



Outdoor Dining and Street Trading Code of Practice

Environmental Health and Local Laws Unit
Revision 04: December 2013

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Part A: Introduction

A1 General

There is no better indication that a shop is open for business than when it makes good use of adjacent footpaths for outdoor dining or street trading.

It adds colour, vibrancy and activity to the street frontages and public places. The City of Greater Bendigo recognises the mutual benefit to traders and the community and aims to facilitate these activities in a safe and responsible manner.

In adopting this Code, the City is ensuring well planned and maintained outdoor dining and street trading areas. Encouraging linkages between businesses and pedestrians ensures active and safe streets.

Where appropriate locations can be identified, the City together with businesses will facilitate outdoor dining and street trading in a manner that benefits traders and visitors to our City. In doing so, all key stakeholders need to recognise the City's role in ensuring a high level of safety and consideration for pedestrians, patrons and traffic.

Through the *Municipal Places Local Law* and this Code of Practice, the City aims to ensure that outdoor dining and street trading is established, operated and maintained in an appropriate and equitable manner.

This Code sets out the City's position in regard to outdoor dining/street trading, providing the framework and guide against which applications for permits for outdoor dining will be assessed and issued.

This Code draws upon the relevant codes and guidelines of other municipalities. It has been adapted to suit local conditions. Principal references are:

- City of Melbourne;
- City of Port Phillip;
- City of Greater Geelong;
- City of Adelaide.

It should always be noted that trade on the footpath is not a right; it is a privilege granted to traders by the community, only where there is no compromise to community safety, accessibility or general amenity.

Authority of this document

The Code is an enforceable document, not voluntary or guiding. The Code has been incorporated into the *Municipal Places Local Law No. 5* as a reference document which can be updated from time to time.

For further information see the *Local Government Act 1989 Sections 111 and 112*.

Guiding strategic objectives of this Code

- To ensure that the local law and code are consistent with the ideals of the Victorian Charter of Human Rights and Responsibilities.
- To ensure that public places remain accessible and considerate of all public users.
- To promote Bendigo as a vibrant destination with quality restaurants, good alfresco dining and a safe place to visit.
- To develop and maintain a safe road and path network.
- To increase active street edges.
- To establish quality public spaces.
- To improve the pedestrian environment and pedestrian routes.
- To improve safety and security in public spaces by increasing use and activity.
- To promote enhanced entertainment opportunities in the mall and other locations.
- Discourage antisocial behaviour through design and activation of public places.
- To improve the aesthetic quality of outdoor dining areas.

A2 Key principles

The Code promotes best practice design guidelines and requirements in relation to the following uses of public spaces:

- Establishing and maintaining outdoor eating/drinking facilities;
- Placement of goods;
- Placement of A-frame and banner advertising signs; and
- Buskers/street performance.

The City's role in managing a public space is to:

- Create active and enjoyable spaces for the public to use;
- Ensure safe and accessible pathways are provided for everyone in the community to use;
- Provide public places free of restrictions on individuals and social groups regardless of ethnicity, age, gender, disability or economic circumstances;
- Bring together and manage public and private interests in one place; and
- Avoid privatisation of public spaces.

The City has a legal responsibility under the Commonwealth Disability and Discrimination Act 1992 to ensure the development and maintenance of a continuous accessible path of travel along the footpath.

Outline of key principles

Access and the public place – encompasses the physical relationships between outdoor dining and street trading and the surrounding public places, particularly in relation to access.

This includes:

- the access need and rights of people with disabilities, the vision impaired and those using mobility aids;
- clearances mandated in the Code for pedestrian access;
- clearances mandated around public utilities;
- fixed and semi fixed furniture and display units in outdoor cafes and outdoor trading areas; and
- display fixtures.

Design relates to the physical design expectations of the City for outdoor dining and street trading.

This includes:

- the general approach regarding regulation of design;
- the maximum acceptable level of enclosure and privatisation of outdoor dining areas;
- the relationship between outdoor dining and street trading design and heritage places;
- precincts and streetscapes;
- advertising restrictions; and
- standard design requirements for outdoor furniture.

Operation and management relates to the day-to-day responsibility of permit holders. This encompasses social and environmental factors contributing to a sustainable city.

This includes:

- monitoring of outdoor dining and street trading;
- the minimisation of litter and nuisance;
- expectations regarding spruiking and touting;
- practices contributing to the safety of patrons and pedestrians;
- furniture/fitting repair and presentation standards;
- eligibility requirements;
- the assessment of permits in socially sensitive areas, especially residential areas; and
- environmentally sustainable outcomes for outdoor cafes.

Education and compliance relates to effective communications and enforcement of the Code's responsibility and requirements.

This includes:

- trader awareness of the requirements of the Code;
- the presentation of information in the Code;
- other education and information that supports and reinforces the Code; and
- compliance procedures and outcomes.

Footpath/street trading is a privilege, not a right.

A3 Outdoor Dining and Street Trading Code structure

The structure of the Outdoor Dining and Street Trading Code is set out below:

1. **Design guidelines and requirements:** This section is a key reference for new applicants and existing permit holders. It outlines design guidelines and requirements for establishing a new outdoor dining or street trading area or maintaining high standards for an existing outdoor dining or street trading area.
2. **Operation and management:** This section is the key reference for existing permit holders regarding operating and managing outdoor dining and street trading areas. It is also a secondary reference for permit applicants regarding their future roles and responsibilities.
3. **Education and compliance:** This section is the key reference for the City and permit holders regarding the principles of education, compliance and offences pursuant to the *Municipal Places Local Law*.
4. **Application information:** This section is the key reference for permit applicants regarding applying, re-applying and making amendments to existing permits.

Table 1: Identification of key principles

Major area policy	Principles for the Code
Access and public place	Inclusive public place and streets. Convenient and safe pedestrian access for all.
Design	High quality design and appearance. To increase active street edges.
Operation and management	Positive contributions to the environment and amenity of the area. Safe, clean and well maintained outdoor dining and street trading in public places. Minimise unnecessary noise and nuisance.
Education and compliance	Education, training and compliance between permit holders and the City.

A4 Definitions

Advertising

Means any board, notice, structure, banner or other similar device used for the purposes of soliciting sales, provision of services or notifying people of an adjacent property where goods or services may be obtained.

A-frame sign

Means a portable sign having two panels attached at the top with hinges and having signwriting on each panel face.

Authorised officer

Means an Authorised Officer appointed under section 224 of the Local Government Act 1989.

Banner

Means a long strip of cloth or similar material bearing a slogan or design and hung in a public place attached at more than one point.

City

Means the City of Greater Bendigo.

Decorative item

Means an object located in a public place for the purpose of attracting attention to a business.

Essential services

Means the infrastructure related to electricity, gas and water supply, traffic signalling, stormwater and sewerage drainage, and the like.

Flag

Means a piece of cloth or similar material bearing a slogan or design typically square or oblong and hung in a public place attached by one edge to a pole or rope.

Footpath/street trading

Street trading means the use of a road or part thereof including a footpath for the sale or display of goods or signs or for an outdoor dining area, such activity having been approved by the Council.

Footpath width

Means the distance from the face of the kerbline to the outside edge of the building line (property line).

Kerbside zone

Means the area between the kerbline and the outer edge of the Trading Zone.



Outdoor dining facility

Means an area that is used by patrons to sit down and consume beverages/meals from an existing indoor restaurant, cafe or registered food business.

Note:

- Outdoor dining areas are not intended to be the primary dining area but an extension of indoor seating for use in fine weather;
- They are temporary and only used during business hours of operation;
- The use of crockery and glassware in these areas is preferred to reduce litter and increase the quality and attractiveness to diners; and
- Outdoor dining facilities share space with other users of public space and public infrastructure and therefore the size, area and design must be mindful of shared space principles.

Summary of eligibility criteria:

- Must be an extension of 'indoor' seating;
- Must be a lawfully existing food premises;
- Must meet any planning requirements;
- Must provide 'table service' or provision for regular cleaning and servicing; and
- Must serve food and drinks in non-disposable crockery and glassware.

Permit

Means a permit issued by the City of Greater Bendigo authorising a particular activity within the Trading Zone.

Permit holder

Means the person named as the responsible person on the application form.

Public place

The public place is land that is used by the public as 'common ground'. The public is entitled to have access to all common ground within the municipality for community, social and commercial interaction. The public realm should also allow for pedestrian flow and movement from one place to another.

The following definition is an extract from the *Municipal Places Local Law* which governs the use of the public place, including outdoor dining and street activities in the City.

Public place includes:

1. Any public highway, road, street, footway, mall, court, alley, or thoroughfare notwithstanding that it may be formed on private property;
2. Any public garden, reserve or other place of public recreation or resort;
3. Any open space to which the public have or are permitted to have access;
4. Crown Land; and
5. Land owned by, vested in or managed by Council or any public authority

Under the *Municipal Places Local Law*, a permit is required for:

1. Establishing and maintaining an outdoor eating/drinking facilities;
2. Placement of goods;
3. Placement of A-frame advertising boards; and
4. Busking/street performance.

Service authority

Means any company or public body responsible for the installation of telecommunications, gas, electricity, water, sewerage or drainage facilities in or on a road or footpath.

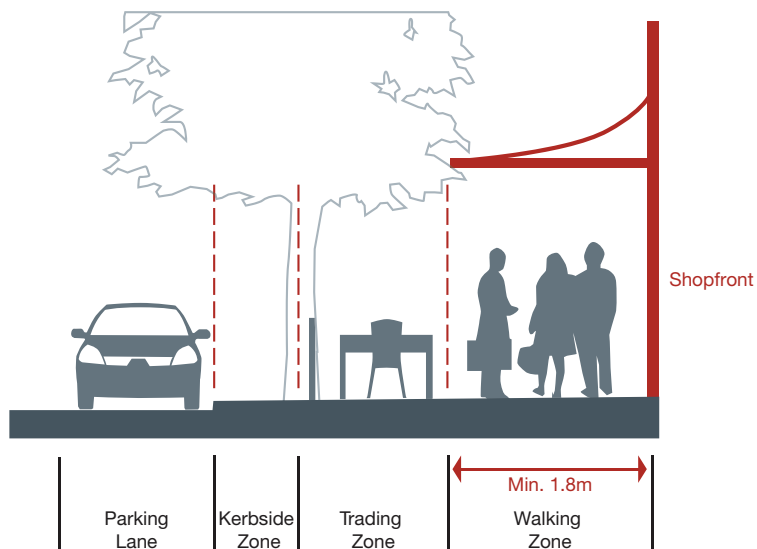
Trading zone

Means the area between Pedestrian Zone and the Kerbside Zone.

Walking zone

Means the area between the property line and the inner edge of the Trading Zone with a minimum width of (but not limited to) 1.8m and a minimum height of 2m.

Diagram 1: Footpath zones elevation view



A5 Policy framework

This guide responds to a range of municipal, state and federal level legislation, and has been developed in line with best practice strategic principles, Local Laws and other departmental guidelines. This table details the policy framework.

Table 2: Policy framework

Federal		
Standards Australia	Australian standard	Disability Discrimination Act 1992
State		
Environmental Protection Act 1970	Public Health and Wellbeing Act 2008	Tobacco Act 1987
Victorian Heritage Act 1995	Summary Offences Act 1966	Liquor Control Reform Act 1998
Road Safety Act 1986	Road Management Act 2004	Road Rules Victoria 1999
Food Act 1984	Greater Bendigo Planning Scheme	Human Rights Charter
Local Government Act 1989		
Municipal		
Local Law No. 5 – Municipal Places Local Law	Local Law No. 10 – Administrative Local Law	City of Greater Bendigo Council Plan 2013-2017
Visit Bendigo +2007 – 2012	Road Safety Strategy	CBD Structure Plan 2005
Arts and Cultural Strategy	Community Access and Inclusion Plan	Greater Bendigo Walking and Cycling Strategy
Greater Bendigo 2036 Plan	Child Friendly City Status	Local Law No. 3 – Environment Local Law

Part B: Access and design requirements

The City is rich with heritage sites and buildings that have been identified and assessed over the years. The City through the Greater Bendigo Planning Scheme has recognised and protects heritage sites and buildings.

These guidelines and requirements outlined below provide a framework for consistent design and accessibility of outdoor dining and street trading area while maintaining the flexibility to accommodate individual streetscape conditions.

Accessibility

This section responds to a range of policies and legislation. A key objective of the guide is to allow convenient pedestrian access for all people of all ages and abilities within the municipality.

The Council Plan 2013-2017 identifies key directions in relation to accessibility and the public place:

- *Ensuring our communities have active and vibrant places to meet.*
- *Greater Bendigo is known for its vibrant and diverse arts and culture scene.*
- *Greater Bendigo region is a major visitor destination.*

Through this guide, the City of Greater Bendigo is committed to the accessibility principles and standards outlined in the *Disability Discrimination Act 1992*, the City of Greater Bendigo *Community Access and Inclusion Plan* and *Australian Standards for Access and Mobility (AS1428.2 – 1992)*, *Road Safety Act (1995)*, the *Road Management Act (2004)* and the *Road Rules Victoria (1999)*.



Convenient pedestrian access for all means:

Outdoor dining and street trading areas are required to provide minimum clearance areas in accordance with Australian Standards to allow pedestrian access and circulation. The Australian Standard sets out minimum access requirements for pedestrians, including the vision impaired and users of mobility aides.

Different city streets demand different clearance requirements due to the existing footpaths and the amount of pedestrian traffic. Where these differences occur the City will specify.

As a minimum, outdoor dining and street trading areas should allow sufficient space on the footpath for two mobility aids or child pushers to pass each other comfortably.

B2 Accessibility

Outdoor dining and street trading areas should be integrated with existing street activities, pedestrian circulation and traffic safety by maintaining adequate clearances.

Well designed and maintained urban environments are essential to ensure adequate open space for people to enjoy without being impeded by commercial activity. The key to safer places is to improve the quality of the environment, minimise the opportunity for crime and promote accessible places that encourage a feeling of safety and community participation.

The issue of disability access is related to broader accessibility objectives, which are realised through the City of Greater Bendigo's *Community Access and Inclusion Plan* which has been developed to demonstrate the continued strategic commitment of the City to people living with a disability.

In recognition of these objectives the City does not permit the establishment of outdoor dining and street trading areas against building frontages in the municipalities' streets and public places.

B1 Principles

Inclusive public places and streets means:

Outdoor dining and street trading areas should be designed to reflect the public nature of the street, with minimal fencing or boundaries that tend to privatise the public place.

Street frontages should not be obscured by furniture or fittings (including canvas screens, glass screens, planter boxes and freestanding awnings).

Similarly, natural air and light needs to be maintained and at least one-third of the walkway (width or length) should be kept clear of extendable awnings and other screening.

B3 Suitable location

The location of outdoor dining and street trading areas should provide for comfortable, attractive and relaxing environment for patrons, whilst complementing other street activities.

Outdoor dining and street trading areas are most appropriate in the following locations:

- In streets with a minimum of 3.5m footpath space to accommodate an outdoor café/street trading area without interfering with pedestrian access and other street activities.
- In public places and private plazas and squares; and
- In laneways that are closed to vehicular traffic and have a suitable width.

