

# Expanding Outdoor Dining and Entertainment Guidelines

January 2021



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# Expanding Outdoor Dining and Entertainment Guidelines

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Yarra Council is working with local businesses to make outdoor dining safe and practical in Yarra during COVID-19 restrictions.

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We have developed a new application process for hospitality businesses in Yarra to expand their outdoor dining space until 31 March 2021.

This could include:

- using the footpath space in front of neighbouring properties
- using the on-street car parking bay(s) directly outside your business
- closing laneways and side streets
- using council-owned outdoor land (such as parks or gardens)
- using outdoor private property (such as a carpark on your property)

Full details of each option and how to apply are provided in the following pages.

## Considerations

### Do you have a liquor licence?

The [Victorian Commission for Gambling and Liquor Regulation \(VCGLR\)](#) is fully supportive of this initiative and has agreed to waive extension fees and to assess each application within three days. You will need to get approval for the extension from Yarra Council and we will then provide you with the documents needed. Once you have this you can [apply to the VCGLR](#).

### Smoking

For all applications to extend a dining space there will be no smoking allowed within a dining area and all events in Yarra are smoke-free.

### Do you have a COVIDSafe Plan?

All businesses with more than five employees will need to have a [COVIDSafe Plan](#) approved by the Victorian Government before you can start trading.

### How long will my application take to process?

We're working to fast-track the application process to make sure eligible businesses have their permits approved and are ready to trade in line with the Third Step of the [Victorian Government's roadmap to reopening](#).

Anticipated timelines are:

- Simple proposals to extend trading onto the footpath outside of your own or a neighbouring property – 24 hours.
- More complex proposals involving larger areas and multiple furniture items – 3 days.

- Applications to occupy on-street parking spaces requiring business consultation – 7 days.
- Applications in residential areas requiring community consultation – 7 to 21 days.
- Complex applications requiring intermittent road closures – 14 to 30 days.

### How much does an extended outdoor dining permit cost?

Our temporary extended outdoor dining permits are free of charge for Options 1 and 2. For Options 3 and 4 there may be a small fee dependant on what is being applied for.

[View the fee structure.](#)

## Options for extending your outdoor dining or entertainment

Yarra has a number of retail and services precincts and we understand that each case will be different, however, below are five options that a hospitality business can apply for to extend their outdoor dining.

### Option 1 – Using your neighbour’s footpath space

You can apply to extend your outdoor dining area to include the space next door to you provided you have the permission of the business. Yarra has waived all permit fees but we will still need you to apply. These are the steps that you will need to follow:

1. Provide a letter from the owner/operator of the neighbouring property. This should express “no concerns’ in relation to your business utilising their footpath trading area. [Download our example letter.](#)
2. Complete an application for option one through our [SmartyGrants](#) system.
3. Prepare a [footpath trading site plan](#) detailing all items to be placed in your neighbour’s footpath trading area, including the dimensions of your items (tables, chairs, a-frame sign, etc.) and any Yarra Council infrastructure (bins, benches, poles, parking signs, etc.) and the times that the items will be placed in your neighbour’s footpath trading area.
4. Provide a current copy of your public liability insurance (in the form of a Certificate of Currency) for \$10 million coverage (or more) noting the business address or ‘anywhere in Australia’ and that it extends to all items placed on footpath.

If your business is licenced for alcohol, you will need to extend your redline plan with the [VCGLR](#).

#### **Please note:**

- These extensions in front of your neighbour’s property will be issued on a temporary basis until 31 March 2021.
- All applicants will have the ability to extend these permits further provided that the written permission is still valid.
- Applicants will need to submit a request in writing closer to the expiry date requesting this.

### Option 2 – Using the car-parking space directly outside your business

All applications will be considered individually, but some streets aren’t suited to outdoor dining due to safety and access issues. As a guide, ineligible streets include:

- Arterial roads and roads owned by VicRoads.
- Areas where extended trading would hinder access for deliveries, essential and emergency vehicle access, access to commercial carparks, buildings and residences.
- Roads with clearways.
- Streets with protected cycle lanes.

- Streets with service/utility access panels or storm drains within the parking space (unless furniture is movable and no platforms are involved).
- Construction zones.
- less than 10 m from an intersection.
- less than 20 m from a signalled intersection.
- Spaces designated as loading zones, No Stopping zones and disabled parking will require special consideration. If supported by traders, loading zones can be considered if alternative loading zones are created nearby.

If your business is located in areas with these restrictions, we would recommend that you ask to use your neighbour's footpath space as per Option 1.

