



A Guide for Using Public Land for Outdoor Dining Purposes



ACT
Government

Access
Canberra.

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Purpose of this guide

Under the *Public Unleased Land Act 2013*, a permit is required where public land is to be used for commercial purposes such as an outdoor dining area. This guide outlines the process for applying for an outdoor dining permit.

Businesses intending to place non-fixed or semi-fixed objects in an outdoor dining area can apply for a permit through Access Canberra. There is no requirement for a Development Application (DA) unless there is a proposal to construct permanent fixtures on the site (see *Table 1*).

Permits are available for up to 3 years duration.

Please note: If you plan to sell alcohol in the outdoor area and do not have a current liquor license, please contact Access Canberra by calling (02) 6207 2343 or sending an email to aliquor@act.gov.au before submitting an outdoor dining permit application.

Obtaining a permit

The permit process has 2 parts:

- The application process – gathers general information about the business, the location, hours of operation and the business owners.
- The assessment process – ensures all safety checks are undertaken for both you, as a business owner, and for pedestrians. These checks also ensure that utilities (above and below ground) can continue to be accessed and that the public has access to open space facilities such as bubblers, bike storage areas and bins.

Part 1. The application

1.1 Getting started: supporting documentation

Before you start the online application you need to make sure you have copies of the following supporting documentation scanned and ready to upload:

- **Your public liability insurance**
- **A plan drawn to scale of the proposed site**

The plan does not need to be professionally drawn but must clearly show the location, boundaries and dimensions of the area you wish to use.

Your application will not be assessed until this information is received. We may contact you to seek further information (see www.accesscanberra.act.gov.au for additional information that may be required as part of the assessment process).

1.2 What insurance is required?

Public liability insurance is required for the area to be used for outdoor dining. You will need to provide a copy of your insurance as part of your application. This includes a copy of your current public liability insurance for your lease. Proof of a Certificate of Currency (Public Liability Insurance) for a minimum of 20 million dollars (\$20,000,000), specifically covering the area occupied by the outdoor cafe or restaurant, indemnifying the ACT Government against all claims, is required.

1.3 The application form

Apply and submit everything online.




You can apply for a **Permit for an Outdoor Dining Area** at www.accesscanberra.act.gov.au

The following information is to assist you in your application.

1.4 About your business

The application process will ask you about how you want to use the land for outdoor dining. You will be asked to select one of 3 categories (shown in Table 1) that best apply to your business proposal.

Table 1

Simple	Medium	Complex
Everything is packed away.	Some objects remain outside i.e. furniture and objects can be taken away but some are generally left outside after trading hours.	Objects and structures permanently remain on premises.
		
Everything on outdoor public land is packed inside a shopfront or removed from site at the end of trading hours. For example: tables, chairs, planter boxes, umbrellas, heaters and bins are all packed away.	This means the elements left outside may be secured or bolted to the ground. These items are able to be removed with limited mechanical assistance within 48 hours.	Some objects are fixed permanently to the area and involve construction of some kind, for example: a stage, or installation of a feature, and are not able to be removed within 48 hours. DA required.

If you think your business proposal is one associated with a **Complex category**, it is strongly recommended that you first contact the Environment, Planning and Sustainable Development Directorate, phone 13 22 81 to discuss your application. This category requires a Development Application (DA), which is a more extensive process than applying for a permit.

1.5 About you

Under the *Public Unleased Land Act 2013*, the suitability of the applicant is taken into consideration. In particular, consideration is given to whether the applicant has offences or convictions for non-compliance with a previous permit; substantial damage to Territory property, or unsafe behaviour that may be relevant to running a cafe or restaurant.

Should any concerns be raised, a government officer will contact you.

1.6 About the proposed site

The suitability of your site and proposed outdoor dining activity will be considered in regards to the following:

- Does the proposal inhibit access for people with disabilities?
- Is pedestrian access and movement convenient and safe, both for patrons and the general public?
- Is the site safe from traffic and does it allow access for maintenance and emergency vehicles?
- Is the ground suitably safe and level?
- Does the site interfere with neighbouring premises, including deliveries or access?
- Is there any street furniture and infrastructure that will need to be removed?
- Do the proposed objects affect critical sightlines for vehicles or pedestrians?
- Do the proposed objects block public thoroughfares or entry points for public activities?
- Do the proposed objects, if anchored into the ground, provide a pedestrian hazard when not in use?
- Is the total area less than 12 metres in length?
- Is it within required clearance distances from roads, kerbs, the water-edge and shopfronts (see Appendix B)?

Part 2. The assessment process

Once your application has been submitted online you will be sent an email acknowledging receipt of your application.

