

November 2022



Outdoor Dining Structure Guidelines



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1. Introduction

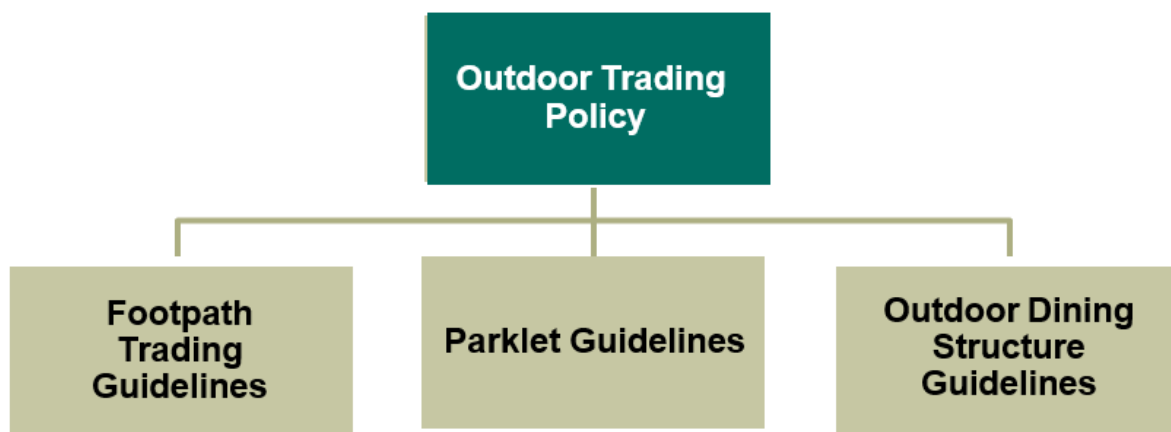
Outdoor trading has played a significant role in activating public footpaths and roadways for commercial activity. Outdoor trading works best when it is aligned with community expectations and facilitates additional patronage for businesses. Activating shopping strips brings social and economic benefits that are valued by the community and traders in Boroondara.

The Outdoor Trading Policy provides the foundation and guiding principles for outdoor trading within Boroondara and aims to support a strong and vibrant local economy for the benefit of the community and visitors to the municipality while maintaining safety and local amenity in shared spaces.

The City of Boroondara offers the following opportunities for outdoor trading:

1. Footpath Trading: activities occurring on the footpath, where dining furniture, display of goods, advertising signs and other associated infrastructure needs to be brought in at the end of trade.
2. Parklets: activities occurring within car parking spaces.
3. Outdoor dining structures: activities occurring on the footpath within a fixed structure that can remain in place overnight.

This document, the Outdoor Dining Structures Guidelines, is underpinned by the Outdoor Trading Policy.



1.1. Definitions

Term	Definition or description
Applicant	Person making the application for Outdoor Trading.
Arterial Road	Roads which provide the principal routes for the movement of people and goods between major regions and population centres, and between major metropolitan activity centres.
Authorised Officer	A person appointed by Council under section 224 of the <i>Local Government Act 2020</i> .
Council	City of Boroondara.
Council-controlled land (definition as per Amenity Local Law)	Any land which Council owns, occupies, manages, has leased or licensed to another person or is otherwise under Council's control and management.
Commercial Area	A locality where business and commercial activities are primarily conducted.
Footpath trading	Use of public footpaths for commercial purposes.
Outdoor Trading Activity	Nature of activity as defined by the Footpath Trading, Parklets and Outdoor Dining Structures guidelines.
Outdoor dining structure	A structure installed on a footpath which can remain in place overnight but able to be removed at the end of the permit.
Parklet	Outdoor dining area within a car parking bay(s).
Patron	Customer of a business.
Permit holder	The person or company named as the applicant in a Footpath Trading, Parklet or Outdoor Dining Structure agreement and to whom the permit is issued. In the case of a company, the director, or directors will be considered the permit holder.
Planning Permit	A permit issued under the Boroondara Planning Scheme.
Registered trader	A person, organisation or group of persons who conduct a business either under a registered business name and/or registered company.
Public Authority	Australian Government body established through legislative instruments for a public purpose.
Trader	A person, organisation or group of persons who conduct a business either under a registered business name and/or registered company.
Footpath Trading Furniture	All footpath dining furniture including tables, chairs, umbrellas, heaters, planter boxes, screens, signage and display of goods.
VGCCC	Victorian Gambling and Casino Control Commission.

1.2. Diagram legend

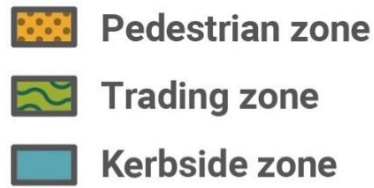


Figure 1: Legend for diagrams used in the document

2. What is an outdoor dining structure?

An outdoor dining structure is a structure installed on a footpath which is subject to a permit, unlike traditional footpath trading where furniture needs to be brought in at the end of the trading day, the structure can remain in place overnight.

The structure must be capable of being easily removed at the expiry of the permit, built in accordance with the relevant building standards and planning requirements and meet the requirements of the *Disability Discrimination Act 1992*.

