



DS 4.11 – Alfresco Dining in Public Thoroughfares

1.0 Introduction

This policy has been prepared in accordance with clause 7.2 (1)(a) of the Shire of Collie Activities in Thoroughfares and Public Places and Trading Local Law 2012 (the “local law”) to assist in the preparation of conditions for permits issued under Division 3 - Outdoor Eating Facilities on Public Places.

1.1 Purpose

To enhance the activities associated with food establishments within the Shire by allowing for alfresco dining to occur within Council controlled land such as road verges and footpaths etc.

1.2 Scope

To set appropriate standards for alfresco dining so that they do not conflict with other users of the public land and positively add to the attractiveness of the area.

2.0 Legislative Framework

- Local Government Act 1995
- Shire of Collie Activities in Thoroughfares and Public Places and Trading Local Law 2012

3.0 Council’s Corporate Business Plan 2017/18 – 2021/22

Strategy 5.1.5 - Administer local laws and ensure compliance with statutory obligations

4.0 Application of Policy

This policy applies to all applications for alfresco dining areas within the Shire of Collie that are on a public place.

Should there be any conflict between this policy and the Shire of Collie Local Planning Scheme, the Local Planning Scheme shall prevail.

5.0 Policy Provisions

- 5.1 All objects and furniture for dining must not obstruct pedestrian movement. A minimum clear footpath width of 2.0 metres shall be maintained in all cases and a greater width may be specified in certain cases if Council so determines.
- 5.2 Alfresco dining activities shall not in the opinion of Council conflict with or inconvenience other adjacent businesses. Council in its consideration may consult with the owners/occupiers of other nearby premises.
- 5.3 This policy will also apply to applications to use areas in pedestrian arcades and other similar “public” places on private property.

- 5.4 Alfresco dining will be approved only where directly associated with an adjacent food establishment or business.
- 5.5 All objects and furniture located as part of the dining area are to be readily removable, however, where it is demonstrated to Council there are positive benefits to the public, more permanent features such as flower boxes, shade sails etc. may be permitted providing all costs associated with removal and restoration are borne by the applicant and Council is satisfied with the form, construction and appearance of those more permanent features.
- 5.6 Council may require the placement of appropriate barriers to separate diners and the public generally to be provided by the applicant in accordance with relevant Australian Standards.
- 5.7 All objects and furniture must not obstruct sight lines for either vehicles or pedestrians, either at road junctions and crossovers.
- 5.8 All dining and/or display objects must be located in such a way as to not obstruct access from the footpath to kerbside parking bays. Ample allowance must be made for the doors of vehicles parked at the kerb to swing open. This is particularly important near disabled parking bays and access ramps to those disabled bays.
- 5.9 The applicant shall maintain a minimum \$10 million comprehensive public liability insurance covering any activity, object or provision within a public place and indemnify Council against any claim.
- 5.10 The applicant will be responsible for ensuring the dining area is maintained in a good condition and clean and tidy state in accordance with the requirements of the Health Act 1911.
- 5.11 The applicant shall be solely responsible for all and any associated costs with the removal, alteration, repair, reinstatement or reconstruction to Council's satisfaction of the street carriageway, footpath or any part hereof arising from the use of the approved area.
- 5.12 If a dining area is not maintained in a good condition and clean and tidy state and/or the conditions of Council's approval are not adhered to, Council may order the approval be withdrawn and all objects and furniture must be removed within 7 days.
- 5.13 An initial application fee of \$100 and an annual registration fee of \$100 will be applicable. Registration fees may be calculated at a pro-rata rate in the first year dependant on the period of the financial year remaining. The minimum fee shall be \$40.
- 5.14 Smoking bans apply in outdoor eating areas, where people eat and or drink while sitting at tables, for example restaurants, cafes, delis, lunch-bars and other food outlets. It is not mandatory for proprietors to display no smoking signage in outdoor eating areas. This clause does not include licensed premises.
- 5.15 Application Requirements

Applications for Alfresco Dining in a Public Place must be in writing and be accompanied by plans, drawn to scale, which clearly indicate the proposed location of all tables, chairs and any other object(s) and show their relationship to surrounding features such as buildings, kerb line, street furniture, landscaping,

services etc. Such applications must specify proposed days and hours of trading in the public area.

5.16 Duration of Permit and Renewal

- a) A permit is valid for one year from the date on which it is issued.
- b) Request for renewal must be applied for in writing to Shire prior to the expiration of the existing permit.
- c) Renewal shall be granted based on compliance with the state conditions on the permit.
- d) Refusal to grant permission or renew a permit for an outdoor eating facility will be determined with a resolution of Council.

Definitions

Facility means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land.

Public place includes any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property but does not include —

- (a) premises on private property from which trading is lawfully conducted under a written law; and
- (b) local government property.

Local government property means anything except a thoroughfare —

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the Land Administration Act 1997; or
- (c) which is an “otherwise unvested facility” within section 3.53 of the Act;

Policy Adoption and Review

Council meeting held:	16 April 2019
Adopted by Minute No:	8112
Date to be reviewed:	April 2022
Previous Revision:	12 September 2017