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## APPLICATION FOR COMMERCIAL USE OF A FOOTPATH

SF196

Responsible Officer: Senior Compliance  
Officer

Issue Date: 09/12/2021

Next Review Date: December 2024

I, \_\_\_\_\_ for and on behalf  
of \_\_\_\_\_ hereinafter called the 'Permit Holder' of  
(Business Name)

Business Address \_\_\_\_\_

Postal Address (if different from above) \_\_\_\_\_

Phone: Business \_\_\_\_\_ Mobile \_\_\_\_\_ A/H \_\_\_\_\_

Email \_\_\_\_\_

Hereby make an application to the Yorke Peninsula Council for a Permit for the Commercial Use of a Footpath, pursuant to Section 221 and 222 of the Local Government Act 1999, and in accordance with the information described below;

Permit required for:

- Outdoor Dining Area – Current max number of patrons permitted on premises \_\_\_\_\_
- Display of Goods on Footpath
  - This is my first application  
(please complete the whole form)
  - Please amend my existing permit as per the following details  
(please complete the whole form)
  - Please renew my permit under the same conditions as my previous application  
(please sign at the end of the form and return to Council)
  - I no longer require a permit  
(please sign at the end of the form and return to Council)

Proposed location; \_\_\_\_\_

Proposed hours of operation; \_\_\_\_\_ to \_\_\_\_\_

on the following days; \_\_\_\_\_

Licence Period From \_\_\_\_\_ to 31 July

Number of tables \_\_\_\_\_ Number of chairs \_\_\_\_\_

A sketch showing the area requested to be occupied and the proposed position of tables, chairs, and other outdoor furniture, must be provided.

## **PLAN OF PERMIT AREA**

NOTE: A MINIMUM 1.5 METRE PEDESTRIAN ACCESS IS REQUIRED.

The issuing of this Permit is subject to:-

- (a) the Permit Holder agreeing to the general conditions of the Permit as contained herein.
- (b) the Permit Holder agreeing to all special conditions that the Council may determine.
- (c) the Permit Holder pays the prescribed fee.
- (d) the Permit Holder providing a copy of all appropriate insurances as required by either the General Conditions, or Special Conditions of Permit.

### **General Conditions of the Permit**

1. The Permit Holder agrees to indemnify and to keep indemnified the Council, its servants and agents and each of them from and against all actions, costs, claims, damages, charges, and expenses whatsoever which may be brought, made or claimed against them, arising out of, or in relation to, the issuing of this Permit.
2. The Permit Holder shall take out and keep current, a Public Risk Insurance policy in the name of the Permit Holder, insuring the Permit holder for the minimum sum of **ten million dollars (\$10,000,000)** against all actions, costs, claims, damages, charges, and expenses whatsoever, which may be brought, made, or claimed against the Permit Holder in relation to the activity.
3. The Permit Holder must provide confirmation of insurance to the Council. Such policy shall bear the endorsement of the insurer indicating the Insurer accepts the indemnity given by the Permit holder. Upon the expiry of the originally lodged Certificate of Currency, the Permit holder must provide Council with a new Certificate of Currency. The permit will not be valid unless Council is in possession of a copy of a Certificate of Currency that confirms a current insurance policy is in place as of the date of issue of that policy.
4. The Permit Holder, where appropriate, shall ensure that it is licensed, or registered, to carry out the activity authorised by the issuing of this Permit.
5. This Permit is not transferable.
6. The Permit Holder shall comply with, and give all notices required by any Act of Parliament, Ordinance, Regulation, or By-law relating to the activity.
7. This Permit is liable to be revoked by Council if the Permit holder fails to comply with any condition, of this permit, or may be revoked in any other justifiable circumstance.
8. This Permit will not come into operation until proof of the appropriate insurance has been provided to the Council, the relevant fees paid, and a copy of this document, signed by Council has been returned to you.
9. **No tables, chairs, umbrellas, movable signs, free-standing screens or plant pots etc are to be located outside the defined permit area.**
10. Once the Permit is granted no alteration to the defined area, number or tables, chairs, umbrellas or pot plants etc, or the hours of operation will be allowed.

**If any alteration to the Permit is required, the request must be put in writing, addressed to the Yorke Peninsula Council.**

11. The Permit Holder shall cleanse and keep clean, the pavement of the Outdoor Café, the tables, chairs and other furniture, and shall also keep the footpath and roadway in the vicinity of the Outdoor Café clear of litter and waste materials, and remove all sweeping and wash-down wastes from the street. No waste or sweepings shall be swept or placed into the water table. Blowers or similar devices must not be used.
12. The defined area shall be cleared of obstructions as required by the Council for pavement maintenance and repair work. Except for emergencies, at least twenty-four hours notice will be given of this requirement.
13. The Permit Holder shall bear the cost of all pavement repairs carried out by the Council within the defined area of the Café, which in the opinion of the Council has been caused by the activities

of the Outdoor Café. This shall include, but not be limited to, the replacement of jointing material removed from brickwork paving in sweeping and washing down of the pavement.

14. All Outdoor Café furniture shall be maintained to the satisfaction of the Council. This includes the selection and maintenance or any plants and plant containers.
15. All Outdoor Café furniture shall be removed from the footpath at the close of business on each day. If furniture forming part of the Outdoor Café is intended to remain on the footway during hours of darkness, illumination of the obstructions shall be provided as approved by the Council.
16. An Authorised Officer of Council may give notice requiring certain work to be done by the Permit holder within 14 days from the giving of such Notice. If the work specified in the notice has not been completed within the said 14 days, an Authorised Officer may by notice cancel the Permit forthwith.
17. This Permit shall be produced to any Authorised of the Council on demand.
18. This Permit is to be construed as continuing for the purposes of indemnification and insurance whilst tables, chairs and other outdoor café furniture are on the footpath (whether authorised by this Permit or not), for the period from the commencement of this Permit until a Permit is obtained by the transferee of the Permit holders business, for which this Permit was obtained, or until this Permit is renewed by the Permit holder.
19. The hours of operation are to be as set out in the Council Authorisation notice at the end of this Permit.
20. **The minimum 1.5 metre pedestrian access zone is unobstructed at all times; this zone shall only be used for the conveying of food, drink, tableware and furniture across the footpath; and for the movement of pedestrians to the designated permit area.**
21. Umbrellas do not protrude and have a minimum clearance of 2100mm above the footpath level.
22. Umbrellas are not to be used under verandahs.
23. Clear vision of oncoming traffic is not to be impaired for other users of the road.
24. No equipment associated with an Outdoor Café is to be located within 1200mm of any Council provided bin.
25. A minimum 450mm safety zone is to be kept clear and unobstructed at all times.
26. Safety glass and Perspex screens should be in accordance with AS1288 glazing standard.
27. Where the Outdoor Café is conducted in conjunction with premises licensed under the *Liquor Licensing Act 1997*, and the Permit Holder desires to serve alcoholic beverages in the Outdoor Café, a separate application must be made to the Liquor and Gambling Commissioner for a Permit to serve the same, and all conditions set by the Commissioner are to be complied with.  
  
If a liquor license is granted by the Commissioner, it is the responsibility of the Permit Holder to ensure that the consumption of alcoholic beverages is confined to the permit area only.
28. **All persons, equipment and activities associated with the operation of an Outdoor Café shall remain wholly within the defined permit area**, except for the conveying of food, drink, tableware and furniture across the footpath.
29. The Permit Holder shall not prepare, or permit to be prepared on the footpath, any food or liquid refreshment for the purpose of serving same at the Outdoor Café. Such food or liquid refreshment shall be prepared in an adjoining approved premise.  
  
For the purpose of conveying meals and liquid refreshments from the place of preparation to the table, tray-mobiles or other similar conveyances may be used, provided that they do not remain on the footpath except whilst actually being used to convey the refreshments.
30. If the permit relates to an outdoor café area, the Permit holder shall at all times ensure that
  - All food and drinks supplied to the Permit Area is served by waiters and/or waitresses to only such persons as are seated at tables in the Permit Area

- All customers who consume food and/or liquor at the tables in the permit area without crockery and cutlery are asked to leave immediately;
  - If customers purchasing take away food/ and wish to consume the same within the Permit area they must do so at the tables provided therein using crockery and cutlery supplied by the permit holder
  - Cutlery, crockery and glassware shall not be left on the tables, and shall be laid out only when a meal is ordered.
31. If deemed necessary by the Council, the Permit holder shall supply and install litter bins of a design approved by the Council. The number of litter bins to be supplied and installed shall be determined by the Council.
32. Pursuant to Section 222 of the Local Government Act, 1999. If any other portion of the road of footpath is used other than stipulated in this permit you will be liable to a **maximum penalty of \$2,500** or can be given an **Expiation Notice with a fee of \$210**.
33. Any other conditions that are attached to this permit as required by Council.

I acknowledge that I have read and understand the Permit conditions, and agree to abide by the said conditions.

Enclosed with my application is a copy of my current Public Risk Insurance Policy

Signed for and on behalf of the Permit holder:

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date \_\_\_\_\_

### **PUBLIC CONSULTATION PROCESS**

The issuing of this permit is subject to Council's Public Consultation Process. The following actions have been taken in accordance with Council's Public Consultation Process:

\_\_\_\_\_  
 \_\_\_\_\_

### **COUNCIL AUTHORISATION**

Permit Approved / Denied \_\_\_\_\_ Issued to \_\_\_\_\_

Site inspected by \_\_\_\_\_ Date \_\_\_\_\_

Approved hours of operation: \_\_\_\_\_

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Fee Payable: \$ \_\_\_\_\_ Public Risk Insurance valid to \_\_\_\_\_

Receipt No: \_\_\_\_\_