Outdoor dining and street trading areas are encouraged:

- In areas where neighbouring uses will not negatively impact on the amenity and/or atmosphere of an outdoor dining/street trading area;
- In areas where the outdoor dining/street trading area will not negatively impact on other uses (particularly in terms of noise and amenity in residential areas); and
- Where there is opportunity for greater levels of pedestrian activity or in areas that require revitalisation.

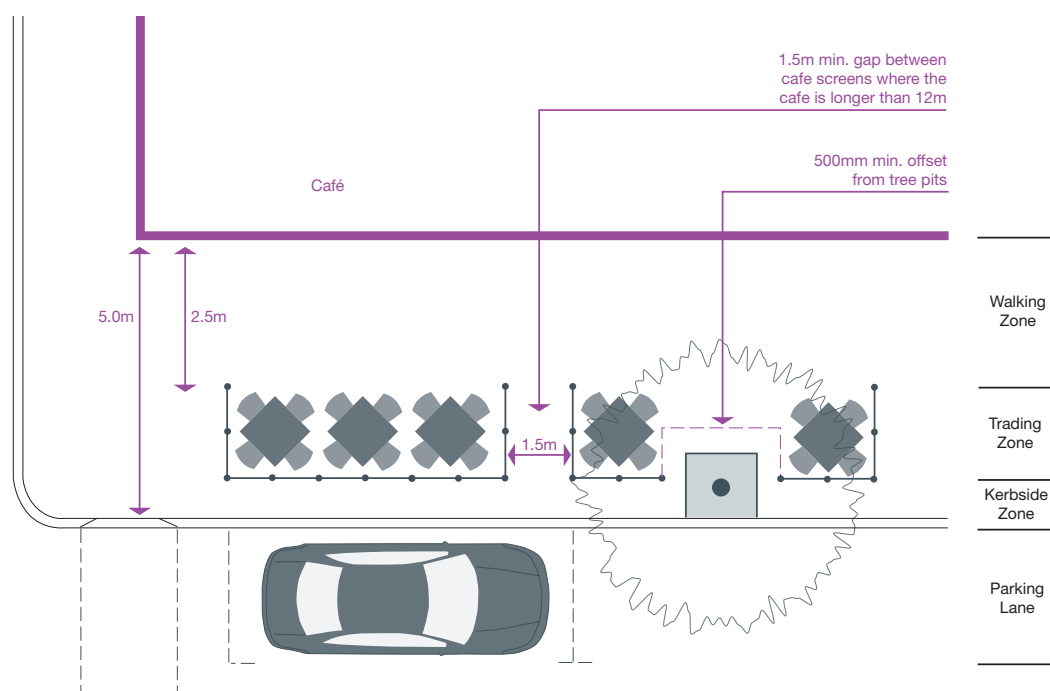
Outdoor dining and street trading areas are a natural extension of existing restaurants, cafes or retail premises. In most cases outdoor dining/street trading areas are situated immediately in front of the existing premises (on the kerb side):

- The minimum width of an outdoor café/street trading area is 800mm;
- Premises should have a clear view of the outdoor dining/street trading areas from the inside to ensure effective monitoring;
- For premises with multiple entrances, consideration may be given to allowing an outdoor trading areas on both sides if the applicant can demonstrate the ability to manage both areas; and
- Outdoor trading areas may extend beyond a premises' property width if the City considers it appropriate and after consultation with the owner and occupier of the neighbouring premises, noting that this may be revised should the neighbouring property wish to use that area and that control of the use of public places and the issuing of permits remains with the City.

The City cannot approve an application if the above criteria are not satisfactorily met.

The appropriate location for an outdoor dining/street trading area is not easily defined. The exact setback and conditions of an outdoor dining/street trading area may be determined on a case-by case basis however the same general accessibility principals will apply.

Diagram 2: Typical outdoor café positioning in a streetscape



B4 Public street furniture and infrastructure

The City is committed to providing street furniture that is accessible, safe and comfortable. The provision of public seating:

- Enables people to rest and take time out from the hustle and bustle of the city;
- Provides a place for people to pause along busy walking routes; and
- Creates informal meeting places.

Well maintained public places improve the perception of how safe a place is and support the public's desire to occupy and use those places. Management programs that clean, repair and maintain infrastructure in both the public and private space are vital for community safety and wellbeing.

Outdoor dining and street trading areas should not compromise the ability for the general public or service contractors to access street furniture and public infrastructure.

Table 3: Street infrastructure

Examples of street infrastructure
Public seating
Bins
Bicycle hoops
Tree and tree plots
Artwork
Parking meters
Pay phones
Fire hydrants
Bollards
Poles
Way finding signs
Service easements
Playground equipment
Australia Post boxes

B5 Circulation and clearances

Clearances relevant to outdoor dining and street trading areas include footpath access, clearances from adjoining properties, disabled parking, clearance from existing infrastructure and essential services, street trees, access to underground services, construction zones, clearways and clearances from intersections.

The following details the required clearances set as a minimum and apply across all footpath/public places unless alternatively specified.

Pedestrian clearances

Pedestrian clearances are required to ensure a clear path between the relevant building and outdoor dining and street trading area, which are wide enough for mobility aids and prams to pass each other. The clearances also take into consideration vision impaired people who use the building line as a reference point to move through the streets and public spaces.

Outdoor dining and street trading areas are not permitted to be placed directly against the building façade. Outdoor dining and street trading areas should be placed, within the 'trading zone' area of the public place.

The City reserves the right to vary clearances depending on pedestrian and vehicular traffic, existing footpath widths and concerns from other users.

To work out the maximum street trading area available in your street, refer to Appendix A – Street Trading Configurations.

Clearance from existing street infrastructure

Clearance between the outdoor dining/street trading area and existing street infrastructure ensures street furniture and infrastructure can be used or serviced while an outdoor dining/street trading area is in use. It also ensures adequate access for the general public moving through the public place.

If street furniture needs to be moved to facilitate outdoor dining, these works may be at the applicant's cost.

Clearance from essential services

Essential services are a vital component of the City of Greater Bendigo's infrastructure. Clearances from existing essential services must be maintained at all times. A 1000mm clearance must be kept between the edge of an above ground essential service except streetlight poles and the permitted outdoor dining/street trading area.

Clearance from kerb

A setback distance between the outdoor dining/street trading area and the face of the kerb is essential for the safety of pedestrians crossing the road or passengers alighting from vehicles. The City of Greater Bendigo may require further setbacks or consider the reduction of setbacks outlined in *Table 7: Minimum Distance from Face of Kerb to Outdoor Dining/Trading Area*. This is dependant on pedestrian and vehicular traffic conditions, impact on access and circulation, existing street activities and the concerns of local users.

Table 4: Minimum pedestrian clearances from outdoor dining/trading area

Precinct	Pedestrian clearance
Hargreaves Mall	3.0 metres
Footpath Width	Pedestrian clearance
Less than 3.5 metres	1.8 metres
3.5 – 4.5 metres	2.0 metres
More than 4.5 metres	2.5 metres

Table 5: Clearances from existing street infrastructure

Object	Minimum clearance from object
Fire hydrants Exit doors Litter bins Public seats Pay phones Bicycle hoops Parking meters Tram stop shelters Bus stop shelters	1 metre
Tree plots Bollards Poles Other similar objects	500mm

Table 6: Clearances from essential services

Object	Minimum clearance
Substations Fire exit doors Switch boards Hose reel cupboards Fire equipment stores Boosters Fire hydrants/fire plugs Communication poles	1000mm

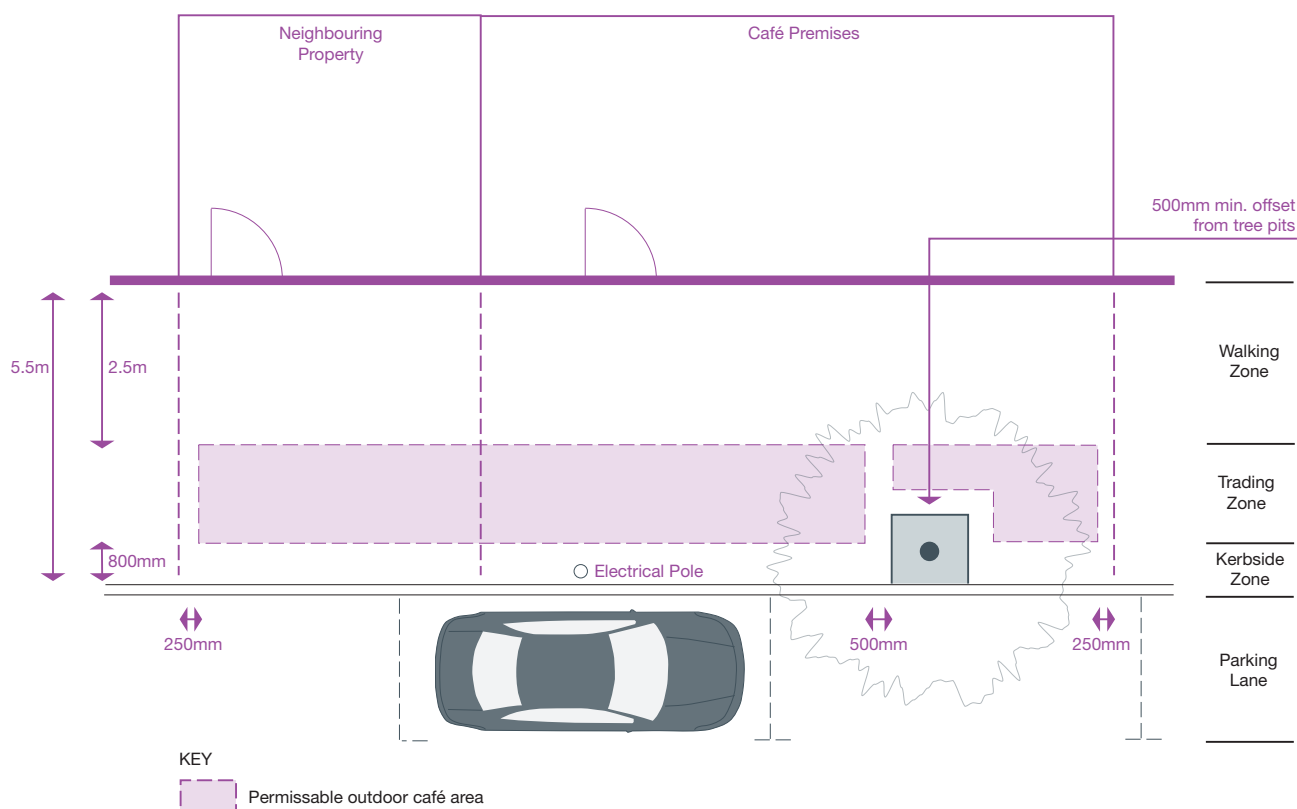
Table 7: Minimum distance from face of kerb to outdoor dining/trading area

Parking restrictions	Minimum setback for kerb
Parallel parking conditions	800mm
Loading zones	900mm
No stopping	1000mm
90°, 60°, 45° angle parking	1200mm
Disabled parking Taxi stops Bus stops Tram stops	2400mm

Table 8: Other clearances to be considered

Clearance requirement	Minimum clearance	Why
Break required through outdoor dining area, where area >12m	1500mm	Minimises the obstruction caused by a long outdoor area and allows access to premises from alighting vehicles and pedestrians crossing the road, parallel to the kerb
Clearances between neighbouring properties – Fixed furniture – Non-fixed furniture	375mm 250mm	Prevent continuous line of outdoor area and facilitate pedestrian access to the kerb and road
Clearances from existing tree plots and street trees	500mm	To prevent damage to the root system and improve the attractiveness of the streetscape

Diagram 3: Permissible outdoor dining/trading area



Other clearances that must be considered

Access to underground services

Services such as fire hydrants, sewers, telecommunications and electricity conduits should not be obstructed by fixed elements such as awnings, umbrellas or barricades (where permitted).

Removable tables and chairs may be placed on top of underground service pits provided these are structurally sound. In an emergency, immediate access is required.

Delineation markers

To assist owners and managers to set up an outdoor dining area, delineation markers may be installed in the footpath by the City to define the permitted outdoor dining area. The permit holder must ensure all furniture associated with the outdoor dining/street trading area is located within the defined perimeter.

Intersections – Line of sight

Outdoor dining and street trading areas located next to intersections should be set back from the building to allow a clear line of sight for turning vehicles. The minimum setback from the outdoor dining/street trading area is determined by the line of sight from the corner. This is set at a 45° angle from the corner of the building; this often results in a 1000mm to 3000mm clearance from the corner to the edge of the outdoor dining/street trading area. Where an applicant seeks to place furniture within this area approval must be granted by the City Transportation Engineer.

Construction zones

Construction zones are essential to maintain building facades and underground services, and to repair roads and footpaths.

Outdoor dining/street trading areas are not permitted surrounding construction zones. A minimum setback of 3000mm should be provided to protect patrons from possible nuisance and dangers. However each application/permit holder will be assessed on a case by case basis.

The City reserves the right to temporarily suspend or cancel a permit to ensure public safety during major construction projects.

A period of 14 days notice will be given to traders in these circumstances. Where the City suspends, relocates, amends, and/or cancels the permit, neither the permit holder or other persons shall be entitled to any payments, compensation or damages of any kind from the City of Greater Bendigo.

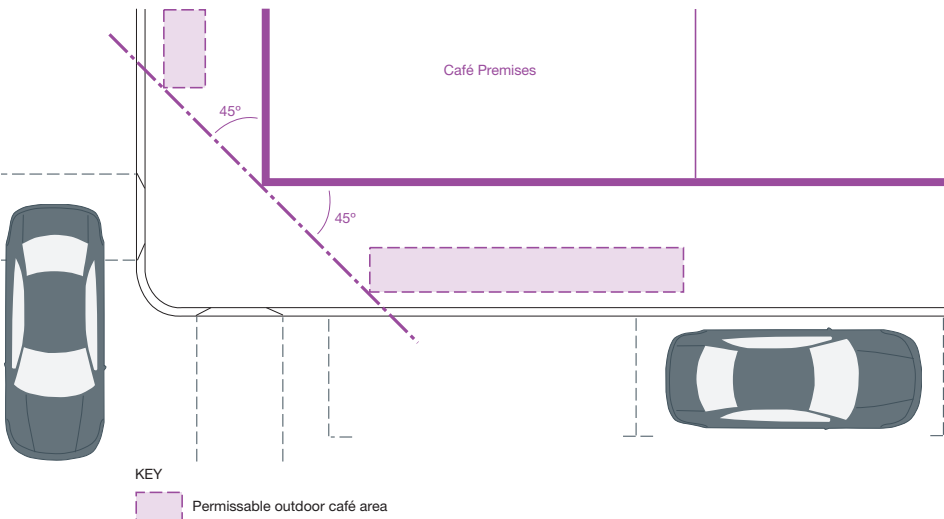
B6 Toilet and sanitary conveniences

The addition of an outdoor dining to an existing restaurant or café may lead to an increase in overall seating capacity. As such these premises must have adequate toilet facilities for the use of customers and staff. The Building Code of Australia provides guidance on what is considered an adequate number of toilets for indoor premises. It may be necessary to upgrade existing toilet facilities to accommodate this increase.

