

Outdoor Eating Facilities on Public Places Policy

The Town of Bassendean's Vision 2030 guiding principles recognise that the ability to sit outdoors and enjoy the ambiance of the Town, the activities and people are important in maintaining the village atmosphere and encouraging a cohesive vibrant streetscape.

Creating dynamic street frontages with well planned and maintained outdoor eating areas adds to the amenity of the Town and urban life in general and provides a link between businesses and pedestrians and encourages active street life beyond normal trading hours.

Objective

The Town of Bassendean's objectives for the Outdoor Eating Facilities on Public Places policy are:

- Encourage the establishment of outdoor dining on public footpaths and the public domain area located adjacent to restaurants/ eating house;
- To enrich the pedestrian experience and present an open, inviting image which complies with the Disability Discrimination Act in providing an environment that is safe and accommodating for all pedestrians;
- To create an attractive, cohesive and vibrant streetscape that provides the community with high quality outdoor eating facilities; and
- To ensure compliance with the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law, Building Code of Australia (BCA) 2007 and the Health (Food & Hygiene) Regulation 1993 relating to Outdoor Eating.

Strategy

The Town of Bassendean strives to achieve these objectives by:

Approval requirements

A permit for an outdoor eating area shall be approved only where the proposal is part of an application to establish an eating house within an adjacent building, or is

proposed as an extension of an existing eating house already operating within an adjacent building.

For existing outdoor eating facilities, the Town of Bassendean will allow a 6-month grace period from the date of adopting this Policy to allow proprietors to submit an application for a permit and comply with requirements of the policy.

Application for a Permit

An application should be accompanied by:

1. A completed Town of Bassendean application form;
2. Photographs, drawings or manufacturer's brochures fully describing the appearance and dimensions of all (maximum) proposed commercial standard tables, chairs, umbrellas, menu board, planter boxes and any other furniture related to the proposal including their relationship to the building in which the eating house is located;
3. The applicant is to ensure that the submitted application complies with the requirements of this policy;
4. **Details of the location and extent of advertising**
5. The applicant is to indicate whether it is intended to serve alcohol to patrons at the tables proposed in the outdoor area; and

Conditions

An outdoor eating proposal may be supported in principle, with the following conditions:

Furniture

- Outdoor commercial standard furniture shall be approved by the (FIAA) Furnishing Industry Association of Australia or meet relevant Australian Standard;
- All commercial standard furniture shall meet Occupational Health & Safety requirements, be visually attractive taking into consideration style, colour and materials requirements;
- Furniture materials selected shall be rust proof, practical, serviceable and to assist the visually impaired have a 30% contrast between furniture and paving;
- Table and chair designs shall be complimentary and manufactured from steel framed (rust proof) table legs and chairs with ultraviolet (UV) light stabilized polypropylene /resin, UV stabilized synthetic wicker or UV protected timber for the table tops and seat area or similar may shall be permitted;
- The use of plastic tables & "monoblock" chairs made entirely of plastic shall not be permitted;

- All furniture shall be supplied and be maintained to a high standards by the permit holder;
- All out door eating facilities shall be of a movable nature, not be fixed to the public footpath paving material and shall be removed from the public footpath area in accordance to the specified time frames, unless otherwise approved. If specifically requested by the applicant, or where positive benefits to the public and the Council can be seen, then fixing may be considered but only subject to detailed conditions on the method of fixing and, the costs of any subsequent removal and restoration being borne by the permit holder;
- Furniture shall be stackable to allow for easy storage at the end of each days trading. Off-street storage is required for all furniture outside of operating hours;
- Where the use of a heating device is proposed, details of the type, location and design must be included in the application. Heating devices must comply to the relevant Australian Standard and shall turn off automatically if turned over turned, to prevent injury to patrons and property;
- Where the use of a menu board is proposed the location, size, design and colour must be included in the application. The menu board may be internally illuminated to display a menu sheet of maximum size 420mmx 890mm;
- To evoke a high quality outdoor eating ambiance in the evenings, the permit holders are encouraged to provide table cloths.

Lighting

Should the outdoor eating area operate in the evenings, lighting shall be provided to the dinning tables by candle light in a transparent/ frosted candle holder or by an approved electrical lighting plan.

