

Council guidelines for

Recreation and Entertainment Businesses

Planning and permitting for
escape rooms, rock climbing centres
and more



Merri-bek
City Council



Opening a **business**

So, you're planning on opening a new business where people can get together and have fun? Congratulations! Perhaps you have a location in mind and want to make sure it's suitable, or expand your current business. Or maybe you've signed a lease and want to know what Council approvals you need to get up and running. Whatever stage you're at, these guidelines are designed to give you the information you need to help get your business operating as quickly as possible.

What do I need?



PLANNING APPROVAL

You may need a Planning Permit for your business, depending on the zone, overlay, whether or not you are serving liquor and other factors. A Planning Permit application is where the Council checks to make sure that your business use and development of land won't negatively affect the surrounding area. You should check with your Council to make sure you need a Planning Permit before undertaking an application.



BUILDING APPROVAL

If you're planning to build or renovate, it must be done safely, be structurally sound and appropriate for the area. To ensure this, you'll need a Building Permit. This can only be done if you already have a Planning Permit, so make sure you get that first. You may also need an Occupancy Permit, if your business is different from what the premises are used for now. For more information about getting a Building Permit, view the *Building Permits for Businesses* fact sheet.



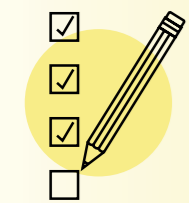
LIQUOR LICENSING & FOOD REGISTRATION

If you serve or sell alcohol you'll need a Liquor Licence from the Victorian Liquor Commission.
To sell food, you'll need to be registered with the local Council.



REGULATIONS & REGISTRATIONS

If you have significant environmental impacts such as air quality, noise, odour and waste you may need to meet EPA policies, standards and guidelines.
If you use a footpath outside your business for seating, displaying goods or advertising signs, you will need a local laws permit from the Council.
Once you have approval from each regulation that applies to your business, you're allowed to operate.



Planning approval

Of all the approval phases, Planning is usually the longest and the one that requires the most work. It also has the greatest degree of discretion in assessing whether to grant a permit or not, as it can be subject to objections from neighbours or other businesses.

What to consider before buying or leasing

Before locking yourself into purchasing or leasing premises, it's important to consider some basic planning issues, which could determine whether or not you get a planning permit.

Land Use

Unfortunately, the planning scheme doesn't use normal language to describe many businesses. Cinemas, art galleries and function centres are classed as a 'place of assembly' in the planning system, so keep this mind when asking questions about your business. Rock-climbing, escape rooms and similar activities are classed as 'indoor recreation'.

Zoning

Zoning is potentially the most important thing to consider as it is the zone that determines whether a permit can be granted or rejected. The zone can therefore be a make-or-break decision. For instance, a 'place of assembly' needs a permit in most zones, but the purpose of the zone will impact how likely a permit is to be granted. A place of assembly would usually be better located in a commercial zone than a residential zone, for instance. You can check the zoning of a property at mapshare.vic.gov.au/vicplan

Overlays

You should also check whether the land is included in any overlays, which include permit requirements to develop land. Many locations have Overlay controls, particularly a Heritage Overlay, or Design and Development Overlay. Overlays are an additional layer of planning control on extensions and external alterations to buildings and may restrict the business layout. For example, you may not be allowed to put additional openings into a building that has heritage protection.

Car parking

Depending on the size of your business, you may need to provide car parking to operate. Alternatively, you may need to seek a permit from Council for a reduction in car parking. Car parking reductions are common in inner-city areas, however, you may need to submit a report that demonstrates there is enough public parking in the precinct to accommodate a new use. Car parking rates are set out in the Council's planning scheme. Indoor recreation facilities do not have a rate, and so car parking is to the satisfaction of the Council, based on the location and type of recreation business. A 'place of assembly' will have a rate based on patron numbers.

Neighbours

Most commercial areas allow residential uses. Many buildings have ground floor commercial space and residential apartments above. If your business will create a lot of noise or play loud music, it may be best to look for an alternative location where there are fewer residential

uses. Neighbours can object to a planning application and can take a matter to the Victorian Civil and Administrative Tribunal (VCAT) for review, even if Council supports the application.

Timing

Planning approval can take a long time. This is because there are statutory timeframes in relation to further information, public notice (advertising), objections, Council decision making and a potential VCAT hearing. It is important to factor in potential timeframes when deciding whether to buy or lease a premises. A controversial application that is decided by VCAT can take longer than 12 months.