2.1 Public consultation

When public land is used for commercial outdoor dining purposes, public consultation is usually required prior to issuing a permit. This is because the activity may have a significant impact on people within the location or nearby.

You will be required to display a sign to advise passers-by of the proposed use of the land for 15 working days (Monday to Friday, not including public holidays).

The notice must include:

- The proposed times for the permit;
- Brief details of the proposed activity;
- That a written submission can be made to Access Canberra (see contact details Part 5) about how the use of the land may have a significant impact on anyone nearby; and
- That any submission must be made to the Access Canberra within 21 calendar days after the sign or notice has been displayed.

Part 3. How long will the assessment process take?

You should allow at least a month for the assessment to be completed. The length of time to issue a permit varies depending on the complexity of the application. For simple applications where there is limited or no negative response during the public consultation period, the process normally takes a month. If issues arise, it could take longer. If this is the case, you will be contacted within 7 days from then to discuss the progress of your application.

Part 4. How much will the permit cost?

When your application is approved, you will need to pay a fee before the permit is issued.

When public land is used for commercial purposes, rental fees are charged. The use of public land in this way impacts upon other businesses and users of the land. The area to be occupied affects the calculation of fees. The fees are determined annually and are based on the location and the area that you require.

Fees are payable once the determination has been made as to the area that will be permitted, as the size will change the fees payable.

You can view the fee structure at www.accesscanberra.act.gov.au.

Part 5. Contact and further information

For further information and all enquiries, you may contact Access Canberra by calling (02) 6207 2343 or sending an email to acliquor@act.gov.au.





Assessment guidelines and appendices

The appendices provide further information on the assessment process used within Government.

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Appendix A

Public consultation and community considerations

ACT Government maintenance: Is the land in an area where the ACT Government may require maintenance work to be carried out? (It is noted that, in an event where such work needs to be carried out, the outdoor dining area may be required to close without any compensation).

Removal of existing street furniture: Is there any street furniture and infrastructure such as payphones, road signs or water bubblers that will need to be removed to provide for the outdoor dining area?

Utility and service access: Do the area and the object(s) encroach over underground services and access ways; are they in an easement affecting utility infrastructure access; or do they interfere with existing plumbing or drainage clearances?

Visibility – light: Does the proposed area block street lighting or solar access, or, create dark corners or unsafe areas, particularly after hours when there is no surveillance?

Visibility – sightlines: Do the proposed object(s) affect critical sightlines for vehicles or pedestrians?

Disability access: Does the proposed area inhibit access for people with disabilities?

Access hazards: Do the proposed object(s) block main public thoroughfares or entry points for public activities?

After-hour hazards: Do the fixtures and semi-fixed items create a hazard after hours or prevent access to maintenance crews or emergency services including fire hydrants, hose cabinets, building entrances and fire exits?

Pedestrian hazards: Do the proposed object(s), if anchored into the ground, provide a pedestrian hazard when not in use?

Appendix B

Clearance dimensions

Total length: 12 metres

Clearance for pedestrian movement: 2 metres clear adjacent to seating, not including obstructions such as a tree, pole or rubbish bin

Clearance in a shared zone for vehicular access: 4 metres

Distance from public seating, taxi ranks and bus shelters: 2 metres

Distance from street furniture: 1.2 metres

Distance from building corner if at intersection (not including street fixtures or obstructions): 2 metres

Distance from building lines at corner locations: 2 metres
Distance from the road kerb: 1.2 metres

Distance from trees: 1.2 metres to trees where the clearance between a branch and the ground is no less than 2.2 metres, or 0.5 metres from the paving edge if the edge is 1.2 metres from the tree.

Distance between active shopfronts and outdoor dining: 2.5 metres

Distance from water's edge, if on the waterfront: 2 metres

Appendix C

General compliance criteria to consider

Territory Plan: Is the proposed object or outdoor dining area on designated land as shown on the territory plan?

<http://www.planning.act.gov.au>

Return to original condition: Can the proposed object(s) be removed within 48 hours with limited use of tools and lifting equipment? (e.g. an awning could be removed within 48 hours) and is the area able to be reinstated to a condition equivalent to that prior to installation of structures within 48 hours?

Compliance with Government Acts: Is the proposed object or the outdoor dining area compliant with the following:

- *Disability Discrimination Act 1992*
- *Environmental Protection Act 1997*
- *Health Act 1993*
- *Heritage Act 2004*
- *Tree Protection Act 2005*
- Building Application approval and engineering certification

Heritage listing: Is the area or land subject to heritage design standards or development constraints?