For all other precincts, and where the **car parking has green parking signs only**, these are the steps that you will need to follow:

1. Provide a letter from the owner and operator of the neighbouring property. This should express "no concerns' in relation to your business utilising their footpath trading area. [Download our example letter.](#)
2. Complete an application for option two through our [SmartyGrants](#) system.
3. Prepare a [footpath trading site plan](#) detailing all items to be placed in the parking space(s) directly in front of your property, including the dimensions of your items (tables, chairs, umbrellas, etc.). Outdoor heaters will not be permitted.
4. Provide photos of the car parking space(s) that you are applying to use.
5. Provide a current copy of your public liability insurance (in the form of a Certificate of Currency) for \$10 million coverage (or more) noting the business address or 'anywhere in Australia' and that it extends to all items placed on footpath.
6. Once your application has been assessed as successful, Yarra Council will provide the safety infrastructure to keep your customers safe:
  - a. Physical blocks that will provide a safety buffer between the outdoor dining area from the roadway/parking spaces to prevent cars reversing or driving into the area.
  - b. Yarra Council will notify residents and businesses adjacent to the extension of the permit and associated conditions.
  - c. If your business is licenced for alcohol, you will need to extend your redline plan with VCGLR.
  - d. You will also need to:
    - i. Ensure that any unsuitable surface (e.g. bluestone or large displacements in the stones) for pedestrian traffic to be traversing, is safe for customers with additional measures such as artificial surfaces (e.g. mats, artificial turf, etc.) will be installed to level the road surface as far as reasonable. Please refer to [our design guidelines](#).
    - ii. Provide solid barriers on three sides of the area (footpath side excluded) between the blocks to delineate the dining space and ensure your customers have a safe place to dine
    - iii. Remove the furniture and barriers at the start and end of the trading hours agreed in your permit

If your business is in an area where there a number of hospitality businesses neighbouring each other it may be possible to combine the outdoor dining area and extend the number of car parking spaces to create a larger space.

Call us on 9205 2555 or email [business@yarracity.vic.gov.au](mailto:business@yarracity.vic.gov.au) if you have agreement of more than three hospitality businesses.

### Option 3 – Laneway or road closure

Businesses located next to a laneway can apply to close part or all of the laneway for the exclusive use of outdoor dining or entertainment. The laneway will need to be directly adjacent to your business with easy access for food and drinks to be delivered from your kitchen.

If the laneway is privately owned, you will need to apply to Yarra Council to change the use of the space through the current Yarra Planning Scheme. This process can take between three and six months and Council has requested that the Minister for Planning exempt these applications. Until this is achieved we will not be able to support these spaces being used for outdoor dining. Refer to Option 5.

Road closures will also be considered provided the following apply:

1. no impacts on public transport (ie roads with tram routes will not be considered)
2. no impacts to cycle lanes (ie roads with separated cycle lanes will not be considered)
3. no impact to access to residential buildings

As part of the application process you will need to show that you have consulted all businesses and residents within 100 metres of your planned trading space. Once your application has been received, we will provide you with the letter and a map of the area that it will need to be delivered to.

Please allow seven days from the time that notifications are delivered for any comments to come back to Council. We will aim to provide an outcome of your application within five working days of submissions closing.

These are the steps you will need to follow:

1. Complete the application option three through our [SmartyGrants](#) system.
2. Provide a current copy of your public liability insurance (in the form of a Certificate of Currency) for \$10 million coverage (or more) noting the business address or 'anywhere in Australia' and that it extends to all items placed in the laneway or road.
3. Prepare a comprehensive site plan detailing all items to be placed in the laneway or road, including the dimensions of your items (tables, chairs, umbrellas, etc.). Access routes for staff and customers to use should also be clearly identified.
4. For road closures a comprehensive traffic management plan will need to be provided. The temporary road occupation may require the traffic management plan (TMP) to be implemented on the day of your event by an accredited traffic management company (we can advise of reputable companies).
5. Provide details of the number of customers that will be able to use the space at any given time within the extended area.
6. Provide photos of the laneway or road space that you are applying to use.
7. Complete a risk management plan (download the template [here](#)).
8. If you will be setting up a temporary servery or other food handling operation on the road/laneway then you will be required to lodge Statement of Trade (please see [here](#)) and ensure food is being prepared safely/meets other compliance requirements (e.g. hand washing station, etc.)
9. Provide evidence that you have toilet facilities that will accommodate users.
10. Provide details about how you plan to manage waste during this extension.
11. If your business is licenced for alcohol, you will need to extend your redline plan with [VCGLR](#). Once your event is approved we will issue you a letter of approval to accompany your application with VCGLR.
12. Once application has been assessed (within 14 to 21 days), we will provide physical blocks at the start and end of the closure.