Costs

It is important to be aware of potential costs in making an application for a Planning Permit. There are statutory fees for lodging an application, Council fees for public notice and fees if the application goes to VCAT. Information about fees is available on Council websites. There may also be fees if you need to engage an architect, a planning consultant to help you get a Planning Permit or an acoustic consultant if there are potential noise issues. In some instances, you may need to engage other specialist consultants too.

Contaminated land

Former industrial areas may contain contaminated land. *Victoria Unearthed* is an online mapping tool designed to help you find out more about land, groundwater, past business activities and potential contamination. Contaminated land may be included in an Environmental Audit Overlay. If you are proposing any buildings and works or a sensitive use is proposed on contaminated land, you may be required to engage an environmental auditor to prepare an environmental audit. For more information, visit www.planning.vic.gov.au/policy-and-strategy/planning-for-environment-protection/contaminated-land-and-planning

Ancillary Uses

You may want to have a small component of your business operate in a way that ordinarily wouldn't be allowed in the zone - For example, a shop is prohibited in an Industrial Zone. However, if the shop was merely 'ancillary' to the place of assembly, it's allowed. For example, a small shop attached to an art gallery, that sells a small amount of art on certain days, may be ancillary, and therefore is not prohibited.

To find out more, read the **Ancillary Use** fact sheet.



What sort of permit do I need to apply for?

A Planning Permit may be required for multiple reasons, known as ‘permit triggers’, or just one, depending on the proposal. For example, you may need a permit to change the use of a building, or to construct or modify a building.

Here are the common permit triggers associated with small business applications:

- **Change of use** – when you want to operate a business that uses the land for a different reason to its current or previous use, e.g. operate a shop in what was previously a warehouse. Requiring a Planning Permit for liquor also falls into the ‘change of use’ category.
- **Buildings and works** – when you want to change the building, construct a new building or excavate land.
- **Advertising signs** – e.g. light boxes, signage on windows, flashing or illuminated signs.
- **Reduction in car parking** – there are guidelines for how many car parking spaces you need, so you’ll need to make a case for an exemption if you don’t meet these.

Applying for a Planning Permit

Before you apply for a Planning Permit, you may wish to have a Pre-application Meeting with your local Council. They can advise:

- Whether or not your proposal actually needs a permit.
- If your proposal is prohibited.
- What additional information you need to supply with your application.
- How your application will be processed.

What do I need before applying for a Planning Permit?

If you do need a permit, you will need to provide the following information as part of your application:

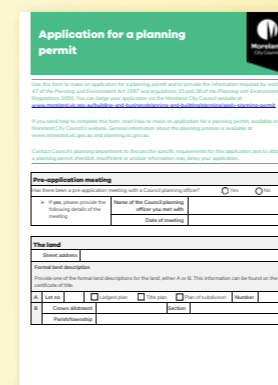
- **Application form** – this is done on your local Council’s website
- **Certificate of Title** – this must be issued within the last three months
- **Planning fee** – the amount is available on your local Council’s website
- **Plans** – show the layout of the proposal, any buildings and works and relationships to adjoining buildings
- **Planning report or written submission** – see below
- **Expert reports** – e.g. an acoustic report for noise, or traffic and parking report by a qualified engineer

Planning reports

A planning report provides details about your business, like the proposed number of employees, hours of operation, patron capacity (by square metres or seating) and car parking. It assesses the proposal against relevant planning policies and requirements and justifies why a permit should be granted.

You may wish to consider engaging a planning consultant to help prepare the planning report, especially if the proposal is complex.

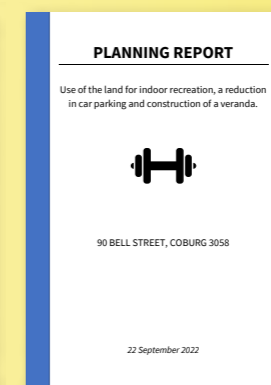
For more details, read the *How to apply for a planning permit* fact sheet.