An outdoor dining structure can only be located only within the available Trading zone adjacent to an applicant's property.

3. Footpath zones

An outdoor dining structure can only be considered in a location where the footpath width is greater than three metres.

To ensure a clear, safe and unobstructed walkway for pedestrians, footpath trading is made up of 3 zones (see Figure 1 Footpath trading zones):

1. Pedestrian zone
2. Trading zone
3. Kerbside zone

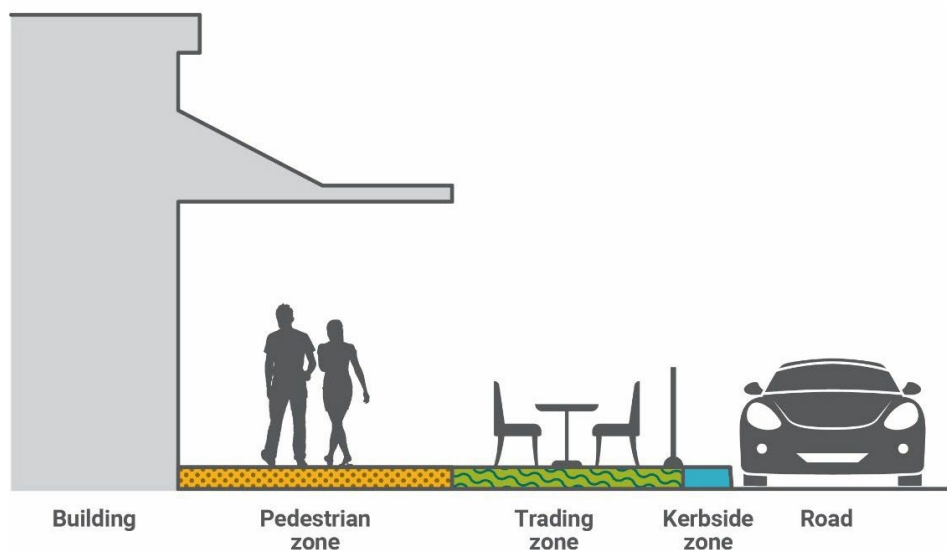


Figure 2: Footpath trading zones

3.1. Pedestrian zone

The pedestrian zone is located on the footpath and extends immediately from the property line to the trading zone. This allows for an uninterrupted and accessible path of travel for pedestrians. This area is for the exclusive use of pedestrians.

The pedestrian zone must be a minimum width of 1.5 metres for a footpath that is up to four metres wide, and 1.8 metres for a footpath that is four metres wide or more, measured from the property line. This area must always be kept clear.

Council reserves the right to vary the pedestrian zone depending on pedestrian needs, vehicle traffic and access, and existing footpath widths.

3.2. Trading zone

The Trading zone is the area located between the pedestrian and kerbside zones after the appropriate clearances are applied. The Trading zone will vary depending on the overall width of the footpath, the Pedestrian zone, the Kerbside zone and any clearances from infrastructure that is located within the Trading zone. It is the only area of the footpath where commercial activity can be conducted in accordance with a permit.

Where the use of the footpath is not directly in front of a business for example a plaza or courtyard, Council may use its discretion to approve a permit if the outcome is to the benefit of the streetscape and the community.

Council will assess such applications on a case-by-case basis and reserves the right to approve or refuse any application.

3.3. Kerbside zone

The Kerbside zone is located between the Trading zone and the face of the kerb or road. This zone is important for the safety of pedestrians crossing the road, allowing access to and from parked vehicles including loading and delivery bays. It must always be kept free from any items or structures.

The minimum distance between the face of the kerb and the Trading zone is 0.5 metres.

Council may vary the width of the kerbside zone to achieve minimum clearances for pedestrian activity, existing public infrastructure, essential services, adjacent parking restrictions and public transport access requirements.

4. Minimum clearances and setbacks

The following clearances and setbacks from an object ensure that access can be maintained safely, for the duration of the occupation of Council land for the purpose of outdoor trading. These safety standards are aligned to the *Road Management Act 2004* and the Austroad Guide to Road Design.

4.1. Minimum clearances from an object

Object	Minimum clearance
Council or public infrastructure; examples include: <ul style="list-style-type: none"> • Litters and recycling bins • Public seating • Bicycle stands • Drinking Fountains • Garden beds and climber frames • Way-finding signs 	1 metre
<ul style="list-style-type: none"> • Trees 	Determined on application
Essential services; examples include: <ul style="list-style-type: none"> • Substations • Exit doors, including fire exit doors • Switchboards • Hose reel cupboards and fire equipment • Boosters • Fire hydrants or fire plugs • Payphones • Traffic lights • Pedestrian-operated lights 	1 metre

Object	Minimum clearance
<ul style="list-style-type: none"> Electricity boxes 	0.5 metres
<ul style="list-style-type: none"> Street light poles and electricity poles 	No minimum set back

