


# Guideline
# Outdoor Eating Facilities


## Summary

This document outlines when a permit for an outdoor eating facility is required, provides information about the application process and fees, describes setback and layout requirements and also describes the general conditions of operation that may be specified on Permits.


### When is a permit for an outdoor eating facility required?

An outdoor eating facility occurs on property owned by the City and includes (but not limited too) footpaths, verges, car parking bays and Reserve land. The land is generally used to locate outdoor tables, chairs, waiter's tables, planter boxes, umbrellas, screens, barriers, removable flooring or similar structures to enable members of the public to consume food and/or beverages adjacent to an established food business.

In accordance with the *City of Busselton Activities in Thoroughfares and Public Places and Trading Local Law 2015* ('Local Law'), a Permit from the City of Busselton is required to be issued prior to the use of an outdoor eating facility.

In some locations, a Land Use Licence Agreement will also be required to use Council land in accordance with City Policy 249 Non Exclusive Use of Council Land.

### Application process

An 'Application for Outdoor Eating Facility Permit' is required to be completed and submitted together with the requested supporting information to the City Health Services.

Consultation and approvals from other City and external departments may be required including:

- Building Services – fixed structure's and facility requirements e.g. seating for more than 20 patrons requires onsite toilet facilities
- Planning and Development Services – change of use of public land
- Department of Racing Gaming and Liquor – extension of liquor license
- Engineering and CBD team – impediment on road safety or risk of pavement damage.

Please contact the relevant departments to seek further advice.

Please allow up to 21 days for the processing of application, approval of the Outdoor Eating Facility is granted for 1 year with annual renewal required thereafter if no changes occur.

### Change of Owner

If the Food Business changes ownership and the new owners wish to continue the use of the outdoor eating facility with no to minimal changes than a transfer of permit can occur, any major changes will require a new application for approval.

## Fees

An application fee is required at time of application with no permit fee currently applicable.

If a Land Use Agreement is required this fee is negotiated with the City of Busselton based on a per/$m^2$ figure as representative 'market-based' fee commensurate with the relative value of the land on which the facility is proposed. This fee will be negotiated and will reflect the relative value of the location including the quality of infrastructure developed and maintained by the City that enhances the value of the land.

## Pedestrian Access and Safety

Whilst innovative activation of outdoor areas for dining is encouraged, applicants are to plan for pedestrian accessibility and safety. Figure 1 outlines these requirements being:

- *Frontage Zone* – When the width of a footpath does not enable both a Frontage Zone and a Kerbside Zone the safest option is for patrons to be located in the Frontage Zone with pedestrians occupying space nearest to the Kerb area.
- *Pedestrian Zone* - minimum width of 2.00m in a continuous straight path to ensure an accessible travel for all people, including those with a disability, mobility aids, bicycle or pram. This zone is located between either the Frontage Zone and Kerbside or Frontage Zone and kerb, depending on the size of the area.
- *Kerbside Zone* – As not to block line of sight for motorists and pedestrians, consideration needs to be given to the furniture and objects planned for this area, in areas near an intersection the use of this zone may not be suitable.
- *Kerb Area* - provides a safe buffer zone between the roadway and people, a required distance of 1.20m is necessary to allow for crash rated traffic bollards to be installed within this area 0.60m from the face of the kerb with a maximum gap of 1.2m between consecutive bollards. Outdoor eating furniture and objects are not be located in the Kerb Area.

