



Council guidelines for

Hospitality Businesses

Planning and permitting for
cafés, bars and restaurants



Merri-bek
City Council



Opening a hospitality business

So, you're planning to open a new business? 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 hospitality business, depending on the zone, overlay 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 too.

To sell food, you'll need to be registered with the local Council.

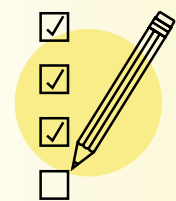


REGULATIONS & REGISTRATIONS

If you have significant environmental impacts such as air quality, noise, odour and waste you may need to meet EPA policies, standards and guidelines. Live music venues in particular need to comply with noise guidelines.

If you use a footpath outside your business for seating, displaying goods or advertising signs on a footpath 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.

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, shops are prohibited in the industrial 1 zone (so a Council is not able to grant a permit); a café will need a permit in a residential zone, but no permit is required to use a premises for a café in some commercial zones. 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.

Neighbours

Most commercial areas allow residential uses. Many buildings have ground floor commercial space and residential apartments above. If contemplating a noisy use, such as a nightclub, 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

Existing use rights

"Existing use" occurs when your land is being used in a legal way, either with an approved permit or an approved use where a permit is not required, and the planning controls now in place prohibit that use.

If your property has existing use rights, you may not have to apply for a planning permit for the same use.

To find out more, read the **Existing Use Rights** 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.
- **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.

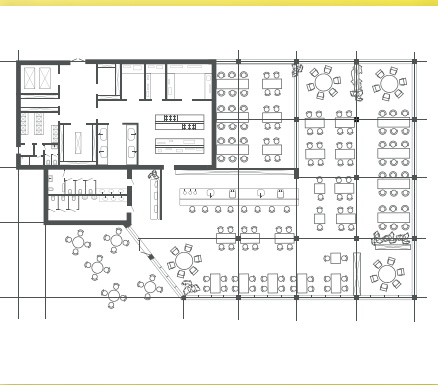
For more details, read the *How to apply for a planning permit* fact sheet.

