

	<h1>Outdoor Business Permit Application</h1>	Version No:	5.1
		Reviewed:	Jan 2023
		Next Review:	Jan 2024

I/We: _____
(the "Applicant")

Of: _____
(Address)

Telephone: _____ Email: _____

hereby apply to: _____ **District Council of Kimba** _____

for a permit to use the road at: _____
(Exact location of proposed business)

Note 1: The Act provides that a road extends from property boundary to property boundary and includes carriageway, footpaths and verges.

Note 2: Pursuant to the Act, it is an offence to make an alteration to a public road without an Authorisation to do so from the Council. The following are considered road altering activities pursuant to the Act.

(Please tick whichever is/are applicable to this application)

- Display of retail goods; clothing racks; "A" frame and sandwich boards;
- Placement of furniture - table and chair arrangements for outdoor dining purposes;
- The area is used for the service of alcohol (if ticked, please attach Liquor Licence and plan of Licenced area)
- *Alter the construction or arrangement of the road to facilitate access to/from property;
- Erect or install a structure (including pipes, wires, cables, fixtures, fittings, or other objects) in, on, across, under or over the road;
- Change or interfere with the construction, arrangement or materials of the road;
- Change, interfere with or remove a structure (including pipes, wires, cables, fixtures, fittings or other objects) associated with the road.

***NOTE: Where this Application requires an Alteration to a Public Road (as indicated above), the issuing of this Permit also includes an Authorisation pursuant to Section 221 & 222 of the Local Government Act 1999.**

I/We hereby make application to the District Council of Kimba for a Permit under Section 222 of the Local Government Act 1999 for approval to use the portion of the road (the "Permit Area") as described herein for business purposes as identified on this permit application for the period of:

_____ to _____
(Maximum period of five years)

In making this application, I/we acknowledge that I/we have read, understood and agree to be bound by the Conditions of Permit and declare that the particulars provided by me/us with regard to the business and the proposed alteration to the road are true and accurate.

Signed by the Applicant(s)

Name: _____

Signature: _____

Position: _____

Date: _____



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General Conditions of Permit

The Applicant agrees:

1. For the term of the Permit, to comply with all applicable industry standards, health or safety standards, current standards of Standards Australia or any applicable Codes of Practice.
2. To ensure that all works carried out are undertaken to the highest standard and are carried out promptly and with all due care, skill and diligence.
3. To ensure that any alteration to the road does not interfere with or cause damage to or in any way affect the property of any other person. The permit holder must take all reasonable precautions to avoid damage to services and must immediately notify the Council in the event of damage to any surface, tree, shrub, flower box, or item associated with either the Council or alternative service provider.
4. To comply with any direction given by an authority, statutory authority or Council to remove, maintain or otherwise modify the alteration to the road subject to this Permit.
5. That all fixtures and equipment erected or installed in, on, across, under or over the road remain the property of the Applicant pursuant to Section 209 of the Local Government Act 1999.
6. For the term of the Permit, to maintain all fixtures and equipment erected or installed, or vegetation planted, in good conditions and to recognised standards. The Permit holder shall maintain the Permit site in a clean and tidy condition. Failure to ensure that the site is maintained in a clean and tidy condition will result in the Permit holder being charged a clean-up fee as determined by the Council.
7. To pay when due (and if demanded by the Council) the full amount of all accounts, invoices, assessments and charges with regard to the consumption, use or supply of electricity and any and all other services and utilities (if any) supplied to the road or consumed by the Applicant in respect of the use of the road in connection with this Permit.
8. **To indemnify the Council, its employees and/or agents against all action, costs, claims, and demands for injury, loss or damage arising out of any negligent act or omission of the Applicant in relation to any activities under this Permit or arising out of breach of any condition attaching to this Permit, the granting of this Permit and the General and Special Conditions contained herein and such indemnity shall be in addition to any statutory immunity in favour of the Council.**
9. **For the term of this Permit, it is recommended to take out and keep current a public liability policy of insurance for the recommended sum of \$20,000,000.00 per claim (or such other amount reasonably required by the Council) in the joint names of the Council and the Applicant for their respective rights and interests and with an insurer approved by the Council. Any negligent act of omission of the Applicant in relation to alteration to the road or any activity arising out of or from the granting of this Permit by the Council**
10. To ensure that at all times during the term of this Permit, it will hold the necessary permissions, certificates and other authorisations required to undertake the proposed business use, which must be provided to the Council upon request. **It is the permit holders' responsibility to provide Council with a copy of the current Public Liability Cover each time it is renewed within the permit period.**
11. In the event that the Applicant has failed to comply with any of the conditions of the Permit or for any other justifiable circumstance, including reinstatement, maintenance, repair or removal, the Council may revoke the Permit.
12. That, subject to section 225 of the Act, the Council may cancel this Permit for breach of any of the General Conditions or Special Conditions within 6 months of written notice to the Applicant.
12. If the Permit holder wishes to cancel the Permit, the Council shall be notified in writing as soon as possible.
13. **To not assign or otherwise transfer this Permit without first obtaining the consent of the Council in writing, which consent may be withheld at the Council's discretion.**
14. This Permit is subject to the Applicant obtaining appropriate Development Act approval for any structures, fixtures, or equipment.
15. This permit does not confer on the Applicant any exclusive right, entitlement or interest in the road and does not derogate from Council's powers arising under the Local Government Act 1999.
16. **For the term of this Permit, the fee for the 5-year period of the permit is \$10 (GST exempt) per year. (\$50.00 per 5-year period).**
17. That this Permit does not confer on the Applicant any exclusive right, entitlement or interest in the road and does not derogate from the Council's powers arising under the Act.