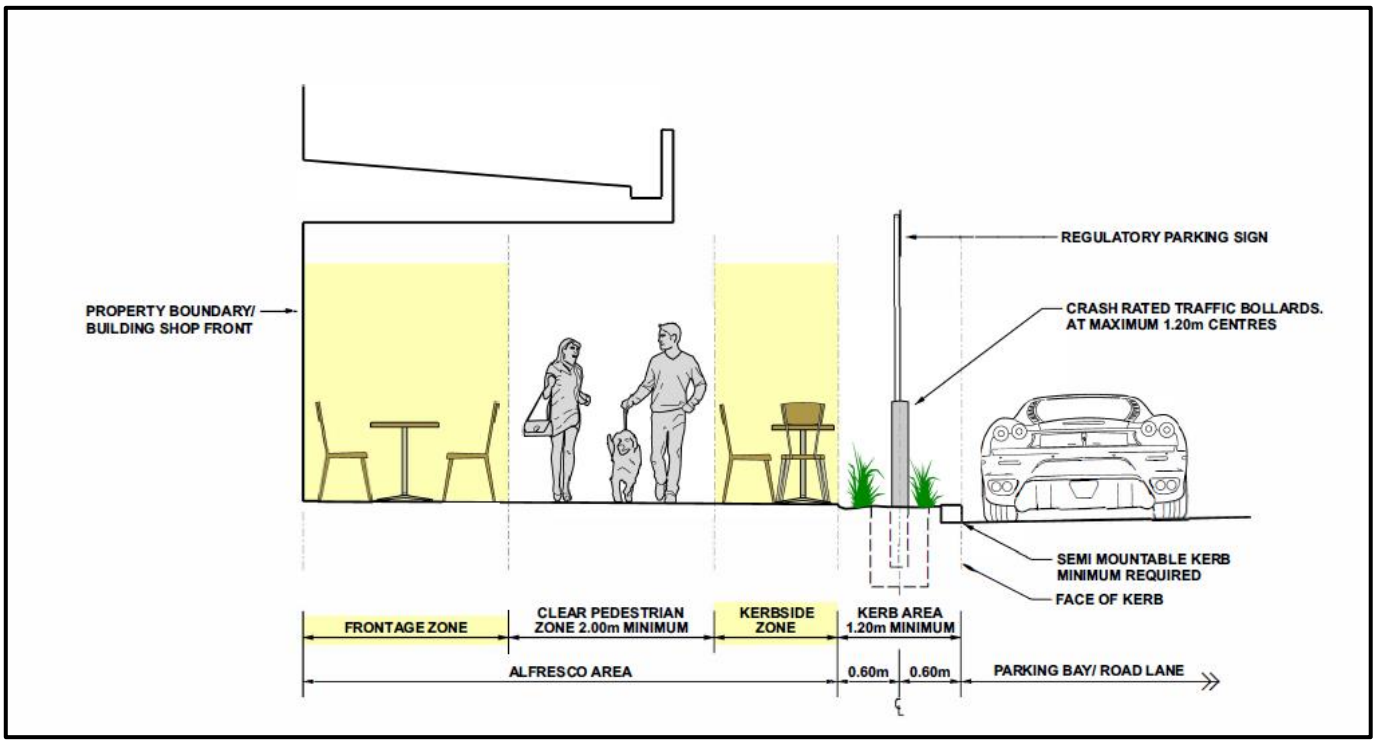



Figure 1- Sectional Elevation View Outdoor Eating Facility

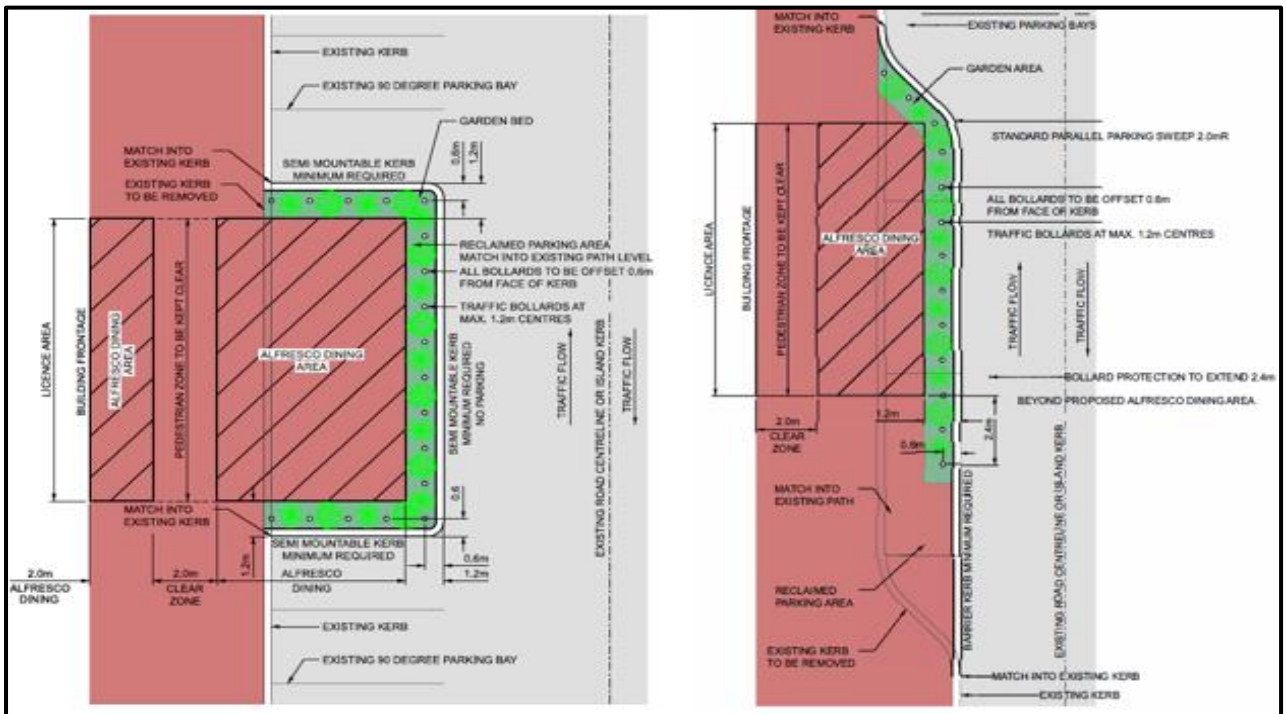
All furniture, objects and structures associated with the outdoor eating area must be freestanding and must not be fixed, bolted, or otherwise permanently attached to public land, paving, infrastructure or other City owned assets unless approved in writing by the City of Busselton.