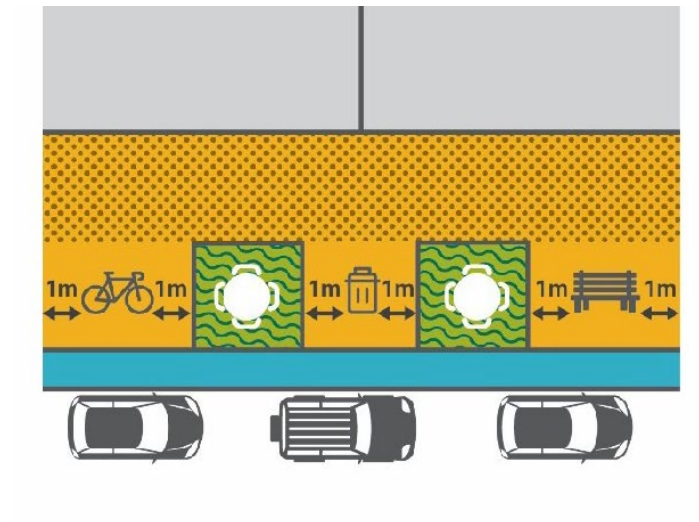


Figure 3: Minimum clearances from an object

4.2. Minimum clearances from the kerbside zone

Parking	Minimum clearance
Parking meters and multi-bay parking meters	1 metre
Parallel parking bays	0.5 metres
No stopping and no standing zones	1 metre
Angled Parking	1.2 metres
Disabled Parking Bays	1.5 metres
Loading zones	1 metre
Kerb line at any intersection	10 metres
Numbers painted on the footpath indicating bay number and direction of the multi-bay machine	0.5 metres

4.3. Setback from an intersection and required line of sight

Outdoor dining located next to intersections must be set back from the intersection to allow a clear line of sight for turning vehicles, cyclists and pedestrians

Applications within the 10-metre setback from the intersection, will be considered on a case-by-case basis taking into consideration speed of vehicles and existing obstructions.

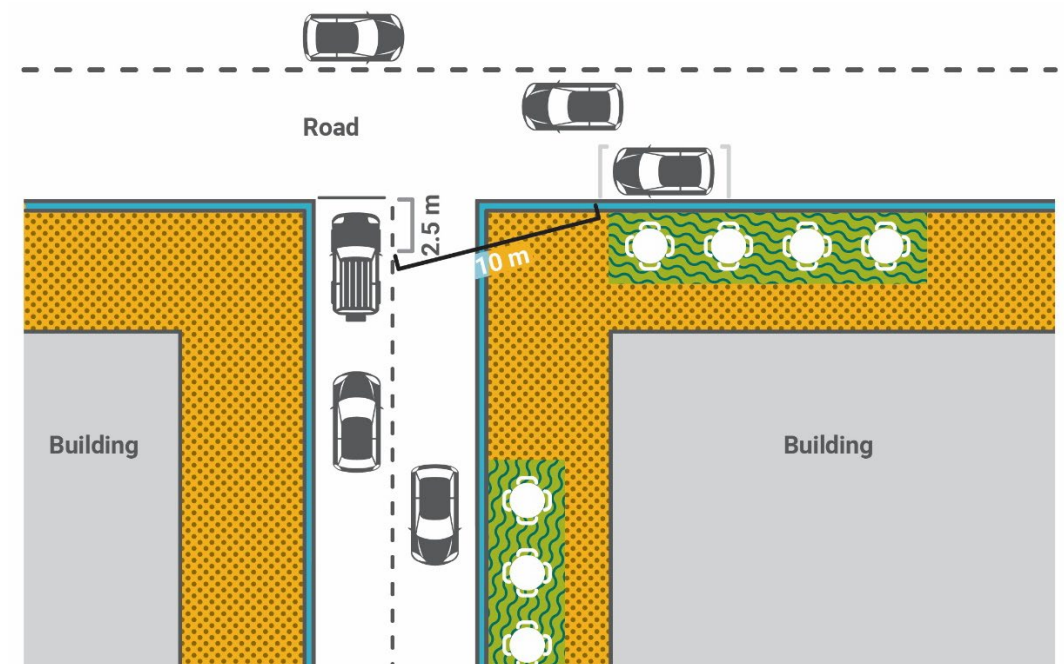


Figure 4: Setback from an intersection and required line of sight

4.4. Setback from tram and bus stops

Clearances from tram and bus stops must be maintained to ensure direct access from the Pedestrian zone is provided to passengers boarding and alighting from a tram or bus.

A minimum of 1.5 metres clearance must be kept from the departure side of a tram or bus stop sign and 10 metres from the approach side.