Table 9: Toilet and sanitary conveniences ratio

Seating capacity	Number and ratio of toilets
0-25	Females – 1 closet pan – 1 wash basin
26-50	Females – 2 closet pan – 1 wash basin Males – 1 closet pan – 1 wash basin – 1 urinal
51-100	Females – 3 closet pans – 2 wash basins Males – 2 closet pans – 2 wash basins – 2 urinals
101-150	Females – 4 closet pans – 2 wash basins Males – 2 closet pans – 2 wash basins – 2 urinals

Diagram 4: Maintaining line of sight at intersections



B7 Occupying footpath outside neighbouring premises

The City prefers that all outdoor dining/street trading areas remain directly outside the business applying for the permit. Applications will be considered on a case-by-case basis, and a permit will be issued by discretion of the City.

Consent

As a part of considering an application to occupy the footpath in front of neighbouring premises, the City will consider the following factors before deciding to grant a permit:

- Opinion of the owner and occupier of neighbouring premises;
- Relevant streetscape, neighbourhood and precinct plans; and
- Merit and contribution the proposal may add to activation of the street.

Note that ultimately the City has the authority to determine if a permit is granted.

Withdrawal of consent

The City may withdraw previous approval to occupy the footpath in front of neighbouring premises in the following circumstances:

- The City wishes to install public infrastructure or conduct works within the area;
- Neighbouring premises wish to utilise all or part of the footpath space and that proposal is consistent with objectives of relevant precinct plans and streetscape; and
- Proposed activity will add to activation and vibrancy of the streetscape.

If a permit is withdrawn, no refund will be made for fees paid in advance for use of the footpath in front of neighbouring premises or contributions to pavement upgrade works or street furniture relocation.

Design

The City encourages outdoor dining area designs that are simple, attractive and make best use of public places. The design section of this guide is to assist applicants plan and prepare their application to ensure that their proposal adds to the atmosphere and meets the City's standard.

B8 Heritage considerations

The City's streetscapes encompass many differing period styles, scales and design. The City's rich history and culture can be seen in our streetscape character. Heritage is an important part of consistent high quality streetscapes.

The purpose of the heritage provisions in the Greater Bendigo Planning Scheme are to:

- Conserve and enhance heritage places of natural or cultural significance;
- Conserve and enhance those elements which contribute to the significance of heritage places; and
- Ensure development does not adversely affect the significance of heritage places

The general heritage objectives that apply to outdoor dining and street trading areas are the same as those of other developments within the heritage overlay:

- To conserve all parts of buildings of historic, social or architectural interest which contribute to the significance, character and appearance of the building, streetscape or area; and
- To ensure that new developments, and the construction or external alteration of buildings, make positive contributions to the built form and amenity of the area and are respectful of the architectural, social or historical character and appearance of the streetscape and the area.

Heritage design requirements

- Retain an open aspect
- Outdoor dining areas should not replicate historical styles
- They should be simple and contemporary in design, and
- They should be temporary and packed away at the end of trading

Culturally significant features and street trees will not be removed, relocated or modified as a result of an outdoor dining installation and operation. Existing verandas and street trees should be integrated into the sitting and layout of the outdoor dining area to maximise comfort for patrons.

B9 Attractive and innovative outdoor dining and street trading area considerations

Outdoor dining/street trading areas should be vibrant, innovative and attractive. Key design objectives for these include:

- A layout that is appropriate to the setting. Permit applicants are invited to develop a response to site specific challenges and develop a simple high quality outcome that suits the function of the café and the design of the street.
- The provision and maintenance of high quality, durable furniture and fittings. Outdoor dining/street trading areas in public places should be presented in an attractive, clean and orderly manner, which can withstand prolonged exposure to the seasons.
- The provision of interesting and attractive furniture and fittings. Umbrellas and screening should be designed as appropriate to the style of the street and in colours that minimise the effects of visible dirt and wear. Awnings, screens and planters should not enclose or privatise a public area.
- The City reserves the right to direct permit holders to update/upgrade worn, damaged and defective outdoor furniture and fittings.

B10 Enclosing a public place

Applications that propose to extensively enclose a public place will not be approved. Installing an extensive, enclosed café structure in the public place to maximise café patronage can privatise an area.

Privatisation of the public place results in reduced accessibility, visibility, amenity and safety to the public. The installation of an enclosed outdoor dining area to the front of a building diminishes public space.

B11 Permanent structures

Permanent structures such as glass screens for outdoor dining and street trading areas generally will not be permitted as it is effectively enclosing a public space. Applications for permanent structures will be considered on a case-by-case basis.

The essential elements of an outdoor dining area are temporary: chairs, tables, canvas barricades (where permitted) and umbrellas. There are no heritage concerns arising from the use of the outdoor dining infrastructure that must be packed away leaving the streetscape unchanged.

B12 Design principles

Furniture design, storage and placement

Outdoor dining/street trading areas should relate to and be sensitive towards and enhance existing urban character, cultural significance and street quality.

To ensure best use of public space the City will stipulate the maximum number of table, chairs and other furniture during the consultation phase and eventual issue of the permit

Café furniture should be unobtrusive in style, appearance, materials, finishes and colours. The type and design of café furniture must be of a high standard in appearance and style made of quality materials, with finishes that are practical, elegant and durable. It is important for the permit holder to choose outdoor furniture that fits into the local environment and allows access to existing street furniture and infrastructure. In all circumstances, furniture must be approved by the City before use.

The furniture must be weatherproof designed for commercial outdoor use. Public safety and comfort must be considered. Sharp edges, glass tables, or furniture with other moving parts present a potential hazard to patrons or pedestrians and must not be used.

B13 Safety and security

Outdoor dining/street trading areas in the public place should provide a sense of security for patrons and pedestrians at all times during the operation. Patrons and café staff can enhance the sense of security in the street through informal surveillance.

The clearances and setbacks as outlined in sections B1 through B7 must be maintained. Café furniture not contained within the permitted area prevents pedestrian traffic flow, which may cause congestion or force pedestrians onto the road, creating serious personal safety issues. Furniture obstruction may also cause injury to both people and property.

The permit holder is responsible for ensuring patrons keep furniture within the permitted boundaries and that all pedestrian clearances and safety requirements are maintained at all times during outdoor dining and/or street trading operation.

Screens and planter boxes must not be placed where they present a physical/visual barrier or danger to pedestrians or people alighting from vehicles.

Safety Bollards may be required where outdoor dining is located close to a high use traffic lane or intersection. This would be based on a risk assessment by the City's Transportation Engineer and any works would be at the expense of the applicant.

B14 Fixed furniture

Fixed furniture is immovable and permanently in place while semi-fixed furniture is placed in sockets embedded in the pavement, but moveable without tools.

Fixed and semi-fixed items have safety benefits relative to unfixed furniture. Semi-fixed items cannot cause clearance breaches if their sockets are correctly placed. Fixed furniture is generally not permitted within the City, unless the advantages outweigh the disadvantages.

Fixed furniture can present the following disadvantages:

- Creating a rigid environment that cannot be changed to suit the conditions or needs of outdoor dining patrons.
- Presenting obstructions on the street even when the premises are closed.
- Attracting anti-social activities
- Incurring significant costs to restore the pavement to a suitable condition;
- Permanently affecting heritage streetscapes; and
- Restricting access for street cleaning and maintenance vehicles.

B15 Semi/non fixed furniture

Semi-fixed furniture

Semi-fixed furniture refers to any item locked down or bolted into the ground via a socket and sleeve system such as glass screens, planter boxes, umbrellas or awnings.

Non-fixed furniture

Non-fixed furniture includes anything that can be shifted or removed such as chairs, tables and planter boxes. Umbrellas and canvas barricades if permitted must be semi-fixed.

B16 Installation of fixed/semi fixed furniture and paving in outdoor dining areas

The installation of any fixed/semi fixed furniture or associated fittings or paving works will be arranged and installed by City approved contractors.

All costs associated with works carried out by the City on behalf of the applicant will be paid by the applicant. Works must not be commenced until approval is given by the City's Environmental Health and Local Laws Unit.

B17 Planning permits

Works relating to outdoor dining/street trading may require planning permission. As a part of the application process your application will be forwarded to planning and if a planning permit is required you will be advised accordingly.

A Local Law permit will not be issued until planning permission is granted.

B18 Tables and chairs

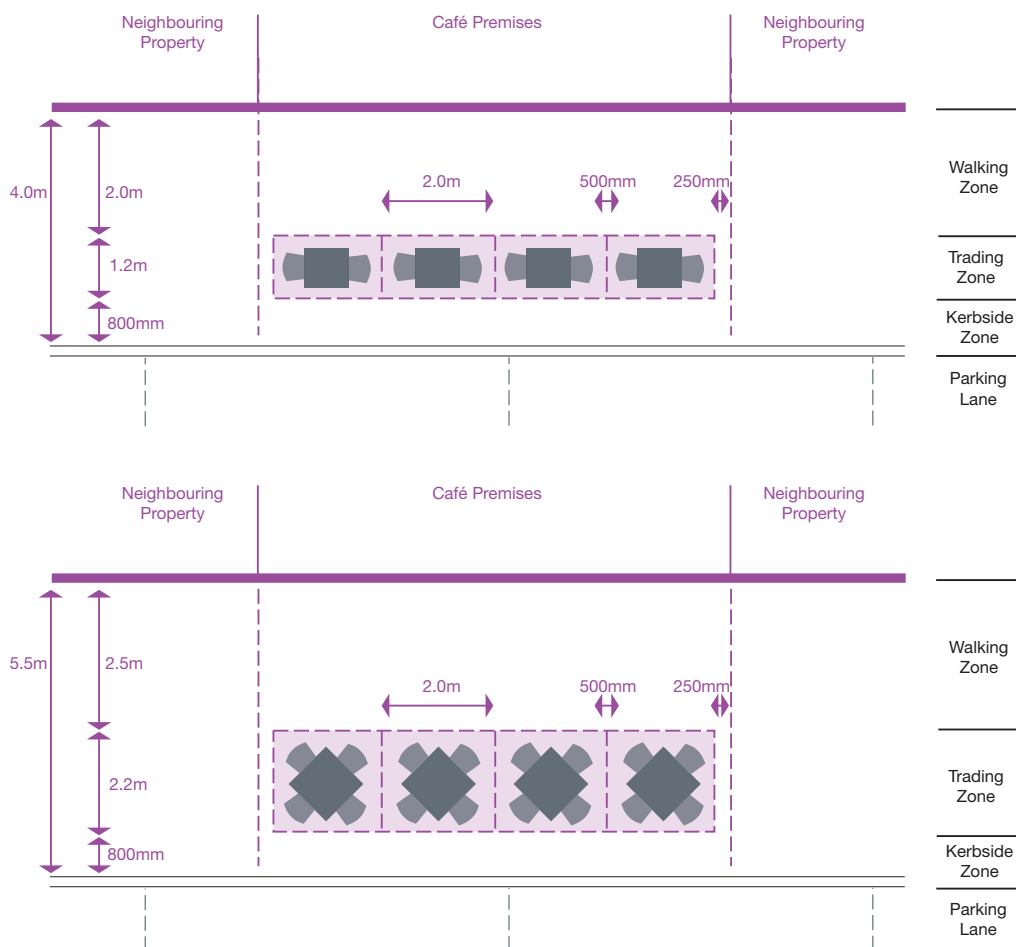
Design

- Tables and chairs for an outdoor dining area must be of an outdoor design style. Indoor style is inappropriate for outdoor use.
- Tables and chairs should be uniform in style and design within the outdoor area. The use of only one shape and colour of table or chair is permitted.
- Tables and chairs in adjacent and separately controlled outdoor trading areas may be different.
- Tables and chairs should be a hardy and sturdy, yet portable. The use of a metal or timber frame is required. Plastic frames are not suitable.
- Tables and chairs are to be solid enough to resist wind gusts.
- Chairs should preferably be stackable.
- Tables and chairs must be constructed of materials that do not deteriorate quickly. The use of a synthetic wicker look, powder-coated or polished aluminium, brushed or stainless steel frame is preferred.
- Tables and chairs must be easy to clean. White table surfaces, chair surfaces and backs are discouraged due to the tendency for rapid deterioration and discolouration.
- No form of advertising is permitted on the tables and chairs.
- The City will consider all furniture designs on a case-by-case basis.

Examples of suitable chairs:



Diagram 5: Table and chair placement



B19 Outdoor dining screens

Screens can assist in the delineation of an outdoor dining area and create a feeling of safety for patrons.

To preserve the general appearance and openness of the streetscape, the maximum standard height for a screen is 900mm. This will only vary where the City has installed a pedestrian treatment or glass screens have been approved.

The screen height may be increased to a maximum of 1200mm where it can be demonstrated that it will have a positive contribution to street activation, safety or amenity.

The City also prefers the installation of canvas screens in outdoor dining areas but will consider alternative applications on a case-by-case basis and on design merit. For further information, refer to the following:

- B20 Canvas screens;
- B21 Glass screens; and
- B22 Alternative screens.

B20 Canvas screens

Canvas screens can assist in delineating an outdoor dining/trading area and create a feeling of safety for patrons. To preserve the general appearance and openness of the streetscape, the maximum height for a standard canvas screen is 900mm.

Canvas screens will be considered on a case-by-case basis. Applications will be assessed according to available space, streetscape street activity and amenity, traffic conditions and requirements. Where appropriate to use canvas screens they must be removable and positioned parallel to the road.

Canvas screens and barriers are not permitted in the Hargreaves Mall.

Design

- Canvas screens should be made of canvas material that can withstand sun and rain exposure over prolonged periods.
- They should be single primary colour. Dark colours are recommended as lighter colours stain and discolour.
- Canvas screens must be no higher than 900mm including framing.
- Must be semi-fixed into sockets into the pavement.

B21 Glass screens

Design

Glass screens are permitted in special circumstances and may be approved on a case-by-case basis. They may be permitted subject to available space, urban character and the existing street infrastructure and traffic conditions.

The City will not permit glass screens where they will create a cluster of continuous glass screens along the footpath or they adversely affect the openness or character of the streetscape.

- Laminated glass must be used for glass screens with a minimum thickness of 10.38mm in accordance with the standard safety requirements specified under building regulations
- Poles must be 48mm diameter extruded aluminium and finished in clear anodised aluminium.
- Glass screens will be a maximum permitted height of 1200mm high.
- The base should be constructed of cast aluminium.
- Poles that support glass screens must be fixed into the ground with galvanised sockets.
- A gap of 100mm is required from the ground to the base of the glass panel.
- No other structure (i.e. plastic blinds, menu board, awnings) can be attached at any time.
- Glass screens must be certified by a structural engineer in relation to fixing and impact loads (comparable to AS 1170.1 balustrading).
- Applications will be considered on a case-by-case basis.
- Glass screens are generally not required to be removed for the public place at the end of the permitted trading hours, unless specified otherwise in the permit.

Additional approval

An approval in principle (fixed furniture), a letter, must be obtained from the City, prior to any construction of glass screens.