## Reclaimed Parking

The City supports the use of car parking to accommodate outdoor eating facilities, car parks are to be situated 'out the front' of the associated premises and changes are to be reversible in nature. The preferred form is decking or

drop-in structures but not converted or adapted sea containers, costs of providing and returning the space to original form are to be met by the applicant. A Development Application must be submitted for approval to change the use of car parking bays. Please contact Planning and Development Services

Figure 2 details requirements of Pedestrian Access and Safety based on the different types of parking that may be situated 'out the front' of premise. Standard requirements include matching new kerbing to existing, installation of traffic bollards to specified standards and landscaping to blend the reclaimed parking area to existing area.



## Permit Conditions – subject to change

Should the outdoor eating facility permit be approved it will be subject to conditions, the following are provided as a guide but subject to change dependant on the site.

1. The set up and conducting of an outdoor eating facility is only permitted in accordance with the stated permit holder name, address, hours and days of trade at the location indicated and/or as depicted on the attached location map for the time period specified.
2. Compliance with the City of Busselton's Activities in Thoroughfares and Public Places and Trading Local Law 2015; *Food Act 2008, Food Regulations 2009*, Food Safety Standards, *Environmental Protection (Noise) Regulations 1997*.
3. All furniture, objects and other structures shall conform with the specification outlined in the Permit Application and must be maintained to a high standard and removed and/or secured daily before the close of the adjacent food business.
4. All furniture, objects or structures must be confined within the specified area and not encroach on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles.
5. The permit holder is to remove the furniture, objects and/or structures at the request of an authorised person:
   - Where in the opinion of the authorised person there is any hazard or obstruction or is likely to be a hazard or obstruction caused by reason of the location of the outdoor eating area, notwithstanding that the location may have been approved the City of Busselton; or
   - For the purpose of an event, market, parade, thoroughfare works or any other contingency which requires relocation or removal of all or part of the outdoor eating area.
6. The permit holder must maintain the outdoor eating area in a clean and sanitary condition, free from marks, stains and without damage to the pavement or garden areas.
7. The permit holder must maintain a minimum of $20 million Public Liability Insurance. The policy must be able to meet any possible claim which may be sustained against the permit holder or the City of Busselton in relation to the death or injury to any person or property arising out of any activity authorised by the permit.
8. Outdoor eating Permit is to be displayed in a conspicuous place in the adjoining food business.
9. All furniture, objects and structures associated with the outdoor eating area must be freestanding and must not be fixed, bolted, or otherwise attached to public land, paving, infrastructure or other City owned assets unless approved in writing by the City of Busselton
10. Any additional conditions deemed appropriate to the specified site approved.