

# EXPRESS COVID-19 OUTDOOR DINING AREA PERMIT FRAMEWORK

## **Purpose**

Stonnington City Council recognises local businesses have been impacted by COVID-19 restrictions. These restrictions have disrupted business activity and reduced consumer spending.

Council has established an express COVID-19 Outdoor Dining Area Permit to support local businesses. This permit allows businesses that meet set defined criteria (outlined in this document) an opportunity to extend their footpath trading area in front of neighbouring properties. There will be no application fee for the new permit.

Footpath trading permit renewal fees will not be charged for the period from 1 October 2020 to 31 March 2021 to help ease some of the financial burden of COVID-19 restrictions on local business owners.

## **Scope**

This framework sets out the Express COVID-19 Outdoor Dining Area permit eligibility criteria and conditions which allow existing footpath trading (dining) permit holders to occupy the footpath in front of neighbouring properties.

## **Responsible Executive**

Director COVID-19 Response.

## **Delegation Authority**

The Chief Executive Officer has delegated Council officers to issue Express COVID-19 Outdoor Dining Area permits and to enforce compliance with permit conditions.

## **Reference Document**

City of Stonnington General Local Law 2018 (No.1).

## **COVID-19 Extended Footpath Trading Area Application Guidelines**

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03 8290 1333  
council@stonnington.vic.gov.au

# EXPRESS COVID-19 OUTDOOR DINING AREA PERMIT FRAMEWORK

## OPERATION GUIDELINES

Council must balance the importance of outdoor dining as a means to enhance the vibrancy of our local community and support the sustainable growth of local businesses with Council's obligation to allow for pedestrian movement along the streetscape in a safe and accessible manner.

Requirements are outlined in this framework which must be met for a business to apply for an Express COVID-19 Outdoor Dining Area Permit.

Understanding the responsibilities involved in managing a COVID-19 Outdoor Dining Area, design requirements, legal obligations and other relevant matters is important.

Applicants must familiarise themselves with the COVID-19 Outdoor Dining Area framework before making an application to Council for a COVID-19 Outdoor Dining Area Permit.

## **Application Requirements**

To be eligible to apply for an Express COVID-19 Outdoor Dining Area Permit, businesses must be able to meet the following site conditions:

- The footpath proposed for the COVID-19 Outdoor Dining Area must have a minimum width (from the edge of the building facade to the kerb) of 2.7m.
- The edge of the proposed COVID-19 Outdoor Dining Area **must not** be:
  - Adjacent to bus stops, loading zones, truck zones, tram stops or other Transport and Parking infrastructure.
  - Within 10 metres of a non-signalised intersection.
  - Within 20 metres of a signalised intersection.
  - Adjacent to where there is no parking next to the kerb.

A business may apply to occupy neighbouring properties. For example, if a cafe abuts a retail shop to the left and the café owner cannot gain the consent of the retailer to occupy the footpath in front of their shop however two vacant tenancies exist to the right of the café, an application may be made to allow for outdoor dining in front of the two vacant shops.

Existing Council street furniture in front of a neighbouring premises will not be relocated to facilitate an Express COVID-19 Outdoor Area.

Only tables, chairs, umbrellas, gas heaters and safety barriers will be permitted in a COVID-19 outdoor dining area and the number of tables and chairs cannot accommodate a greater number of people than the number of people that would be permitted in the area in accordance with density/social distancing requirements (determined by the State Government).

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## Application Process

To apply for an Express COVID-19 Outdoor Dining Area Permit applicants will need to:

- Complete an Express COVID-19 Outdoor Dining Area Application and sign the associated declaration.
- Hold a current City of Stonnington Footpath Trading Permit (Dining).
- Hold public liability insurance of 20 million dollars and ensure that insurance reflects the address(es) of all premises in front of which the applicant is proposing outdoor dining. A Certificate of Currency will need to be provided with this application.
- Obtain in writing, the consent of the neighbouring business owner/(s) to occupy the footpath in front of their shop(s) (except in situations where the neighbouring allotment is a vacant shop).
- Provide a dimensioned site plan (at an appropriate scale) showing:
  - The principal shop frontage and the shop frontages in front of which outdoor dining is proposed.
  - The width of the Kerb Zone, Pedestrian Zone, the resultant width of the Trading Zone and the length of the Trading Zone as well as Access Zones if required (refer to design guidelines below).
  - All existing street and footpath features within or near the proposed outdoor dining area such as trees, light poles, rubbish bins, bike racks, public transport shelters, fire hydrants, signs and pits.
  - Car parking and parking restrictions adjacent to the Kerb Zone of the proposed outdoor dining area.
  - The location of furniture proposed to be placed in the extended outdoor dining area (a list of allowable furniture is provided above).