Consent for the installation of permanent fixtures on a road reserve is required under the Road Management Act 2004 which is a separate approval to the local law application, for further information please contact the City's Senior Traffic and Design Engineer.

Diagram 6: Glass screen specification – side elevation view

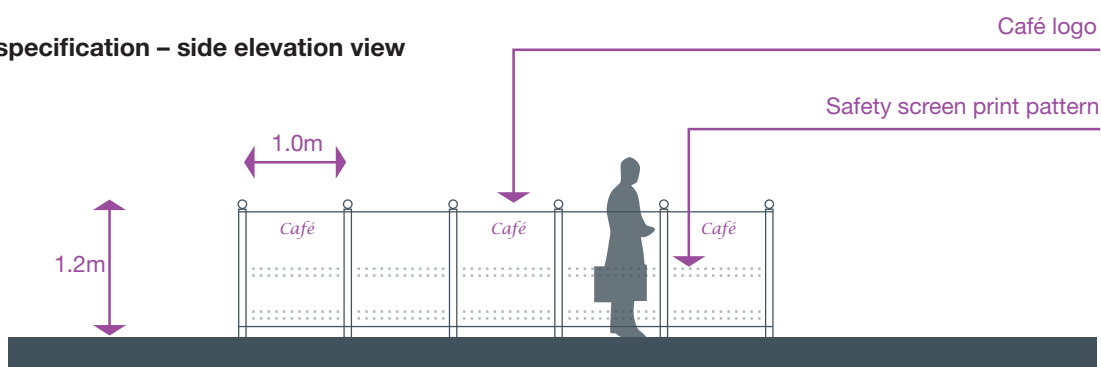
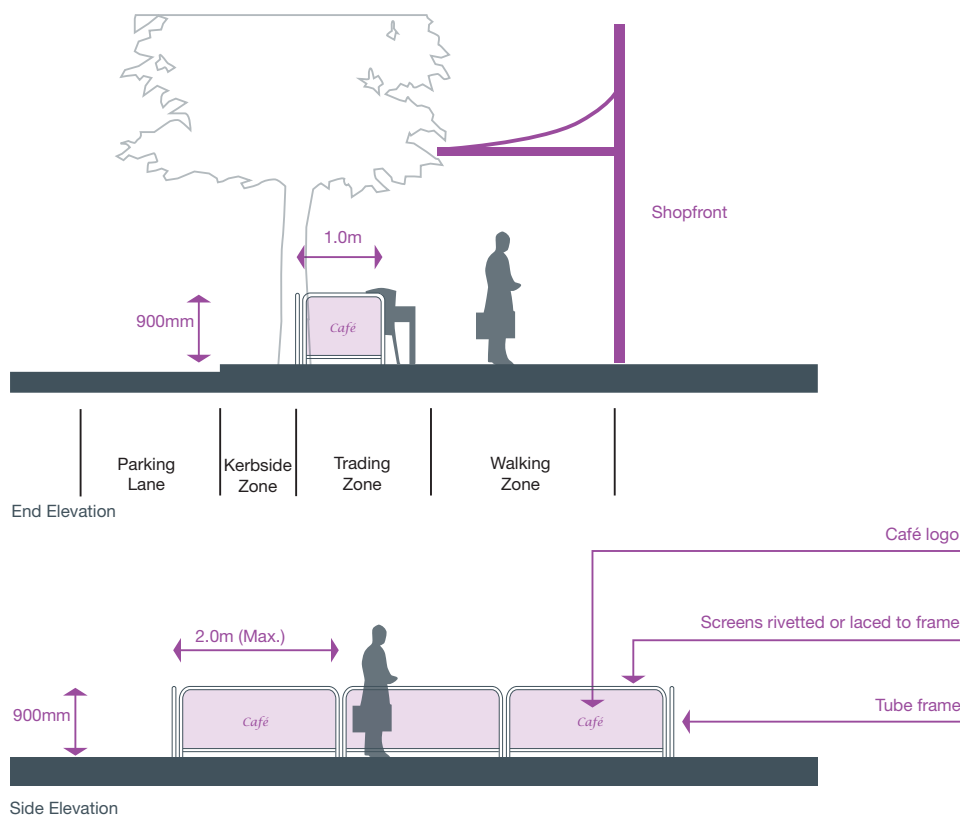


Diagram 7: Canvas screen specification



B22 Alternative screens

The City encourages and welcomes innovation and creativity in urban design. The City acknowledges that some flexibility is required with respect to design and materials used.

Alternative screens will be assessed on a case-by-case basis and upon design merit, by the City's Heritage Advisor, Urban Designer, Traffic Engineer and Planning staff. Applications will be assessed according to available space, streetscape, heritage considerations, durability, presentation and materials used.

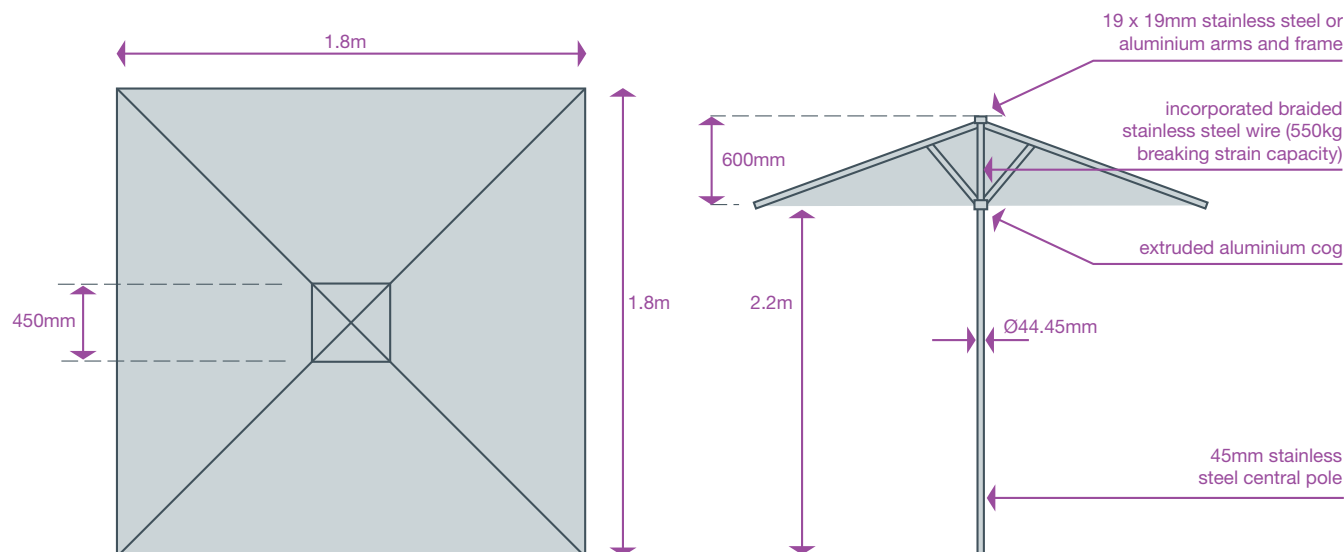
Design

- Screen height should be a minimum of 900mm but no greater than 1200mm (subject to approval).
- Design treatments must face outward, so that it is visible from the road;
- Design treatments can be replicated to also face inward;
- Domestic building materials will not be approved;
- Materials must be safe and suitable so as to avoid any risk of injury to patrons, pedestrian or general public;
- Material and design must be durable; and
- Must be semi-fixed into sockets into the pavement.

B23 Barriers within the Hargreaves Mall

- Removable barriers may be permitted in the Hargreaves Mall on a case by case basis.
- The barriers must be semi-fixed into the ground, and must be installed and removed daily.
- Design, construction and advertising restrictions detailed in Part B Access and design requirements.
- It is preferred that the barrier frame be made from stainless steel to match existing Mall street furniture.
- All costs associated with the installation, design and construction of barriers will be met by the applicant.

Diagram 8: Umbrella specification



B24 Umbrellas

Umbrellas are appropriate for providing shade from sun and shelter from wind and rain. They should only be used only where there is no existing shelter such as verandahs, awnings, canopies or trees.

The design and construction of umbrellas and footings must conform to the City's specifications.

Design

- All umbrellas must be semi-fixed to the footpath. The footpath installation must be a socket and sleeve system.
- Applications will be considered on a case-by-case basis
- Umbrellas are required to have a minimum width of 1200mm.

Umbrellas are not permitted

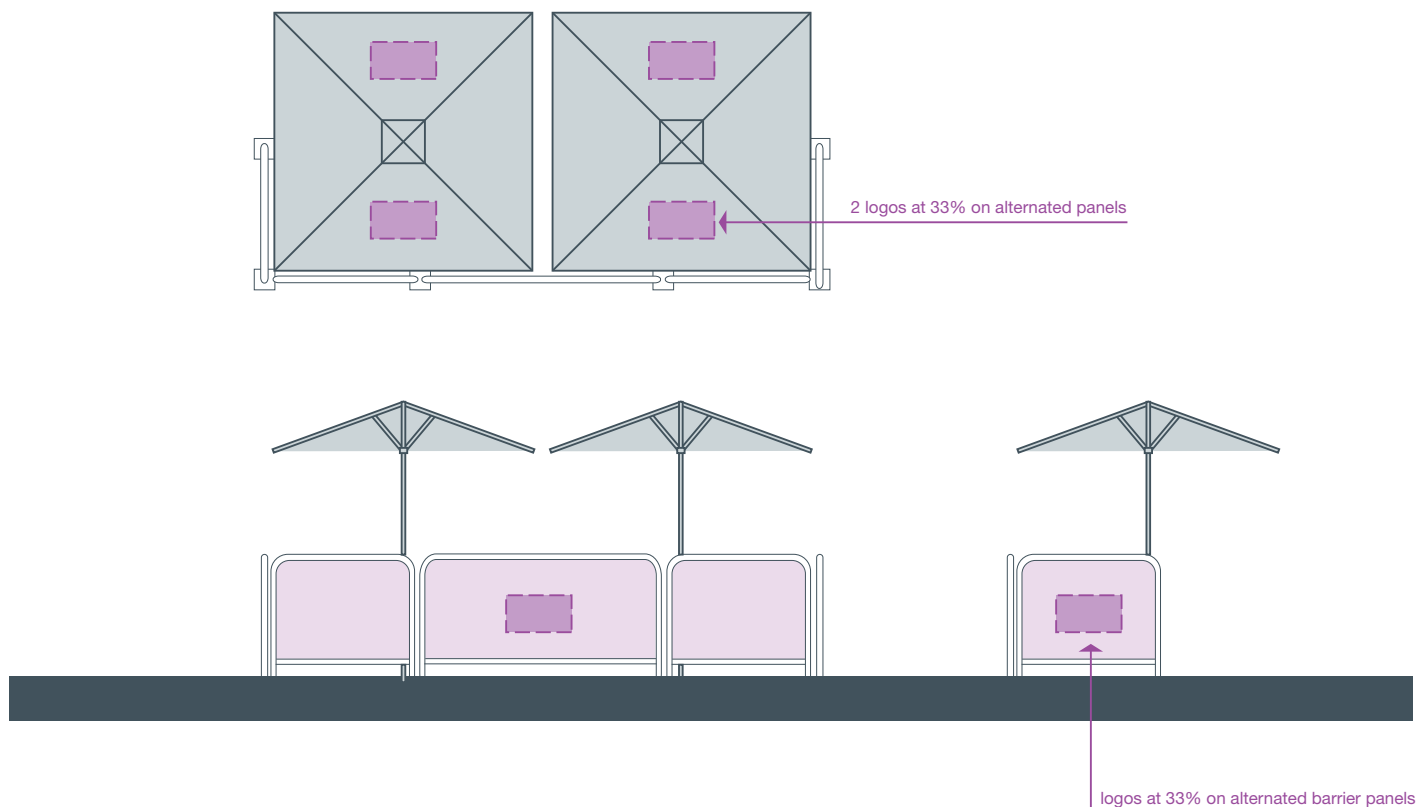
Where a building awning exists at typical ground floor height (2800 – 3800mm) and covers most of the footpath to 0 -1000mm setback from the kerb line.

To be lowered below the minimum clearance height of 2200mm measured from the lowest edge of the pavement.

B25 Placement and storage

- No more than the maximum number of tables and chairs specified on the permit can be used in the outdoor dining area.
- Tables and chairs must be setback from existing infrastructure, including street trees, lights and public furniture as previously defined.
- For safety reasons, chairs must not be placed with their backs to the road, where there are no barricades.
- No fixed tables or chairs may be used in the outdoor dining area.
- The number of tables and chairs placed within an outdoor dining area must allow unobstructed access and circulation for patrons and staff.
- A minimum space of four square metres is appropriate for a table and four chairs (2m x 2m) and a distance of 500mm should be allowed between adjoining settings.
- All tables and chairs must be stored within the indoor part of the business at close of the business.
- Canvas screens are not permitted between building line and the edge of the outdoor dining area. The side of the outdoor dining area facing the building should remain open.
- Canvas screens returns where permitted should not exceed 2000mm in width.
- No gaps should exist between screens if less than 12m in length.
- A 1500mm break must be provided in the centre of the outdoor dining area that has a total length of 12m or greater.
- Canvas screens must be semi fixed to the pavement.
- Canvas screens must be removed and privately stored from the public place at the end of permit trading hours.
- At no time can these screens extend beyond the neighbouring property, without approval from the City. All applications will be considered on a case-by-case basis.

Diagram 9: Advertising specification



- Complete enclosure of the outdoor dining area is not permitted. A maximum of three sides can only be enclosed.
- The canopy edge of the umbrella must not extend into the 'walking zone' and must be setback from the kerb as per the circulation requirements.
- Umbrellas must be properly secured in the pavement to prevent blowing over in strong winds.
- Umbrellas should be setback from existing infrastructure such as street furniture, trees, canopies, awnings and verandahs.
- Umbrellas must be removed from the public space and privately stored at the end of permit trading hours.
- An umbrella's life span in the public place is three to five years and should be replaced after this time.
- Glass screens are not permitted between building line and the edge of the outdoor dining area. The side of the outdoor dining area facing the building should remain open.
- Glass screens returns where permitted should not exceed 2000mm in width and are generally not encouraged on narrow footpaths.
- No gaps should exist between screens if less than 12m in length.
- A 1500mm break must be provided in the centre of the outdoor café that has a total length of 12m or greater.
- At no time can glass screens extend beyond the property boundary (width).
- Glass screens must be semi fixed to the pavement.
- Glass screens are generally not required to be removed from the public place at the end of permit trading hours, unless specified otherwise.

B26 Advertising

The City allows identification and promotional signs that add vitality and colour to business areas.

Although general specifications for advertising are outlined below, each application is assessed on a case-by case basis to ensure a high standard of graphic design, complementary to the café and streetscape is maintained.

