



Outdoor Eating Permits Guidelines

Version: FINAL - OCM 28 May 2020

Contents

Introduction	3
Objectives	3
Who do the Guidelines apply to?	3
Sanitary Provisions	3
What is the application process?	4
Submission Process	4
Are there any fees payable?	4
Permit Duration	4
Conditions on Permit	4
Cancellation of Permit	4
Change of Ownership	5
Compliance and Enforcement	5
Definitions	6
Creating inviting public spaces	7
Public Access and Movement	7
Creating street character and identity	7
Taking advantage of our climate	7
Connections	7
Determining the Layout of Outdoor Eating Area	8
Outdoor dining areas outside the boundary of the permit holder’s frontage.	8
Width of thoroughfares	8
Setbacks from streets and intersections	8
Street Tree Setbacks	8
Size of area	9
Determining the Design of an Outdoor Eating Area	9
Furniture and Fixtures	9
Planter Boxes	9
Delineation Markers	9
Advertising	9
Umbrellas	10
Permanent Structures	10
Maintaining the Outdoor Eating Area	10
Decommissioning of an Outdoor Dining Area	11

Introduction

The Shire of Exmouth supports the use of suitable public spaces for the community to utilise as outdoor dining areas.

Outdoor dining creates vibrancy and encourages community connections. The climate in Exmouth is suited for the outdoor dining experience and the Shire encourages businesses to establish high quality outdoor dining areas.

Quality dining areas would:

- ☐ Contribute to the vibrancy of streets and other public places.
- ☐ Create diverse street activity.
- ☐ Attract residents, visitors and tourists to relax and spend time in the area.
- ☐ Supports local businesses by increasing trading opportunities for cafes, restaurants and bars.

These Guidelines are set under the Shire of Exmouth's Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law and Policy 6.8 Advertising Signage, Town Centre Public Space and Outdoor Eating Permits.

Objectives

The objective of these guidelines is to assist food businesses to create and manage quality outdoor dining areas without impacting on public safety or access.

To achieve the above the Guidelines will give due regard to:

- The Shire of Exmouth's Disability Access and Inclusion Plan July 2015.
- The Shire of Exmouth's Strategic Community Plan – Exmouth 2030.
- ☐ Creating vibrancy and enhancing amenity through high quality outdoor dining areas.
- ☐ Local Laws and associated Australian Standards applicable to outdoor dining areas.

Who do the Guidelines apply to?

The guidelines apply to:

- ☐ Outdoor dining areas on public land and Shire owned and leased land.
- ☐ Existing food businesses that have an outdoor eating permit.
- ☐ New applicants for outdoor dining permits.

Sanitary Provisions

The Shire of Exmouth is willing to take into consideration nearby public toilets when looking at seating numbers in the outdoor eating area. This will be assessed on a case by case basis and will depend on the distance and quantity of toilets available.

Internal eating/dining areas are limited to 20 or less people if there is no access to adequate toilet facilities. Likewise, the consumption of alcohol on outdoor eating areas will need to meet the requirements of Liquor Licencing.

What is the application process?

To apply for an outdoor eating permit, you will need to submit HealthOD001 Outdoor Eating Permit Application and have Public Liability Insurance for not less than \$20 million.

Prior to making the application you will need to ensure:

1. You are a registered food business with the Shire of Exmouth.
2. Have a tenancy fronting the public place where the outdoor dining will be situated.
3. Have clear and unobstructed access and views of the area.

Submission Process

Please follow the following steps to submit your application:

1. Choose an appropriate site based on the parameters identified above.
2. Prepare site plans. Site plans can be hand drawn on graph paper but need to be neat and legible.
3. Submit application with payment of the application fee. When you submit your application please ensure it is accompanied by:
 - Copy of the Certificate of Currency for the Public Liability Insurance.
 - A scaled plan showing the position of tables, chairs and structures.
 - A scaled plan specifying the proposed eating facility and the area incorporated within 10 metres beyond the boundary of the proposed eating area. Identify the location of all carriageways, footpaths, public facilities, public places, streets and street alignments.
 - Coloured photographs of the tables, chairs and other structures intended to be used.
4. The Shire will assess the application and contact the applicant if additional

information is required. Please note an application can take up 3 weeks to process.