Any electric lighting is only to be erected after written approval from the Town has been provided. The applicant is to provide detail electrical drawings provided by a qualified electrician and meet Western Power safety requirements. Light fixtures selected are to create a soft lighting ambiance and the light spill is to be controlled within the eating area for the safety and amenity of adjoining business, patrons and the public. Architecturally appropriate lighting fixtures should be of a style, finish and character appropriate to the architecture of a building or the light fixtures are to be located in a position that is visually non intrusive.

Shade protection

Outdoor dining should enrich the pedestrian experience and public alike and therefore adequate protection from the elements should be provided ensuring that the streetscape is open, attractive, inviting and easily accessible by the public.

- “Market” style umbrellas may be provided if tables and chairs are to be placed in unshaded areas to provide adequate protection for patrons;
- The “market” style umbrellas should have a minimum height of 2.0 metres from the lowest point of the canopy;
- Umbrellas shall be maintained to a high standard and securely anchored in accordance to the Australian Standards AS1170 (wind loads) and / or manufactures recommendations to ensure public safety;
- Umbrellas shall be closed or removed from the outdoor eating area when not in use and shall be removed during extremely windy conditions;
- The complete enclosure of the outdoor area and umbrella side curtains are not permitted.

Planter Boxes

- Planter boxes may be considered in the public domain areas or widened footpaths;
- The physical appearance of planter boxes including colours and construction materials shall compliment the streetscape;
- Planter boxes shall not be within 6 metres of an intersection and be strictly within the bounds of the permit area;
- Planter boxes shall be in the order of 450 millimetres high by 450 millimetres wide and 1200 millimetres long to ensure they are of an appropriate scale in relation to other elements of the street, and to ensure visibility to the pedestrian;
- Planter boxes shall be a distance of 1000mm from the edge of the road kerb, and shall be a minimum of 1000mm between each planter box or other structures to maximize access for pedestrians;
- Plant material used in the planter boxes may be at the discretion of the permit holder but shall be suitable for the public domain and maintained below 750mm above ground level to prevent screening of pedestrians and to ensure visibility for motorists when reversing or alighting from vehicles;
- Planter boxes should be designed to ensure that water discharge does not create a hazard for pedestrians or stain the pavement;
- Any damage to footpath, verge, or other street furniture caused by the planter box or its movement shall be the responsibility of the permit holder; and
- Notwithstanding the granting of approval, the Town reserves the right to remove the planter boxes at any time, and applicants should ensure that the

Town is indemnified against all claims resulting from the installation of planter boxes.

Pedestrian Access

The establishment of an outdoor eating area should not require extension of the existing footpath, unless this can be done without unduly affecting the prevailing form of the street or prejudicing its proper use as a traffic route and, without involving the loss of kerbside parking or loading zones. Where a footpath can be widened and it does not negatively impact on the safe movement of traffic and / or pedestrians, permission may be granted at full cost to the applicant and materials used shall be to Council's satisfaction.

- Outdoor eating will only be permitted in those areas where there is sufficient width of footpath to permit adequate space for the volume of pedestrians and where such an operation will not present a hazard or nuisance to public (see Attachment 1 for typical outdoor dining layout).
- In considering application for an outdoor dining permit, the location of adjacent street furniture shall form part of the assessment process and these details are to be included on the plans provided.
- Any outdoor eating area should not obstruct pedestrian movement. A minimum clear footpath width of 1800mm should be provided at all times ensuring light poles, parking and street signs and street furniture are not obstructing the free movement of pedestrians;
- No table, chair, umbrella or planter box shall be permitted to be located within 1000mm from a road kerb alignment;
- Adequate space (approx 1000sq mm) shall be provided around furniture to ensure that patrons and waiting staff can move comfortably within the permit area;
- All furniture shall be kept strictly within the bounds of the outdoor eating area;
- The outdoor eating area should not obstruct sight lines for either vehicles or pedestrians, both at road junctions and vehicle access crossovers.
- The establishment and use of outdoor eating areas should not conflict with or inconvenience other retail and commercial activities, or obstruct the views of, or access to, adjacent properties. Where the Town believes that such problems may arise, it may consult with the owners and/or occupiers of the affected premises before reaching a decision on the application.
- The approved permit area will be marked out with pavement identification plates installed by Council officers at the corner boundaries of the outdoor eating area. (see Attachment 1 for typical outdoor dining area identification plates). The permit holder is to adhere to the requirements and ensure that the outdoor operations are strictly contained within the approved permit area as defined by the pavement identification plates.