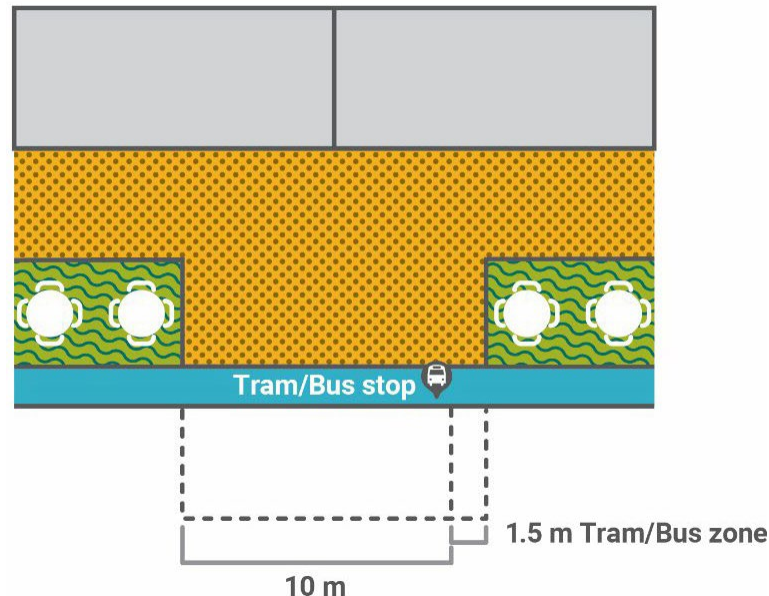


Figure 5: Setback from tram and bus stops

4.5. Setback from taxi zones

Clearances from a taxi zone must be maintained to ensure direct access from the Pedestrian zone is provided to all users of this service. A minimum of 1.5 metres

clearance must be kept to either side of taxi zone signage to ensure adequate access for users and maintain visibility for taxi drivers.

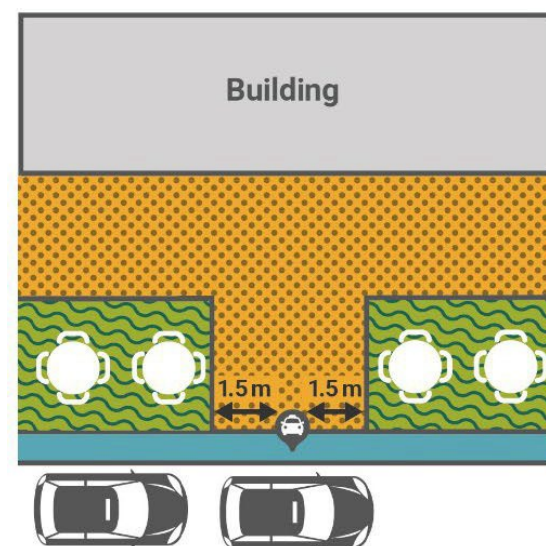


Figure 6: Setback from taxi zones

4.6. Pedestrian access

4.6.1. Minimum gap between neighbouring Trading zone

A gap of one metre is required between adjoining Trading zones to ensure pedestrian safety when crossing the road or to allow access for vehicle passengers entering or exiting their vehicle.

Each trader is required to set back their Trading zone 0.5 metres from the adjoining property line to achieve the one metre gap. This also applies for the placement of screens.

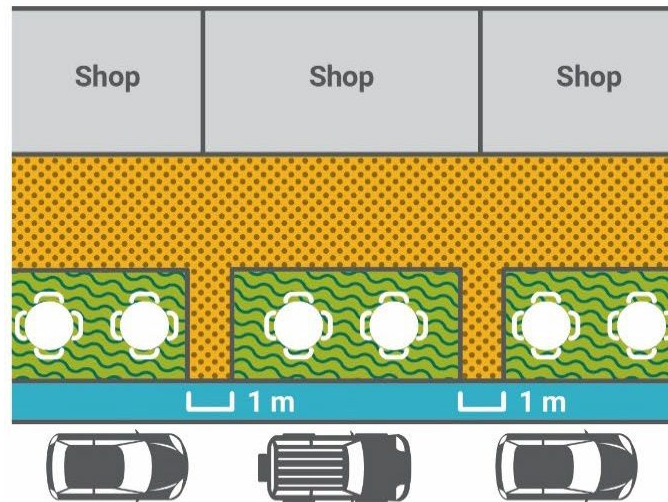


Figure 7: Minimum gap between neighbouring Trading zones

4.6.2. Minimum gap with extended Trading zone

Where a Trading zone exceeds 10 metres, a gap of 1.5 metres must be left.

5. Access to public infrastructure

In the event of an emergency, maintenance or renewal works, access to any Public Authority or Council infrastructure will be required.

To determine if this may impact a proposed trading area, an application to 'Dial before you Dig' should be made via the website [Dial before you Dig](#). This service is free and will provide information regarding any infrastructure beneath a proposed trading area.

If assistance is required to understand how the infrastructure may impact an application, please contact Council on 9278 4444. Council may deem the location proposed by an applicant not suitable for outdoor trading.

Council does not provide compensation for any loss of availability to use the trading area, or any costs incurred to temporarily remove the structure or other related components where entry is required to maintain, access or create new public infrastructure.

6. Waste service vehicle access

The installation of outdoor trading activities must not compromise access by essential waste vehicles, obstruct loading and construction zones or entrances to private buildings and carparks.

It is essential access to services of the permit holder's property and neighbouring properties is maintained, therefore:

- Outdoor Dining Structures should not impede pedestrian flow including waste transport trollies and bins, and access to waste bin storage areas including Council's communal waste service locations
- Waste collection and service vehicle access must be maintained to all properties or public land where bins are stored.

7. Advertising

Council accepts traders may have advertising on commercial street furniture within the Outdoor Dining Structure. There is a limit of 30% of the total area of furniture to avoid excess advertising.

Signage or advertising over 8m² or in a heritage zone may require a planning permit. Contact Council's planning department on 9278 4444 or email boroondara@boroondara.vic.gov.au for further information.

