permit application will be considered with reference to its context, taking into consideration the district and street the business is located in, vehicle traffic, pedestrian flow and other relevant factors.

The key principles are:

**Create a public realm that is welcoming and user friendly**

- Outdoor dining should support the Rural City of Murray Bridge's ability to maintain clean public places and streets.
- Outdoor dining areas must be designed with safety in mind.
- Streets are to remain welcoming and accessible for users of all abilities, without obstacles or hazards for pedestrians.
- Outdoor Dining Permit holders must maintain their outdoor dining area to a high standard and comply with conditions of outdoor dining management set by the Rural City of Murray Bridge.
- Unnecessary noise and nuisance should be minimised.

**Cultivate a positive relationship between the private and public realms**

- Outdoor dining is intended to be outdoors, and should look and feel as such. Environmental and weather conditions should be accommodated without the addition of fixed infrastructure that permanently encloses the space. Outdoor dining infrastructure should be temporary, so that the area may be reinstated as public space in both appearance and function.
- Outdoor dining is a temporary use of public space, which should provide flexibility for other uses outside trading hours.
- Permits are issued with the intent of balancing the needs of all footpath users. Operators and customers are able to make use of the footpath space but do not have exclusive rights over the occupancy of the area.
- Outdoor dining is supplementary to the business' internal trade and seating. Businesses should not be reliant on outdoor dining.

**Strengthen the character and identity of our regional centre**

- Outdoor dining should enhance the appearance and character of its location.
- Outdoor dining should be considered as part of street design, and incorporate and enhance existing features such as trees and verandahs.
- Outdoor dining approaches and furniture should be of high quality and design, and make a positive contribution to the street experience. Interesting and innovative approaches are encouraged.

**Follow the Principles of the Outdoor Dining Guideline & Public Realm Style Guide**

- Basic principles underpinning the use of the public realm for outdoor dining are set out in the Rural City of Murray Bridge Outdoor Dining Guideline.
- The Council updated its Public Realm Style Guide in 2018, so that it is contemporary with a modern approach to the management of our public realm and the materials and street furniture used and expected in the Rural City of Murray Bridge.



## 2. ABOUT THIS GUIDELINE

This Guideline sets out the Council's requirements in granting, renewing and managing a Permit that allows a business to use a footpath (or other Council land, as applicable) for outdoor dining adjacent to the business' premises.

The purpose of the Policy and Guideline is to encourage the establishment of outdoor dining wherever feasible and appropriate and with minimum effort from businesses.

This Policy and associated Guideline have been developed to make it easier for businesses to obtain an Outdoor Dining Permit. This Guideline highlights key considerations including safety, accessibility and amenity. They are intended to help streamline the application process by providing applicants with the necessary information before an application is made.

The Rural City of Murray Bridge is also committed to activation of the council area and supports the individual expression of each business to help develop a sense of place. As such, each Outdoor Dining Permit application will be considered with reference to its context, taking into consideration the district and street the business is located in, vehicle traffic, pedestrian flow and other relevant factors.

Most usually, this Guideline would apply to use of a footpath under a *Local Government Act 1999* section 222 permit from Council. The policy however, is also to apply to use of community land under a lease or licence, so far as can be made applicable. Some elements of this Guideline appear in the *Application Form* in Appendix 2 or in the template *Permit* in Appendix 3.

This Guideline will be reviewed concurrently with the Outdoor Dining Policy. However, Council may choose to revise this policy at any time.

An applicant or prospective applicant for a Permit is entitled to put submissions to Council on how a deviation from this Guideline should apply in their particular case. The Council will consider any such submissions, whilst endeavouring to maintain consistency across the whole City.

In the Outdoor Dining Policy and Guideline:

**“enclosed”** means an enclosed area or place that is, except for doorways, passageways and internal wall openings, completely or substantially enclosed by a solid permanent ceiling or roof and solid permanent walls or windows, plastic awnings, whether the ceiling, roof, walls or windows awnings are fixed or movable and open or closed.

**“Operator”** means a person holding a Permit.

**“outdoor dining”** means tables and chairs placed on Council's land for the purpose of increasing the capacity of a hotel, café, delicatessen, restaurant, dining or similar option for the use by the Operator and customers.

**“Permit”** means an authority from Council entitling a person to establish and use an outdoor dining area upon Council's land. Where a road is to be used, it means a permit under *Local Government Act 1999* section 222; where community land is to be used, it means a lease or licence to occupy under *Local Government Act 1999* section 202.

**“road”** is defined in the *Local Government Act 1999*.



### 3. REGULATORY FRAMEWORK

Various statutes operate on the establishment or operation of an outdoor dining area, whether temporary or permanent.

#### **Local Government Act 1999**

*Community Land (excludes a road)*

- Section 200: A person must not use community land for a business purpose unless the use is approved by Council. An approval must not be contrary to a management plan for that community land. An approval may be given on conditions Council considers appropriate.
- Section 202: Council may grant a lease or licence over community land (including a park or reserve). Public consultation is required unless the lease or licence is authorised in a relevant management plan and its term is 5 years or less. The term cannot exceed 21 years. The lease or licence must be consistent with any relevant management plan.
- Section 5 is that land may be used for a business purpose even if it is not intended to make a profit.

*Roads (includes a footpath)*

- Section 221: With limited exceptions, a person must not make an alteration (as defined) to a public road unless authorised by Council. The term of the authorisation cannot exceed 42 years.
- Unless otherwise agreed, a fixture or equipment installed in, on, across, under or over a public road under an authorisation or permit remains the property of the holder of the authorisation or permit. At any time, Council may order that owner to carry out maintenance or repair work, or move the thing to allow Council to carry out roadwork: Sections 209 & 217.
- Section 222: A person must not use a public road for business purposes unless authorised to do so by a permit. The term of the permit cannot exceed 5 years.
- Section 223: Public consultation is required if an authorisation or permit would result in any part of a road being fenced, enclosed or partitioned so as to impede the passage of traffic to a material degree.
- Section 224: Council may grant an authorisation or permit on conditions Council considers appropriate.
- Section 225: Subject to due process, Council may cancel an authorisation or permit for breach of a condition.
- Section 5 is that land may be used for a business purpose even if it is not intended to make a profit.

#### **Development Act 1993**

This Act operates if the proposed outdoor dining area involves either:

- a change in land use - required to be assessed against the Development Plan.
- installation of items of fixed street furniture (such as bollards, safety screens) - requiring building consent; or
- the display of third party signage on items of fixed street furniture - requiring Development Plan consent.



### **Liquor Licensing Act 1997**

- Where the proposed dining area is to be used to serve or consume liquor, liquor may only be consumed with or ancillary to a meal. The Operator is required to comply with this term so far as the consumption of liquor is concerned when applying for a liquor licence the terms of which allow the area to be used for that purpose and in the manner specified.
- An applicant for a Permit who already holds a liquor licence would need to apply under section 69 of this Act for an extension of the trading area of the licence.
- Where an applicant is to apply for a new liquor licence, Council reserves its separate rights under the *Liquor Licensing Act 1997* to comment, interfere or object to a licence application on the merits of the application - even if Council is otherwise amenable to grant a Permit under the *Local Government Act 1999* and consents under the *Development Act 1993*.
- Where an applicant is to apply to extend the trading area of an existing liquor licence, section 69(3)(e) of this Act would require Council to approve the Outdoor Dining Permit **before** the Commissioner will assess the applicant's request to extend the liquor licence. Council will not give that approval under the *Liquor Licensing Act 1997* unless it is satisfied with the terms of the said Permit under the *Local Government Act 1999* and there will be adherence to those terms and conditions.
- A Permit should not be inconsistent with conditions imposed on the liquor licence by the liquor licensing authority. It is unlikely that the liquor licensing authority would grant a liquor licence that contravenes the intentions of Council's Permit.
- A 24/7 dry area exists within Council's Central Business Area and Hume and Sturt Reserve areas, except any areas covered by a liquor licence, as set out in Section 131 of the Liquor Licensing Act 1997.

### **Retail and Commercial Leases Act 1995**

- Legal advice to Council is this Act does not apply to:
  - an outdoor dining permit over a footpath granted under *Local Government Act 1999* section 222; or
  - a lease / licence of community land that is unimproved at the time the lease / licence is granted.
- In other cases the Act may apply, bringing with it need of a formal disclosure statement, minimum 5 year term (unless waived in proper form), and various statutory rights and obligations of the parties.
- In case of doubt, an employee should seek particular legal advice on the application of the Act.