Cleaning and Maintenance

- The permit holder shall ensure that area is kept clean and tidy at all times. The permit holder is responsible for disposal of litter and cleaning of the footpath. The permit holder shall regularly high pressure steam clean the pavement area to the satisfaction of the Chief Executive Officer or the delegated representative.
- The permit holder shall ensure that no debris or litter is swept into the street gutter and or subsequently washed down the stormwater drainage system. No detergents and cleaning agents shall be washed into the street gutter or drainage system.
- Graffiti that may be applied to furniture/ planters boxes within the permit area is to be removed by the permit holder as soon as practicable. No detergents and cleaning agents shall be washed into the street gutter or drainage system.
- The permit holder is responsible for the maintenance of the permit area and shall maintain a high standard of presentation for all outdoor dining furniture and fittings. The permit holder shall effect any necessary repairs in a timely manner, or as directed by Council. Failure to comply with a direction by Council shall result in the permit being cancelled.

Insurance

- The proprietor shall hold a current Public Liability Insurance Policy to the amount of \$10 million, which specifically indemnifies the interests of Council against any damage that may arise out of the outdoor dining activity. Such cover can be varied at the discretion of Council and the licensee permit holder will provide proof of renewals. Council shall be advised directly by the Insurance Company of the Policy and any changes to that Policy, a copy of which is required to be kept at Council.
- Failure to comply at any time in providing the Public Liability Insurance policy or complying with the outdoor dining conditions may, result in the revocation of the permit.
- **Advertising**
 - Council encourages innovation in design, however, the opportunity of footpath trading should not be used as a basis for creating increased advertising space
 - Operators may feature the name of their business premises or relevant product names on umbrellas.
 - Details of any proposed signage on umbrellas must be submitted with applications.

Other Uses

- No music or amusement machines will be permitted without the approval of Council within the permit area.
- Any additional furniture or features shall be complimentary to the streetscape of the area and shall be constructed and maintained to a high standards

Health Requirements

- The increased patronage associated with outdoor eating facilities, applicants are required to provide toilet facilities to all patrons in accordance with the Building Code of Australia and the Health (Food Hygiene) Regulations 1993 and these will only be approved where the kitchen is 25% or more of the combined kitchen and dining area of the associated Food Premises.

Service of Alcohol

The Liquor Licensing Division of the Office of Racing and Gaming does not require a permit holder to submit an application for “Bring Your Own” (BYO) alcohol. Other service requirements do apply and the permit holder is to ensure compliance to the Liquor Licensing Division requirements.

An Outdoor Eating proposal incorporating the sale of alcohol or modification of an existing license to incorporate alcohol shall include the following conditions:

- The service of alcohol shall not commence unless the relevant approval has been obtained from the Liquor Licensing Division of the Office of Racing and Gaming.
- The Service of alcohol shall not commence until the applicant has been issued with Section 39 and Section 40 Certificates of the Liquor Control Act 1988, from Council.
- The hours of sale of alcohol shall not exceed the licensed hours of the establishment; the subject of the Trading Permit.
- Alcohol shall only be consumed from the chairs and tables where patrons are served food at the establishment.
- The permit holder be advised that failure to comply at any time with the conditions of the Trading Permit may result in the revocation of the Permit.
- Not less than one (1) month prior to the expiry of the Trading Permit which includes provision for the sale of alcohol, the Council will review the operation to determine whether renewal for a further twelve (12) month period should be approved. As part of this review, the Council will consider the need to amend any existing Trading Permit conditions or to add further conditions deemed necessary to ensure its satisfactory operation.