8. Heritage zones

Our community values our local heritage and Outdoor Dining Structure locations need to consider heritage impact. Outdoor Dining Structures in these locations have the potential to impede views to significant heritage frontages and detract from the significance of our heritage buildings.

Applications will be referred to Council's planning department and/or heritage advisor where an application is received for a parklet within a heritage zone.

9. Awnings and verandas

Awnings can be horizontal and fixed to a building and project over a footpath to form a veranda. They can also be vertical and drop down either partially or full length and are fixed to a veranda and/or project over a footpath.

The installation of an awning or veranda attached to the building will require Building approval and may be subject to Planning approval.

Horizontal awnings must have a vertical clearance of at least 2.4 metres from the ground to its underside and must not extend over the roadway or adjacent carpark.

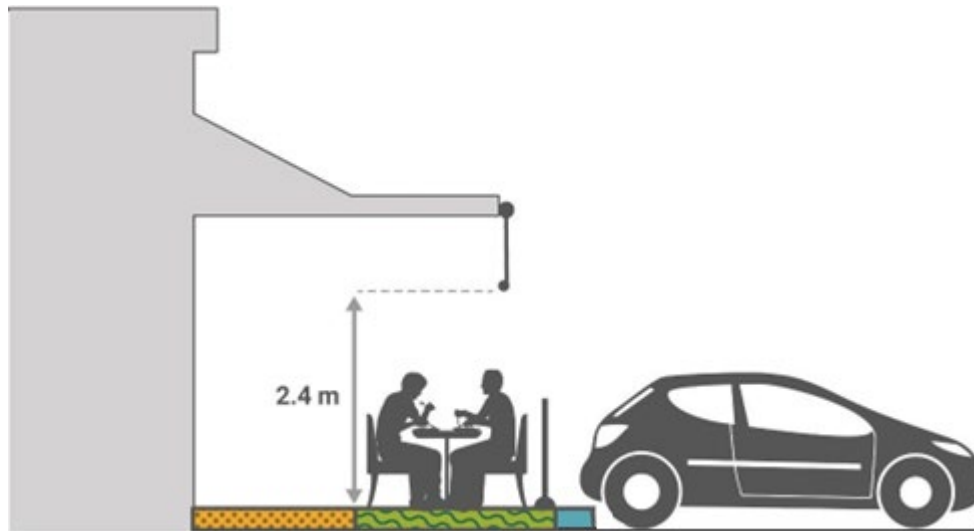


Figure 8: Awning

Drop down blinds must be clear and can only be placed adjacent to the road. Drop down blinds attached to a veranda or awning require building approval.

10. Patron numbers and hours of operation

Planning permits determine how many patrons can receive seated service and the hours of operation. Applications may be referred to Council's planning department to confirm these details.

11. Supporting structures and facilities

11.1. Planter boxes

Planter boxes are permitted and must be located within the Trading zone.

The construction of the planter box can be a maximum height of one metre with planted foliage a maximum height of 0.5 metres or a total combined height of 1.5 metres.

Planter boxes must be removed at the end of the trading day and are required to be regularly maintained by the trader. Maintenance includes regularly watering and pruning and the removal of any rubbish or debris.

Planter boxes cannot be located within 10 metres of an intersection as they may impede line of sight for oncoming vehicles, pedestrians, and cyclists.

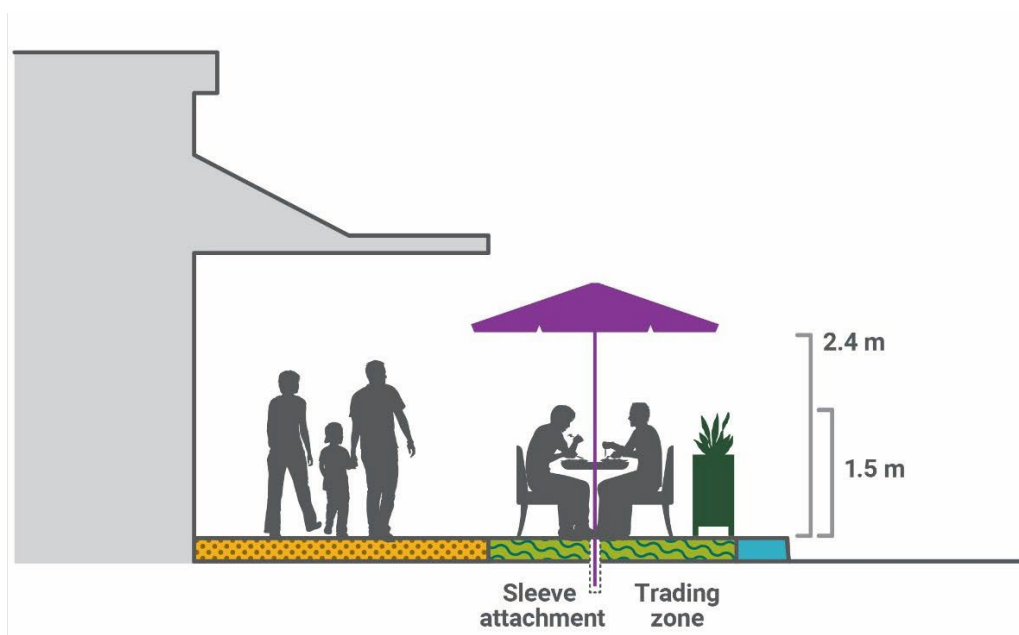


Figure 9: Planter boxes and umbrellas with heights and installation options

11.2. Umbrellas

The lowest edge of an umbrella canopy must be 2.4 metres above the footpath and must not protrude over the kerbside zone or over the road.