Failure to submit any of the above information may result in your application being unsuccessful and your Express COVID-19 Extended Outdoor Dining Area Permit being refused.

## Assessment Process

- Check that a current, valid footpath trading permit exists for the applicant
- Confirm that all relevant information has been received, including attached documentation.
- Undertake a desktop review, inspect the site and validate the accuracy of submitted plans.
- Advise the applicant if any additional information is required or of any changes that need to be made to the submitted plans.
- Within 14 days, Council will issue a COVID-19 Outdoor Dining Area Permit or refuse to issue a permit if it considers the issue of the permit would detract from footpath accessibility or be detrimental to the safety and amenity of an area or negatively impact on the wider community.

Council retains the right to add conditions to a COVID-19 Outdoor Dining Area Permit to ensure public safety and amenity is not compromised.

Once the application has been submitted, the applicant/business may commence using their proposed extended outdoor area.

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## **Maintaining public liability insurance and indemnity**

The licensee must maintain a Public Liability Policy of Insurance for an amount of not less than 20 million dollars and the policy must note the addresses of all premises in front of which outdoor dining is proposed.

The Policy must be able to meet any possible claim which may be sustained against the licensee or Council in relation to the death or injury to any person or the damage to any property arising out of anything authorised by the Express COVID-19 Outdoor Dining Area Permit.

Failure to maintain a current Public Liability Policy of Insurance is considered a serious breach of this permit and will result in cancellation of the permit.

## **COVID-19 Outdoor Dining Area Permit fees**

There is no fee to extend the footpath trading area in front of a neighbouring property if you meet the requirements set out above.

The footpath is public space and as such is not owned by any one business. This means a business owner cannot charge “rent” for the use of the footpath in front of their business.

Businesses that do not meet the requirements to apply for an Express COVID-19 Outdoor Dining Area Permit are still able to make an application to extend their footpath trading area in front of an adjacent property in line with Council’s existing Footpath Trading and Awning Policy, however fees may be applicable. For more information, please contact the City of Stonnington on **8290 1333** or email [council@stonnington.vic.gov.au](mailto:council@stonnington.vic.gov.au).

## **Displaying your COVID-19 Outdoor Dining Area Permit**

After you have submitted your Express Covid-19 Outdoor Dining Area application, if you comply with the ‘*Design Guidelines*’ (outlined on page 8 of this document) you have a ‘deemed’ right to start trading as soon as you are ready, and while your application is being assessed.

Stickers for COVID-19 Outdoor Dining Area Permits will not be provided to traders to display. Once approved, a permit will be issued to the applicant. A copy (hardcopy or photo) of the COVID-19 Outdoor Dining Area Permit must be available onsite to provide to a council officer if requested.

In the interim, upon completion of your online application you will receive a lodgement confirmation. Please save a copy of this confirmation so it is available at your business premises and can be provided to Council officers upon request.

Failure to be able to provide this confirmation to a requesting Council officer will result in a breach of the permit conditions.

# EXPRESS COVID-19 OUTDOOR DINING AREA PERMIT FRAMEWORK

## **Amendments to an existing permit**

COVID-19 Outdoor Dining Area permit holders must notify Council in writing of an intention to amend/add to the furniture in their outdoor dining area. Notification should be via email to [council@stonnington.vic.gov.au](mailto:council@stonnington.vic.gov.au).

## **Transfer of ownership**

COVID-19 Outdoor Dining Area Permits are for the person/company/association listed on the permit and cannot be transferred to any other trader. A new application must be made.

## **Change in circumstances of neighbouring business**

If the neighbouring business is sold, or a new business moves into a previously vacant shop, a letter of consent signed by the new occupier must be submitted to Council.