5. A permit will be issued. It is the responsibility of the applicant to ensure the permit conditions are complied with.

Each application will be assessed on a case-by-case basis.

Are there any fees payable?

There are fees applicable when applying for a permit, transferring or reviewing a permit and with the usage of the permit area. The fees are set by Council and can be found at <https://www.exmouth.wa.gov.au/documents/budget-fees-and-charges>.

The fees are set to recover the costs associated with the use of public toilets, private usage of local government property and staff time.

Annual usage fees are pro rata from the 30 September each year. Failure to pay any relevant fee will result in the permit being cancelled.

Permit Duration

Permits are valid for three (3) years with an annual usage fee invoiced and payable by September.

Conditions on Permit

The Shire may impose conditions on the permit where necessary. The conditions will be based on the requirements of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

Cancellation of Permit

Cancellation of an Outdoor Eating Permit by the permit holder will need to be via written notice. Once received the Shire will process the cancellation within 14 days.

Any fees paid in respect to the cancelled permit will be considered forfeited.

Change of Ownership

Change of ownership can be notified in writing. Once received the Shire will process the change of ownership and issue a new permit.

An approval for transfer of ownership does not involve the refund of fees from the Shire that have been paid by the former permit holder.

Compliance and Enforcement

Outdoor eating facilities are governed by the Shire of Exmouth's Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law, a copy of which can be viewed here <https://www.exmouth.wa.gov.au/documents/47/trading-in-thoroughfares-local-law>.

Failure to comply with the conditions of the permit, policy or Local Law will result in enforcement action.

The first initial response taken by the Shire will be a notice served on the permit holder advising them of what needs to be addressed and by when. Failure to abide by the notice may result in a fine and or the works being completed by the Shire at a cost to the permit holder. Major and repeated offences will result in the permit being cancelled.

Definitions

Applicant

The business or representative of a registered food business formally applying to operate an outdoor dining area in a public place, within the Shire of Exmouth.

Outdoor Eating Area Permit

A permit, approved by the Shire that allow the operation of an outdoor dining area in a public place within the municipality.

Permit Holder

The business or representative of the business that holds an outdoor eating area permit.

Development Application

A Development Application (DA) is a formal request for approval to change the use of a premises from one activity or land use to another. This is a separate application and approval process to the outdoor dining application.

Non-fixed items

Furniture and items that can be easily and quickly removed from the outdoor dining area are considered non-fixed. This includes tables and chairs.

Semi-fixed items

Furniture and items that are permanently fixed in the street and not easily removeable at short notice or at the end of trading each day. This includes glass screens.

Fixed items

Furniture and items that are permanently fixed in the street and not easily removeable at short notice or at the end of trading each day.

Registered Food Business

A food business registered under the Food Act 2008.

Delineation Markers

Small flat disks fastened to the outer edge of the outdoor eating permit area, identifying the boundary of the eating area.

Public Place

A public place is defined by the Shire of Exmouth's Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law as any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include –

- (a) Premises on private property from which trading is lawfully conducted under a written law;
- (b) Local government property;

Creating inviting public spaces

One of the key considerations is the creation of vibrant and accessible areas, the Shire of Exmouth feels the following design principles are key to outdoor eating areas:

Public Access and Movement

Allowing for uninterrupted paths of travel that are accessible to all users regardless of ability. The crowding of thoroughfares with items and obstacles should be avoided, ensuring the area is visually easy to understand and negotiate



Creating street character and identity

Outdoor eating areas can enhance the character of the area and provide a drawcard for the community and visitors to the area. This can be achieved by using art, colour and unique furniture, enhancing the area while meeting the requirements of the Guidelines.