Design

- A name or logo of the café may be displayed on every alternative panel of screen or umbrella.
- The size of the name or logo should cover no more than 33 percent of the surface area of the panels screens or umbrella.
- No commercial advertising of product shall be permitted except discretely on the umbrella upper surface and occupying not more than 10 percent of the umbrella surface.
- Where approved a combination of café name or logo is only permitted on glass screens.
- The placement of logo/logos on glass screens must be within the top 215mm of alternate screens as shown in the diagram above.
- A safety screen print pattern should be visible on all glass screens at a height of 0–700mm from the ground and on all panels, as shown in Diagram 6.
- Illumination contrast is recommended.
- Advertising on outdoor furniture should not be illuminated using neon lighting.

- No business or commercial advertising is permitted on chairs or tables.
- No private business advertising is permitted on any City street furniture and public infrastructure.
- No liquor or tobacco advertising is permitted on any item within the outdoor dining/street trading area.
- No advertising is permitted on planter boxes.
- No form of advertising or display material, including Advertising Boards ('A' boards) and excepting menu boards is permitted in the outdoor café area.

Exception: Where only two canvas screen panels are proposed, advertising is permitted on both panels for the purpose of maintaining balance

B27 Blinds

Full-length plastic blinds, transparent or rolled down screens from umbrellas and awnings are not permitted in an outdoor dining area. Plastic blinds encourage privatisation of the public place by enclosing the outdoor space. Plastic blinds obstruct the view of the building façade and are not in line with urban design and heritage guidelines.

B28 Awnings and fixed canopies

The City encourages the installation of permanent structures such as verandas to buildings as an alternative to installing fixed or retractable awnings.

Fixed building awnings should only be mounted on existing buildings that do not already have canopies at typical ground floor height (minimum 3800mm from the ground).

They should not extend beyond the reach of existing neighbouring building canopies or those less than 800mm from the kerb. Heritage considerations may limit a fixed building awning approval.

Fixed or removable awnings attached to an existing building covered by or neighbouring a heritage building are inappropriate where:

- There is an existing veranda or awning which is a contributing component to cultural significance of the heritage place.
- The proposed awning would extend beyond the traditional alignment of the street and verandah; or
- The building to which it would be attached would be physically damaged, the appearance or integrity of its architectural fixtures compromised, or its façade obscured by an awning in either the fixed or retracted positions.

All fixed building awning installations require a planning permit and building permit. For more information contact the City's Planning and Building Departments on 54346000 or visit www.bendigo.vic.gov.au

Freestanding awnings are not permitted.

B29 Weather Treatments for Outdoor Dining Areas

Weather treatments that enclose or discourage access by the general public to an outdoor dining area are not permitted. However approved weather treatments that are temporary may be permitted on a case-by case basis where the applicant can demonstrate that the proposal will increase activity in the street, is of high quality and will be properly managed. Weather treatments will only be permitted to be used during inclement weather that means that they will need to be dismantled/retracted or removed in fine weather and after trading ceases.

- Weather treatments will be decided on a case by case basis
- Permanent installations such as glass barriers will not be permitted.
- Material and quality will be specified and approved by the City's Heritage, Planning and Urban design Team.
- Domestic materials such as ready to hang plastic blinds or fence pickets will not be permitted.
- Applications will be assessed with respect to potential pedestrian and vehicle safety implications. Where a risk is identified a suitable design control must be developed that meets the approval of the City's Transportation Engineer.
- Weather treatment devices will only be permitted to be used in wet and inclement conditions, failure to comply with this requirement will result in the direction to remove the weather treatment.

In some instances dependent on planning zones and overlays a planning permit approval may be required in addition to the Local Law approval.

The City has staff that can provide assistance on design, material and appropriate construction.

B30 Gas heaters

Gas heaters are popular for heating outdoor dining areas in the public place. Permit holders should consider limiting the use of gas heaters due to the amount of energy wasted by attempting to heat uninsulated open areas. Outdoor gas heaters contribute to greenhouse gas emissions.

Outdoor gas heaters are at high risk of causing fire and explosion if not properly managed and maintained. Fixed heaters will not be approved for use in public places.

The City requires adherence to *Gas Standards (gas fittings and consumer gas Installations) Regulations 1999, Australian Standards and Codes of Practice*, and supports the policies of Energy Safe Victoria and the Country Fire Authority (CFA) in relation to safety of heaters.

Where gas heaters are used the following requirements must be followed:

- Training of nominated staff in the safe use of gas heaters is the responsibility of the permit holder. Nominated staff members should be responsible for the safe use of gas heaters, storage and handling of full and empty containers that are not in use.
- The maintenance and replacement of portable gas heaters is very important. Each heater should be checked by a licensed gasfitter at least every 12 months or sooner if required. Damaged or faulty heaters should not be used.
- Gas heaters must be self contained, stable and free standing. They must conform to the appropriate industry standard and occupational health and safety requirements. All gas heaters must have a registered Australian Gas Association Number (AGA No.) or SAI Global approval.
- Storage of LP gas cylinders MUST be in an external and secure location, such as a gated enclosure, and not in the public place to prevent tampering. LP gas cylinders are NOT permitted to be stored inside café premises.
- The quantity of portable gas heaters will be determined by circulation requirements set by Australian Standards. Accordingly the City will grant approval based on the number of gas heaters in accordance with the total designated outdoor café area.
- Positioning of portable gas heaters the use of gas heaters will only be permitted in a well-ventilated outdoor dining area. Heaters are commonly positioned directly under umbrellas and awnings. Manufacturers' recommended clearances from combustibles must be observed within the outdoor dining area and instruct staff to monitor the usage of heaters within the area. Leaving gas heaters on whilst the outdoor café is not being patronised contributes to the

TIP: Limit outdoor gas heater use. Gas heaters should only be switched on at a patron's request. Permit holders should be aware of the excessive use of heaters within the outdoor dining area and instruct staff to monitor the usage of heaters within the area. Leaving gas heaters on whilst the outdoor cafe is not being patronised contributes to the waste of energy and greenhouse gas emissions.

B31 Plants and planter boxes

Appropriate planter boxes can enhance the existing landscape features on public and private land and contribute to the city's amenity. Maintaining and enhancing the leafy environment of the city through design and effective plant choice ensures outdoor dining and street trading areas make a positive contribution to the city environment.

Planter boxes will be considered on a case -by-case basis and in accordance with the following principle. Planter boxes will not be permitted if they are seen to be enclosing an outdoor dining and street trading area.

Design

- Planter boxes may be used in conjunction with café screens.
- Plant species should be chosen for their drought tolerance, hardiness, slow growing and ease of containment in shallow planter boxes.
- For planter boxes to be sustainable within the public place, the City requires a plant maintenance and replacement program to be implemented by the permit holder.
- Plants are required to be pruned, watered, fertilised, and receive enough sunlight to ensure they remain in a good healthy condition, as well as look neat and tidy all year round.
- Any individual planter box should not exceed a total length of 1800mm and the total height, including plants, should not be more than 1200mm in height above the footpath.
- Planter boxes may be constructed from non-rusting metal or timber and must be mobile i.e. fitted with lockable castors or be semi fixed to the ground via a socket and sleeve system.
- Semi-fixed planter boxes must be a minimum height of 100mm from the ground for cleaning purposes.

Placement and storage

- Where canvas screens are deemed to be inappropriate, planter boxes may be used at right angles to the kerb to define the outdoor café.
- Planter boxes must be removed from the public place when the café closes each evening unless designed as permanent structures in the public place.
- Dripping water from planter boxes must not be allowed to cause excessive staining of the paving surface.

Plant species

There are several guiding principles when selecting plant species for planter boxes for an outdoor café. These include:

- Evergreen to ensure a full vegetative cover display in plant species within the public place;
- Dense cover that is not dominated by stems or light foliage to ensure a full vegetative cover/display all year round;
- Slow growing plants that do not need regular pruning to minimise the need for maintenance;
- Drought tolerant and hardy plant species reduce maintenance;
- Avoid messy flowers or fruit plant species that drop their flowers or fruit to minimise maintenance;
- Plant species with prickles such as needles or thorns should be avoided as they can cause injury or discomfort to people who brush against them;
- Leaves, flowers or fruit plant species that are toxic may cause health hazards to patrons and pedestrians;
- Low pollen, flowers and leaves with low allergy levels can help the comfort of patrons; and
- Plant species should not be domestic in scale or style such as ornamental flowers (e.g. roses).

Plant maintenance program

The permit holder is responsible for maintaining a healthy planter box. Given the level of responsibility, a plant maintenance and replacement program is required to be implemented by the permit holder, and a copy forwarded to the City. The plant maintenance program should include:

- Watering: regular watering of plants or the use of self-watering pots is highly recommended.
- Fertilising: regular fertilisation of plants.
- Pruning: regular pruning of overhanging and untidy plants.
- Rotation of plants: rotation and replacement of plants will ensure a healthy plant is always on display, and allows the regeneration of any plant recovering from vandalism or neglect.
- Removable planter pots: plants placed in planter boxes should be in separate, removable pots.
- Removal of litter and cigarette butts: removal of litter and cigarette butts from planter boxes prevents litter accumulating and prolongs the life of the plant.
- Replacement program: This consists of regular replacement of plants such as once every three months to ensure the planter box display is kept in its optimum condition.

The City reserves the right to order the removal of planter boxes that are not properly maintained. Artificial flowers or foliage may be considered on a case-by-case basis.

B32 Footpath advertising signs (A-frames, flags and banners)

Strict conditions govern the size and location of footpath advertising signs to ensure that they do not create a safety hazard, an obstruction or an eyesore.

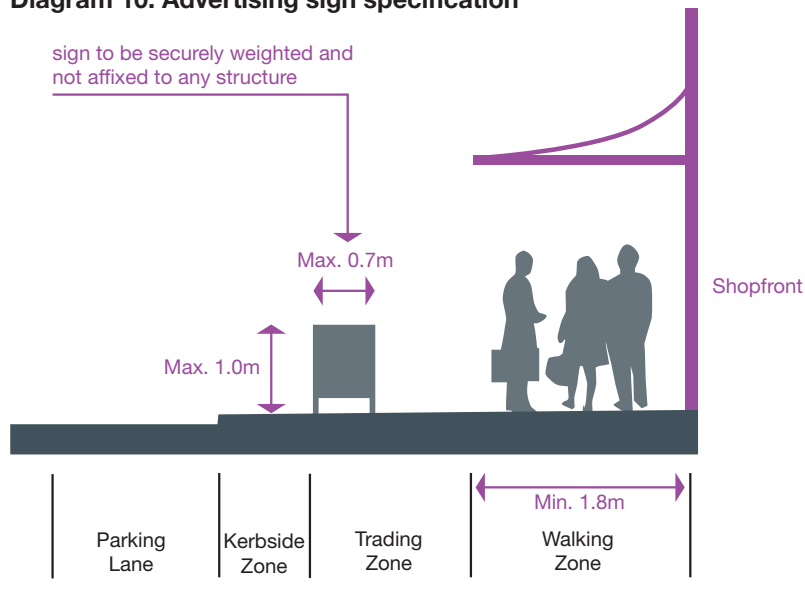
- must be satisfied that the additional signage requests will fit with the 'trading zone' adjacent to the premises and not adversely effect accessibility or safety pedestrians.
- Signs must not be affixed to any footpath, building, street furniture, pole or other structure.
- Signs must not be placed within the walking zone under any circumstances.
- Signs must not be placed within 9m of an intersection.
- Signs generally can only be located adjacent to the premises frontage, however where the footpath does not allow for a trading zone, alternative locations may be considered on a case-by-case basis.
- A current City permit sticker must be displayed on the relevant sign.
- The City does not permit advertising to be affixed to footpaths by paint, stickers, tape, marker pen and the like.

Banners

The City acknowledges that businesses are seeking different alternatives to A-frame signs for promotion. The use of banner type signage – tear, feather and rectangular – is permitted by permit process. The following requirements need to be complied with respect to this type of promotional material:

- Maximum height of the banner is 2.7m;
- No more than two banners per business premises;
- A combination of no more than two banners and one A-frame sign will be permitted per business premises;
- Banners must be set back a minimum 1000mm from the kerb;
- Banners must be set back a minimum 1.8m from the building line (as specified in B5 Circulation and clearances – Table 4: Minimum pedestrian clearances from outdoor dining/trading area);
- Banners cannot be affixed to buildings.
- Banners cannot overhang road way (to avoid traffic hazard).

Diagram 10: Advertising sign specification



B33 Display of goods

The display of goods on footpaths must comply with the *Disability Discrimination Act 1992*. The City cannot issue any exemptions under this Act; goods must not be placed or offered for sale on the building line of the property.

Stands to display goods must be constructed of a high standard in appearance and style, and made of quality materials, with finishes that are safe, durable, attractive and in keeping with the amenity of the area.

- All goods stands must be suitable/stable and approved by the City.
- Goods must not be affixed to any footpath, building, street furniture, pole or other structure.
- Goods must not be placed within the walking zone under any circumstances – including inclement weather.
- Goods should have a contrasting colour to their background to assist the vision impaired.
- Food display must comply with any requirement of the City's Environmental Health Officers.
- The display of goods will be limited to an area of footpath directly in front of and within 1 metre of the front of premises.
- For corner sites, footpath displays must be limited to a single street frontage.
- Generally, two display stands will be permitted per business.

Alternative options for displaying goods

The City encourages and welcomes innovation and creativity in urban design. In recognising this acknowledges that some flexibility is required with respect to innovative goods on display.

Alternative displays will be assessed on a case-by-case basis and upon design merit by the City's Heritage Advisor, Urban Designer, Traffic Engineer and Planning staff. Applications will be assessed according to available space, streetscape, heritage considerations, durability, presentation and materials used.

Design

- Goods must not be displayed on the building line.
- Pedestrian clearance must be maintained as specified in B5 Circulation and clearances – Table 4: Minimum pedestrian clearances from outdoor dining/trading areas.
- Domestic building materials will not be approved.
- Materials must be safe and suitable so as to avoid any risk of injury to patrons, pedestrians or general public.
- Material and design must be durable.
- Must be semi-fixed into sockets into the pavement.

For advice and approval of proposed screens, displays, advertising, tables and chairs, please contact City's Local Laws Officer.

B34 Busking/street performer conditions

Buskers, street performers and artists add activity, colour and interest to the public space. The City welcomes quality buskers/street performers but recognises that any performer/activity must not adversely affect pedestrian movement, safety or become a nuisance.

If you want to busk or perform in any public place you must obtain an, 'Activities in a Public Place Permit'.

Busking is defined as any street performance including playing a musical instrument and/or singing, conjuring, mime, mimicry, dance, pavement art, puppetry, performance art, recitation and other appropriate theatrical and visual form.

The City prefers that performances are non-amplified, however if a busker/street performer proposes to have an amplified performance then an assessment of quality and permitted sound levels will be determined by Local Laws Officer prior to commencement of activity.