Application form



Certificate of Title

Planning report

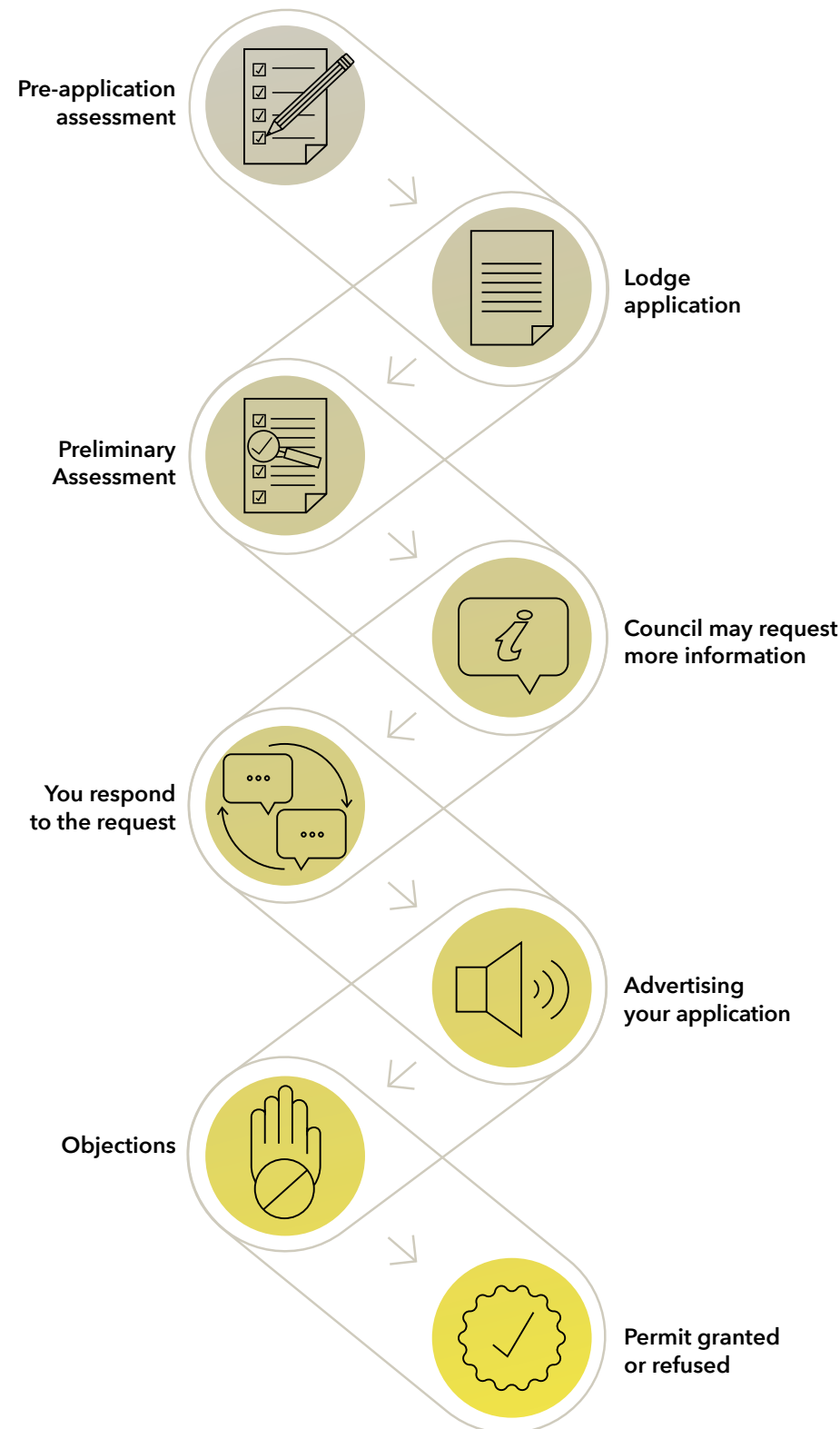


Plans

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 shop into a café)
- 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. Cafés, restaurants and bars are Class 6. 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.

You should seek the advice of an access consultant to see if your business is accessible to all member of the public, including those with disabilities.

Patron capacity

In hospitality venues, you are allowed one customer per 0.5m² (standing) and 1m² in other areas. For instance, if you're considering a premises of 120m², of which 75m² will be available for patrons (15m² standing and 60m² seated) you could cater for 90 patrons, and say 4 staff.

Toilets

You must provide enough toilets for your customers and staff. Every premises must have at least one *accessible* toilet for both genders.

This table provides a guide* for cafés restaurants and bars:

The property has:	I can have:
1 all gender accessible toilet	Up to 25 patrons
1 all gender accessible toilet; and 1 female toilet	Up to 50 patrons
1 all gender accessible toilet; and 1 male toilet or urinal; and 1 female toilet	Up to 100 patrons
1 all gender accessible toilet; and 2 male toilets or 2 urinals; and 2 female toilets	Up to 150 patrons
1 all gender accessible toilet; and 2 male toilets or 2 urinals; and 2 female toilets	Up to 200 patrons
1 all gender accessible toilet; and 1 male toilet; and 3 urinals (or toilets in lieu); and 3 female toilets	Up to 300 patrons

**This is a guide only, providing a simplified version of the building code. You should confirm this with a private building surveyor before commencing operations.*

You may also want to consider staff toilets, although staff are permitted to share facilities with patrons. If you don't have staff toilets, you'll need to include the number of staff as part of the number of patrons.

Fire prevention

Class 6 buildings (i.e. cafés, restaurants and bars) 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. This may include changing existing materials like curtains or carpets, as well as reviewing the fire escape routes, ventilation and number of exits.

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 increasing the number of toilets and fire exits, making it wheelchair accessible or moving walls to improve the flow of traffic during fire evacuations.



What about gender neutral toilets?

Gender neutral toilets are becoming increasingly common – but the building code requires gendered toilets. If you would like to provide gender neutral facilities, speak to a private building surveyor about how to get approval to vary the requirements in the table.



Liquor Licensing & Food Registration

To sell 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.

As a hospitality business, 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

For businesses with an emphasis on meals more than drinks.

4. Packaged Liquor Licence

Generally for bottle shops, it allows you to supply sealed drinks to be consumed off-premises only.

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 wineries, sporting clubs and other situations.

For a full list and more details, refer to the ***Choosing your Liquor Licence*** fact sheet.

How do I apply for my licence?

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.





Food Registration

In Victoria, you cannot sell food to the public unless you register or notify as a food business with your local Council.

Registration process

Councils will have slightly different processes for the registration and you should check with your Council's website on their specific requirements. In broad terms, the following steps are suggested:

Step 1 – Decide the nature of the business

You will need to decide whether the proposed business is a proposed restaurant/café, take away food premises or other. After this decision, you will need to prepare details of the preparation

STEP 1

Step 2 – Discuss your plans with Council

Before proceeding any further, discuss your proposal with Council. Most councils provide a personalised service to help applicants one-on-one through the process. Someone from their Environmental Health team will assist you with the information that needs to be submitted to ensure you meet all regulatory requirements.

It is at this stage that you may be advised of other potential requirements under the Council's planning scheme, the building regulations or a Council's local laws.

STEP 2

Step 3 – On-site meeting

Some councils may suggest an on-site meeting to discuss the layout, construction and fit out requirements.

Other councils will conduct progress inspections after an application has been lodged and prior to issuing a registration certificate.

If an on-site meeting is recommended, it is important to bring all the information listed in Step 1, including a draft sketch of the proposed floor plan of the premises to determine whether the design principles, construction and fit out requirements are suitable for the proposed premises.

The Council's Environmental Health Officer (EHO) may specify additional items to be addressed during the fit out of the premises.

You may be required to prepare and submit to Council's Environmental Health Team properly drawn scaled plans of the proposed premises addressing any matters discussed during the on-site meeting, as well as providing an electrical and/or drainage plan.

The construction and fit out of the food premises will need to comply with food design principles, and any other construction and fit out requirements such as under the building regulations.

STEP 3

Step 4 – Certificate of Registration

You will need to complete an Application for Registration of a Food Business and submit to the Council with a fee. A Certificate of Registration of a Food Premises will be issued once the following items have been completed:

- All construction and fit out works have finished
- A final clean-up has been completed
- Application for registration form has been completed
- Relevant fee paid
- Final inspection has been conducted by an Environmental Health Officer

STEP 4

For more information, refer to our **Food Safety** Fact Sheet.



Regulations and Registrations

Depending on your business, there are some regulatory approvals and registrations that are required before you can open. Most are fairly straightforward, but some need to be considered before and as part of applying for a Planning Permit, like acoustics (ensuring your business's noise or loud music is not excessive or unreasonable). Others, like permits around local laws and health registrations can be organised after your planning permit is obtained.

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.***

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

When submitting an application for Planning Permit, unless your application has an inherent 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 methodologies for controlling 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 10pm.

What to consider when looking at sites for your business

The following table provides an overview of the types of applications that have inherent risk of noise impacts occurring. It's not exhaustive as every situation is different and will depend on existing noise levels in the area. However, it can be used as a guide to gauge the amount of work required to submit a successful application.

For example, a live music premises may be acceptable within 50m if it is well contained, has air-lock entries, etc. The same level of live music noise may be unacceptable and cause impacts at a significantly greater distance if the building is not well insulated for noise control, such as converted warehouses.

In most cases, an acoustic report will need to be provided with the planning application to determine whether a proposal is satisfactory.

Type of Use	Higher Risk of Impact	Operational Considerations
Licensed premises	• Sensitive uses within 200m if you have live entertainment (dependent on built-form) • Sensitive uses within 50m without live entertainment • Outdoor amplification • Outdoor patron areas • Trading beyond 10pm for music	Building upgrades and soundproofing (for live music, you will need to allow for low frequency noise too). Trading hours may need to be restricted. Limits on indoor and outdoor amplification levels. Limits on patron capacities outdoors. Noise and amenity management plans. Mechanical plant may require mitigation if located close to sensitive use boundaries.
Restaurant, café and smaller food and drinks premises with background music only	• Sensitive uses abutting or within same building • Outdoor amplification • Outdoor patron areas • Trading beyond 10pm	Trading hours may need to be restricted. Limits on outdoor amplification levels. Limits on patron capacities outdoors. Noise and amenity management plans. Mechanical plant may require mitigation if located close to sensitive use boundaries. Architectural building upgrades where premises share common partitions (e.g. with neighbours)



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 DJs can turn up the volume)

For more information on acoustics, read these fact sheets:

- *Acoustics for licenced premises, food & drink and live music venues*
- *Seeking professional advice on acoustics*
- *Acoustics and Unreasonable Noise*

Local laws around footpath trading

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

- set up dining on the footpath outside your business
- set up dining on your neighbour's footpath
- set up dining in a converted parking space outside your business (roadside dining)
- display goods outside
- display an advertising board (e.g. A-frame)
- set up a night club queue
- 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.



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.