Website: www.bassendean.wa.gov.au **Email:** mail@bassendean.wa.gov.au **Tel:** (08) 9377 8000

- Council may attach to the Trading Permit any other conditions considered necessary to ensure a high quality outdoor eating facility is provided and that the service of alcohol to the patrons of Outdoor eating areas takes place in a satisfactory manner.
- Public toilets must be provided if sale of alcohol is permitted.

Fees and Administration

- An annual application for a permit shall be submitted
- A monthly fee, payable in advance, will be charged in accordance with Council's schedule Fees & Charges to the permit holder on the basis of a rate per metre squared of the outdoor eating area.
- Pavement markers shall be installed at the corner boundaries of the outdoor eating area in accordance with Council's schedule Fees & Charges at a cost proportional for the number of pavement marker plates required and the associated labour.

Termination

- Council may terminate the licence without notice if the licensed (permit) area ceases to be used in conjunction with the adjacent restaurant/eating house operated by the permit holder
- If the permit holder is in breach of Council's Outdoor Dining Policy to the full satisfaction of Council, the permit may be terminated within seven (7) days after receiving written notice thereof from Council.
- In the event of the business ceasing or the permit not being renewed, the proprietor is responsible for the removal of any improvements installed and reinstatement of the footpath dining area, as directed.

Administration of this Policy

The Manager Development Services has delegated authority to approve the Outdoor Dining permit that complies with the provisions of this Policy.

Environment & Ranger Services will monitor approvals granted to ensure that businesses comply with the “trading activity zone” approvals granted.

Definitions

The following definitions apply for the purposes of this policy:

Restaurant / Eating House

A premise in which food is regularly supplied on sale to the public for consumption.

Council

Town of Bassendean

Footpath

That part of the road as set aside or formed as a path or way for pedestrian traffic.

Furniture

Movable articles of high quality, design, materials and workmanship used in readying an outdoor eating area for occupancy or use

Proprietor

Operator of the registered business being carried out on the premises.

Permit Holder

The person to whom the outdoor dining permit has been issued.

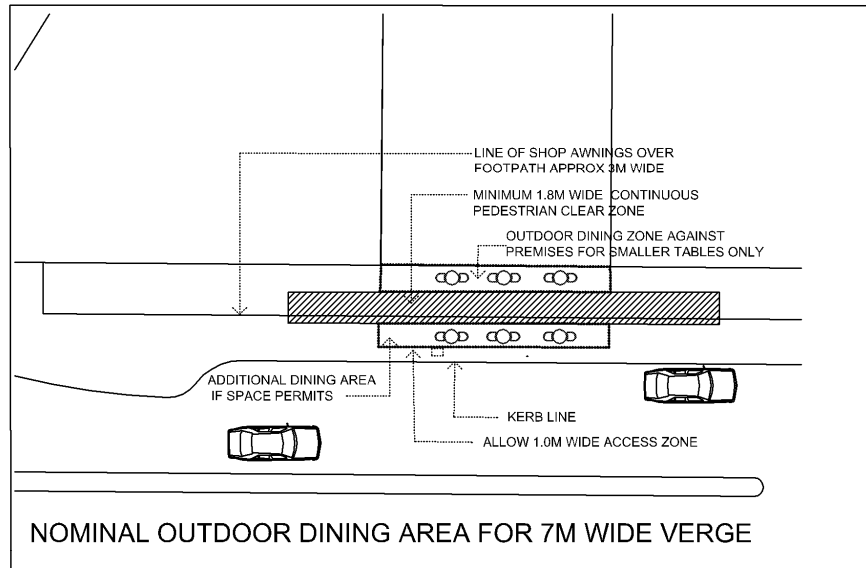
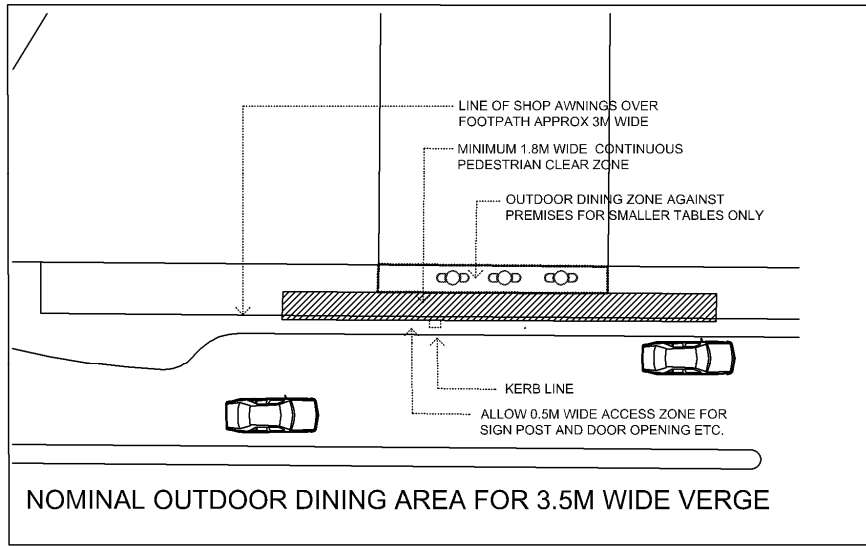
Outdoor Eating Area