An umbrella is required to be securely anchored to the ground for example, by using a sandbag or a 'sleeve attachment'.

Prior to installation of a sleeve attachment, a Road Opening permit and payment of a bond is required. In the event an umbrella is no longer required, or the permit holder ceases to trade the sleeve is required to be removed and footpath reinstated at the Permit holder's cost. If this work is not undertaken by the Permit holder, the bond will be used to undertake these works. See the [road opening permit](#) page on our website.

Sleeve attachments must be:

- Installed flush to the level of the footpath, and no parts should protrude above the level of the footpath when not in use.
- Made of stainless steel and have an auto shut lid to prevent the lid staying open and creating a hazard on the footpath when not in use.
- The installer must check for underground services by contacting Dial Before you Dig at [Dial before you Dig](#).

11.3. Gas heaters

Outdoor free-standing heaters conforming to Australian Standards may be placed in line with the table and chairs within the Trading zone.

Council will consider a gas heater or fixed heater attached to an awning.

Fixed heaters attached to a veranda require a building permit and will be referred to Council's planning department if in a heritage zone.

Where permanent heating is installed, a certificate of compliance issued by a registered gas fitting plumber who is licenced and registered to undertake gas fitting work is required to be produced to Council on the completion of works.

Heating attached to an umbrella is not permitted.

11.4. Bicycle and mobility device parking

Bicycle parking and provision for mobility devices (including prams) is recognised as an opportunity to support sustainable modes of transport in conjunction with outdoor dining, especially where parking spaces have been occupied or there is no provision for these items within close proximity to the outdoor trading area.

A bike stand or mobility parking can be incorporated into outdoor dining structures and will be assessed on a case-by-case basis, taking into consideration:

- Pre-existing bike stands within the vicinity.
- There is adequate width of footpath available.
- Clearance of 1m from furniture to permit access.
- Line of sight requirements.
- Any safety issues that may be related to the storage and amenity of the bike stand.
- Pedestrian zone requirements to be adhered to.
- Available Council resources.

Various types of parking should be considered to accommodate non-standard bikes (e.g. cargo bikes) and mobility devices (e.g. motorised mobility devices/scooters recognised by the Department of Transport).

12. Lighting

To ensure lighting is provided safely to an outdoor dining structure, the following options are available:

- Solar power
- Light supply from an overhead structure.

Light supplied from an overhead structure is required to be installed by a licensed electrician. A certificate of compliance issued by a licensed electrician is required to be produced to Council on the completion of the works.

Portable power leads cannot be run from the property to the outdoor trading area.

13. Lighting overnight

Outdoor Dining Structures can create dark and potentially unsafe areas in and around the structure. An assessment will be made to determine whether additional lighting is required in accordance with the AS/NZS 1158 Part 3.1: Pedestrian area (Category P) lighting—performance and design requirements.

Costs incurred to retrospectively fit lighting will be at the permit holder's expense.

14. Toilet and sanitary conveniences

Outdoor dining increases seating capacity and additional toilet facilities may be required for staff and customers. Where Outdoor dining increases seating capacity greater than 20 seats, additional facilities may be required for staff and customers. Council's Building Services Department will confirm if this applies.

Contact Council's Building Department on 9278 4444 or boroondara@boroondara.vic.gov.au for further information.

15. Car parking

If a parklet is over 28m², planning approval may be required for a reduction in car parking requirements. Generally, restaurants in activity centres operate a car parking requirement of 3.5 car parking spaces to each 100m² of floor area.

16. Structure heights

Maximum heights will be assessed on a case-by-case basis and is dependent on characteristics of the location. The following heights apply as a guide:

- The external wall should not exceed one metre in height to allow for flow of air
- The minimum ceiling height is 2.4m and overall structure height should not exceed 2.7m.