### **Disability Discrimination Act 1992 (Cwth) / Equal Opportunity Act 1984 (SA)**

- An Operator needs to ensure the layout and operation of the outdoor dining area does not contravene anti-discrimination legislation, particularly the above Acts.
- In layout, the outdoor dining area needs to accommodate persons in wheelchairs.



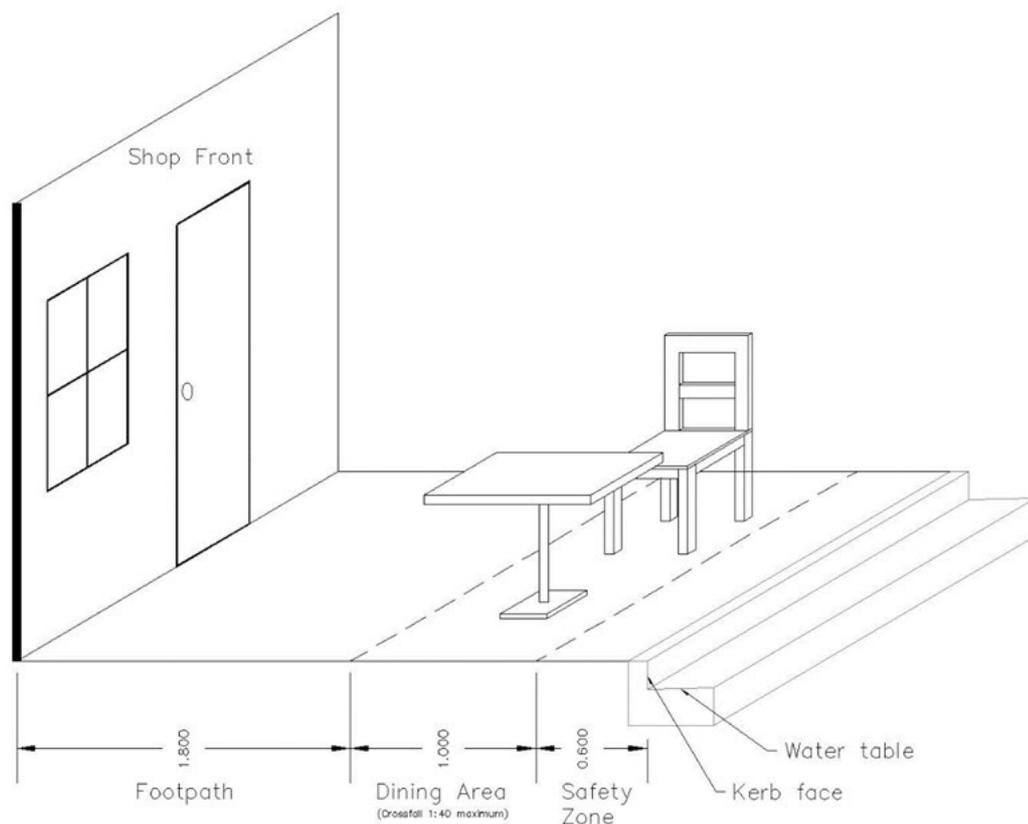
#### 4. PLACEMENT OF THE OUTDOOR DINING AREA

An outdoor dining area must operate within a defined area. The defined area must allow for safe pedestrian circulation and access, improve or maintain the existing amenity of the locality, provide for convenient use, and not compromise sight lines for motorists. As a rule, the placement of an outdoor dining area must accord with one of the diagrams in Appendix 1 of this policy. As can be seen in the following diagram:

- A clear 1.8 metres should exist for pedestrian circulation along the footpath.
- The dining area should be set back at least 0.6 metres from the face of the kerb (also set back at least 3 metres from an intersection, unless located on a designated protuberance).
- Minimum cross fall of footpath should be 1:40.

The placement of the outdoor dining area, and the proposed outdoor fixtures and furniture, should complement or improve the character and amenity of the street. Regard may be had to other street elements, such as existing street furniture, trees, garden beds, light poles, fire hydrants, building entrances, service pits and roadside signage.

The use of a public car park or parking space as an outdoor dining area would be exceptional, but permissible subject to discussion with the Council.





## 5. STREET ELEMENTS

An outdoor dining area must be clearly defined - to provide a safe environment for patrons and pedestrians. This can be achieved through appropriate placement of tables, seats, safety screens, bollards and / or planter boxes, while maintaining an open, accessible environment that enhances the amenity of the street.

The selection and placement of street furniture must conform to Council's requirements.

### **Advertising and Signage**

- Furniture used in outdoor dining areas may only display the name or logo of the Operator's business. Markings should be a minor element in the design.
- A-frame signs are not allowed within the outdoor dining area or the 1.8 metre clear pedestrian zone adjacent to the dining area.

### **Awnings, verandahs and shade structures**

- If these are new, they must be designed to fit in with the existing buildings and street character, and must be connected to the public stormwater system, in accordance with approval from Council.
- Existing awnings, verandahs or shade structures over or attached to Council's land must be checked by a structural engineer to ensure those items are structurally sound and safe.
- A report on these kinds of items should be provided to Council every 5 years from when a Permit was first granted for the outdoor dining area and prior to renewal of the Permit (whether or not used by the same Operator).

### **Bollards**

- The Operator at its cost must install pedestrian bollards and / or fixed safety screens that protect an outdoor dining area from impact by a slow-moving vehicle where either:
  - the outdoor dining area is on a footpath extension (protuberance); or
  - a risk assessment by Council's Works Manager determines the need; or
  - additional visual definition of the dining area is thought necessary.
- Bollard placement depends on:
  - Distance from kerb line (minimum 600mm)
  - Spacing with regard to buildings, trees and other elements of public street furniture.

### **Lighting**

- To ensure safety and amenity for pedestrians and patrons, adequate lighting (supplied by the Operator if needed) must operate where outdoor dining occurs outside daylight hours.
- Flashing or chasing lights are not allowed, and lights must not create unreasonable "spill" into properties.
- The design of lighting must not distract road users from safe operation of their vehicles.



### **Planter Boxes**

- Based on Council's risk assessment, planter boxes may provide further definition to outdoor dining areas, as well as add variety and colour to the street.
- The design requirements for planter boxes:
  - Form and structural strength must be adequate to meet functional requirements, including resistance to vandalism and impact from pedestrians.
  - No sharp corners or edges.
  - Physical appearance, including materials and style, must be consistent with the streetscape character including other street elements.
  - Durable materials able to withstand harsh use should be used.
  - Logos and other forms of advertising are not allowed on planter boxes.
  - Plant material may be planted directly into planter boxes, or contained within plastic pots for ease of replacement.
  - Where irrigation is provided, the water supply lines must be concealed underneath the footpath.
  - Drainage may also be provided and permission gained to connect direct to the street's stormwater system.
  - Overflow from irrigation systems or hand watering must not stain pavements or cause a safety hazard for pedestrians.
  - A minimum width of 500mm per planter box is recommended.
  - Planter boxes must not exceed 1200mm in length in any one unit.
- Location and placement requirements for planter boxes:
  - Planter boxes must not be placed where they present a barrier and subsequent danger to pedestrians crossing the street.
  - Where a number of planter boxes are proposed, a minimum gap of 600mm must exist between units.
  - Planter boxes must not be placed on top of service covers or where they interfere with existing services.
  - The placement of planter boxes depends on:
    - Distance from kerb line (minimum 600 mm);
    - Spacing with regard to buildings, trees and other elements of public street furniture;
    - Positioning which allows for pedestrian amenity, including refuge from traffic;
    - Existing kerbside use (e.g., car parking, loading zones).
- Plant species must be suitable in terms of form, shape, hardiness and ability to be maintained.

### **Tables & chairs**

- Outdoor furniture types are subject to Council's approval.
- Furniture should be of a style that enhances local amenity and provides a well-designed practical suite that is durable, attractive and fits within the existing street character.
- Furniture must be of durable materials and colours, able to withstand harsh use.
- Chairs must be of sufficient weight as not to be blown about by strong winds.