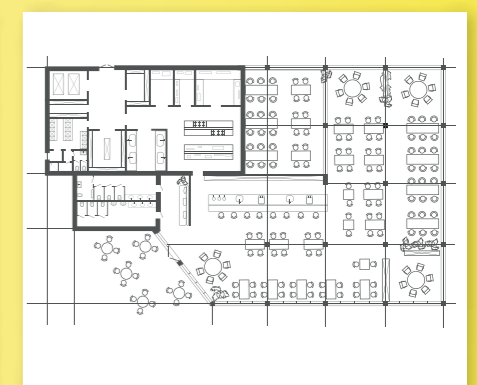
Application form



Certificate of Title



Planning report

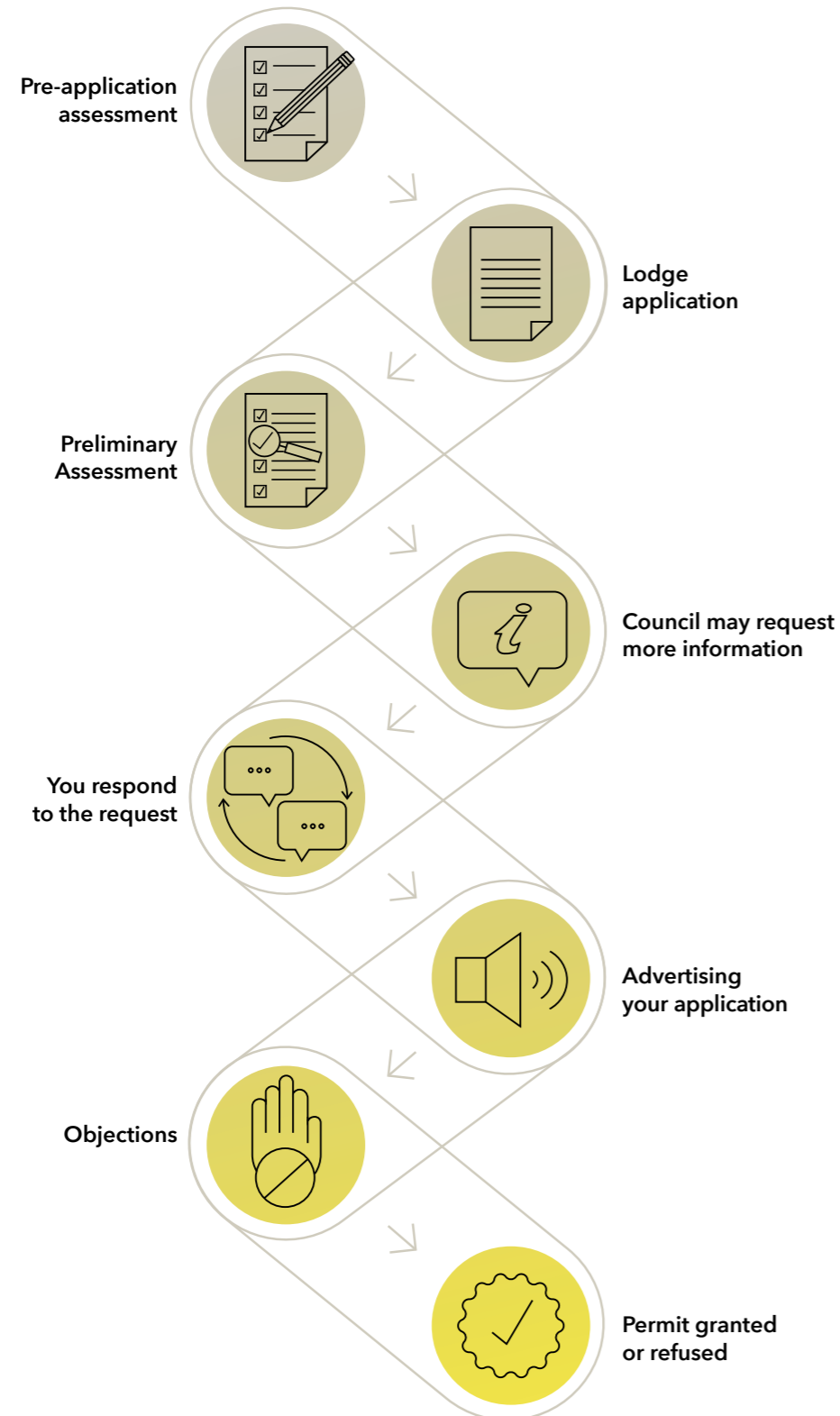


Plans

What is the approval process?

As a general rule of thumb, allow a few months to gain planning approval – but contact your Council to find out what their current timeframes are like.

After you lodge your application, the Council will first decide whether it has all the necessary information for it to assess it. They may request further information to make a decision on whether to accept or refuse your application.



