**Outdoor area COVID-19 temporary policy (non-seated drinking)**

We have previously introduced a streamlined approach to help existing licensees temporarily use outdoor areas to supply liquor for seated drinking.

Under this approach holders of a permanent liquor licence may apply to supply liquor to patrons in an outdoor area under an outdoor area temp licence.

Licensees can apply to supply liquor for seated drinking (refer to content under the heading “*Privately-owned outdoor area COVID-19 temporary policy (seated drinking)*” and “*Public outdoor area COVID-19 temporary policy (seated drinking)*”).

We have now extended this approach to licensing outdoor areas in relation to non-seated drinking (patrons may stand when being supplied with or consuming liquor). This extension reflects changes to the [Coronavirus (COVID-19) roadmap to reopening](https://www.vic.gov.au/coronavirus-covid-19-restrictions-roadmaps) permitting non-seated patrons at licensed premises in Victoria.

**The following content applies to non-seated drinking in outdoor areas not currently licensed under an existing permanent licence only. If you only want an outdoor area temp licence for seated drinking, please refer to the above subheadings.**

**If you are the holder of an existing outdoor area temp licence that is limited to seated drinking only, and you want authority for non-seated drinking, please see *Variation to your existing outdoor area temp licence to permit non-seated drinking* below.**

As of 1 January 2021, there will be a fee of **$114.60** to apply for a new outdoor area temp licence, and a fee of **$216.50** to vary an existing outdoor area temp licence to permit non-seated drinking. If you have an outdoor area that is licensed by your permanent licence, non-seated drinking is already permitted and, subject to the conditions on the permanent licence, you do not need to apply for a new temporary licence.

**Eligibility to apply**

Holders of an existing permanent licence will first need written permission from their local council to use public external/outdoor areas that are not currently authorised under the permanent liquor licence. Further application requirements apply for non-seated supply than for seated supply, see - ***Requirements when applying and processing times*** below**.**

For public outdoor areas if you have council permission to use the outdoor area, and you subsequently apply for a temporary limited licence (outdoor area temp licence), this may be granted and a licence issued to you that allows the supply of liquor in the outdoor area.

The use of privately-owned outdoor areas by existing licensees cover two scenarios.

First, where the outdoor area is on the same certificate of title as the licensed premises, but the current red-line plan does not extend to the outside area. Examples include carpark areas or areas used for waste disposal for licensed premises.

Second, where the outdoor area is not on the same certificate of title as the licensed premises. Examples include a neighbouring, vacant privately-owned land or a privately-owned outdoor carpark.

If you are a BYO permittee, please refer to content under the heading “Outdoor area COVID-19 temporary policy (information for BYO permittees)”.

***Eligible licence types***

You must hold one of the following permanent licence types to be eligible for an outdoor area temp licence:

* Club licence (full club or restricted club)
* On-premises licence or late night (on-premises) licence
* Restaurant and cafe licence
* Producer’s licence
* Renewable limited licence that allows on-premises consumption
* BYO permit.

***General or late night (general) licences***

For both privately owned and public land, if you hold a general or late night (general) liquor licence, you may not need to apply for an outdoor area temp licence because, subject to you complying with council’s local laws and/or planning requirements, you can already supply liquor in outdoor areas being footpaths or kerbside areas under your existing licence (see the VCGLR’s *Plan of licensed premises* factsheet [here](https://www.vcglr.vic.gov.au/sites/default/files/uploadLiquor_licensing_fact_sheet_-_Plans_of_licensed_premises.pdf)).

However, if you have a specific condition on your general or late night (general) licence restricting the supply of liquor for consumption off the premises, or want to supply liquor in an outdoor area other than in a footpath or kerbside area, you may wish to apply for an outdoor area temp licence.

**Requirements when applying and processing times**

To apply for a new outdoor area temp licence that allows for standing consumption you will need to provide the following documents with your application:

*New outdoor area temp licence: non-seated drinking: (where there is no existing outdoor area temp licence for the area)*

1. Written permission from your local council allowing you to use the outdoor area (this may be a permit, licence, or letter issued by your local council).

For public outdoor areas this permission must specify that non-seated drinking is allowed in the area to be licensed. Please ensure that this permission has an end date. The absence of an end or expiry date will delay the processing of your application.

For privately-owned outdoor areas evidence must be provided that your local council does not object to the land being used for non-seated drinking. This may be a letter issued by your local council. This evidence is required to demonstrate that your local council has had the opportunity to consider any risks to the amenity of the local area from the proposed changed from seated drinking to non-seated drinking in the outdoor area.

2. A plan that clearly describes the boundary of the outdoor area.

For public land this plan must be endorsed by your local council (this can be part of the written permission under item 1).

For a privately-owned outdoor area see the VCGLR’s *Plan of licensed premises* factsheet [here](https://www.vcglr.vic.gov.au/sites/default/files/uploadLiquor_licensing_fact_sheet_-_Plans_of_licensed_premises.pdf) for assistance in developing this plan.

Note. If you have an existing lease arrangement relating to the outdoor area with your local council, the above document requirements apply.

3. Trading hours

For public outdoor areas, the specified trading hours for the outdoor area from your local council (this may be part of the written permission under item 1).

For privately-owned outdoor areas, if you seek trading hours after 11pm, evidence of permission from your local council is required (this may be part of the written permission under item 1).

*Variation to your existing outdoor area temp licence to permit non-seated drinking:* (removal of existing seated drinking condition that states “The consumption of liquor may only occur when patrons are seated”)

1. Written permission from your local council:

For public outdoor areas, confirmation that existing council approves, supports or does not prohibit or object to non-seated drinking. This may be part of the written permission provided to the VCGLR when applying for your existing outdoor area temp licence. Where existing permissions prohibit non-seated drinking, new or updated permission is required from your local council specifying that non-seated drinking is allowed in the area to be licensed.

For privately-owned outdoor areas, evidence that your local council supports or does not object to the outdoor area being used for non-seated drinking. This may be a letter issued by your local council. This evidence is required to demonstrate that your local council has had the opportunity to consider any risks to the amenity of the local area from the proposed changed from seated drinking to non-seated drinking in the outdoor area.

***Application process (new licence and variation to existing licence)***

The VCGLR has determined that the removal of the seated drinking requirement in outdoor areas carries increased risks to alcohol-related harms and to the amenity of the area. To reflect this risk, applications for a new, or variations to an existing, outdoor area temp licence that are not limited to seated drinking are subject to a period of public display of the application under section 34(7) of the *Liquor Control Reform Act 1998* (the LCR Act) for ten business days.

Applications will also be served on Victoria Police.

While the VCGLR will endeavour to process your application as soon as possible the period for objections by Victoria Police or members of the public to be made in response to the application is **30 days** from when the applicationwas first displayed. The 30-day period for objections is specified in legislation and the VCGLR does not have discretion to shorten this period.

If your application is missing any of these documents, this will cause delay and you will be contacted and asked to submit the missing documents.

In certain circumstances the VCGLR may need to seek further information which may also cause delay.

Please note that if you have already been granted a licence for non-seated drinking in a privately-owned area that expires on 30 June 2021, and would like a new outdoor area temp to authorise the supply of liquor in this area until 15 March 2022, your application will not be required to be served on Victoria Police, local council, or be publicly displayed. This is because the previous application was served and publicly displayed. Instead, the application will be determined generally within three business days.

**Limitations**

If an outdoor area temp licence that is not limited to seated drinking is granted, you must adhere to the following limitations:

For public outdoor areas

* Food must be available for purchase at all times when liquor is being supplied.
* The licensee will not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of any outdoor area where the supply and/or consumption of liquor occurs under this licence.
* The licensee must make available for inspection by a VCGLR gambling and liquor inspector or Victoria Police a copy of the local council’s written permission to use the outdoor area (for example, a permit, licence or letter issued by the local council), including any plan of the outdoor area and the boundary.
* Trading hours are the **lesser** of the hours permitted under any Victorian Government directions and/or restrictions in relation to COVID-19, or local council’s written permission to use the outdoor area, or your permanent licence.
* Maximum patron numbers are the **lesser** of those permitted under any Victorian Government directions and/or restrictions, local council’s written permission to use the outdoor area (if patron numbers are specified), and the total number of patrons in your outdoor area and your permanently licensed area cannot be more than what is permitted under your permanent licence.
* The outdoor area temp licence will expire once your local council permission expires.

For privately-owned outdoor areas

* Food must be available for purchase at all times when liquor is being supplied.
* The licensee will not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of any outdoor area where the supply and/or consumption of liquor occurs under this licence.
* The licensee must make available for inspection by a VCGLR gambling and liquor inspector or Victoria Police a copy of the red-line plan for the outdoor area endorsed by the VCGLR.
* No trading after 11pm is permitted, and otherwise trading hours are the **lesser** of the hours permitted under any Victorian Government directions and/or restrictions in relation to COVID-19 or your permanent licence.
* Maximum patron numbers are limited by any Victorian Government directions and/or restrictions.
* The outdoor area temp licence will expire on the earlier of 15 March 2022 or the owner of the privately-owned outdoor area withdrawing their permission.

Nothing in the outdoor area temp licence for either public or privately-owned outdoor areas overrides:

* any Victorian Government directions and/or restrictions in relation to COVID-19
* local laws, planning schemes including conditions on planning permits, and/or local council requirements, including any limitations in relation to trading hours or maximum capacities as determined by local council.