Taking advantage of our climate

Whether taking advantage of the sunshine or providing a cool shady place for patrons to dine, Exmouth is fortunate enough to experience a climate highly suited to outdoor dining.



Connections

Creating a space where the community and visitors can connect, in a relaxed and welcoming setting. Providing an atmosphere that welcomes impromptu catch ups allowing people to slow down relax and linger.

Determining the Layout of Outdoor Eating Area

Outdoor eating areas need to be positioned to enhance the public space and not impede the flow of people. The Shire of Exmouth will determine the appropriateness with respect to the location for all outdoor eating area permit applications. It is important to recognise that not all locations are suitable for setting up an outdoor eating area.

Outdoor dining areas outside the boundary of the permit holder's frontage.

Applicants may apply for their outdoor eating permit to extend beyond their building frontage to a single adjacent neighbour.

The applicant must provide written permission from the business owner and building owner of the neighbouring premises and include it in their application. The written permission must include an acknowledgement that the extension of outdoor eating in front of the neighbouring premises will result in the area no longer being available for their use during outdoor dining trading hours.

If permission is withdrawn by the neighbouring building owner or business owner (current or future), the outdoor dining area must be removed. The permit holder must submit a revised outdoor dining area plan and withdrawal letter as part of this process.

Any liability issues which may arise and that are associated with the extended outdoor dining area are the responsibility of the permit holder.

Width of thoroughfares

A minimum of 1.8m clear area for pedestrian circulation is required for thoroughfares. The Shire of Exmouth reserves the right to vary the width to accommodate areas with heavy foot traffic.

Chairs can't be placed alongside thoroughfares if only the minimum width is met.

If an outdoor dining permit area has greater than 8m of continuous outdoor eating area or if the adjacent business also has an outdoor eating area that results in a combined distance greater than 8m a minimum 1.8m clear access way equally divided between the two areas will need to be provided to allow movement between the two areas.

An outdoor eating area located against buildings will need a minimum of 1.2m clearance for the principal pedestrian entrance of the building.

Setbacks from streets and intersections

A setback of 600mm is required from the front face of kerb to the outdoor dining area or pedestrian clearance. This will provide appropriate distance from vehicles using kerbside parking.

To ensure clear visibility is maintained at intersections a cleared area set from a 45° angle from the corner of the building to the kerb. In addition to this outdoor eating area furniture within 20m of the building corner may be no greater than 1100mm high and all barriers shall be visually permeable.

Outdoor eating permits are not permitted adjacent to disabled accessible parking.

Street Tree Setbacks

Street trees provide valuable shade and help to enhance public places. Any existing trees should be integrated into the outdoor eating area where possible.

No street trees can be relocated, trimmed or pruned, or modified in any way. A 500mm clearance from the outer edge of any tree trunk and outdoor eating area should always be maintained to protect the trunk and root system.

The Shire may require amendments to existing outdoor eating areas that conflict with new street trees planted.

Size of area

The size of the area needs to allow for a minimum of 1m² per person of available space.

Any large tables or structures may reduce the available area and decrease the quantity of people.

Determining the Design of an Outdoor Eating Area

The outdoor eating area should reflect the character of the area and complement the existing street environment. Existing infrastructure and landscaping should be integrated into the space where possible.

Furniture and Fixtures

The design of the furniture used for the outdoor eating area activity should be in keeping with the style and character of the host building and reflect the interior image of the business.

- ❓ Moveable items such as small pot plants or structures are not permitted as they can create obstructions of clear pedestrian pathways.
- ❓ Furniture should be consistent in type and style throughout the dining area and be easily cleaned and maintained.
- ❓ The Shire encourages businesses to select furniture and other items that are accessible for people of all sizes and abilities.
- ❓ Cheap moulded plastic chairs/tables and stools are not permitted.
- ❓ Tables and chairs should be portable so they can be moved or retracted from the outdoor eating area at the end of each trading day.
- ❓ All furniture and fixtures need to be maintained to ensure they are in a good condition safe for patrons to use.
- White table – tops and white chairs are not permitted in outdoor eating areas adjacent to public roads due to the possibility of glare.