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Special Conditions of Permit

1. Retail displays and furniture shall be sited on the footpath adjacent to the applicant's business premises only and as close as practical to the boundary of the premises (unless specifically approved by the Council and noted herein).
2. The Applicant shall at all times ensure that a footpath width of not less than 1.2 metres is maintained for unobstructed pedestrian use adjacent and near the Permit area.
3. The Applicant shall at all times keep the Permit Area and all furniture and equipment there clean and free from litter and waste materials and shall ensure that no waste material is swept or placed into the water table.
4. The Applicant shall remove all obstructions from the Permit Area upon twenty-four (24) hours notice (or less in times of emergency) being to the Applicant by the Chief Executive Officer of the Council that the Permit Area is required for pavement maintenance or repair work.
5. The Applicant shall remove all furniture and display stands at the close of business on each day and if left remaining in the Permit Area during the hours of darkness illuminate same and all other obstructions in such manner as shall be approved per instance by the Chief Executive Officer of the Council.
6. Other structures on the street (eg trees, power pole, signs and services etc) may not be moved, altered or interfered with in any way except with the express written approval of the relevant authority, owner or Council.
7. The Council shall not accept responsibility for any damages or claims resulting from this permit.
8. Should Council be of the opinion that the applicant is required to provide protection to the outdoor dining patrons from intrusion of impacting vehicles, the applicant must organise and bear all costs associated with the purchase and installation of approved crash tested protection barriers (eg crash tested bollards).
9. Outdoor dining furniture cannot be permanently fixed to the ground surface without the approval of Council. Should Council approve the securing of furniture either temporary or permanently to the ground surface, full installation details must be provided in this application.
10. If, in the opinion of Council's authorised officer, a particular object or stand is duly hindering the passage of the public, the object or stand shall be removed or re-positioned immediately upon request.
11. Throughout the period of the Permit, the Permit holder shall provide annually, in July, to Council, evidence of their current public liability insurance. For the Permit to remain current, a copy of such evidence must be received either by post, fax or in person. Failure to provide such evidence will terminate the Permit.

Name of Business for which application applies: _____

Property Address of Business: _____



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Please show details, plans and specifications for the proposed business below include:

Street name(s), North, boundaries of the area, any structures or objects including details of location, materials proposed and any other details that may be relevant.

AREA AND SITE POSITION OF BUISNESS PROPOSAL

The permit holder hereby agrees to:-

- A. Comply with the **General Conditions** of the Permit as contained herein
- B. Comply with any **Special Conditions** which the Council may determine
- C. Pay the prescribed fee as set out herein (if applicable)
- D. Provide a copy of all appropriate insurances as required by either the **General or Special Conditions**

OFFICE USE ONLY

Permit – Approved / Denied Permit No:.....

Name of Authorised Officer of Council:.....

Position:.....

Signature:.....

Date..... Insurance details supplied – Yes / No