A designated area immediately adjacent to a restaurant used for the purposes of outdoor eating/dining.

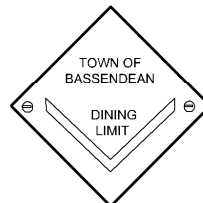
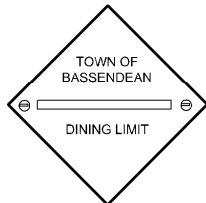
Menu board

A board allowing for the posting of a restaurants complete menu and fabricated in such a manner so as not to constitute a form of general advertising or establishment identification.

Attachment 1 - Typical Bassendean Outdoor Dining Layout



OUTDOOR DINING AREA IDENTIFICATION PLATES



APPLICATION FOR PERMIT TO CONDUCT AN OUTDOOR EATING FACILITY

File No: _____

New Application please tick or Renewal please tick

1. Applicant's Details

Name of Applicant:

Residential Address: Postcode:

Residential Phone: Mobile:

Signature: Date:

2. Business Details

Name of Business:

Business Address: Postcode:

Business Phone: Business Fax:

Number of chairs that are within the existing food premises:.....

Number of existing toilets available to patrons:.....

3. Details of proposed Outdoor Eating Facility

Days of Trading: Hours of Trading:

Period of time for which permit is sought:

Number of outdoor tables:.....

Number of outdoor chairs:

Please tick (✓) the box adjacent to each requirement to confirm if the following supporting information is attached to this application:

YES NO

- | | | |
|--|--------------------------|--------------------------|
| ➤ Drawing at 1:50 scale indicating kitchen and dining floor area and the proposed outdoor eating floor area, public toilets, staff toilets. Indicate on the scale drawing the positions of all (inside and outside) tables, chairs, planter boxes, umbrellas and other furniture related to the proposal | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Photographs, drawings or manufacturer's brochures (Approved by the Furnishing Industry Association of Australia or relevant Australian Standard) fully describing the appearance and dimensions of all proposed commercial standard tables, chairs, umbrellas, menu board, planter boxes and any other furniture | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Is any advertising proposed?
If 'yes' – Please refer to Advertising Local Law and attached details of proposal showing location on a site plan/ diagrams. | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Will the outdoor eating area be illuminated by candle light after daylight hours? | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Will the outdoor eating area be illuminated by electric lights after daylight hours?

If electric lighting; attached electrical drawings and light fitting details as per policy | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Are any Plant Containers proposed?
If 'yes' – provide details of containers and plants proposed as per policy | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Attached is a Cleaning and Maintenance Plan as per policy | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Is alcohol proposed to be consumed?
If 'yes' – attached is the information required as per policy | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Attached is a copy of the Insurance Policy number which includes insurer details as per policy | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Application fee included | <input type="checkbox"/> | <input type="checkbox"/> |

Please forward your completed application form along with the application fee to the Town of Bassendean.

OFFICE USE ONLY

Website: www.bassendean.wa.gov.au Email: mail@bassendean.wa.gov.au Tel: (08) 9377 8000

Application Approved Refused

Comments:

Name of reviewing delegated Officer:Date: