

Office use only

FILE:

ACTION OFFICER

ACTION:
(sign & Date)

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RECORD NO:

FURTHER REFERRAL:
ACTION OFFICER

NOTE or RESPOND	Already received by: EMAIL/FAX
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APPLICATION FOR LICENCE TO CONDUCT OUTDOOR DINING ON THE COUNCIL ROAD RESERVE

TO: CHIEF EXECUTIVE OFFICER
SHIRE OF BROOME
PO BOX 44
BROOME WA 6725

I (Proprietors Full Name)
OF
..... (Postal Address)
.....
..... (Occupation)

At
Address of premises
Name of eating house

hereby make application for a New licence/Renewal of my licence to set up and conduct an eating area pursuant to the Shire of Broome Local Law Relating to Outdoor Dining.

DETAILS OF PROPOSED EATING AREA

1. Days of operation
2. Hours of operation
3. Size of dining area (m²)
4. Number of chairs
5. Details of structures (i.e. planter boxes)
.....
6. Will alcohol be sold in the outdoor dining area?
7. The management and layout plans described in the relevant sections of the Local Law (attached) form part of this application and must indicate a clear pedestrian access way of at least 2.0 metres.

All approvals issued regarding this application will be conditional on Compliance with Council's Outdoor Dining Policy and with the relevant sections of the local Law.

I hereby declare that:

- a) the eating house referred to above is registered as required by Division 3 of Part V of the Health Act 1911 (as amended); and
- b) I am the proprietor of the eating house and am licensed in respect thereof in accordance with Division 3 of Part V of the Health Act 1911 (as amended);.

I enclose the prescribed fee of \$

Dated the day of 200.....

Signature of Applicant

Full Name

Signature of Owner

PUBLIC LIABILITY INSURANCE

Adequate insurance arrangements are required for the outdoor dining area to the value of \$10,000,000.00. Any licence issued under the Shire of Broome Local Law Relating to Outdoor Dining is conditional upon the licensee having acceptable public indemnity insurance with an underwriter acceptable to the Chief Executive Officer. The Shire, for the issue of an Outdoor Dining Licence, require written proof of this insurance cover.

The Public Liability Insurance Policy must be maintained continuously and the Shire must be provided with a copy accurately detailing the Policy Expiry Date. Licence fees are payable each financial year (ie. 1 July to 30 June), however your Outdoor Dining Licence may also expire on the date of the Expiry of your Insurance. Should you fail to renew your Insurance, or it lapses, you must remove all tables and chairs from the footpath immediately, or as so directed by an Authorised Shire Officer. In addition, the Licensee shall agree to indemnify the Council and Shire Officers regarding incidents related to outdoor dining, either in the approved outdoor dining area or which is directly associated with its operation (i.e. damage caused by flying objects etc).

FEES

- (a) Initial Application Fee \$102.00 + \$ 36.00 per m² of outdoor dining area
- (b) Annual Renewal Fee \$ 36.00 per m² of outdoor dining area
- (c) Transfer Fee \$ 77.00

NOTE: *Outdoor dining tables and chairs must not be placed on the footpath until you hold a valid Outdoor Dining Licence, and have sufficient Public Liability Insurance Cover.*

Should you have further enquiries, please contact the Shire's Compliance Officer on telephone number (08) 9191 3456 or via e-mail: shire@broome.wa.gov.au

EXTRACT FROM LOCAL LAW

Prohibition

3.1 A person shall not set up or conduct an outdoor dining area in a public place unless:

- (a) in a portion of a public place directly adjacent to an eating house;
- (b) the person is the proprietor of the eating house referred to in paragraph (a);
- (c) the person is the holder of a valid outdoor dining licence; and
- (d) in accordance with the licence plan and any terms and conditions set out in, or applying in respect of, the outdoor dining licence.

Exclusions

3.2 The provisions of Part 3 do not apply to:

- (a) an outdoor dining area located on private property; or
- (b) special events such as a street festival, carnival, or other occasional activity, which require an approval under another written law.

Licence restrictions

3.3 An outdoor dining licence:

- 3.3.1 (a) may only be issued to the proprietor of an eating house, for use of the land directly adjacent to the eating house; and
- (b) is only transferable with the approval of the local government and on payment of the transfer fee.

3.3.2 A licensee shall not permit the operation of the outdoor dining area to extend beyond the portion of a public place specified in the plans approved as part of the licence.

3.3.3 The issue of an outdoor dining licence does not confer exclusive possession or use of the approved outdoor dining area, upon the licensee.

3.3.4 A local government may issue an outdoor dining licence only for an area where:

- (a) the positioning of tables and chairs is not in conflict with existing street furniture approved by the local government; and
- (b) the pedestrian flow on any footpath will not be impeded significantly.

Licence application

3.4 An applicant for an outdoor dining licence shall comply with subclause 2.2.2 and shall forward the application to the local government together with:

- (a) a plan or plans to a scale of 1:50 showing:
 - (i) the location and dimensions of the proposed outdoor dining area and the means by which the outdoor dining area is to be separated from the rest of the public place;
 - (ii) the eating house to which the outdoor eating area is directly adjacent, including any indoor seating areas, the area of food preparation and any counter service, and the dimension, location and purpose of all entrances to the eating house;
 - (iii) the dimensions, levels and slope of the adjacent footpath and the location and nature of any street furniture, drainage and utilities in the immediate vicinity of the eating house;
 - (iv) the location and nature of any parking or service bays in the immediate vicinity of the eating house, and the alignment of the adjacent carriageway;
 - (v) the number, position and dimensions of all tables, chairs and associated furniture and fixtures proposed to be placed in the outdoor dining area;
 - (vi) the position and description of any landscaping, bollards or other objects proposed to be used or displayed in the proposed outdoor dining area ; and
 - (vii) such other information as the local government may require to assist with the assessment of the application;

- (b) a plan to a scale of 1:200 showing the location of the proposed outdoor dining area and all land and improvements within 30 metres of the boundaries of the eating area, and in particular;
 - (i) the development and use of abutting properties, including the location of any pedestrian or service access to those sites, the alignment of the building facade and the location of any windows;
 - (ii) the footpath and carriageway alignment, vehicle crossovers and any on-street parking provisions or restrictions; and
 - (iii) any street furniture or other structures situated in the verge area including any power poles, bollards, phone booths, bus shelters, fire hydrants, trees or free standing signage;
- (c) a management plan outlining the operations of the proposed outdoor dining area including:
 - (i) the manner in which foodstuffs and other dining accessories are to be conveyed to and protected from contamination in the proposed outdoor dining area;
 - (ii) the proposed days and times of operation of the outdoor dining area;
 - (iii) the proposed type of any advertising devices to be displayed on the proposed outdoor dining area;
 - (iv) the proposed arrangements for serving liquor to customers of the proposed outdoor dining area;
 - (v) the proposed location where, tables, chairs, furniture and equipment to be used on the proposed outdoor dining area, will be stored during periods when the proposed outdoor dining area is not open for business;
 - (vi) the proposed daily cleaning routine for the proposed outdoor dining area which shall include sweeping, washing or scrubbing the paved surface and removing and disposing of all rubbish, foodstuffs and cigarette ashes and butts and clearing the immediate surrounds of any rubbish, matter or things coming from or caused by patrons of the proposed outdoor dining area;
 - (vii) the type of table ornaments, including umbrellas and ashtrays, to be provided and ashtrays must be such that the contents of the ashtray and the ashtray itself are not blown onto the paved surface of the proposed outdoor dining area; and
 - (viii) details of how customers of the proposed outdoor area will be encouraged not to throw or dispose of rubbish, cigarette butts, or foodstuffs onto the paved surface of the proposed outdoor dining area.

Outdoor dining licence

3.5

3.5.1 An outdoor dining licence shall include:

- (a) an endorsed copy of the plan or plans detailing the location and number of tables and chairs, plus any other furniture and equipment required for the operation of the outdoor dining area, as approved by the local government;
- (b) the management plan;
- (c) the days and hours of operation; and
- (d) details of any terms and conditions to be included as part of the licence.**

3.5.2 The licensee shall not commence trading until the local government is satisfied that all conditions imposed under subclause 2.3.1(b) have been met.

Term and validity of licence

3.6

3.6.1 An outdoor dining licence remains valid until:

- (a) 30 June of the financial year in which the licence was issued, and the licence fee for a licence may be calculated on a pro-rata basis;
- (b) the proprietor of the eating house changes and no transfer of the licence has been approved under subclause 3.3.1(b);
- (c) variations are made to an existing licence, including an increase or reduction in the approved outdoor dining area or the type of furniture or equipment used in the operation;
- (d) the public liability insurance policy, where required as a condition of the licence, lapses, is cancelled or is no longer in operation; or
- (e) the licence is cancelled by the local government;

- 3.6.2 If any of the events specified in subclause 3.6.1 occur, then an application must first be made and a new outdoor dining licence issued before any outdoor dining area can be set up or conducted.