Council may cancel a permit when a neighbouring business owner withdraws their consent for an outdoor dining area in front of their premises

## **Waste and Litter**

For the maintenance of hygiene and cleanliness of public land the permit holder must ensure:

- Food scraps or other rubbish generated by outdoor dining is immediately removed and deposited within the permit holder's own bins, kept within the premises.
- Litter generated by outdoor dining is not disposed of in street gutters, stormwater drains, adjacent footpath areas or public litter bins.

## **Conduct of serving staff**

Where an outdoor dining permit has been issued, the applicant must ensure staff prioritise pedestrian movement above their own movements across the Pedestrian Zone.

## **Activity in the Extended Footpath Trading Area**

The following activities are prohibited on the road, footpath or Council land within the City of Stonnington and will therefore not be permitted in COVID-19 Outdoor Dining Areas:

- Hot dog stands
- Food and drink/coffee vans or similar
- Ice-cream vans
- Permanent barbeques and cooking stations

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## **Extended footpath trading and liquor service or consumption**

A COVID-19 Outdoor Dining Area Permit does not permit the supply or consumption of liquor in the outdoor dining area.

Businesses that currently hold a Liquor Licence for the supply or consumption of liquor on the footpath may apply to the Victorian Commission for Gambling and Liquor Regulation (VCGLR) for a Liquor Licence to permit the supply or consumption of liquor outside of their existing redline.

Businesses may only supply or allow for the consumption of liquor in a COVID-19 Outdoor Dining Area (in the Trading Zone) provided they have obtained all relevant permits and licences.

If Council considers the supply or consumption of liquor in a COVID-19 outdoor dining area would be detrimental to public safety or the amenity of the area, Council may cancel a COVID-19 Outdoor dining area permit.

## **Extended footpath trading and smoking**

Smoking must accord with State Government Legislation.

## **Expiry**

The COVID-19 Outdoor dining area permit is a temporary measure to address COVID-19 impacts and may be modified by Council without notice. The COVID-19 Outdoor Dining Area Permit will otherwise cease to have effect from 1 April 2021 or at which time Footpath Trading Permit renewals are due in 2021.

## **Responsibilities of a Covid-19 Outdoor Dining Permit Holder**

At all times the permit holder must:

- Monitor and manage their COVID-19 Outdoor Dining Area to ensure they are operating consistent with the requirements set out in this document and their permit.
- Operate in accordance with the conditions of any other Council issued permit for the business or premises.
- Operate in accordance with the conditions of their Liquor Licence Permit (if applicable).
- Observe all local law provisions relating to footpath trading, including noise, responsible service of liquor, and health and amenity.
- Ensure the following does not occur:
  - Staff and patrons do not move furniture outside of the Trading Zone.
  - Staff and patrons do not allow pets, prams, bicycles or any other personal items to obstruct the Pedestrian or Kerb Zones.
  - Staff do not serve food or beverages to a person outside of the Trading Zone.
  - Patrons do not congregate in the Pedestrian or Kerb Zones.
  - Patron behaviour does not interfere with the use or enjoyment of the area by other patrons or members of the public.

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## **Enforcement**

Any non-compliance is an offence against the City of Stonnington General Local Law 2008 (No 1) and will result in enforcement measures being taken. The permit holder will be liable for any breach that occurs outside the neighbouring shopfront where outdoor dining has been approved.

Clause 188 of the City of Stonnington General Local Law 2018 (No.1) sets out in full the circumstances when Council may cancel, suspend or amend a permit.

Council's Building and Local Laws Services officers monitor the operation of footpath trading and ensure the conditions of permits, including the Covid-19 Outdoor Dining Area Permit are complied with.

Pursuant to Council's Local Law, an Authorised Officer may seize and impound footpath trading furniture and goods where there has been an ongoing contravention of the Covid-19 Outdoor Dining Area Permit or Local Law.

Additionally, depending on the severity and/or repetitive nature of the breach, the permit holder may receive:

- A written Official Warning.
- A written Notice to Comply.
- An Infringement Notice.
- A cancellation of the permit.

Failure to pay an infringement notice or continued non-compliance may result in prosecution proceedings in addition to cancellation of the permit.

# EXPRESS COVID-19 OUTDOOR DINING AREA PERMIT FRAMEWORK

## DESIGN GUIDELINES

To ensure a safe, clear and suitably unobstructed walkway for pedestrian access, a set out design guidelines has been developed to guide furniture placement in approved outdoor dining areas.