## Option 4 – Event Space on Council-owned land

Businesses wishing to occupy one of our open spaces (parks and gardens) for your business or have a pop-up bar, stall, market or food truck in our parks and gardens to support Yarra businesses and artists will need to:

1. Complete option four through our [SmartyGrants](#) system.
2. Provide a Certificate of Currency for Public Liability for \$10 million.
3. Prepare a comprehensive site plan detailing how you intend to use this space and the location of infrastructure including the dimensions of your items (stage, tables, chairs, umbrellas, food trucks, direction of speakers etc.). Access routes for staff and customers to use should also be clearly identified. Please note that events in the following spaces **will not** be considered due to the high level of community use:
  - Edinburgh Gardens
  - Darling Gardens
  - Burnley Park
  - Barkley Gardens
  - O'Connell Reserve

- Citizens Park
4. Provide the following:
    - Risk Management Plan ([Template Provided](#))
    - COVIDSafe Plan
    - Emergency Evacuation Management Plan
    - Waste Management Plan.
  5. Provide a list of your vendors, including:
    - Operating times.
    - A site plan of where they intend to operate.
    - A copy of each of the vendors Certificate of Currency for Public Liability Insurance.
    - An approved Statement of Trade ([please see here](#)) for anyone selling food or beverages.
  6. Provide details if you plan to have any entertainment and/or amplified sound (e.g. live music, music playback, amplified speech/announcements, starter horn/pistols).
    - Provide a detailed list of **all** sound producing equipment.
    - Will a generator be used?
    - Performance times.
    - Noise Action and Amenity Plan.
  7. As part of the assessment process you will need to show that you have consulted all businesses and residents within 100 metres of your planned trading space. Once your application has been received, we will provide you with the letter and a map of the area that it will need to be delivered to. Please allow seven days from the time that notifications are delivered for any comments to come back to Council. We will aim to provide an outcome of your application within five working days of submissions closing.
  8. Once your expression of interest has been assessed as successful, we will provide the following infrastructure to keep your customers safe:
    - a. blocks at all key potential vehicle access points.

## Option 5 – Expansion of outdoor dining and entertainment onto private property

If you are an existing food and drink business (cafe, restaurant, bar, hotel) and are considering additional or altered outdoor dining opportunities on private land (which may currently be a car parking space, storage area, garden for example) due to COVID-19 restrictions you may not require a planning permit.

A number of exemptions have been recently introduced into the Yarra Planning Scheme at Clause 52.18:

[https://planning-schemes.api.delwp.vic.gov.au/schemes/vpps/52\\_18.pdf?\\_ga=2.79064663.274834557.1603681942-292483775.1600136567](https://planning-schemes.api.delwp.vic.gov.au/schemes/vpps/52_18.pdf?_ga=2.79064663.274834557.1603681942-292483775.1600136567)

The exemptions include:

1. being able to extend on to an adjoining land (directly abutting you) to prepare or sell food or drink.
2. utilising on-site car parking areas associated with an existing food and drink premises to prepare or sell food or drink.
3. construct a temporary or moveable building that is less than 3.6m in height and a minimum of 1 metre setback from land in a residential zone if greater than 1.8m in height.
4. modify your red line plan (If you are looking to changing your red line area to align with your extended area for liquor consumption, you will also need to contact VCGLR - <https://www.vcglr.vic.gov.au/>).

You will benefit from these exemptions based on all of the following:

- You must be an 'existing' food and drink premises.
- You do not alter an existing building in a Heritage Overlay.
- You maintain compliance with any existing planning permit conditions relating to patron capacity, hours of operation and amenity matters.
- The use of the land must not unreasonably affect the amenity of the neighbourhood.

- Any constructed temporary or moveable building must be removed before the end of the exemption period.
- If your outdoor area is located within 30m of a residential zone, it must not be used to consume food or drink between the hours of 10.00pm and 7.00am on any day, unless you have a planning permit that allows you to do otherwise.

The exemptions under Clause 52.18 are valid for 12 months from the end date of the 'State of Emergency Declaration' (currently 8 November 2020).

Please read the exemptions carefully and if you are unsure whether or not these exemptions apply to your business, you can contact the Statutory Planning Department at [PlanningAdmin@yarracity.vic.gov.au](mailto:PlanningAdmin@yarracity.vic.gov.au) or 9205 5373.

You may also need to consider other permit requirements (eg. building permit). Please contact Council on 9205 5555 or email [info@yarracity.vic.gov.au](mailto:info@yarracity.vic.gov.au) for further information.