



District Council of  
**YANKALILLA**

# **Outdoor Dining on Council Footpaths**

## **Guidelines**



## CONTEXT

### 1.1

Council recognises the vibrancy that outdoor dining and footpath trading can promote within and area and is supportive of businesses wishing to create active street frontages by offering either outdoor dining or footpath trading.

### 1.2 What is Outdoor Dining?

Outdoor dining is defined as the use of a 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 beverages to the public.

Businesses can include restaurants, cafes, bars, hotels, delicatessens and other food and beverage outlets.

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'S OBJECTIVES

### 2.1

The Outdoor Dining Policy and associated Guidelines aim to:

- Provide guidance on the requirements for establishing outdoor dining for businesses within the District Council of Yankalilla area,
- Encourage businesses to activate their shopfronts and expand their business' footprint to support activation and positively contribute to the experience of a place and
- Ensure businesses operate in a manner that maximises the benefit to their business and other traders without compromising safety and convenience for patrons and pedestrians.

## WHEN IS A PERMIT REQUIRED?

### 3.1

If you would like your customers to dine outside on land owned by the Council on the footpath or land owned by the Council, you will need a permit.

Section 222 of the Local Government Act 1999 specifies that a person must not use a public road, including any part of the road reserve such as the footpath area, for business purposes unless authorised to do so by a permit from the Council.

When issuing a permit, Council may impose any appropriate conditions. Such conditions will generally relate to matters referred to in these guidelines and may include works or actions required by the applicant to satisfy public safety and liability considerations.

If the permit or licence is to be used in or occupy any street, road or other public place, the Permit Holder or Licensee must have all other licences, registrations or permits and pay any site fees which may be required under the provisions of any relevant Act, Regulation or By-law.

### 3.2

An Outdoor Dining on a Footpath Permit is not required when trading on privately owned land or within the boundaries of a shopping centre.

## GUIDELINES FOR ESTABLISHMENT AND OPERATION

Outdoor dining applications will be considered on their individual merits and assessed against the following guidelines.

### 4.1 Siting and Layout

The siting and layout of outdoor dining areas are key determining factors when assessing how an application for outdoor dining balances the needs of Council, businesses and the community.

## **Siting:**

Outdoor dining should be located directly outside the business to which the permit relates.

## **Layout - Functional Zones:**

Outdoor dining areas are divided into three main functional zones:

1. Pedestrian Zone
2. Outdoor Dining Zone
3. Kerb Zone

Figures 1 and 2 over the page provide examples of appropriate outdoor dining layouts.

## **Pedestrian Zone:**

The Pedestrian Zone is defined as the footpath area required to be kept clear for pedestrian access, typically located between a building frontage, fence or property boundary and the Footpath Zone.

Pedestrian Zones should have a minimum width of 1.8m to ensure an accessible path of travel for all people, including those with a disability, mobility aids, bicycle or pram.

A risk assessment may be required to identify locations where a Pedestrian Zone of less than 1.8m can be considered, depending on the type of street, traffic volumes, number of pedestrians, existing outdoor dining on footpath, or other site-specific issues.

## **Outdoor Dining Zone:**

The Outdoor Dining Zone refers to the area where outdoor dining is permitted by Council. It defines the zone in which all outdoor dining must be contained, which may include tables, chairs, umbrellas, A-frame signs, planter boxes and screens.

An Outdoor Dining Zone must be made accessible for people with a disability in accordance with the National *Disability Discrimination Act 1992*.

Sufficient space is required around each table or other items to reduce potential congestion, to allow safe mobility and prevent diners or furniture encroaching into the Pedestrian Zone or Kerb Zone.

## **Kerb Zone:**

The Kerb Zone refers to the area located between the outer edge of the roadside kerb and the boundary of the Outdoor Dining Zone. Its purpose is to provide a safe buffer zone to the roadway.

Standard width for the Kerb Zone is 600mm when adjacent to a travel lane or parallel parking area. Increased widths may be required when footpath trading is proposed adjacent to angle parking, loading zones or bus stops.

## **Setback from existing street infrastructure:**

A setback of 1m is required around infrastructure and public amenity items such as a bench, bin, telephone box, post box or bicycle rack.



**Figure 1** – Typical layout



**Figure 2** – Secondary layout

## 4.2 Liquor Licensing

If the Permit Holder wishes to sell and serve liquor in the permit area, he or she is responsible for obtaining the following:

- Consent of Council as the owner of the land and
- A licence under the *Liquor Licensing Act 1997*.