Advertising your application

Most applications for planning permits are advertised – which means, a formal notice is given to the adjoining and nearby owners and occupiers, and a sign may have to be displayed on the site for at least 14 days. Anyone may object to the application and must state how they would be affected by the grant of a permit.

The decision process

In deciding whether to grant a permit, the Council will consider:

- The zone, overlays and relevant planning policies
- Amenity impacts such as noise and parking
- Concerns raised in objections

The Council will then assess the application and decide to approve or refuse it. Your Council will either issue:

- A planning permit. This means you can start straight away.
- A Notice of Decision (NOD) to grant a Planning Permit. This means Council has indicated that it supports the proposal, and you can commence operating in 28 days' time, unless an objector reviews the decision at VCAT.
- A refusal, meaning your application has been rejected.

For more information on appeals, NODs and refusals, see our **Right of Appeal** fact sheet.

If Council approves your business, you will be given conditions of approval that must be met when operating. These may stipulate hours of operation, the number of people that can be accommodated on site and the number of car parking spaces that must be provided.

What do permits cost?

The State Government sets application fees for all planning permits. You can find them here: <https://www.planning.vic.gov.au/legislation-regulations-and-fees/planning-and-subdivision-fees>

If you are required to advertise a public notice for your application, you'll need to pay an advertising fee. This amount is shown on your Council's website in the planning section.

How long will the whole approval process take?

After you've submitted your application, the Council will get back to you within 28 days with any questions. Sometimes the Council will need to involve another organisation in the decision. This is known as a referral authority and they have 28 days to respond.

Once the Council has all the information they require, they will usually make a decision within 60 days.

VicSmart – for straightforward applications

VicSmart is an alternative way to apply for a planning permit, using a streamlined assessment process. It's a faster way of dealing with low-impact, straightforward planning permit applications, and can reduce the process to just 10 days.

To find out whether your application is eligible for VicSmart, contact your Council.

Tips to save time

- Request a pre-application meeting. The Council will confirm in writing what information should be submitted with an application.
- Engage a planning consultant - they'll be familiar with Council processes and requirements.
- Engage an expert if specialist information is required.
- Ensure all information is provided and it is accurate. This includes being clear what permit triggers apply, the correct fees are paid, the planning report and plans contain no errors.
- Utilise any information requirements, guidelines and policies that have been prepared by the Council that are relevant to your application. Most Councils have a webpage with fact sheets or guidelines to help you.
- Utilise online processes to lodge applications and provide both email and telephone contact details.





Building approval

There is often confusion about planning and building controls. As discussed, Planning controls are mainly concerned with the use and development of land. Building controls are mainly concerned with the construction of buildings to ensure they are structurally sound and safe.



When do I need a building permit?

Generally speaking, if you're doing any building works, you need a permit. For example, you will need a permit if:

- You are changing the use of the building (for example, turning a gym into a gaming arcade)
- You are extending or making structural changes to an existing building
- You are demolishing structural parts of the building
- You are changing signs on the building
- You are making changes to safety features in the building (for example, exit signs, emergency lighting and sprinklers)
- You are making changes to the path of travel through the building (this can impact fire exit regulations)

What to consider when looking at properties

Before you lease or buy a building, there are some important things to consider that impact the potential work (and expense) required to get a Building Permit.

What building classification is it?

All buildings are classified according to the type of business operating within them. Each class has different regulations around fire safety, accessibility and other factors. Recreational and entertainment businesses are Class 9b. If your building was previously used for a different class, you may have to make significant changes to comply before you can open your business. For more information, read the *Building Classifications* fact sheet.

Does it have wheelchair access?

All buildings that require a Building Permit must be wheelchair accessible unless you receive an exemption. Exemptions are uncommon and usually reserved for cases of buildings with historic significance.

Fire prevention

Class 9b buildings have a higher risk of fire than buildings in some other classes. As such, the minimum requirements for fire safety are higher. If you are changing the use of a building, you should engage a specialist consultant to let you know what changes you will have to make.

Money saving tip

Choosing a building that shares the same classification as your business will minimise the renovations you'll have to do. It can save you from making expensive modifications like making it wheelchair accessible or moving walls to improve the flow of staff and patrons during fire evacuations.



Liquor Licensing & Food Registration

If you want to serve alcohol, you need a Liquor Licence. There are different kinds of licence so you'll need to decide which one to apply for. Selling food is more straightforward – no licence is required; you just need to register with the Council.



What kind of liquor licence do I need?