If a permit is granted the following conditions must be complied with, or your permit may be revoked:

- Permits will be issued for no more than a period of two months at a time.
- No commercial third party advertising will be permitted.
- The permit holder may offer for sale CD, DVD and minimal promotional goods which is of their own material. (No third party goods to be offered).
- Permit holder must not act in a manner that harasses, intimidates or threatens other persons using the space.
- Permit holder must not obstruct or hinder pedestrian or vehicle traffic.
- Permit holders must not obstruct the entrances to shops, buildings or walk/laneways.
- The direct soliciting or collection of donations is prohibited.
- Amplification of the performance will be kept to the level determined by the Local Laws Officer prior to the performance/activity occurring. Provide detail of type of amplified equipment to be used. A site plan of proposed location of equipment and cabling/electrical cords must be provided by the permit holder for City approval before performing. Cables must not be laid across pedestrian pathways or cause a trip hazard. Cables must be tagged.
- Drawings, sketches or other artworks made on the pavement must be in an easily erasable, non-permanent medium such as chalk, charcoal or pastel and must not be in crayon, paint or any other permanent or staining medium.

Note: Permits will not be given to persons performing with the intentions of promoting a religious or political position.

Public liability

Provided that the City has granted the performer a permit, the busker/street performer/street artist is covered under the City's Broadform Liability Policy Schedule – Hires/Performers/Stallholders/Permit Holders Liability Scheme.

The permit holder is advised that should a claim arise against them they must pay the specified excess for each claim made against them.

The following activities are excluded from the City policy – activity with fire, knives and require audience participation. Persons wishing to conduct these activities must provide a copy of their Certificate of Currency, that details they have public liability cover of a sum not less than \$10,000,000 for their specified activity.

Fees

Fees may be payable dependent on the professional and commercial activity associated with the busking/street performance.

Part C: Operation and management

Table 10: Roles and responsibilities

Responsibility	Role
Management of the street environment and the public place	City of Greater Bendigo
Operation and management of outdoor dining/street trading areas	Permit holders
Ongoing education and compliance with the Outdoor Dining and Street Trading Code of Practice (the Code)	City of Greater Bendigo and permit holders

C1 Roles and responsibilities

There are a range of responsibilities for the establishment and management of outdoor dining and street trading area. Some of these are the responsibility of the City, some are the responsibility of the permit holder, and others are considered a partnership between the City and permit holders. Refer to Table 10: Roles and responsibilities.

C2 Compliance with Laws

The permit holder is responsible for complying with this Code and all laws including Local Laws and all other legal requirements relevant to the operation of an outdoor dining and street trading area, and to ensure employees and agents also comply.

C3 Principles

Patron behaviour

Permit holders are responsible for monitoring and managing patron behaviour, and must ensure that if they operate licensed premises (if they serve alcohol) that staff practices responsible serving of alcohol. Selection of an appropriate site for the business, appropriate operating hours and regular staff monitoring of the outdoor dining/street trading area will minimise unnecessary noise and nuisance.

Maintaining social amenity in a residential area

Traditional residential neighbourhoods are especially sensitive to commercial activity, particularly when this activity is in the public place. The social sustainability of these areas is dependent on the compatibility of an outdoor dining and street trading area with the residential and community access and use of the area. The design and operation of an outdoor dining/street trading area in a residential area is subject to detailed assessment against a set of additional criteria. Refer to section C13 Residential areas impact assessment.



Positive contributions to environmental sustainability

The City aims to make Bendigo a more sustainable municipality through its policies and strategies. This will partly be achieved through more efficient use of resources including energy and materials. Outdoor dining and street trading areas can play a positive role in reducing their impact on the environment.

Key areas for consideration are:

- Use of outdoor heaters;
- Waste management; and
- Use of disposable packaging in the public place.

The City is renowned as a tourist destination and its community uses public spaces every day, which means its public places and streets must be clean and safe. Outdoor dining and street trading areas can contribute to public safety by maintaining clear lines of sight through the public place and streets, increasing opportunities for casual surveillance and providing a sense of activity and safety. Constant monitoring by staff also ensures outdoor dining areas are not used for anti-social or unsafe activities.

Areas within and around outdoor dining and street trading areas should also minimise the potential for personal injury. Appropriate selection of furniture and fittings, as well as regular maintenance of these items is important.

Minimise unnecessary noise and nuisance

With higher density residential development in the CBD area and the commercial/ residential interfaces throughout the outer lying suburbs, the City and residents are mindful that many of these areas are sensitive to noise and nuisance. It is essential that outdoor dining and street trading area do not unnecessarily or unreasonably compromise other activities, particularly residential activities.

C4 Environmental sustainability

The Code aims to reduce waste generated by outdoor dining and street trading areas. It encourages owners and operators to minimise noise, dispose of waste and minimise the potential for waste and litter in the area. All these steps make a positive contribution to environmental sustainability.

A special focus for this Code is to introduce strategies covering:

- Waste management
- Plant and planter box management, and
- Portable outdoor and fixed Gas heater management

By participating and embracing these strategies permit holders can:

- Minimise the amount of waste sent to landfill
- Make recycling viable and attractive for all business
- Encourage growth in eco-efficient products and services, and
- Reduce littering and dumping of rubbish

C5 Waste management

The following requirements apply to all outdoor dining and street trading areas:

- The permit holder and staff must keep the outdoor dining/ street trading area clean, and ensure litter is removed promptly from in and around the area and disposed of properly;
- Permit holders must maintain a high standard of presentation of furniture and fittings. Screens and planters must be clean, in good order and well presented. This includes removal of dirt and debris from screens, umbrellas, tables and chairs within the outdoor area.
- Permit holders must maintain the cleanliness of the public place throughout the trading period by removing all food, paper, cigarette butt waste and tree debris such as leaves and pollen;
- All staff must be adequately briefed about separation of waste, managing their containers and service cycles properly, and eliminating litter and waste spillage onto the street;
- Waste material, including cigarette butts, must be stored in approved receptacles and containers;
- All ashtrays used in outdoor dining areas must be portable and windproof;

- Fixed butt bins must not be attached to the building line when used in conjunction with an outdoor dining area;
- Outdoor dining litter or waste must not be swept into stormwater drains. Litter must be swept, collected and disposed of in approved receptacles; and
- Crockery and glassware must be used in outdoor dining areas.

Rubbish and recycling bins

The City provides a waste and recycling collection service to all rateable properties. The number of bins and times of collection are dependant on the premise's arrangement with the City's Waste Services.

Bins are required to be removed from the footpath as soon as possible after collection, to prevent any nuisance arising and to provide a clear free pathway.

Street cleaning, waste and litter collection

The City is committed to making sure the entire municipality looks its best at all times, through regular street cleaning, rubbish removal and monitoring. Street cleaning continues throughout the day according to activity area priorities and involves mainly mechanical sweepers and cleaning by hand.

Cigarette butt management

Smoking is prohibited in all 'enclosed' premises in Victoria under the *Tobacco Act 1987*. For this reason, it is likely more people will use outdoor dining areas for smoking. Already legislation banning smoking from indoor premises has led to an increase in the amount of cigarette butt litter around outdoor areas, which in turn is carried into stormwater drains and waterways.

The permit holder must ensure the outdoor dining area and surrounds are in a clean and hygienic state at all times, including collecting and removing cigarette butt waste. All ashtrays used in outdoor dining areas must be windproof.

Crockery and glassware

To minimise waste, crockery and glassware should be provided when serving food and drink in outdoor dining area. Plastic containers, paper and polystyrene cups create additional litter and contribute to greenhouse emissions.

In addition, the use of crockery and glassware ensures outdoor dining areas are regularly serviced by staff and indicates quality to customers.

C6 Maintaining safe places and streets

It is the responsibility of the City, other relevant authorities and the community, to manage the street environment and the public place. The street environment is a public resource for city users. Outdoor dining and street trading areas are just one of many uses of the public place, subject to approval and ongoing compliance with relevant guidelines and Local Laws.

City safety and amenity

Community safety is a high priority for the City, particularly in public spaces. Key safety priorities include:

- Safe, clean and welcoming environment; and
- Safe behaviour, social support and community cohesion

Whilst the City does undertake video surveillance of the CBD trading area it also encourages passive surveillance of streets and other public places. Outdoor dining and street trading areas assist in achieving this process and aid in perceived and real safety for visitors, workers and residents.

It is essential that public places and streets are presented in a clean and safe manner. Outdoor dining and street trading areas contribute to public safety by maintaining clear lines of sight through public places and streets, and provide a sense of activity and safety. Constant monitoring by staff also ensures outdoor dining areas are not used for anti-social activities or compromise public safety.

The permit holder should ensure staff are well trained in management and layout of the outdoor dining/street trading area to meet patron and pedestrian access and safety needs. An over-crowded outdoor dining area can contribute to injury. Therefore permit holders must consider injury prevention in the public place by maintaining clearances and circulation in the outdoor dining area. This includes shared use of the footpath for pedestrians passing by, passengers alighting from vehicles and cyclists. For more information refer to section C19 Permit holder responsibilities.

C7 Building owner notification

The applicant must notify and consult with the building owner before submitting an application for a permit to the City. This allows the building owner to consider the implications of additional operating costs associated with longer trading hours.

C8 Consumption of Liquor

A permit issued by the City only authorises the consumption of food within the outdoor dining area, not liquor. To supply and consume liquor in an outdoor dining area, the applicant must seek a liquor licence from the Victorian Commission for Gambling and Liquor Regulation (VCGLR).

The permit holder is required to:

- Obtain a permit, pursuant to the provisions of the *Municipal Places Local Law*, from the City; and
- Obtain a licence, in writing, from the VCGLR, pursuant to the provisions of the *Liquor Control Reform Act 1998*, authorising the sale and consumption of liquor in areas other than the licensed premises such as an outdoor dining area outside the licensed premises.

This means proprietors can only serve liquor in an outdoor dining area if they have a permit from the City and a 9 (1) (b) approval from the VCGLR. Please note: the granting of a permit from the City will not remove the right of the City to lodge an objection to such liquor applications, pursuant to section 40 of the *Liquor Control Reform Act 1998*.

The City reserves the right to object to any liquor application if it considers the proposal would be detrimental to the amenity and safety of the area. For more information about liquor licensing matters contact:

VCGLR
49 Elizabeth Street,
Richmond VIC 3121
Phone: 1300 182 457

C9 Table service

Table service within an outdoor dining area provides an inviting, attractive and safe environment for patrons. Patrons in outdoor dining areas must be seated at all times. Waiter service is encouraged in outdoor dining areas. A minimum requirement of table service must include the clearing of crockery, cleaning of tables and proper rubbish disposal.

C10 Smoking in outdoor dining areas

Smoking is prohibited in all 'enclosed' premises in Victoria under the *Tobacco Act 1987*. Under this legislation, the definition of 'enclosed' has been amended to provide clarity and acknowledge the wide diversity of venues. Enclosed means an area, room or premises that is substantially enclosed by a roof and four walls regardless of whether the roof or walls, or any part of them, are permanent or temporary, open or closed. Given this, smoking is generally permitted in outdoor dining areas *unless the permit holder stipulates otherwise*.

C11 Outdoor dining permit application in a residential area

Residential areas are particularly sensitive to the location and operation of commercial businesses, including outdoor dining areas. Applications for outdoor dining areas in residential areas will be assessed against rigorous criteria to ensure appropriate decisions are made with regard to character of the area, trading hours, noise levels, safety and amenity of the immediate area. In addition, the activities, interests and concerns of local users will be considered prior to a permit being granted.

The City will also consider potential benefits and impacts of any proposed outdoor dining area on the basis of safety and amenity of the residential area. The decision whether to grant a permit will be made by a panel of senior City officers. If the proposed outdoor dining area is located in a residential area the applicant will be required to submit additional information by way of a Residential Areas Supporting Information Form to the City.

The preliminary information is to demonstrate that the proposal will not impact unnecessarily on residential amenity, and will protect the existing character, safety and amenity of residential areas. This additional information should be prepared during the application process. The Residential Areas Impact Assessment is considered separate to a planning permit and may only be granted where the appropriate planning permit (if applicable) is held.

C12 Licensed premises/late night entertainment venues

Many licensed premises/entertainment venues that do not provide meals may wish to use public space as an outdoor area to provide an alfresco feel for their patrons. Applications for outdoor dining areas for these premises will be assessed against rigorous criteria to ensure appropriate decisions are made with regard to character of the area, trading hours, noise levels, safety and amenity of the immediate area. In addition, the activities, interests and concerns of local users will be considered prior to a permit being granted.

The City will also consider potential benefits and impacts of any proposed outdoor dining area on the basis of safety and amenity of the greater area. The decision whether to grant a permit will be made by City officers and the Victorian Police.

As a part of the application the applicant will be required to submit additional information by way of a Management Plan to the City of Greater Bendigo. A management plan must detail:

- The number of proposed patrons to be allowed in that area at any one time
- Physical design and furnishings and fittings
- Setback and clearances (must be the same as specified in the guide)
- Security and monitoring of the area and surrounding area
- Cleaning and maintenance of the area during and after use,

- No bars/or sales points will be permitted on public land.
- Hours of operation for outdoor dining area will be inline with liquor license 'off premise' time restrictions.

The City reserves the right to put additional requirements on Licensed Premises/Late Night Entertainment Venues, to protect the amenity and safety of the area.

C13 Residential area impact assessment

Where there may be impact on residential areas, a Residential Impact Statement must be submitted.

The following criteria must be met by the applicant in their proposal before any residential consultation is undertaken by the City.

1. Character of the area

Consideration should be given to the visual impact of the proposal on the traditional use of open space, existing heritage elements and other key features of the local environment.

2. Operation of the site

The applicant must demonstrate how the proposal will address a local demand and result in a net benefit to local residents and the community.

The applicant must consider the impact of the proposal on the cleanliness of the area including general rubbish, specialized wastes, bottles and other recyclable storage and removal arrangements such as hours of pick up.

Arrangements for deliveries to and from the outdoor dining area, including the times this will occur, must be provided by the applicant. The introduction of an outdoor dining area in a primarily residential area can influence proposed hours of operation. The applicant must consider excessive noise and nuisance created by early morning and evening trade. This includes noise from deliveries and the impact caused to existing traffic conditions

3. Suitability of outdoor dining area

Any benefits the outdoor dining area may bring to the residential area should be outlined, and the applicant should specify whether the proposal is for a temporary activity, such as in conjunction with a festival or event.

4. Safety

Appropriate safety measures for energy sources and connections should be considered by the applicant. The outdoor dining area design must consider any potential encroachments into the public place.

Residential safety and property security issues that might affect the application must be considered by the applicant as well as any traffic issues that might make the site unsafe.

5. Toilet and sanitary conveniences

The introduction of an outdoor dining area may increase the overall number of patrons. It may be necessary to upgrade the existing toilet and sanitary conveniences.

6. Residential consultation

Once the City has received a detailed proposal addressing the issues outlined, a full assessment of the proposal, a site inspection and consultation with the applicant will be undertaken by the City. Once the above guidelines are met, the City will consult with potentially affected stakeholders in the area.

7. Notice of proposed outdoor dining application

The applicant for an outdoor dining area in a residential area will be required to advertise the application by display of a notice on the premises. The City will undertake a letter drop to neighbouring residents. Residents within the immediate block of the proposed outdoor dining area must be notified.

The City will decide on any further appropriate advertising. The minimum period for advertising will be 14 days.

8. Resident notifications

Residents, business owners and occupiers surrounding the proposed outdoor dining area will receive a written notice of intention for an outdoor dining area with an accompanying site plan and proposed hours of operation.