## 4.3 Table service

Table service shall be provided for outdoor dining areas.

The Permit Holder shall ensure that left over food is removed from the Permit Area as soon as practical. Vigilance is mandatory to avoid attracting birds, vermin and insects to the dining area.

## 4.4 Smoking

Smoking is prohibited in any outdoor dining area pursuant to the *Tobacco Product Regulations Act 1997 as amended*.

## 4.5 Maintenance

It is the responsibility of the Permit Holder to keep outdoor furniture items, the outdoor dining area clean, tidy and in good repair at all times.

The Permit Holder is responsible for cleaning the ground surface in the permit area and between the permit area and the shopfront.

If Council is of the opinion that these areas require substantial cleaning, the Permit Holder shall be responsible for steam cleaning the area. No wash water shall be discharged into the street. It is preferable that the area be spot mopped and swept regularly to avoid permanent staining of the ground surface.

The Permit Holder is responsible for the temporary storage and removal of all wastes generated within the permit area. Council street litter bins are not to be used for waste generated at outdoor dining areas.

The Permit Holder shall carry the cost of any damage to council property within the permit area, including replacement of heavily stained, missing or broken pavers which is caused, in the opinion of council, by reason of activities authorised under the permit.

## PERMIT ADMINISTRATION

### 5.2 Application Checklist

An initial Outdoor Dining Permit Application must include the following:

- A completed Outdoor Dining Permit Application Form;
- A plan showing the design and layout of proposed activities;
- A colour photograph of the proposed dining area;
- Certificate of Currency for insurance purposes for a minimum of \$20 million dollars, noting the District Council of Yankalilla as an interested party in respect to outdoor dining;
- A copy of your current Food Business Number, issued in the same name as the applicant for the Outdoor Dining Permit;
- Details of all proposed signage and advertising; and
- Any other further information as required by Council on a case-by-case basis.

Please note that the applicant must be a legal entity (ie. a person or a company). A business name or shop name is not a legal entity and cannot be the permit holder.

It should also be noted that a Development Application may need to be lodged in association with your outdoor dining Permit Application. Contact Council's Planning Staff on 8558 0200 to discuss your intention to provide outdoor dining.

The Planner will advise you whether a Development Approval is required and if so, what the necessary process will involve.

### **5.3 Assessment Process**

All applications will be assessed against the District Council of Yankalilla's Outdoor Dining Guidelines.

If your application is approved, you will be required to agree to the conditions outlined in your permit and once approved you can proceed with using outdoor dining in accordance with the permit conditions.

Please note that applications can take up to six (6) weeks to assess once a completed application has been received. Please take this timeframe into consideration.

### **5.4 Permit Fee**

The amount of fees and charges payable for a permit are as determined by resolution of Council and are set down in the schedule of fees and charges.

### **5.5 Permit Term**

The first permit period will expire on 30 June each year. Subsequent permits will be issued on an annual basis for the period 1 July to 30 June of the following year.

The permit applies for the period specified.

Minimal information is required after the first application unless the applicant proposes changes to the layout of the permit area.

### **5.6 Public Risk Insurance**

The Permit Holder is required to take out and hold a public risk insurance policy.

The policy must insure for the amount of not less than \$20,000,000 (twenty million dollars) and must cover injury, loss or damage arising out of the activity carried out under the permit or the granting of the permit by Council.

### **5.7 Enforcement of Conditions**

A Permit Holder shall comply with all conditions of the permit.

The permit shall be subject to inspections by officers of council to determine that the conditions of the Permit are being satisfied. A Permit Holder is required to comply with any direction provided by such an officer.

A person to whom a permit has been issued, shall produce such permit for inspection by an authorised officer of council upon demand, at any time during which the permit is valid.

Any breach of the conditions of the permit may result in further action by council, including revocation of the permit.

### **5.8 Cancellation**

Repeated breaches of the permit are likely to result in the cancellation of the permit, without refund.

### **5.9 Change of Business Owner**

Council issues the permit to the business operator, not to the business premises.

In the event that the business changes ownership, the new business operator must apply for a permit.

In relation to a Development Approval however, approvals remain with the land, rather than the business owner.

## **MORE INFORMATION**

For more information please contact Council on (08) 8558 0200 or via email at [council@yankalilla.sa.gov.au](mailto:council@yankalilla.sa.gov.au)