This will determine what you are allowed to do – for example, whether you can supply takeaway drinks, serve drinks without food or trade after 1am.

You'll most likely need to choose one of the following:

1. General Liquor Licence

The most common licence for pubs, gaming venues, restaurants and bars.

2. On Premises Liquor Licence

Generally for bars, you don't need to serve food with this licence but you cannot supply take-away alcohol or delivery.

3. Restaurant and Café Liquor Licence

You would only need this if you're adding a restaurant or café as part of your business.

There are also late night equivalents of the general, on-premises and packaged liquor licenses, which allow trading after 1am. Additional types of liquor licences exist for full list and more details, refer to the **Choosing your Liquor Licence** fact sheet.

How do I apply for my licence?

Remember, you can only get a licence if you have a Planning Permit, so make sure you get that first. You then need to select the type of licence that you wish to apply for.

When applying for your licence, you must supply supporting documentation including a Responsible Service of Alcohol certificate and a "red line plan", which is a floorplan of your business showing where alcohol will be consumed/sold.

With this documentation ready, you then begin your application at www.vgccc.vic.gov.au

For full details of these steps and what's required, refer to the **How to apply for a Liquor Licence** fact sheet.





Regulations and Registrations

Depending on your business, there are some regulatory approvals and registrations that are required before you can open. These can usually be organised after your planning permit is obtained.

Local laws around footpath trading

Councils generally require a local law permit to install or display structures on road reserves and footpaths. You will need this permit if you want to:

- Display goods outside.
- Display an advertising board (e.g. A-frame).
- Set up things like umbrellas, planter boxes, screens etc. on the footpath.

If you want to do any of these things, you'll need to consider the following:

- **Accessibility**

Don't block pedestrian access and remain compliant with disability accessibility.

- **Safety**

Ensure everything is windproof, robust, and made from high quality materials that are safe and durable.