This provides an opportunity for residents and business owners to provide comment. Residents, business owners and occupiers are encouraged to view and discuss the application with the City and provide a written submission outlining their support or objection to the application.

Once all submissions have been received, the City will review the submissions, schedule a Residential Panel Hearing and notify the applicant, residents, and business owners and occupiers of the hearing date.

9. Panel hearing and decision

Decisions about whether to grant a permit will be made by a panel appointed by the City, after full consideration of written submissions and relevant information presented at the hearing regarding the impact of the application on safety, access and amenity. The panel will make a determination and formally notify all parties concerned of the decision.

C14 Hours of operation

Outdoor dining areas are generally permitted to trade between the hours of 7am and 10pm Monday to Sunday.

If an applicant is seeking to trade beyond these hours, the application will be assessed on a case-by-case basis to ensure that there is minimal detriment to the amenity of the surrounding area. In most exceptional cases 1am will be considered the maximum time that an outdoor dining area is permitted to trade.

Outdoor dining /trading areas in close proximity to residents, both within and outside the Central City, will have their proposed hours of trade carefully considered against the safety and amenity of the area and subject to Residential Areas Impact Assessment.

If an applicant chooses to apply to the VCGLR for a liquor licence to serve alcohol in the outdoor dining area, the trading hours of the outdoor area will be translated onto the Local Law permit.

C15 Public risk

The City must be provided a copy at time of application and may from time to time request a Certificate of Currency from the permit holder.

To meet the City's requirements the policy must:

- Be a minimum amount of \$10,000,000 in respect to any single occurrence.
- Note the interest of the City of Greater Bendigo on the policy.
- State the period covered by the insurance policy (i.e. Commencement and expiration date). The insurance policy must be renewed upon expiry.
- Be issued by an insurer approved by the Australian Prudential Regulation Authority (APRA).
- Be an approved form such as a Certificate of Currency for the policy.
- Indemnify and release the City of Greater Bendigo against all liability arising from the use or occupation of the outdoor café or the conduct of the permit holder's business by the holder or any of permit holder's agents including:
 - any claim made by any person for injury, loss or damage arising in any matter;
 - any loss or damage to any property belonging to the permit holder or other person located in the vicinity of the outdoor café caused by the permit holder or the permit holder's agent; and
 - any loss, damage, injury or illness sustained or incurred by the permit holder or any of the permit holder's agents.

C16 Cleaning, repair and maintenance

All furniture and fittings in an outdoor dining/street trading area must be maintained, physically sound and aesthetically acceptable at all times to the satisfaction of the City.

Permit holders must ensure all items of furniture, screens and planters are clean, in good order and well presented. Refer to Table 11: Repair and maintenance of furniture – timeline requirements

C17 Change of ownership

The permit issued by the City is separate from the ownership of a business conducted on the private property and has no legal attachment to the sale or transfer of ownership of a business.

The permit will not automatically be transferred to the new owner, as conditions change over time. To ensure an outdoor dining area can continue to operate, the new proprietor must submit an amended application form noting the change of ownership.

The City may offer a new permit under the same terms and conditions as the previous permit. An application fee applies to this process. An amended permit will be issued with the new proprietor's details for the remaining permit period.

It is the responsibility of the existing proprietor to include the balance of the remaining permit fee in the sale of the business.

C18 Restoration of the public place

When outdoor dining infrastructure is left behind in the public place after a premises closes down, it can cause serious safety issues for pedestrians and exposure to public liability.

The following points are key responsibilities for permit holders for restoring the public place after the cancellation of a permit.

- The City will remove all the outdoor café furniture, including semi-fixed and non-fixed items, associates sockets from the public place and reinstate the footpath to its original condition.
- No payment or compensation will be given to the permit holder by the City for removal and disposal of outdoor café furniture.

Cost for reinstatement of the public place

All costs associated with reinstatement works will be met by the permit holder. The cost of restoring the footpath to its original condition will depend on the size of the outdoor dining area and the number of fixed furniture sockets. These include sockets in the paving where glass screens, furniture and/or umbrellas were installed, electrical wiring, conduits and switchboards. Removal of these items from footpaths may require replacement of significant areas of bluestone paving.

Table 11: Repair and maintenance of furniture – timeline requirements

Item and issue	Action and timeline
Glass screen broken	Make safe immediately, repair within 48 hours
Glass screen missing – repair	Within seven days
Graffiti on glass screen – clean	Within 24 hours
Graffiti on canvas screen	Remove and clean or replace within seven days
Components of screens missing or broken	Replace within seven days
Canvas screens torn	Remove and repair within seven days
Furniture in disrepair or broken	Remove or make safe immediately, replace within 14 days
Furniture does not meet the Guide	Replace with approved furniture within 14 days
Screens and awnings in unclean condition	Clean within 24 hours
Planter boxes damaged	Remove and replace within seven days
Plants wilted or missing	Remove and replace within seven days
Advertising logos do not meet the Guide	Remove within 24 hours
Umbrellas damaged or canvas torn	Make safe immediately, remove and replace within 24 hours

C19 Permit holder responsibilities

This section is a summary of permit holder responsibilities for the operation and management of outdoor dining and street trading areas.

Operation of these areas is the responsibility of the permit holder. To ensure outdoor dining areas are enjoyable for everyone, permit holders have a number of responsibilities. Refer to Table 12 Permit holder's responsibility checklist.

1. Valid outdoor café permit

- Operate in accordance with the specific and general conditions of the permit and the requirements contained in the Code.
- Changes and alterations to existing permit conditions require approval from the City. The permit holder is required to submit an amended application form proposing any changes or alterations to an existing permit.
- When granting of permit a site plan is provided to the permit holder by the City, which clearly identifies the maximum number of tables and chairs to be used, required clearances and other design requirements. The permit and site plan must be kept on the premises to ensure all staff are aware and adequately briefed about the layout and positioning of the outdoor café.

2. Maintain access for all users

- Maintain access for all patrons in and around the outdoor dining and street trading areas at all times with particular attention to the needs of people with disabilities.
- Ensure the outdoor dining and street trading area is kept clear and is accessible to street cleaning contractors.
- Ensure the correct number of tables and chairs are used in the outdoor area (as specified on the permit).
- Set up and dismantle furniture within the trading hours specified in the permit.
- Allow 24-hour access for essential service maintenance. This includes parking meters, fire hydrants, fire equipment stores, communication switchboards, boosters, communication poles and underground services.
- Allow access for footpath and road maintenance works. The permit holder will be notified by the contractor/City to arrange a suitable time for works to be carried out. In some cases the outdoor dining and street trading area will be unable to operate and the permit holder will be requested to remove all furniture.
- In some areas of the city, delineation markers will be installed in the footpath to assist permit holders to identify their outdoor dining and street trading area. The permit holder must ensure all associated furniture fittings is kept within these markers to assist the circulation, safety and comfort of pedestrians and other users of the public place.

3. Create an attractive and inviting environment

- Provide safe and aesthetically pleasing furniture and fittings that meets Australian Standards and suitability for the urban character of the area.
- Manage the position of the furniture in the outdoor dining and street trading area and ensure furniture is returned to its original position when moved by patrons.
- Repair or replace any damaged furniture and fittings. Refer to Table 11: Repair and maintenance of furniture – timeline requirements.
- Clean all furniture, fixtures and fittings associated with the outdoor dining and street trading area and maintain a high standard of presentation.

4. Safe and sustainable social contribution

- Monitor the outdoor dining/street trading area.
- Observe patrons at all times and respond to behaviour that may interfere with the use, enjoyment or personal comfort of others in the outdoor dining area or neighbouring public place.
- Manage the outdoor dining/street trading area in a professional manner by ensuring adequate staff numbers, supervision and training so that patron and pedestrian access and safety needs are met.
- An over-crowded outdoor dining area can contribute to injury. Therefore permit holders must consider injury prevention in the public place by maintaining the appropriate number of tables and chairs, correct clearances and circulation requirements in the outdoor dining area. This allows for shared use of the footpath and provides access from roads for pedestrians, cyclists, and motorists.
- Permit holders can contribute to community safety and crime prevention by working with local authorities to prevent petty crime.
- Ensure responsible serving of alcohol by staff. A meal should be served in conjunction with the serving of alcohol in an outdoor dining area. Liquor must be served responsibly on licensed premises and in strict compliance with Responsible Serving of Alcohol (RSA) regulations.

5. Minimise waste and litter

- Ensure the outdoor dining and street trading area, and surrounding area are kept free from rubbish and tobacco waste and that waste is placed in proper receptacles and disposed of appropriately.
- Supply adequate cigarette butt and waste capture devices to prevent litter blowing from the outdoor dining/street trading area to public areas, gutters and stormwater inlets. (i.e. use windproof ashtrays on outdoor café tables).
- Clean the designated outdoor dining and street trading area immediately following the dismantling and removal of furniture/ fittings which may include de-littering any planter boxes.

6. Minimise noise and nuisance

- Observe all Local Law provisions and relevant state legislation.
- Do not offer to sell goods, solicit, try to attract trade or business, tout or spruik in the public place in front of an outdoor dining and street trading area. Touting and spruiking is prohibited under the Municipal Places Local Law.
- Take all necessary steps to ensure that no noise or other disturbance emanates from the outdoor dining and street trading area causing detriment to the amenity of others.
- No outdoor speakers, sound amplification equipment or jukeboxes, relay or other audio equipment can be installed or used in association with the outdoor dining and street trading area.
- Live entertainment is permitted within the outdoor dining and street trading area or elsewhere on the footpath with permission from the City.

7. Additional Responsibilities

Occupy

Occupy and use the outdoor dining and street trading area at the permit holder’s own risk.

Allow

Allow City officers access to the outdoor café at all times without notice.

Comply

Comply with all reasonable requests or directions given by a City officer.

Table 12: Permit holder’s responsibility checklist

Ask your self these questions
Do I have a valid outdoor café permit?
Do I provide the minimum clearances and access for all City users?
Do I create and manage an inviting and attractive outdoor café?
Do I observe patrons and manage patron behaviour?
Do I minimise potential for waste and litter in the area?
Do I minimise unnecessary noise and nuisance?

Part D: Education and compliance



D1 Principles

One of the keys to an effective system of dining outdoor dining and street trading area management is a high level of understanding, satisfaction and compliance with the requirements of the Outdoor Dining and Street Trading Code (the Code).

Access in the public place is paramount in operating and managing an outdoor dining or street trading area successfully. The permit holder must ensure clearance to the pedestrian walkway, kerb, essential services and neighbouring properties is maintained at all times.

It is the responsibility of the permit holder to train staff in the layout and clearance of an outdoor dining/street trading area. Education and training helps foster and build partnerships between the City and permit holders by working together in providing a safe and livable city.

D2 Education and training

The City aims to educate permit holders about their responsibilities by providing advice and training on the operation and management of an outdoor dining/street trading area within the public place. This will also raise awareness of the permit holder's environmental and public safety obligations.

The permit holder in turn has a responsibility to train staff in the effective management and operation of an outdoor dining/street trading area. Training and education is important to ensure access, safety, amenity and appearance is sustained for all users of the public place.

The City will provide a training and education program including:

- A copy of the Code; and
- Face to face discussions with the permit holder regarding the approved layout and positioning of tables and chairs within the outdoor dining/street trading area.

D3 Compliance

The City has a responsibility to monitor activities in the public place, including the operation of outdoor dining and street trading areas, to ensure permit conditions, requirements and design guidelines are consistently maintained.

Where it is evident this is not the case, the City undertakes an educational approach by initiating discussions with permit holders to explain the reasons behind permit specifications. This method of open communication seeks to resolve issues as quickly and amicably as possible.

Following a complaint or a report of a breach of permit conditions pursuant to the *Municipal Places Local Law*, other applicable local laws that may apply or any requirements pursuant to the guide, a City representative will visit the premises and seek rectification if a breach is identified. Action is initiated according to the impact the breach is having on the safety, access and amenity of the area. Failing this, the following compliance protocol will apply:

Breach of permit conditions

Any breach of permit conditions will be dealt with in accordance with the enforcement provisions of the *Administration Local Law*:

1. Education and verbal warning issued – details documented on file.
2. Notice to Comply issued.
3. Infringement Notice served if offender has failed to act after Notice to Comply (up to \$1,000 on-the-spot fine for failing to comply with a Notice to Comply)
4. Permit will be suspended or cancelled.
5. Any further offence will be dealt with by the immediate issuing of an Infringement Notice or by the suspension/cancellation of the permit.
6. Seizure and impounding of all street furniture.
7. Institute legal proceedings.

Operating an outdoor dining area or street trading area with an expired permit

Operating an outdoor dining or street trading area with an expired permit will be dealt with in accordance with the enforcement provisions of the *Administration Local Law*:

1. Education and verbal warning issued. An application form will be issued to the permit holder and details documented on file.
2. Notice to Comply issued.
3. Infringement Notice served if offender has failed to act after Notice to Comply (up to \$1,000 on-the-spot fine for failing to comply with a Notice to Comply).
4. Seizure and impounding of all street furniture.
5. Institute legal proceedings.

Operating an outdoor dining area or street trading area without a permit

Operating an outdoor dining or street trading area without a permit will be dealt with in accordance with the enforcement provisions of the *Administration Local Law*.

1. Education and verbal warning issued. An application form will be issued to the
2. Registered permit holder and details will be documented on file. All street furniture must be removed until a permit is issued.
3. Notice to Comply issued. All street furniture must be removed until a permit is issued.
4. Infringement Notice served if offender has failed to act after Notice to Comply (up to \$1,000 on-the-spot fine for failing to comply with a Notice to Comply).
5. Seizure and impounding of all street furniture.
6. Institute legal proceedings.

Cancellation or suspension of a permit

If a permit holder fails to comply with three written notices from the City relating to breaches of the code or conditions of the permit, the City may at its discretion cancel or suspend the permit, or decide not to re-issue a new permit (upon expiry) for a period of at least 12 months or greater.

The City may also suspend the permit by giving at least thirty (30) days written notice to the permit holder if the City or any other external bodies require the site for events, festivals, or for any other purpose.

The permit holder will be given at least fourteen (14) days written notice of any footpath maintenance works undertaken by the City. A period of 14 days notice will be given to traders in these circumstances.

Where the City suspends, relocates, amends, and/or cancels the permit, neither the permit holder or any other person shall be entitled to any payments, compensation or damages of any kind from the City.

D4 Cancellation of a permit by permit holder

The permit holder may request the cancellation of a permit at any time. Thirty (30) days notice of intention to cancel must be provided in writing to the City. No refund of permit fees paid in advance will be made.

D5 Restitution of the public place

Following the cancellation of a permit, all fixed and non-fixed furniture must be removed from the public place. The restitution of the public place will be undertaken by the City and the pavement must be returned to its original condition at the cost of the permit holder.

All furniture and fittings must be removed from the outdoor dining/street trading area from the date the permit is cancelled. If furniture is not removed and the public place is not reinstated to its original condition within a specified period, works will be carried out at the permit holder's expense.

D6 Noise management

Street trading adds vibrancy and colour to the city. However, if sound or loud music from these activities is not appropriately managed, it can cause a nuisance to traders, businesses and pedestrians.