### **Safety Screens**

- An Operator may be required at their cost to install fixed safety screens (of glass or plastic) where either:
  - the outdoor dining area is on a footpath extension (protuberance); or
  - a risk assessment by Council's Works Manager determines the need; or
  - additional visual definition of the dining area is thought necessary.
- An Operator may also provide fixed safety screens as protection from noise and wind.
- Design requirements for fixed safety screens:
  - Form and structural strength must be adequate to meet functional requirements, including wind loads, resistance to vandalism and impact from pedestrians.
  - Simple design, and not appear as a decorative element in the street.
  - Logos and other decorative elements are not allowed unless discreet and imbedded into glass or plastic and do not impact sightlines for pedestrians or vehicles.
  - Screens may be laid out in a variety of configurations.
- Location and placement requirements for fixed safety screens:
  - Screen placement depends on:
    - Distance from kerb line (minimum 600 mm).
    - Spacing with regard to buildings, trees and other elements of public street furniture.
    - Positioning which allows for pedestrian amenity, including refuge from traffic.
    - Existing kerb side use (i.e. car parking, loading zones, etc.).
  - Screens must not be placed where they present a barrier and subsequent danger to pedestrians crossing the street.
  - A single screen along the street frontage must not exceed 10 metres in length.
  - Where adjacent screens are up to a maximum of 6 metres along the street frontage, the gap between screens must be at least 1.5 metres.
  - Screens must not be placed on top of service covers or where they interfere with existing services.
- Approval for any particular screen would be site-specific.

### **Umbrellas**

- Umbrellas may provide shade, and shelter from wind and rain.
- Umbrellas must be securely fixed to prevent blowing over in strong winds - the fixing must be into a concrete footing underneath the footpath pavement. In sheltered locations, sandbags placed on top of a moveable and wide umbrella base may be approved.
- No part of a fixed umbrella stand should protrude above the pavement level, because it might present a hazard to pedestrians when the umbrella is removed. That fixed stand should also have a cap (flush with the footpath) to cover the hole when an umbrella is not installed.
- Umbrellas must achieve a minimum of 2 metres height clearance from the pavement when in use.



## 6. PROCESSING AN APPLICATION

### **Application Form**

- The required *Application Form* is in Part 11 of this policy.
- A copy of the form must be freely available to any member of the public on request.

### **Preliminary assessment**

- On receipt of an application, a Council employee should check the application is fully completed, all documents the form requires are attached and is signed and dated.
- A problem with the form should be promptly advised to the applicant.
- Any amendment to the form as first submitted must be initialled by the applicant, or a fresh form used.

### **Consultation**

- The *Local Government Act 1999* requires Council comply with its public consultation policy for either:
  - a lease or licence over community land – unless the lease or licence is authorised in an approved management plan and the term of the proposed lease or licence is 5 years or less (s. 202(2) & (3)); or
  - an authorisation or permit over a public road that would result in any part of a road being fenced, enclosed or partitioned so as to materially impeded traffic (s. 223(1)).
- In any event, SAPOL and adjoining building owners / occupiers must be given opportunity to comment on the application. This will be by way of letters sent by Council to all parties.
- Other persons may also have opportunity to comment on the application via any Development Application and / or liquor licensing processes.

### **Risk assessment**

- Council should undertake a risk assessment of the proposed outdoor dining area, with the outcome recorded on the file.

### **Fee**

- The rent payable under a lease or licence over community land is to be negotiated with the applicant.
- The fees payable under a Permit will be calculated against the numbers and kinds of street furniture allowed, and will be of amounts stated in the Fees and Charges Schedule. Such fees are payable annually in advance. If a Permit is voluntarily surrendered during the year, the Chief Executive Officer (or delegate) may approve a *pro rata* refund of the fee paid.

### **Terms and conditions of a Permit**

- A Permit must be on the terms and conditions of the template in Part 12 of this policy, subject to any changes negotiated with the applicant.
- Where changes from the template are agreed, they should appear as “special conditions” (that prevail over usual terms and conditions), without edit to the body of the usual terms and conditions.
- Reasons for agreeing to a special condition either should be obvious from a reading of the special condition, or noted on the file.



### **Period of the Permit**

- A new Permit must have an initial period of 12 months or until the next 30<sup>th</sup> June.
- On or about the end of the initial period, Council must undertake a review and risk assessment of the Operator's operations and, if the review and assessment have satisfactory outcomes, Council may extend the initial period for up to a further 24 months or until the second next 30<sup>th</sup> June.
- When the above renewal period expires, the existing Permit terminates and the Operator needs to make a fresh application for a replacement Permit. A replacement Permit would be subject to the same initial period, review and risk assessment and possibility of extension as for the original Permit.

## **7. GRANTING, RENEWING OR TRANSFERRING A PERMIT**

### **Granting of a Permit**

- An employee holding a sufficient delegation under Council's Delegation Register may issue a Permit.
- More complex applications involving public infrastructure alterations and / or use of public car parking space, must be referred to Council for consideration.
- A Permit must not be granted unless and until:
  - any requisite *Local Government Act 1999* section 221 authorisation to alter the road (by the installation of fixed items on or under the road) has issued (as approved by Council's Manager Infrastructure & Technical Services);
  - any requisite *Development Act 1993* consents are granted;
  - Council is provided a copy of any prior *Liquor Licensing Act 1997* consents that were issued within the last 24 months;
  - Council is provided with evidence of current insurance the Permit would require of the Operator;
  - Council is paid the applicable fee.
- A Permit is not to become effective until the Operator has counter-signed and returned to Council a copy of the Permit.

### **Renewing of a Permit**

- If an Operator desires to extend their Permit, they must apply to Council using the Application Form.
- The Council is unlikely to oppose the renewal of an existing licence that has been previously approved and satisfactorily operated.

### **Transferring a Permit**

- A Permit is not transferable. Any new occupier of the relevant business premises would need to make their own application for a Permit, and pay fees as per Council's Fees and Charges Schedule.
- The Council is unlikely to oppose the transfer of an existing permit that has been previously approved and satisfactorily operated.



## **8. BREACH OF A PERMIT**

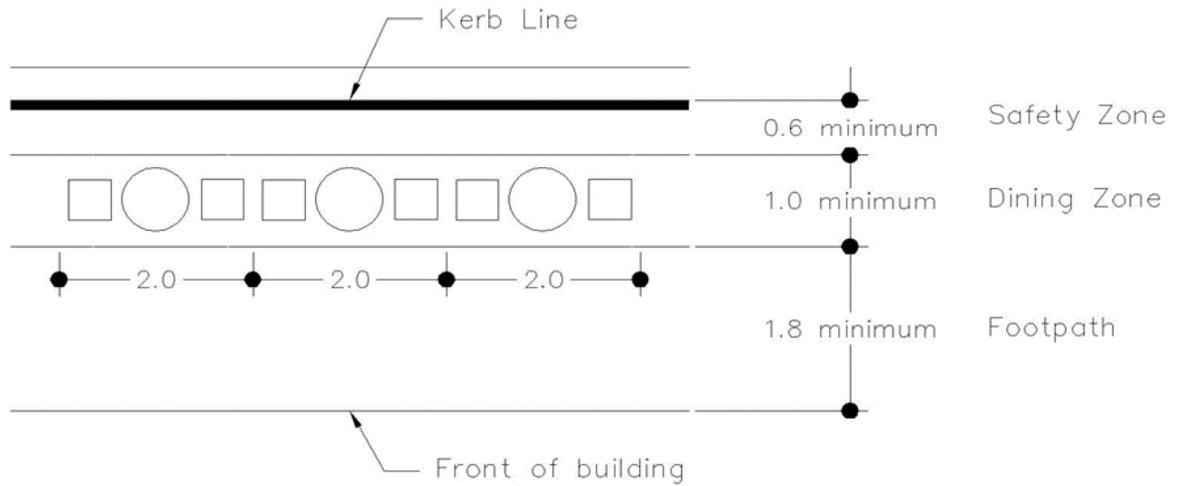
- Authorised Officers of Council will monitor outdoor dining areas.
- Steps to be taken if an Operator breaches a condition of the Permit:
  - 1<sup>st</sup> breach - verbal warning + a notation is made on the Operator's file
  - 2<sup>nd</sup> breach – issue an expiation notice + a letter of warning
  - 3<sup>rd</sup> breach - issue an expiation notice + and a letter advising that Council intends to cancel the Permit upon grounds stated in the letter and that the Operator has a reasonable period (at least 28 days, less if necessary to protect health or safety of the public, or otherwise to protect the public interest), to make representations to Council on why the proposed cancellation should not proceed
  - If within the above period the Operator fails to either:
    - rectify previous breaches to the satisfaction of Council, or
    - take steps to ensure no further breach,issue a letter advising the Permit is cancelled, and that an application for a replacement Permit cannot be made for 3 months.



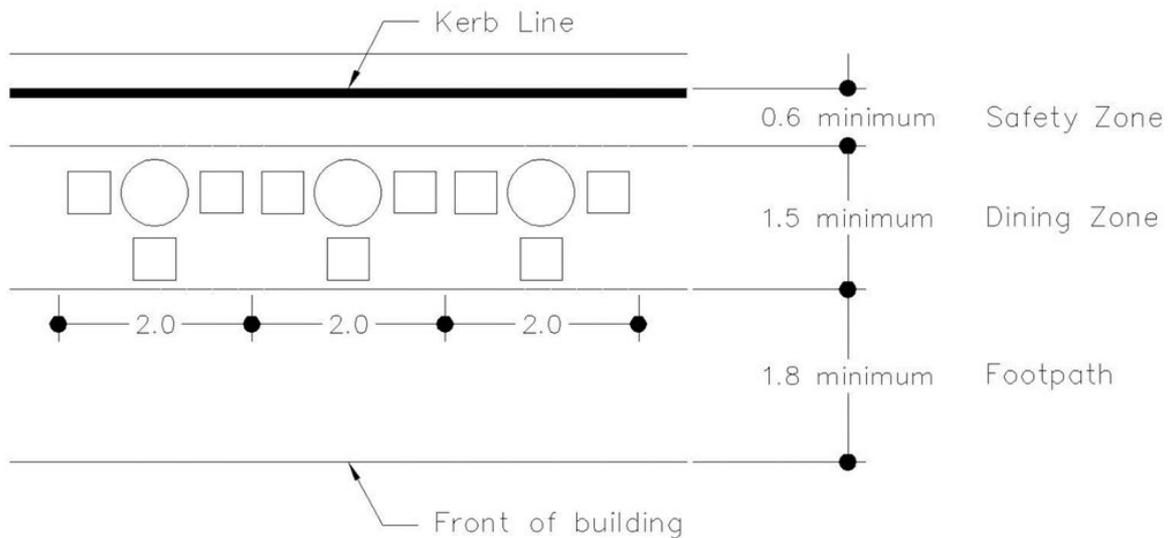
## **Appendix 1 DEFINED AREAS DIAGRAMS**



**Diagram 1** - Indicative layout for furniture with 2 chairs per table. Chairs must not back kerb.

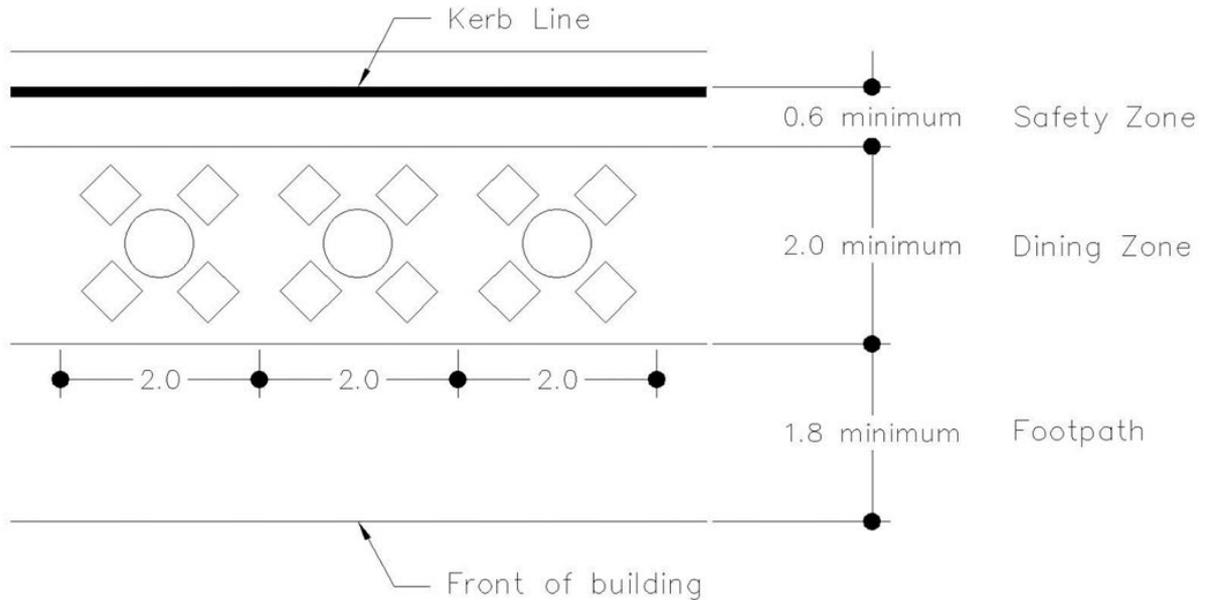


**Diagram 2** - Indicative layout for furniture with 3 chairs per table. Chairs must not back kerb.

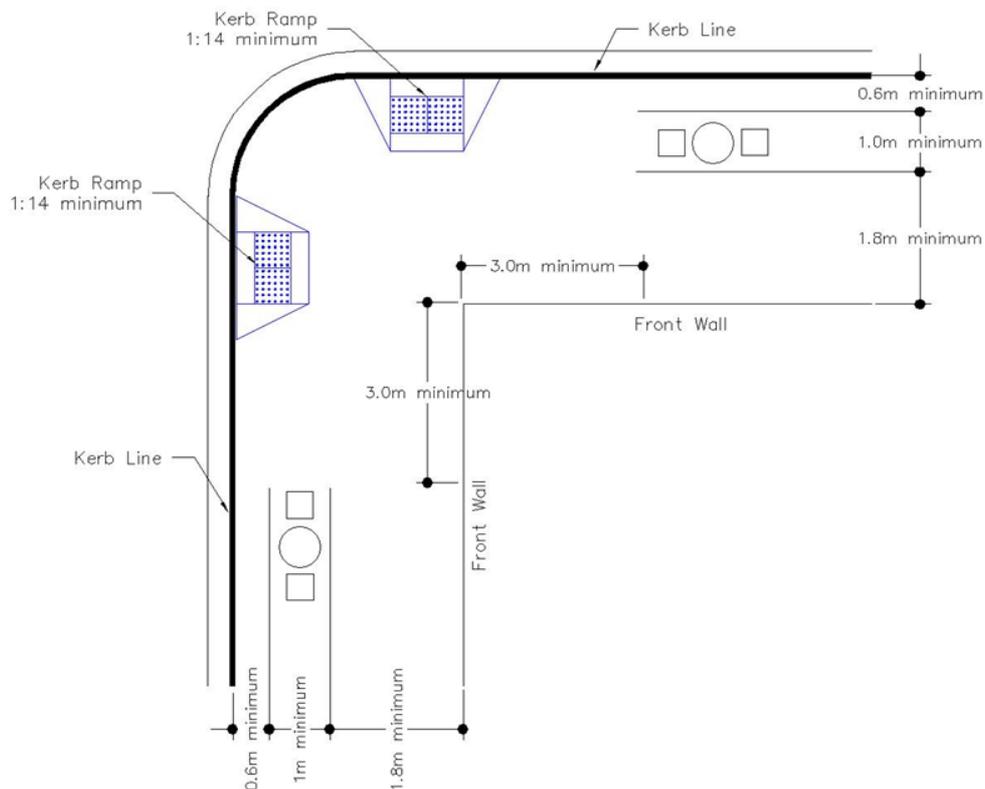




**Diagram 3** - Indicative layout for furniture with 4 chairs per table. Chairs must not back kerb.

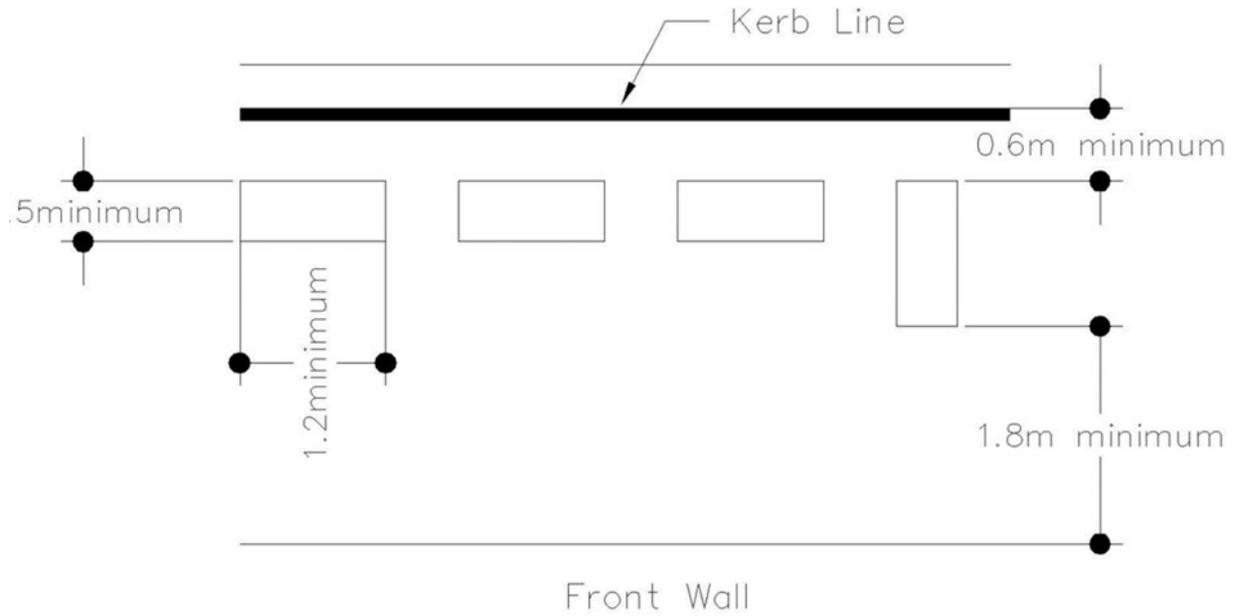


**Diagram 4** - Outdoor dining adjacent to kerb and close to intersection. Chairs must not back kerb.

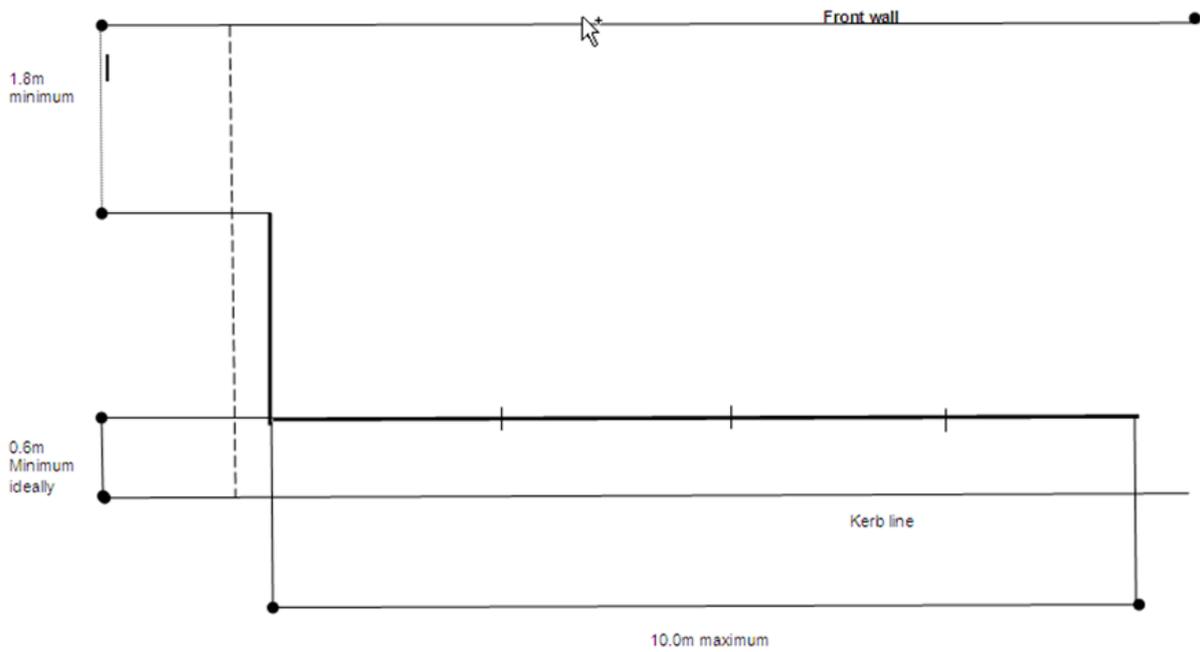




**Diagram 5 - Planter Boxes**

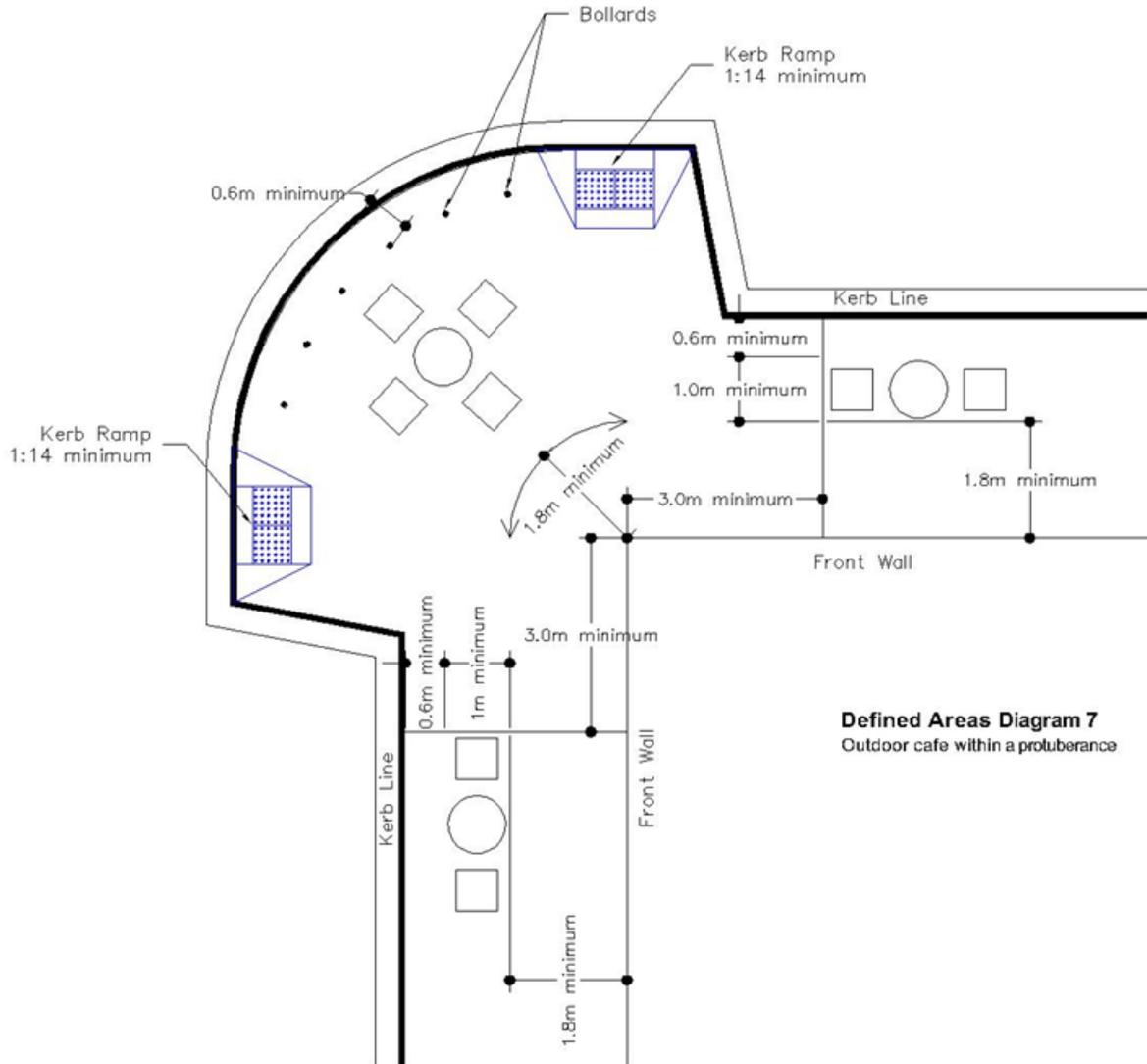


**Diagram 6 - Outdoor dining screens**





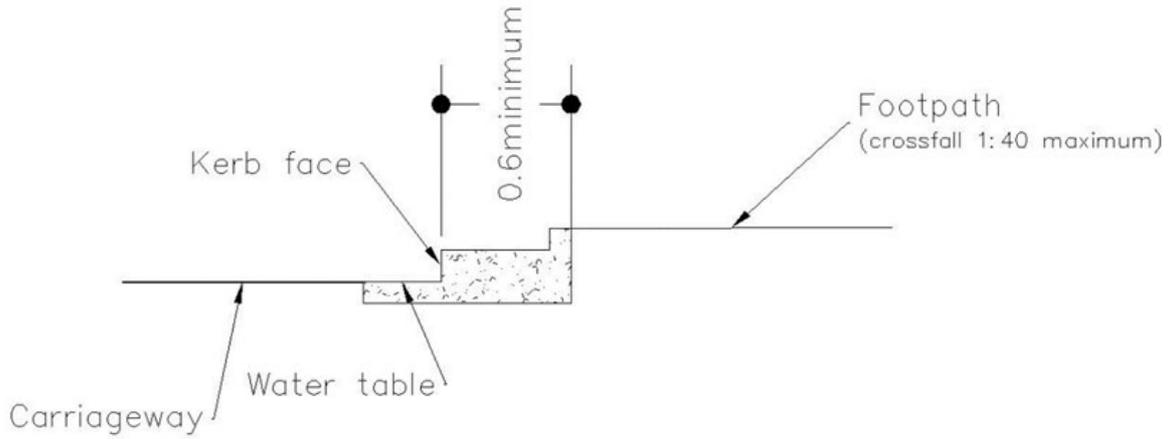
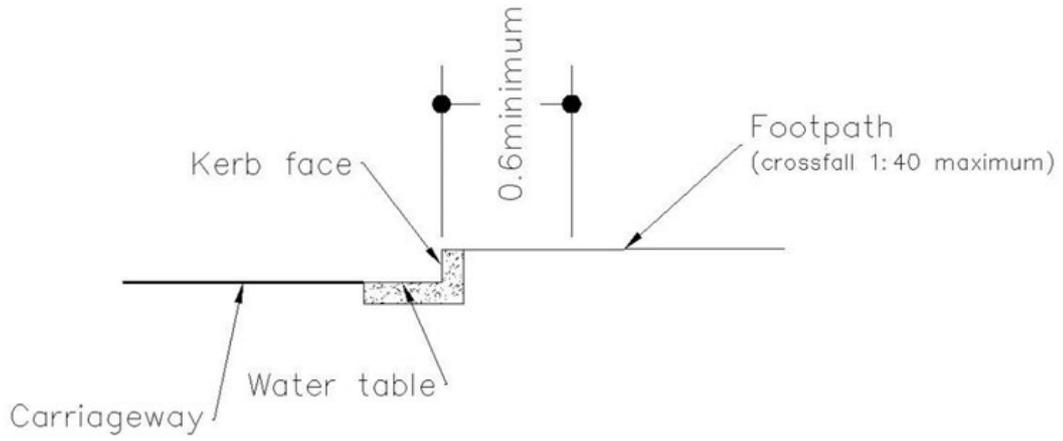
**Diagram 7 - Protuberance**



**Defined Areas Diagram 7**  
Outdoor cafe within a protuberance



**Diagram 8 - Safety Zone**



**Appendix 2**  
**OUTDOOR DINING PERMIT APPLICATION FORM**

## Applicant Details

<b>Business Name:</b>			
<b>Business Address:</b>			
<b>Name of Applicant:</b>			
<b>Applicant Postal Address:</b>			
<b>Phone Number:</b>		<b>Mobile Phone Number:</b>	
<b>Email Contact:</b>		<b>ABN:</b>	

I/we make application to the Rural City of Murray Bridge for an Outdoor Dining Permit pursuant to Section 222 of the Local Government Act, 1999 and in accordance with the information described below:

## Dining Area Details

<b>Defined area location:</b>			
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<b>Defined area:</b>	<b>m x m</b>
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### Proposed working hours:

*(If the Applicant proposes to use the outdoor area with benefit of a liquor licence, please note that the working hours for the Outdoor Permit will not necessarily be the same as for the liquor licence hours for the main indoor dining area - otherwise the proposed working hours are as below.)*

Monday	a.m. to	p.m.	Tuesday	a.m. to	p.m.
Wednesday	a.m. to	p.m.	Thursday	a.m. to	p.m.
Friday	a.m. to	p.m.	Saturday	a.m. to	p.m.
Sunday	a.m. to	p.m.	Public holiday	a.m. to	p.m.

### Proposed street furniture:

<input type="text"/>	Number of Tables (fixed)	<input type="text"/>	Number of Chairs
<input type="text"/>	Number of Tables (moveable)		

Planter boxes	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Number
Umbrellas	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Number
Bollards	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Number
Litter bins	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Number
Awnings / shade structures	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Number

### Details

Fixed safety glass / plastic screen	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Number
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### Details

Gas heaters	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Number
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### Details

Toilets available	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Number
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Other Items	Details		
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<b>Has a liquor licence been approved by Consumer and Business Services?</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not required <input type="checkbox"/>
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<b>Has Development Approval been granted for outdoor dining area infrastructure?</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not required <input type="checkbox"/>
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<b>Has a Food Business Notification Form been submitted to Council?</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
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## Section 2: Declaration

I/We acknowledge that I/We have read and understand the General Conditions as well as the Outdoor Dining Policy and Outdoor Dining Guidance and agree to abide by them.

The application might not be considered until each of following is provided:

<input type="checkbox"/>	Map of the Area (scaled 1:100 minimum), showing the placement of proposed street furniture (fixed or moveable). Should also show; entrance to premises, position of any verandah posts, litter bins or other structures and proposed signage. (Council's <i>Outdoor Dining Policy</i> sets out Council's requirements).
<input type="checkbox"/>	Photographs / pamphlets of each item of proposed street furniture. (Design, size, appearance, colour, other characteristics and placement must conform to Council's requirements.)
<input type="checkbox"/>	Evidence (certificate of currency) the Applicant is insured for: public liability re the Area (at least \$20 million) product / service liability (at least \$5 million) loss / damage of its property upon the Area (full replacement value) worker's compensation for its workers upon the Area (if required by law)
<input type="checkbox"/>	Engineer's report as to the structural soundness of any existing awning, verandah or proposed structure within the Area and over / attached to Council's land.
<input type="checkbox"/>	Detailed plans and specifications prepared by a qualified person for any alteration of a road (or footpath) applied for – including a change to underground services / erecting or installing pipes, wires, cables, fixtures, fittings.
<input type="checkbox"/>	List of plant species proposed to be used in any planter boxes.
<input type="checkbox"/>	Letters of support from adjoining building owners / occupiers.
<input type="checkbox"/>	Any changes to the template form of <i>Permit</i> set out in Council's <i>Outdoor Dining Policy</i> that the Applicant may propose.
<input type="checkbox"/>	Application fee: \$ ..... (If a permit is granted, the annual fee will be calculated against the kinds and number of approved street furniture to be used, and the application fee paid will be set off against the first year's annual fee. The application fee is not refundable if the application is withdrawn or declined. If a permit is granted, a bond is also payable.)

The Applicant applies to Council for a permit to occupy and use the Area as stated in this application. The Applicant also applies for an authorisation to alter a road as may be required. A person signing this Application on behalf of the Applicant warrants they have authority for that purpose.

<b>Name:</b>		<b>Position:</b>	
<b>Signature:</b>		<b>Date:</b>	

## Information for the Applicant

<b>Council's contact:</b>	Contract Manager City Assets - Phone: (08) 8539 1145 Email: <a href="mailto:council@murraybridge.sa.gov.au">council@murraybridge.sa.gov.au</a>
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You need to make separate application to Council (and pay separate fees) for consents under the *Development Act 1993* if either:

- o the use of the Area for outdoor dining would be a change in use under the applicable Development Plan (including intensification of use); or
- o a bollard, planter box, fixed safety screen, fixed umbrella stand, an awning or shade structure, lighting is to be located on the Area, or if utilities services are to be installed; or
- o any 3<sup>rd</sup> party advertising / signage is to be displayed on any proposed street furniture.

If you are to serve or allow consumption of alcohol upon the Area, you need to make separate application to the Liquor and Gambling Commissioner for the grant / extension of the trading area of the requisite liquor licence under the *Liquor Licensing Act 1997* following the grant of the Permit. A copy of that application should be sent to the Council for record keeping purposes. The Council reserves its separate rights under that Act to comment, interfere or object to a licence application on the merits of the application.

This application is subject to the Council's approval and, if relevant, the Applicant obtaining requisite *Development Act 1993 / Licensing Act 1997* consents or approvals in conformity with this application. The Council will not be bound and makes no firm commitment until such time as the *Permit* document is signed by both parties.

If a permit results, you agree to pay for any costs the Council incurs in altering public infrastructure to accommodate your permit.

### Section 3: Office Use Only

<input type="checkbox"/>	A clear 1.8 metres exist for pedestrian circulation along the footpath
<input type="checkbox"/>	The dining area set back at least 0.6 metres from the face of the kerb
<input type="checkbox"/>	The dining area set back at least 3.0 metres from an intersection, unless located on a designated protuberance
<input type="checkbox"/>	Minimum cross fall of footpath 1:40
<input type="checkbox"/>	Proposed layout conforms to policy
<input type="checkbox"/>	Plans & specifications to alter a road approved, and costs agreed with the Applicant
<input type="checkbox"/>	Risk assessment complete and satisfactory
<input type="checkbox"/>	Letter issued to SAPOL
<input type="checkbox"/>	Letters issued to owners / occupiers of adjoining properties
<input type="checkbox"/>	Public consultation not required, or completed
<input type="checkbox"/>	Development Act consents in hand
<input type="checkbox"/>	Acknowledgement that a Liquor Licensing Act licence / extension of trading application will be made - has a letter of support been issued to the successful Applicant?
<input type="checkbox"/>	SAPOL have no objection
<input type="checkbox"/>	Type and quantities of street furniture approved
<input type="checkbox"/>	Evidence of current insurances the Applicant must hold
<input type="checkbox"/>	Annual fee paid
<input type="checkbox"/>	Bond (security) paid
<input type="checkbox"/>	Council's tax invoice issued
<input type="checkbox"/>	Permit signed for the Applicant
<input type="checkbox"/>	Original Permit signed by and held by Council
<input type="checkbox"/>	Copy of the fully signed Permit sent to the Operator



**Appendix 3**  
**REFER TO OUTDOOR DINING PERMIT TEMPLATE (#951007)**



## OUTDOOR DINING AREA PERMIT

Local Government Centre 2 Seventh Street Murray Bridge SA 5253 Phone 08 8539 1100 Fax 08 8532 2766 [council@murraybridge.sa.gov.au](mailto:council@murraybridge.sa.gov.au) [www.murraybridge.sa.gov.au](http://www.murraybridge.sa.gov.au)

Applicant Details			
<b>Business Name:</b>			
<b>Business Address:</b>			
<b>Name of Applicant:</b>			
<b>Applicant Postal Address:</b>			
<b>Phone Number:</b>		<b>Mobile Phone Number:</b>	
<b>Email Contact:</b>		<b>ABN:</b>	
Annual Fee			
Item	Quantity	\$ Rate	\$ Sum
Chairs			
Table (not fixed)			
Table (fixed)			
Canvas/plastic/glass screen			
Awnings			
Other			
<b>Total</b>			\$
minus Application Fee paid			\$
<b>Amount now payable</b>			\$
Dining Area Details			
<b>Capacity:</b>	The maximum number of patrons/customers that will utilize the area will be: <input type="text"/>		
<b>Security:</b>	\$ _____ as cash / irrevocable unconditional bank guarantee		
<b>Period:</b>	Initially / / 20... to / / 20...		
<b>Working hours:</b>	<i>(If the Applicant proposes to trade with benefit of a liquor licence, please note that the working hours for the Outdoor Permit will not necessarily be the same as for the liquor licence hours for the main indoor dining area - otherwise the proposed working hours are as below.)</i>		
Monday	a.m. to	p.m.	Tuesday a.m. to p.m.
Wednesday	a.m. to	p.m.	Thursday a.m. to p.m.
Friday	a.m. to	p.m.	Saturday a.m. to p.m.
Sunday	to	p.m.	Public holiday a.m. to p.m.
<b>Street furniture:</b> (Design, size, appearance, colour, other characteristics and placement must conform to Council's requirements)			
<input type="checkbox"/> Tables (fixed)			<input type="checkbox"/> Tables (moveable)
<input type="checkbox"/> Chairs			<input type="checkbox"/> Planter boxes
<input type="checkbox"/> Umbrellas			<input type="checkbox"/> Bollards
<input type="checkbox"/> Litter bins			<input type="checkbox"/> Awnings / shade structures
<input type="checkbox"/> Fixed safety glass / plastic screen			<input type="checkbox"/> Gas heaters
<input type="checkbox"/> Other Items			
Pre-requisites:			
<input type="checkbox"/>	A copy of this Permit, signed by Council, is returned to the Operator		
<input type="checkbox"/>	Other: _____		



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## OUTDOOR DINING AREA PERMIT

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### Special conditions:

1.	
2.	
3.	

Council permits the Operator to occupy and use the Area as detailed above and subject to the conditions following and the Operator agrees to those conditions

### Signatures:

#### Signed for Council:

Name:	Position:
Signature:	Date:

#### Signed by/for Operator:

Name:	Position:
Signature:	Date:

### Further Information Contact:

**Council's contact:** Contract Manager City of Murray Bridge - Phone: (08) 8539 1145  
Email: [council@murraybridge.sa.gov.au](mailto:council@murraybridge.sa.gov.au)

### General Conditions of Permit:

#### SECTION A - PRELIMINARY

- Pre-requisites:** The permit is not effective unless, and until the stated pre-requisites are satisfied or waived in writing by Council.
- Limitations:** Once effective, the permit is limited to the particulars stated earlier. A variation to any such limitation is at Council's discretion and may require the Operator to make application for a replacement permit.
- Nature of the permit:** The permit is not a lease or tenancy. The area remains a public place and the Operator and the public as a whole have exclusive use of the area.

#### SECTION B - PERIOD

- Initial period:** The initial period of the permit is as stated.
- Extension of the period:** On or about the end of the initial period, Council must undertake a review and risk assessment of the Operator's operations and, if the review and assessment have satisfactory outcomes, Council may extend the initial period for up to a further 24 months or until the second next 30 June.
- Expiry:** When the above renewal period expires, the existing permit terminates and the Operator needs to make a fresh application for a replacement permit. A replacement permit would be subject to the same initial period, review and risk assessment, and possibility of extension as for the original permit.
- Cancellation:** Council may cancel this permit in circumstances *Local Government Act 1999* section 225 allows. In addition, on at least 3 months' notice Council may cancel this permit if Council or utilities providers require access to the area to perform roadwork or other work.

#### SECTION C - ANNUAL FEES

- Payment:** The Operator must pay annual fees to Council.



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- **Initial fee:** The initial annual fee is as stated.
- **Later fees:** On and from each 1 July, the annual fee is as calculated under Council's Fees and Charges Schedule as applicable to the coming financial year and notified to the Operator. A new annual fee is payable in advance and within 30 days after being notified, in exchange for a tax invoice from Council.
- **About fees:** An annual fee is calculated on the kind and number of the Operator's street furniture. A fee paid is not refundable.

### SECTION D – SET UP

- **Inputs:** Council is not obliged to supply any information, materials, plant, equipment or other goods or services for the purposes of the permit. If Council agrees to and does supply any such things, it may recover a reasonable fee.
- **The area must be well defined:** For safety and amenity reasons, the boundaries of the area must be clearly defined by appropriate placement of the street furniture, while allowing for safe pedestrian circulation and access.
- **Layout:** A design, comprising of approved layouts, of the area now attached to, the area must be laid out in conformity with the map. The area must be laid out with at least the clearances and set backs from buildings / kerbs Council policy then requires.

### SECTION E – STREET FURNITURE

- **Supply:** The Operator at its cost must supply and install the stated street furniture & other structures that the Council requires.
- **Ownership:** The Operator remains the owner of the street furniture, including any fixed to or under the area - see *Local Government Act 1999 s 209*.
- **Placement:** Street furniture must remain within the boundaries of the area.
- **Bump out:** All moveable street furniture must be removed from the area at the close of business on each day.
- **Maintenance of street furniture:** All street furniture must be maintained in presentable, clean, safe and good condition. Any graffiti upon street furniture must be covered up or removed promptly.
- **Making good:** Within 5 working days after the end of the permit from any cause (unless extended or renewed), the Operator must remove the street furniture and restore the area to at least the same condition that existed before the Operator (or its predecessor) first occupied the area.

### SECTION F – PLANTS IN PLANTER BOXES

- **Plant species:** Plants in planter boxes must be suitable and of a species that conforms to any requirements of Council.
- **Maintenance of plants:** Plants in planter boxes must be kept presentable, and dead plants promptly removed and replaced with healthy specimens.

### SECTION G – BUSINESS ACTIVITIES UPON THE AREA

- **Serving customers:** Preparation and activities associated with the operation of the area must remain wholly within the area, except when conveying of food, drink, tableware and furniture between the area and the Operator's premises.
- **Kitchenware:** Cutlery, crockery and glassware must be laid out only when a meal is ordered, and be promptly removed when no longer in use.
- **Service delivery:** Food and drinks to be consumed upon the area must be prepared in the Operator's premises and not upon the area. Covered containers must be used between the preparation area and the area, if so required by an Environmental Health Officer of Council.
- **Trolleys:** Trolleys may be used to transport food and drinks between the Operator's premises and the area, but must not remain upon the area for longer than necessary.
- **Smoking:** The Operator may prohibit smoking upon the area. If the Operator allows smoking upon the area, ashtrays must be provided and must be emptied and replaced on a regular basis; ash and cigarette butts must not be allowed to litter the area.



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## OUTDOOR DINING AREA PERMIT

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- **Standards of behaviour:** The Operator must not suffer upon the area any disorderly conduct or a public nuisance.
- **Lighting:** Where dining upon the area occurs outside daylight hours, the Operator must supply adequate lighting for the safety of customers and passers-by.
- **Animals:** Animals must be managed effectively within the area. Dogs must be on a leash at all times. The State Government has exempted dogs in approved outdoor dining areas from *Food Safety Standard* clause 3.2.2, sub-clause 24(1)(b) in dining areas providing the area is not enclosed. Nevertheless, animals must be under the control of their owners and must not cause a nuisance to other diners or passers-by. The Operator may deny an animal entry to sections of the area containing furniture, but may not prevent animals from passing by on the footpath or dogs that are required for persons with impaired vision or hearing (guide dogs). Animals must not be provided with food or permitted to seek and take food anywhere in or near to the area. One water dish may be provided for animals, provided it is on the perimeter of the area and is at least 1 metre away from customers seated at tables.

### SECTION H – CLEANING THE AREA

- **Upkeep:** The Operator must keep the area and adjacent footpath reasonably clean and free of rubbish. Blowers or similar must not be used. Use of a hose may be subject to SA Water restrictions. Where the Operator has supplied a litter bin for use upon the area, the Operator must not allow the bin to attract insects or vermin.
- **Spills:** In particular, any food or sugary drinks falling to the pavement must be cleaned up promptly, as not to present a hazard to customers or passers-by or give rise to unhygienic conditions.
- **Disposal:** Rubbish and sweepings must not be disposed of into the street gutter or into public litter bins, but rather disposed of in the appropriate manner.

### SECTION I – AWNINGS & SHADE STRUCTURES

- **Awnings and shade structures:** A report on these structures should be provided to Council every 5 years from when a permit was first granted for the area (whether or not used by the same Operator). Should remedial work be required, it must not be carried out unless first approved by Council.

### SECTION J – MAINTENANCE OF THE AREA

- **Area maintenance:** The Operator bears the cost of all pavement repairs carried out by Council within the area, which in the opinion of Council have been caused by the activities upon the area. This may include the replacement of jointing material removed from brickwork / paving, in sweeping and washing down of the pavement.
- **Reurbishment of the area:** Upon 21 days' notice (or less, in case of an emergency), Council may require any planters, boxes or fixed screens to be removed so Council can replace, resurface or repave the footpath. The Operator bears the costs of removing, storing and re-installing those items.

### SECTION K – GENERAL OBLIGATIONS

- **Standards of care:** When upon the area, the Operator and its workers must comply with (in descending priority):
  - applicable laws, codes of practice and guidelines including those for OH&S, public health, road safety, protection of the environment;
  - any liquor licence for the area under the *Liquor Licensing Act 1997* held by the Operator;
  - any reasonable directions as may be given by an Authorised Officer of Council – particularly as to food and health-related matters;
  - applicable Australian Standards; and
  - the exercise of reasonable care, skill and diligence.



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- **Reports:** At any time, Council may require the Operator to provide promptly any reasonable information as relates to activities upon the area. On the same day as occurs or, if that is not practicable, on the next working day, the Operator must report to Council:
  - o any injury to an individual upon the area requiring off-site medical treatment;
  - o any loss, damage or defect in property under Council's care, control and management of which the Operator becomes aware;
  - o any Police attendance in response to a complaint;
  - o a material variation, suspension, revocation or expiry of insurance or a 3<sup>rd</sup> party consent, licence, permit or approval the authorisation requires.

### SECTION L – RISK

- **Insurance:** At any time during the permit, if Council so requires within 7 days the Operator must provide to Council evidence of any insurance not provided by the Operator.
- **Indemnity:** As a continuing obligation, the Operator indemnifies Council against any loss, damage, cost or expense incurred by Council in relation to property or persons to the extent caused by the Operator either:
  - o having use of the area;
  - o bringing on or using on the area any materials / plant / equipment;
  - o breaching a condition of this permit; or
  - o being negligent.
 Liability to indemnify reduces proportionally to the extent Council's wilful default or negligence contributed to the loss, damage, or expense.
- **Council's insurance:** If by reason of the Operator's (or its worker's) default or negligence Council claims under insurance held by Council, the Operator bears any excess or deductible for that claim.
- **No duty of care:** If Council gives a consent, approval or direction, accepts any work or inspects anything for the permit:
  - o Council does not have a duty of care to the Operator for that thing; and
  - o the Operator is not to any extent relieved from its obligations to comply with these conditions.

### SECTION M – REMEDIES OF COUNCIL

- **Suspension of activities:** Without liability for Council, if Council has reason to believe work practices upon the area do not comply with these conditions, an Authorised Officer of Council may require operations upon the area to be interrupted or suspended.
- **Step-in right:** In addition to its other remedies, if Council has reason to believe the Operator is in default under these conditions, upon 21 days' notice (or less, in case of an emergency) Council may take steps to rectify the problem and recover the costs from the Operator.
- **Recourse to security:** Council may have recourse to the security for any loss or damage caused by the Operator's breach of a condition, any unpaid fee and / or an amount for which Council is entitled to be indemnified. The Operator's liability is not limited to the security.

### SECTION N – OTHER MATTERS

- **About the permit:** The permit:
  - o is not transferable;
  - o may be surrendered at any time, by so notifying Council;
  - o is revocable by Council as *Local Government Act 1999 s. 225* allows.
 A copy of this permit must be kept upon the Operator's adjoining premises, and upon demand produced to an Authorised Officer of Council.
- **New Operators:** A permit is not transferable, and a new application from any new occupier of the business premises would be required, together with payment of applicable fees. Pending a new permit being issued to a new occupier, the Operator remains liable for the performance of this present permit.



# APPLICATION FOR OUTDOOR DINING AREA PERMIT



## OUTDOOR DINING AREA PERMIT

- **About Council:** Council grants the permit under *Local Government Act 1999 s. 222* and not in any other capacity. The permit does not preclude or pre-empt the exercise by Council of any other regulatory function or power.
- **About the Operator:** If the Operator is more than one person, each of them is bound jointly and also severally. The Operator is liable to Council for anything done or not done by its contractor or worker that if done or not done by the Operator would breach a condition. A person signing this permit for an Operator warrants they have authority for that purpose. The Operator's contact person is taken to have authority to give and receive notices and make decisions for the Operator.
- **Special conditions:** Any stated special conditions prevail over other conditions to the extent of any inconsistency.

**Notes: Local Government Act 1999 makes it an offence for a person:**

- to make an alteration to a public road not authorised by the Council nor acting under some statutory authority (s. 221(1));
- authorised to carry out work on a road not to carry out the work as expeditiously as is practicable in the circumstances (s. 228(a));
- authorised to carry out work on a road not to take action that is reasonably practicable in the circumstances to minimise obstruction of the road and inconvenience to road users (s. 228(b));
- authorised to carry out work on a road not to restore the road to at least the condition that existed immediately before the action was taken (s. 229);
- to use community land for a business purpose unless the use is approved by the Council (s.200(1)); or
- to use a public road for a business purpose unless authorised to do so by a permit (s. 222(1)).

EXAMPLE