Planter Boxes

Planter boxes can be used but are incorporated into the outdoor eating permit area. For example, the outside edge of a planter box must be within the outside edge of the permit area.

The planter boxes must be of durable material with no sharp corners or edges. The structural strength of planter boxes must be adequate to withstand vandalism and impact from pedestrians.

The plant species chosen must be hardy, low maintenance, non-flowering and reflect the character of the street. Any dead plants must be removed and replaced immediately.

Subsurface irrigation or wicking beds must be used. Overflow must not discharge into stormwater drainage, stain pavement or cause a safety hazard to pedestrians.

Delineation Markers

Delineation markers are little round discs placed onto the ground and are used to identify the permit area. The Shire will install delineation markers on all outdoor eating permits at the applicant's expense.

Advertising

Advertising should be kept to a minimum. The Shire doesn't support an excess of advertising in outdoor dining areas as it privatises the public space and adds visual clutter.

Advertising on furniture and structure may only bear the name of the associated establishment and/or the name of a commercial product sold within the premises. The total area must not exceed 10% of the area of furniture.

No alcohol or tobacco advertising is permitted within the permit area, this includes product pictures.

No A-frame signs are to be used in the permit area. A frame signs should be placed adjacent to the door, against the exterior wall of the shop.

Umbrellas

Market style umbrellas are encouraged for shade and shelter. A minimum height of 2.1m from ground level is required for umbrellas which must be fixed securely in place. Fixing mechanisms or footings must be designed to allow the reinstatement of the pavement following removal of the umbrella.

On extremely windy days umbrellas must remain removed or closed.

Umbrella canopy edges may extend a maximum of 300mm outside the allocated outdoor eating area on the side facing the footpath (except where adjacent to the kerb).

Permanent Structures

Permanent structures such as gazebos and shade structures will be considered depending on available space and style. They will only be considered in areas where shelter doesn't already exist.

The following principles apply to permanent structures:

- ❑ Structures must be of high-quality design, contemporary style, lightweight, and comprise of materials and finishes that reinforce the streetscape. Highly reflective surfaces are not permitted.
- ❑ A minimum vertical clearance of 2.5m above the ground and a maximum height of 3.5m, unless otherwise approved by Council.
- ❑ Posts and other elements must not obstruct pedestrian movement or the sight lines of motorists.

- ❑ Stormwater must be collected and discharged to the street water table to the satisfaction of Council.
- ❑ Structures must always be maintained in safe and good condition; and
- ❑ All structures will need building approval and be built to withstand cyclonic conditions.

Maintaining the Outdoor Eating Area

The outdoor eating area needs to be maintained in a clean, safe and tidy state always.

Exmouth is home to a wonderful array of bird life. Tables should be monitored and checked on a regular basis to ensure no remaining food is scavenged upon. The Shire recommends placing signage on tables advising patrons to not feed the birds.

Damaged, discoloured or weathered furniture must be replaced at the permits holder's expense.

The permit holder shall ensure that the area is kept clean and tidy. The permit holder is responsible for disposal of litter and cleaning of the permit area.

No debris or litter should be swept into the street gutter and or subsequently washed down the stormwater drainage system.

Decommissioning of an Outdoor Dining Area

In the event of the permit being cancelled or no longer required, the permit holder is responsible for:

- ② Fixing any damage and restoring the area to the satisfaction of the Shire of Exmouth.
- ② Removing any bolts or studs protruding from the pavement area and repairing the pavement to the same specifications as the surrounding paved area.
- ② Leaving the pavement in a clean condition.
- ② All replacement costs.

Failure to complete the above within 14 days of the permit ceasing will result in the Shire of Exmouth carrying out the works at the permit holder's expense.