For clarity, the footpath may be described as being made up of for zones:

- Pedestrian Zone
- Kerb Zone
- Trading Zone
- Access Zone

### **Pedestrian Zone**

The Pedestrian Zone is the area that extends from the building line to the Trading Zone. This Pedestrian Zone is for the exclusive use of pedestrians and must be kept free from obstructions at all times.

The minimum width of the Pedestrian Zone (measured from the building façade to the kerb edge) is **1.5m**.

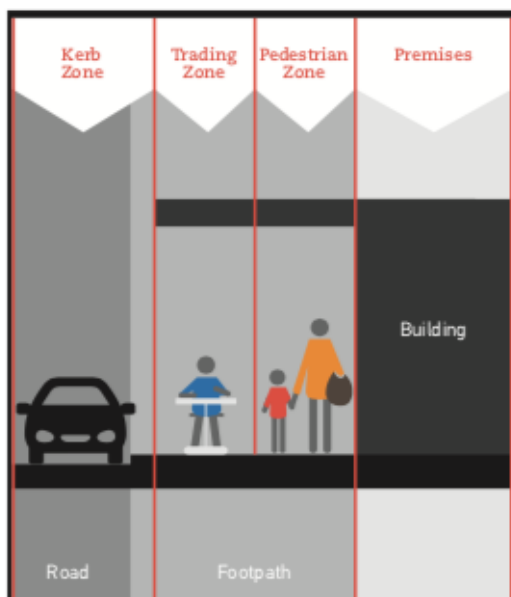
### **Kerb Zone**

The Kerb Zone is the area between the edge of the kerb and the Trading Zone. The Kerb Zone is important for allowing access to and from parked vehicles. The Kerb Zone must be kept free from obstructions at all times.

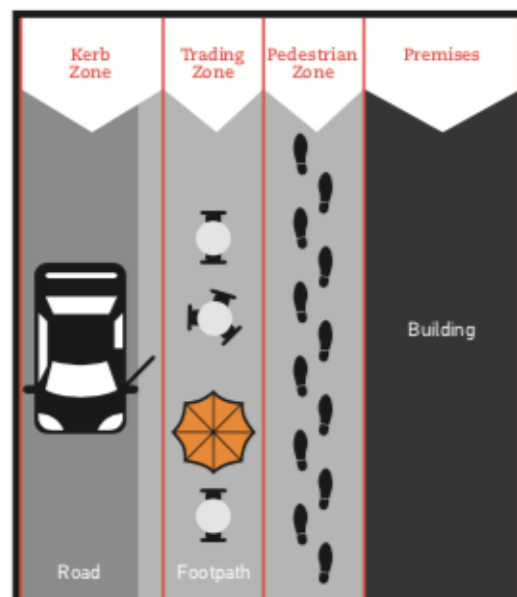
The minimum width of the Kerb Zone is 300mm.

### **Trading Zone**

The Trading Zone is the area left between the outer edge of the Pedestrian Zone and the inner edge of the Kerb Zone. It is the only area of the footpath in which outdoor dining furniture may be placed. Furniture must not encroach into the Pedestrian Zone or Kerb Zones at any time and it is the permit holder's responsibility to ensure this throughout trading.