The *Municipal Places Local Law* was developed to ensure the appropriate use of public places and control activities in or around them.

No loudspeaker, amplifier or other audio equipment may be used so as to direct sound into the public domain or outdoor areas without the prior consent of the responsible authority. Noise from audio equipment used in association with an outdoor dining or street trading area must not cause detriment to the amenity of the neighbourhood.

The City reserves the right to vary times that loudspeakers direct sound to outdoor dining or street trading area.

Permit holders need to be aware of these noise/nuisance impacts and operate accordingly.

D7 Interruption to trade

In circumstances where urgent works or repairs are needed to be carried out by the City or any contractor operating on their behalf and where no notice is able to be given to the permit holder, no compensation will be payable for loss of trade, disruption, inconvenience or out-of-pocket costs.

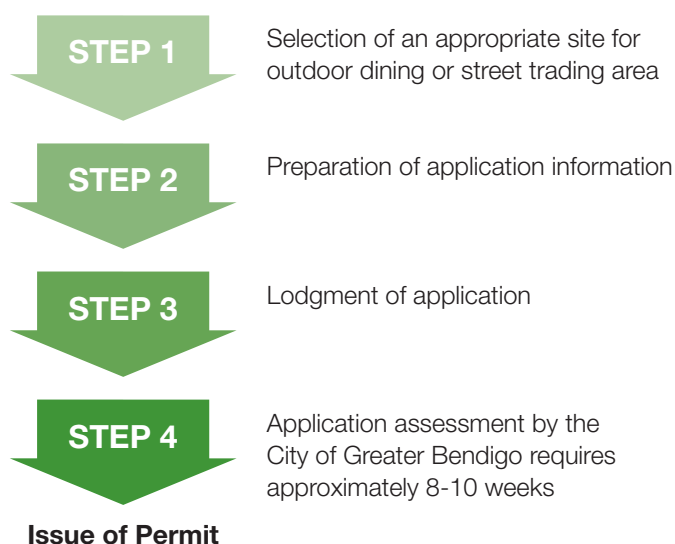
Part E: Application Information

E1 Application steps

The City manages all aspects of the Outdoor dining and street trading (permit) application process, from providing information about requirements, receiving and assessing applications, to issuing permits.

Consideration and approval of a new permit application takes approximately eight to ten weeks or longer if the application is incomplete and further information is required.

Permits are issued for a year period and must be reapplied for by the permit holder on a biennial basis. A typical application for the establishment of a permit involves a four step process.



Summary of outdoor café eligibility criteria

- Must be an extension of 'indoor' seating;
- Must be a lawfully existing food premises (café, restaurant, licensed premises);
- Should have a 'working kitchen' or food preparation area;
- Must provide 'table service' or provision for cleaning, and servicing; and
- Should serve food and drinks in non-disposable crockery and glassware.



E2 Selecting an appropriate site

An appropriate site for a new outdoor dining or street trading area should meet the objectives below:

- Allow for pedestrian access through all public streets and laneways and between neighbouring properties;
- Allow for access to existing street infrastructure and kerb clearances at all times;
- Allow for regular servicing and maintenance access and operation;
- Allow for the existing operation and loading activities of neighbouring properties;
- Facilitate a clear 'line of sight' around corners (applies to intersections);
- Contribute to 'net community benefit' and the street environment;
- Allow for monitoring of noise, amenity and safety;
- Minimise potential litter and cleanliness impacts on the area; and
- Provide ease of access for people of all abilities.

E3 Preparing the application

The City requires the applicant to follow a four-step process when submitting an application for permit.

The applicant must provide supporting information along with the Outdoor Dining and Street Trading application form (form) and application fee. The required information is as follows:

1. Lodge application form and fee:

Complete and submit the form including contact details and signatures. A processing fee (non-refundable) is required, cash or cheque made payable to the 'City of Greater Bendigo'. Refer to section E4 Lodge Application Form and Fee.

2. Location and layout of proposed outdoor café:

Provide an accurately drawn site plan and photographs of the existing site relative to the building and proposed layout of outdoor dining/street trading area including the maximum number of tables and chairs to be accommodated. Refer to Part B Access and design requirements.

3. Furniture design and advertising:

Provide colour photographs and/or detailed graphic design drawings of the proposed style of café furniture and advertising. Refer to Part B Access and design requirements.

4. Operation and management:

Provide details of a permit holder's responsibility plan including waste management plan and cleaning program. Refer to Part C Operation and management.

E4 Lodge application form and fee

The form must be completed by the applicant, and should include:

- Contact details;
- Property details; and
- Signature(s) of proprietor(s).

The form should also indicate furniture requirements, existing infrastructure, other City departmental approvals and public liability insurance.

For a copy of the form contact the City on 5434 6000.

The application may lodged at any City office or mailed to:
City of Greater Bendigo
Environmental Health and Local Laws Unit
PO Box 733
Bendigo Victoria 3552

E5 Location and layout of proposed outdoor café

A drawn site plan and photographs of the existing area relative to the building, footpath and a proposed layout of the outdoor café should be provided. Refer to Part B Access and design requirements:

- Site plan of existing conditions: a plan to scale 1:100 accurately showing the width of the building frontage and the footpath from outside edge of kerb to building frontage, location of building boundaries, neighbouring properties, existing trees, light poles, signs, existing street furniture, service pits, fire hydrants, car parking, parking meters and other features. All dimensions associated with the outdoor dining and street trading area should be shown;
- Site plan of proposed outdoor dining and street trading layout: a plan at scale 1:100 accurately showing the area of the proposed outdoor dining and street trading and layout of all proposed screens, number of tables, chairs, umbrellas, etc.; and
- Photographs of the site: clearly showing the proposed outdoor dining and street trading relative to buildings and existing features in the footpath.

E6 Furniture design and advertising

When selecting appropriate furniture and fittings for an outdoor dining or street trading are applicants should refer to the following objectives.

All furniture and fittings should:

- be hardy, durable, sturdy and of windproof design yet portable;
- be of a quality design in any appropriate style;
- conform to advertising requirements and restrictions; and
- be able to be moved or retracted from the outdoor café area on a daily basis.

The applicant must provide:

1. Details of furniture:

Colour photographs, brochures and/or detailed architectural drawings indicating specifications of chairs, tables, glass screens, canvas screens, umbrellas, awnings, planter boxes and gas heaters proposed for the outdoor café. These specifications should include length, height and width. Refer to Examples of furniture in section B18 Tables and chairs.

2. Details of advertising for canvas screens, glass screens and/or umbrellas:

Colour photographs and/or detailed graphic design drawing of the proposed outdoor dining or street trading area, logo, with clear indication of its size and location on screens and/or umbrellas. Refer requirements in section B26 Advertising.

E7 Operation and management

The following information must be submitted with the permit application:

- **Operation hours:** proposed operating hours of the outdoor dining/street trading area;
- **Layout of outdoor café:** proposed scale of outdoor dining/street trading area, including numbers of staff, seats, tables and patrons;
- **Furniture storage:** details of the capacity of storage inside to accommodate movable furniture;
- **Residential areas impact assessment:** Refer to section C13 Residential area impact assessment (where appropriate);
- **Management:** details of staff numbers for managing the day-to-day operations of the outdoor dining or street trading area;
- **Management plan (for licensed premises):** details managing the day-to-day operations of the outdoor area.
- **Cleaning program:** details of a cleaning program for the outdoor dining/street trading area. The program should include clearing and cleaning of tables quickly after patrons have departed, cleaning up of any litter, putting chairs back in place and preparing to welcome the next patron;
- **Waste management program:** this includes provision of windproof ashtrays and sweeping up and disposing of cigarette butts, litter and debris from the outdoor area; and
- **Gas heater storage:** details of portable gas heater storage. Gas heaters are not to be stored inside the building or in the public place. Gas heaters must be stored in lockable steel cages in private space outside the building.

Additional information:

- **Public liability:** Proof of a Certificate of Currency (Public Liability Insurance) for a minimum of 10 million dollars (\$10,000,000), specifically covering the area occupied by the outdoor café, indemnifying the City of Greater Bendigo against all claims is required. This is to be renewed on an annual basis. Refer to section C15 Public risk;
- **Building owner notification:** where an applicant seeks to occupy the space immediately in front of their café premises, consultation with the building owner or managing agent is suggested; and
- **Intention to apply for liquor licence:** where an applicant intends to apply for a liquor licence from the VCGLR, the City must be notified. Refer to section C8 Consumption of Liquor.

E8 Assessing the application

After receiving an application, the City will:

- Check all relevant information has been received. If incomplete, the applicant will be contacted to discuss and clarify any outstanding requirements and make arrangements for the information to be provided within a specified period;
- Check the application to ensure it meets the guide. If the requirements are inadequate, the applicant will be contacted to discuss amendments. The applicant is required to arrange any amendments and these are to be re-submitted before approval is given;
- Inspect the site and check accuracy of submitted plans. If plans are inaccurate or inadequate, the applicant will be contacted and requested to submit revised plans. Any application for the removal of street infrastructure will also be considered at this stage;
- Meet with applicant. A meeting will be arranged by the City's Local Laws Officer to discuss the application with the applicant. This will occur either by phone, on site or at the City of Greater Bendigo offices;
- Assess other outstanding City matters. Clarification will be sought from other City departments to ensure there are no outstanding health or building orders or notices on the property. The permit will only be issued when all relevant permits and approvals have been issued, and all outstanding matters have been satisfactorily resolved. It is the responsibility of the applicant to obtain all relevant permits;
- Consultation with other City branches such as Engineering, Building and Planning will take place to seek expert advice;
- Permit decision. A notice of decision will be sent to the applicant. Successful applicants are then required to obtain appropriate insurance and maintain valid public liability coverage (see page) and pay the required permit fee before a permit is issued;
- Residential consultation assessment. The City will assess whether the application requires a residential consultation. In the event that a residential consultation is needed, the City will notify the applicant and proceed with the consultation process identified in section C13 Residential area impact assessment; and
- Management plan assessment (Licensed Premises). In the event that a management plan is needed, the City will notify the applicant and proceed with the process identified in section C12 Licensed premises/Late night entertainment venues.

E9 Outdoor dining permit application in a residential area

An application for an outdoor dining area in a residential area requires specific assessment to ensure minimal impact on the amenity of nearby residents. Before applying for a permit, the applicant must consider the character of the area, operation of the site, safety and suitability of the area for an outdoor dining area.

After receiving a detailed proposal addressing the issues above, the City undertakes a full assessment of the proposal, a site inspection, and consultation with the applicant. If the application is deemed suitable to proceed, the City consults with potentially affected stakeholders. The formal steps of this process include:

- Notice of proposed permit application; and
- Panel hearing and decision.

The applicant and residents are then formally notified of the decision.

E10 Issue of a permit

Once a permit is approved, a letter enclosing an Offer of Terms and Conditions is sent to the applicant. The following processes then apply:

- The applicant is required to read and agree to the Offer of Terms and Conditions of the permit by signing and returning the Offer of Terms and Conditions to the City;
- The applicant will be issued a separate invoice for the permit fee from the City;
- Payment of the permit fee to the City is required before a permit is issued; and
- After the applicant receives a permit, the City will inspect the outdoor dining/street trading area to ensure the conditions of the permit are being met.

E11 Applying for an amendment to an existing permit

Permit holders must submit an application form to the City for any amendment to their existing permit. The applicant should tick the appropriate box on the form indicating which type of amendment is required. Amendments may include any of the following:

- Change of owner/proprietor;
- Changes to furniture style or design;
- Addition of/changes to gas heaters;
- Addition of/changes to umbrellas;
- Addition of/changes to canvas screens;
- Addition of/changes to graphics or advertising;
- Installation of glass screens;
- Changes to trading hours; or
- Other variations.

A processing fee (non-refundable) is required, payable by cash or cheque to the City of Greater Bendigo.

The amendment application will be assessed as per the guide. The process may take eight to ten weeks for a decision by the City.

Appendix 1: Street trading configurations

How to determine outdoor dining / street trading area

1. Measure width of footpath from kerb to building line

m

2. Determine the required clear walkway

- a. If footpath width is less than 3.5m, then
required walkway is 1.8m
- b. If footpath is between 3.5m and 4.5m, then
required walkway is 2.0m
- c. If footpath is more than 4.5m, then
required walkway is 2.5m
- d. If footpath is part of the Hargreaves Mall, then
required walkway is 3.0m

3. Subtract required walkway from footpath width

m

4. Determine the required buffer to parking

- a. If adjacent parking is parallel, then
required buffer to parking is 0.8m
- b. If adjacent parking is a loading zone, then
required buffer to parking is 0.9m
- c. If adjacent parking is no stopping zone, then
required buffer to parking is 1.0m
- d. If adjacent parking is 30°, 45° or 90° angle, then
required buffer to parking is 1.2m
- e. If adjacent parking is disabled taxi, bus or tram, then
required buffer to parking is 2.4m

5. Subtract required buffer from answer at 3.

m

This is the allowable outdoor dining / street trading area. Number and configurations of tables, chairs, barriers, goods stands etc should be guided by Part B Access and design requirements and by the available width.

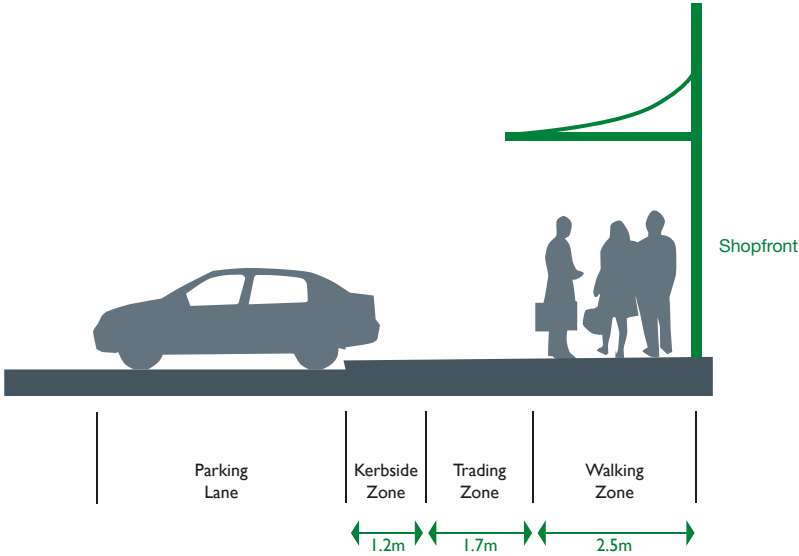
Example 1

Existing conditions:
5.4m pavement width, 90° parking

Therefore:
Required walkway is 2.5m,
required buffer to parking is 1.2m

Therefore:
Allowable outdoor dining / street trading width is 1.7m

Refer to Section B5 Circulation and clearances for additional clearances that must be considered



Example 2

Existing conditions:
3.6m pavement width, parallel parking

Therefore:
Required walkway is 2.0m,
required buffer to parking is 0.8m

Therefore:
Allowable outdoor dining / street trading width is 0.8m

Refer to Section B5 Circulation and clearances for additional clearances that must be considered