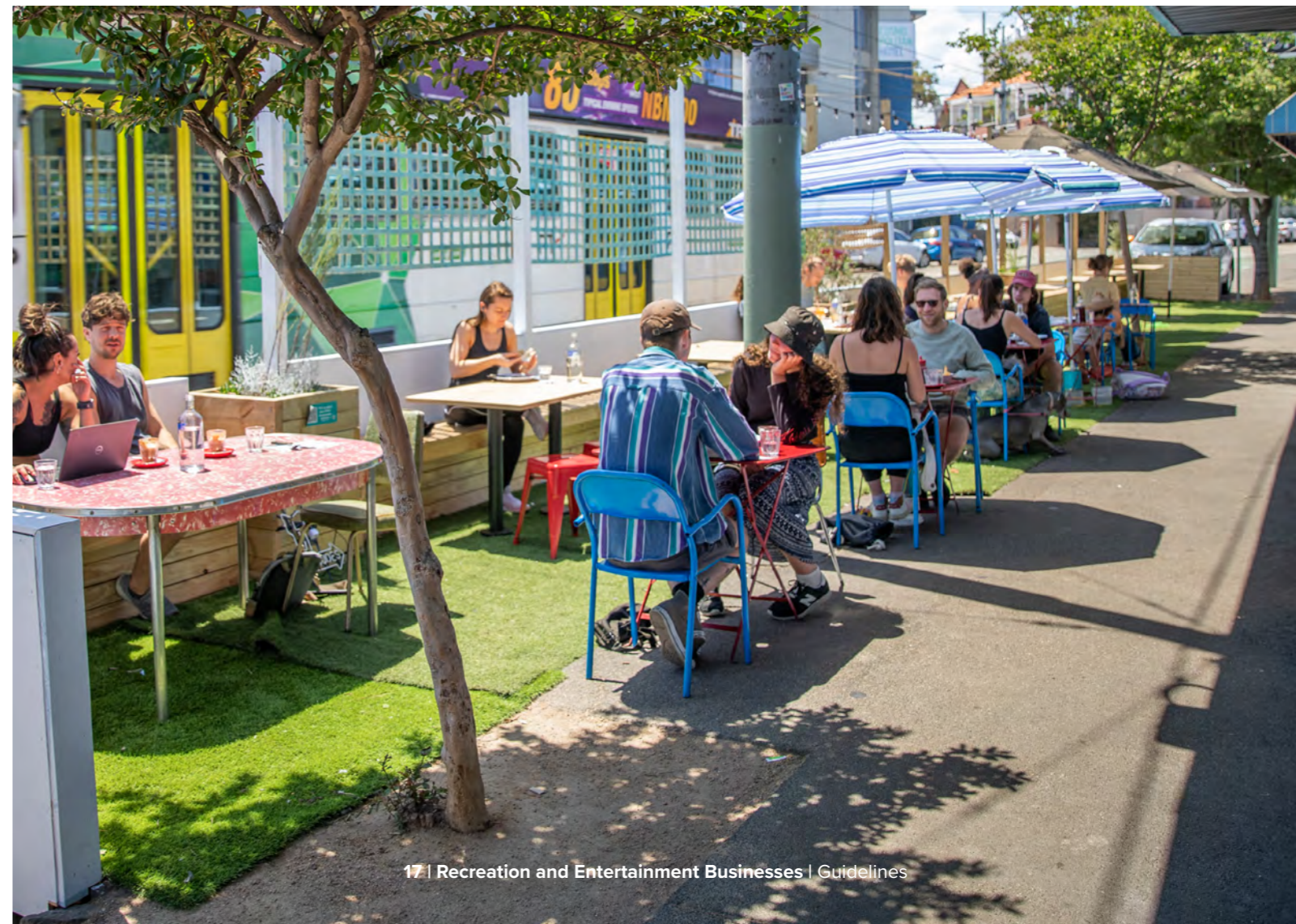
- **Amenity**

Operate during appropriate hours in residential areas and manage noise and nuisance.

- **Aesthetics**

Make your structures visually appealing

For details and to learn how to apply for a local law permit, read the **Footpath Trading** Fact Sheet.

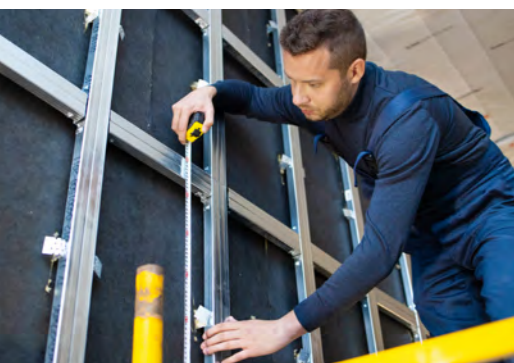


Noise control

Excessive noise can be annoying or even harmful to neighbours, so you have an obligation to minimise the impact of your business's noise. While you may think the level of noise is subjective, there are standards to which unreasonable noise can be determined, including statutory noise controls implemented by law. The risk of unreasonable noise impacts is a key factor in deciding whether a permit should be granted and endorsed by Council.



Sound Level Meter



Acoustic barriers

How do I know if my business will be considered too noisy?

When submitting an application for Planning Permit, unless your application has a low risk of any noise impacts occurring, you should undertake an assessment of noise impacts and include it in your application.

The best way to do this is through an acoustic report, prepared by a qualified acoustics consultant. This will describe the ways to control your noise to an acceptable level so that your application can be approved. It may also include clear conditions that your business would need to operate under, like not playing music outside after 11pm.

Measuring Noise

Noise can be measured using equipment called a Sound Level Meter. If your building hasn't been built yet, there are noise modelling tools that can assess how noisy it may be.

Noise is assessed using the decibel scale, abbreviated as 'dB', which describes how loud something is.

Measuring the impact of noise normally involves the comparison of background environmental noise (i.e. the noise that would occur without the commercial operation) against the noise emitted by the proposed operation. From this, it can be determined whether noise from a business will be unreasonable at a particular location.

How do I control my noise levels?

Often the simplest way is by limiting the hours of operation so you're not being too noisy while people are trying to sleep. When this is too limiting to your business, your acoustic consultant may recommend things like:

- Acoustic barriers, screening and fencing.
- Treatments to facades, doors and glazing.
- Electronic controls for amplification (e.g. limiting how high the volume can be turned up).

Know your neighbours.

A common misconception is that businesses within a commercial or other non-residential zone do not have the same responsibility of managing noise. Sensitive uses can occur within non-sensitive zoning and commonly occurs at the boundary of non-sensitive zoning.

As a starting point, you should be aware and identify, where possible, all likely sensitive uses that surround your premises, including dwellings within non-residential zoning. You should also be aware that surrounding land uses change over time.



Good luck with your business!

We wish you all the best with your new business. It's an exciting journey. If you have any questions along the way, contact your local Council. Find your Council using the Know Your Council website: www.knowyourcouncil.vic.gov.au.