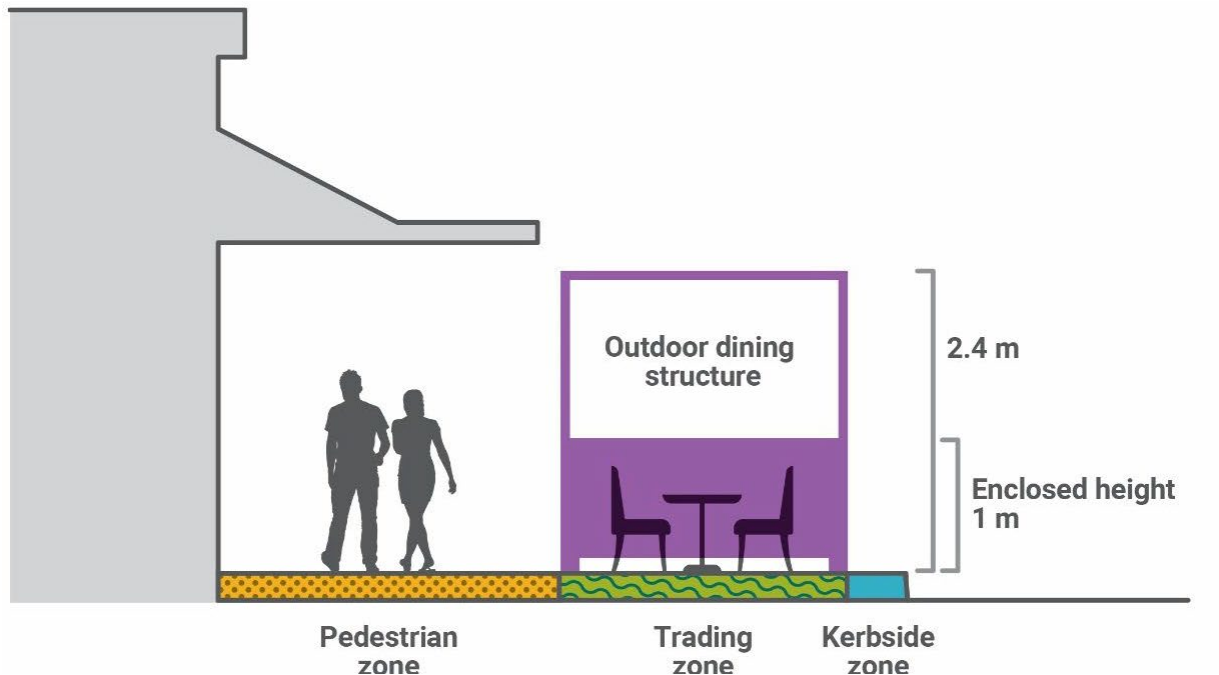


Figure 10: Structure heights for external wall

17. Café blinds

Café blinds must be clear, retractable and secured at the base. They can only be placed adjacent to the road. Café blinds attached to a veranda or awning require building approval. Retractable café style blinds must be retracted at the end of each trading night.

Placing the café blind on the side of the trading area encloses the space and reduces airflow, and therefore is not permitted.

18. Solar compactor bins

If a solar compactor bin is located within or nearby to a proposed Outdoor Dining Structure, Council may consider relocating the bin if there is a suitable alternative location nearby. The relocation of the bin will be dependent on other street furniture, trees, utility covers, pedestrian crossings and shading (as solar bins require direct sunlight). Cost to relocate the solar bin is at the applicant's expense.

19. Service and amenity

19.1. Cleanliness of trading area

Permit holders are responsible for maintaining the safety and cleanliness of their Trading zone including the equipment and structures contained within. Regular cleaning is required to ensure rubbish does not accumulate or is not windblown into neighbouring areas.

Permit holders are also responsible for providing hand sanitising stations and other patron management systems as part of any legislated health directives.

Outdoor dining structures should not create hazards for pedestrians and be able to withstand hot and windy conditions. Appropriate selection of furniture and fittings, as well as regular maintenance is required.

19.2. Managing noise and amenity

Where permitted, loudspeakers directing sound to the outdoor dining area must not be used outside the permitted trading hours provided in the conditions of the permit and must always be limited to background levels, unless otherwise specified on a permit.

20. Service of alcohol

Permit holders and staff must practice responsible service of alcohol and are responsible for monitoring and managing patron behaviour.

Applicants will need to apply for a Planning permit and Liquor Licence to serve alcohol within the Trading zone. A Liquor Licence is required to be applied for separately through the Victorian Gambling and Casino Control (VGCCC). Please visit [Liquor licensing | Victorian Government \(www.vic.gov.au\)](https://www.vic.gov.au/liquor-licensing) for further information.

21. Smoking and vaping

Smoking or vaping must comply with the requirements of the *Tobacco Act 1987*.

22. Patron queuing

A trader is responsible for ensuring the pedestrian zone in front of their business remains clear of patrons queuing outside their premises to gain entry.

A minimum of 1.5 metres of unobstructed footpath must always be maintained to ensure pedestrians can walk past a venue unimpeded.

A trader can apply to Council for a permit to rope off a section of the footpath at no cost to meet the above requirements.

23. Public liability

Traders must hold a valid public liability insurance policy to the value of at least twenty million dollars (\$20,000,000) at the time of application. The insurance policy must cover injury, loss or damage to persons arising out of the activity carried out under or the granting of a permit.

This insurance policy must be maintained for the duration of the permit and specifically note the interest of the City of Boroondara as an insured party. The Certificate of Currency may be requested by Council and must be readily available.

24. Enforcement

Council aims to support traders to achieve compliance through education of their permit conditions and the Amenity Local Law.

Traders contravening these Guidelines may be subject to enforcement including notices, infringements and prosecution. Council reserves the right to revoke or cancel permits.

25. Implementation and monitoring accountabilities

The responsible department coordinates the implementation, maintenance, and review of this document, arranging for its availability on Council's website and hard copies at Council offices and libraries to ensure stakeholders are aware of their accountabilities.