Footpath Zones Elevation View



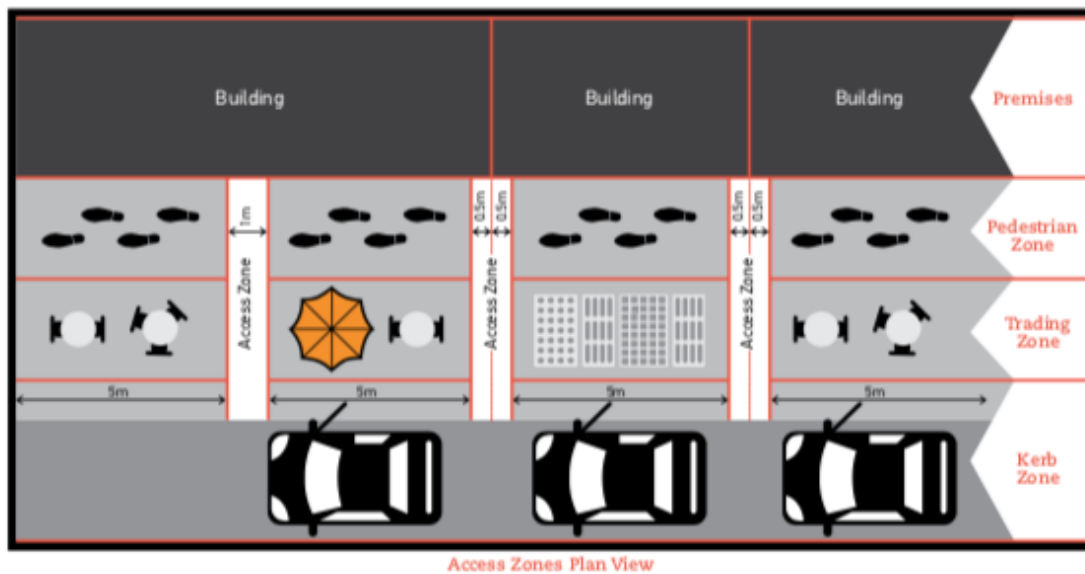
Footpath Zones Plan View



# EXPRESS COVID-19 OUTDOOR DINING AREA PERMIT FRAMEWORK

## Access Zone

Access Zones are required between abutting Trading Zones. Access Zones allow pedestrians to safely move from the street to the footpath. The minimum width of an Access Zone is 1m. Access Zones are required at the edge of a building line or if a trading zone extends over a length greater than 10 metres an Access Zone will be required to be created in the centre of the Trading Zone.



## Furniture in the outdoor dining area

In addition to maintaining a 1.5m Pedestrian Zone, 300mm Kerb Zone and 1m Access Zone, a minimum 500mm setback must be maintained between furniture in the Trading Zone and public assets all time. Public assets include but are not limited to street trees, litter bins, public seats and bike racks, pay phones, bicycle stands, bollards, tree pits, planter boxes and poles.

Permitted furniture in a COVID-19 Outdoor Dining Area includes, tables, chairs, safety/queuing barriers, heaters and umbrellas.

Tables, chairs and safety barriers placed within a COVID-19 outdoor dining area must not exceed 1m in height. Therefore, bar-style furniture (i.e. barstools) is not permitted.

Chairs should be oriented parallel with the footpath.

Furniture should be hardy and sturdy to resist wind gusts and secured to ensure that they are not moved or knocked over with weights or sandbags.

Furniture will not be permitted to be installed permanently. All furniture proposed in Covid-19 outdoor dining areas must be removed at close of business each day and stored within the business premises outside of operating hours of the business.

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Bottle gas heaters (or any part of) and umbrellas (or any part of) must be positioned a minimum of 600mm from the kerb and entirely within the trading zone.

Heaters are not be permitted under awnings. Elsewhere, heaters must:

- Be covered by the business owner's public liability insurance.
- Comply with Australian Standards. For more information contact Energy Safe Victoria [esv.vic.gov.au](http://esv.vic.gov.au).

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## National Relay Service

If you are deaf, or have a hearing impairment or speech impairment, contact us through the National Relay Service.

- **TTY** users, phone [13 36 77](tel:133677) then ask for 8290 1333.
- **Speak and Listen** users, phone [1300 555 727](tel:1300555727) then ask for 8290 1333.
- **Internet relay** users, connect to the [NRS](#) then ask for 8290 1333.

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## Community languages

Translated information about our services is available by clicking on your language below.

<a href="#">Mandarin – 普通话</a>	<a href="#">9280 0730</a>
<a href="#">Cantonese - 廣東話</a>	<a href="#">9280 0731</a>
<a href="#">Greek – Ellīniká</a>	<a href="#">9280 0732</a>
<a href="#">Italian – Italiano</a>	<a href="#">9280 0733</a>
<a href="#">Polish – Polski</a>	<a href="#">9280 0734</a>
<a href="#">Russian – Русский</a>	<a href="#">9280 0735</a>
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<a href="#">Vietnamese – Tiếng Việt</a>	<a href="#">9280 0748</a>
<a href="#">Other languages</a>	<a href="#">9280 0736</a>