Cancellation of an outdoor dining licence

3.7

3.7.1 Without limiting clause 2.7, the local government may cancel an outdoor dining licence where:

- (a) there is a lapse or cancellation of the eating house registration or licence issued to the proprietor under the Health Act; or
- (b) the setting up or conduct of the outdoor dining area is determined by the local government to be detrimental to the interests of the public, any adjacent property owner or occupier, or cause a nuisance because of the behaviour of customers.

3.7.2 A decision to cancel a licence under paragraph 3.7.1(b) shall not be made without first having advised the licensee of the nature of any complaint or concern and having given the licensee an opportunity to respond to same.

Responsibilities of licensee

3.8

3.8.1 The licensee shall:

- (a) comply with the conditions of the outdoor dining licence;
- (b) manage the approved outdoor dining area in accordance with the approved management plan submitted at time of application and subsequent approved amendments thereto;
- (c) keep the approved outdoor dining area free of any obstacle or matter likely to cause injury to persons or property;
- (d) ensure furniture and equipment remains within the approved outdoor dining area and storage location approved on the plan endorsed as part of the licence and does not impede pedestrian flow or access;
- (e) repair any damage to the surface area of or any fixtures, fittings or utility services in or on the approved outdoor dining area caused as a result of or attributable to the conduct of the approved outdoor dining area;
- (f) pay all fees, charges, rates and taxes, levied or incurred as a result of the establishment and operation of the approved outdoor dining area;
- (g) ensure trading within the approved outdoor dining area is limited to only the operating hours stated in the licence;
- (h) pay all and any costs associated with the alteration, removal, repair, reinstatement, or reconstruction of all or part of the approved outdoor dining area arising from any works proposed or done in the area or rest of the public place by or on behalf of a Government department, instrumentality of the Crown or the local government and shall not have any claim for compensation or damages as a result of any disruption to business or loss incurred due to such works.

3.8.2 On cessation of the outdoor dining licence, the licensee shall remove all furniture, equipment, structures and other things placed in or adjacent the approved outdoor dining area and reinstate the area to the satisfaction of the local government and pay the costs of that reinstatement.

TITLE: Outdoor Dining Policy

ADOPTED:

REVIEWED: N/a

ASSOCIATED LEGISLATION: Local Government Act 1995

ASSOCIATED DOCUMENTS: Trading, Outdoor Dining and Street Entertainment Local Law 2003

REVIEW RESPONSIBILITY: Director Development Services

DELEGATION: N/a

Previous Policy Number N/A

Objective:

Council wishes to encourage where appropriate outdoor dining and streetscape activity to enhance the visual amenity and perception of the outdoor lifestyle associated with Broome.

The purpose of this policy is to interpret and support aspects of the Local Law with respect to:

- Outlining standard requirements and guidelines.
- Specifying fees for new licences and renewals.
- Providing an appropriate application form.

Policy area:

This policy applies to all land designated under the Shire's Local Planning Scheme No. 4 ("LPS 4").

Policy:

The following requirements and guidelines are specified for outdoor dining areas:

- An unobstructed pedestrian access way of at least 2.0 metres wide past the eating area must be provided.
- The outdoor dining areas must be located in a manner, which does not obstruct kerbside parking.
- The outdoor dining areas must be suitably located with respect to adjacent street furniture, so that these features are not unreasonably obstructed.
- The outdoor dining area must generally be located immediately adjacent to an eating-house.

- It is preferred that the outdoor dining area be located abutting the premises. Where it would be located adjacent to the kerb, suitable access will need to be provided for parked vehicles and may require safety barriers.
- Licensees must maintain public liability insurance cover relating to all items and operations within the road reserve. Insurance cover must be not less than \$10,000,000 and be from a reputable underwriter.
- All tables, chairs, barriers, umbrellas to be of a weight and construction so as not to move in a strong breeze. Before the wind reaches strength where any of the furniture could move, the furniture must be removed from the outdoor dining area. All furniture is to be removed immediately a blue alert for a cyclone is issued and not replaced until the all clear is given.
- The eating-house relating to the outdoor dining area must have sufficient toilet facilities to cater for the additional seating.
- All signs/menu boards and furniture must be situated wholly within the designated outdoor dining area.
- All street furniture must be removed from the road reserve outside of the hours of operation as stipulated on the licence issued.