**Making an application**

***Variation to existing outdoor area temp licence***

If you would like to apply to vary your existing outdoor area temp licence to permit non-seated drinking, please complete this form [*Strat Comms, please upload this embedded document**]* and submit this form to [contact@vcglr.vic.gov.au](mailto:contact@vcglr.vic.gov.au).

***New licence***

To make an application for a new outdoor area temp licence see: [Application for a temporary limited licence](https://liquor.vcglr.vic.gov.au/templicence/)

Please note there may be content on the online temporary limited licence webpage that may not be applicable to you when applying for an online outdoor area temp licence. For detailed instructions to guide you in lodging an online application for an outdoor area temp licence in relation to public outdoor areas, click [**here**](file:///C:\Users\steven.loh\AppData\Local\Hewlett-Packard\HP%20TRIM\TEMP\HPTRIM.11380\Insert%20pdf%20version%20of%20CD%2020%2013033)**.** [*Strat Comms, please upload this embedded document**]*

For detailed instructions to guide you in lodging an online application for an outdoor area temp licence in relation to privately owned outdoor areas, click [**here**](file:///C:\Users\steven.loh\AppData\Local\Hewlett-Packard\HP%20TRIM\TEMP\HPTRIM.11380\Insert%20pdf%20version%20of%20CD%2020%2013033)**.**  [*Strat Comms, please upload this embedded document**]*

**Public outdoor areas**

For applications for a **new** outdoor temp licence for non-seated supply, the required steps in relation to a **public** outdoor area to ensure your application can be accepted are as follows:

* Set your first event date as the first day you wish to supply liquor, confirm that you will be using public land, and that you have permission to use that land.
* Ensure that you include your permanent licence number.
* When prompted to choose an event type, please select “Temporary extension of permanent licence”.
* Select “No” for extension of hours and “No” for event at your premises, and “yes” for extension of your licensed area.
* For event occurrences, include the first day you wish to trade, and include the trading hours as they appear on the lesser of your council permit or your permanent liquor licence.
  + Note your outdoor area temp licence will expire once your local council permission expires.
* In the additional information box, please advise that this application is for outdoor dining as a result of the COVID-19 pandemic
* You must attach your permit/permission from your local council, your plan as endorsed by your local council, and trading hours endorsed by your local council

**Privately owned outdoor areas**

For applications for a **new** outdoor temp licence for non-seated supply, the required steps in relation to a **privately-owned** outdoor area to ensure your application can be accepted are as follows:

* Set your first event date as the first day you wish to supply liquor, confirm that you will be using private land, and that you have permission to use that land.
* Ensure that you include your permanent licence number.
* When prompted to choose an event type, please select “Temporary extension of permanent licence”.
* Select “No” for extension of hours and “No” for event at your premises, and “yes” for extension of your licensed area.
* For event occurrences, include the first day you wish to trade, and include that are no later than 11pm, or otherwise the hours as they appear on your permanent liquor licence.
  + Note your outdoor area temp licence will expire on the earlier of 30 June 2021 or the owner withdrawing their permission.
* In the additional information box, please advise that this application is for outdoor dining as a result of the COVID-19 pandemic. If you previously held a non-seated privately-owned outdoor area temp for this area, please state this in this section.
* You must attach:
  + required council permissions
  + a red-line plan of the privately-owned outdoor area, and
  + if the outdoor area is NOT on the same certificate of title as the licensed premises for your permanent licence, you must provide written permission from the owner of the outdoor area.

**Other useful information**

***Preparing your outdoor area and reducing risks where spaces are near roads and moving vehicles***

For advice on how to prepare your outdoor area, you may want to refer to the Business Victoria “Industry Restart Guidelines – Hospitality” available at this [webpage](https://www.business.vic.gov.au/coronavirus-covid-19/covid-safe-business/accommodation-and-food-services-sector-guidance).

You are also encouraged to refer to the [Crowded Places Strategy](https://www.nationalsecurity.gov.au/Securityandyourcommunity/Pages/australias-strategy-for-protecting-crowded-places-from-terrorism.aspx) to ensure relevant risk mitigation processes are being employed, particularly for spaces near roads and moving vehicles.

***Meaning of “outdoors”***

Guidance on the meaning of “outdoors” is contained in a document called “Regional Victoria – Third Step”, which was part of the [Statement from the Premier dated 15 September 2020](https://www.premier.vic.gov.au/statement-premier-59). A copy of “Regional Victoria – Third Step” is available here. 

In that document, “outdoors” means:

* a space with no roof; or
* an open-air space designated for the consumption of food and/or beverage, which may have a temporary or fixed cover (e.g. awning or roof) so long as such cover has at least two open sides to the outdoors for airflow.

Examples used include:

* balcony or veranda, courtyard, rooftop, marquee, street or footpath, any similar outdoor area.