For all queries or feedback regarding this document, please use the contact details for the responsible department below:

Contact department	Contact number	Contact email
Permits and Appeals team, Civic Services	9278 4444	boroondara@boroondara.vic.gov.au

Note: Any changes to the Footpath Trading Guidelines must be made in conjunction with the Outdoor Trading Policy, Parklets and the Outdoor Dining guidelines.

26. References

Related documents:

- Austroad Guide to Road design Part 4A, 2021
- City of Boroondara Amenity Local Law 2019
- Local Government Act 2020
- Planning and Environment Act 1987
- Road Management Act 2004
- Tobacco Act 1997

- Food Act 1984
- VicRoads Supplement to the Austroads Guide to Road Design Part 4A - Signalised and Unsignalised intersections

Appendix 1: Application process

How to apply for a permit

To apply visit www.boroondara.vic.gov.au

So that we can assess an application in a timely manner please include the following information with the application:

- completed and signed application form (available to download on our Outdoor Trading Permits webpage)
- a site plan showing the proposed location of the outdoor trading activity including dimensions and position of local infrastructure
- a copy of a current business registration certificate.
- Certificate of Public Liability Insurance for a minimum of \$20 million, noting the interest of the City of Boroondara as an insured party.

Additional requirements as relevant include:

- the proposed hours of operation
- details of the advertising signage
- copy of current registration to serve food and/or beverages under the Food Act 1984

Consideration will be given to site-specific constraints such as access, traffic and parking conditions and permits may be issued with specific conditions. Permits may also be subject to change at any time during the permit period to ensure safety and amenity is not compromised.

If you are a new applicant, please contact our Concierge Business Support Service on 9278 4444 if assistance is needed to complete an application.

This service provides a one stop shop for businesses which includes broad advice and assistance to determine which Council permits and approvals they may require and triage any other business's needs.

Application assessment timelines

Council is committed to activating the city and helping businesses to establish appropriate Outdoor Dining Structures as quickly as possible.

Businesses must ensure applications contain all necessary information so Council are able to thoroughly assess and process applications in a timely manner. Assessments may take up to two months to review as they require approvals from several departments and

externally by others to ensure they have met the assessment criteria.

Applications in a residential area or close to a residential area

Applications located in a residential area where residential dwellings are directly affected will be carefully considered on a case-by-case basis to ensure safety is upheld. This is to ensure residential amenity of the area is maintained during the licence period.

The threshold distance considered “close” is any residential property within 50 metres of the proposed location of the Outdoor Dining Structure. Access, safety, amenity conditions and noise restrictions will apply.

Proposals for trading after 9.30 pm close to a residential dwelling or building

Applications to operate after 9.30 pm from Sunday to Thursday and 10.30 pm from Friday to Saturday will be considered strictly on a case-by-case basis. Residents within 50 metres of the property will be sent a notification letter and provided 14 days to provide feedback.

Applicants proposing to establish an Outdoor Dining Structure in a residential area past 9.30 pm are strongly encouraged to engage with affected residents, the residential precinct association and/or the body corporate of a residential building to seek support for the proposal.

Decision to issue a permit

The decisions whether to grant a permit will be made by a panel of representatives from Civic Services, Traffic and Transport, Local Economies, Building, Health and Town Planning.

The panel will assess submissions in accordance with impacts to safety, access and amenity in the immediate area and compliance with statutory requirements.

Fees and charges

A fee is charged for all outdoor trading. Additional fees may apply for changes and amendments. Fees and charges are reviewed annually.

Costs associated with moving existing infrastructure

The costs will be at the expense of the applicant for:

- Installation of new infrastructure
- repair or amendment of existing infrastructure; and
- removal of outdoor dining

All Outdoor Dining Structure infrastructure is required to be removed by the applicant at either upon expiry of the Permit or at the request of Council.

Display of permit

A Permit sticker must be displayed on the front window of the trader's business.

Public liability insurance

Traders require a valid public liability insurance policy to the value of at least twenty million dollars (\$20,000,000) at the time of application. The insurance policy must cover injury, loss or damage to persons arising out of activity carried out under the granting of a permit.

This insurance policy must be maintained for the duration of the permit or licence and specifically note the interest of the City of Boroondara as an insured party. The Certificate of Currency may be requested by Council and must be readily available.

Renewals

Permit renewal fees are paid every two years from the date of approval and accompanied by the renewal form. Renewal notices will be sent to permit holders in the month prior to their permit expiry date.

Renewals are not automatic. Council will consider whether compliance with the conditions of the permit during the permitted occupation of Council land for footpath trading have been met, whether all reasonable requests made by officers were complied with and any additional impacts that may affect the ability to support the continued occupation of Council land.

Where Council considers a renewal is not appropriate, permit holders will be notified in writing of the reasons why their permit is not being renewed.

Removal of outdoor dining structure

An outdoor dining structure may need to be removed temporarily or permanently for improvements, maintenance or other works as required by the City of Boroondara or its contractors, or a public authority that is required to access their infrastructure.

The City of Boroondara will give the permit holder as much notice as possible. Costs to remove and store any footpath trading items are borne by the permit holder both at the conclusion of the permit or if requested by Council to remove the items either temporarily or permanently.