

Policy

Alfresco Dining

Policy Number

LPP 3.5

Policy Type

Local Planning Policy

Policy Purpose

Alfresco dining in various locations contributes to the vibrancy and amenity of a locality, as well as increasing interaction between the street and adjoining built forms.

The purpose of this policy is to distinguish the locations and extent to which alfresco dining areas are permitted within the City of Cockburn (the City). This policy applies to alfresco dining areas proposed within lots that do not project into the road reserve.

To prescribe minimum standards for furniture, barriers and maintenance of alfresco dining areas.

Policy Statement

(1) Definitions:

In this Policy:

“alfresco dining area” means an area in which tables, chairs and other structures are provided for the purpose of the consumption of food or beverages or both by the public on public thoroughfare;

“furniture” means the chairs, tables, waiters’ stations, planter boxes, umbrellas, screens, awnings and any other structure to be set up in the alfresco dining area;

(2) Policy Provisions:

The City will take the following matters into consideration in the assessment of applications for alfresco dining:

2.1 Layout and Setbacks

- 2.1.1 Alfresco dining areas are to be located directly adjacent the eating establishment to which they belong;
- 2.1.2 A maximum of one chair per square metre may be located in an alfresco dining area subject to any restrictions imposed by other laws including but not limited to the Building Code of Australia;
- 2.1.3 A 2m wide minimum footpath is to be provided and maintained clear of all obstructions including light poles, street furniture chairs, tables, pot plants and balustrading at all times;
- 2.1.4 Where the alfresco dining area is proposed in an area of a footpath adjacent to kerbside parking there should be a clearway of at least 0.6m between the alfresco area and car parking bays.
- 2.1.5 The City will not approve any alfresco dining areas within 1.5 m of a telephone booth, bus stop, bicycle rack, public seat or other street infrastructure. The City may move street infrastructure at full cost to the applicant to satisfy this requirement.
- 2.1.6 All alfresco dining areas shall be clearly demarcated on site and all chairs, tables and fittings shall remain within the demarcated area at all times;
- 2.1.7 Table service is encouraged, and where alcohol is served table service is mandatory and patrons must be seated at all times;
- 2.1.8 Where located abutting a road or vehicle crossover, chairs should not be placed with their backs to vehicles for safety reasons;
- 2.1.9 Alfresco dining areas should not obstruct sight lines for vehicles or pedestrians, both at road junctions and vehicle crossovers;

2.2 Furniture

- 2.2.1 All chairs, tables and fittings shall be of a readily portable nature and shall be removed upon the completion of trading. All fittings and furniture such as umbrellas shall be appropriately secured so as to be stable and secure in all conditions;
- 2.2.2 All furniture shall be of a high quality and shall be in keeping with the style and materials of furniture provided within the eating establishment;
- 2.2.3 The furniture should be strong, durable, waterproof, rustproof and weather resistant and should fold or stack for storage for removal from the alfresco dining area each day;

- 2.2.4 The preferred materials for alfresco dining furniture are metal or timber. The feet of any metal furniture should be suitable encased in rubber or plastic to minimise noise. Plastic or acrylic chairs are not encouraged due to generally lower standards of design and quality and their rapid deterioration in the urban environment;
- 2.2.5 The style, layout and orientation of furniture should be chosen according to the extent and shape of the alfresco dining area and to dissuade patrons from moving furniture beyond the boundaries of the alfresco dining area.

2.3 Shelters and Screens

- 2.3.1 To provide shade and shelter high quality awnings or market umbrellas are encouraged. The canopy of the umbrella must be higher than 2.3m from the pavement;
- 2.3.2 Removable screens up to 1m in height may be used to define the boundary of an alfresco dining area, but should not create a barrier or solid wall effect;
- 2.3.3 Screens more than 1m in height, including glass or perplex panels or clear plastic rolled down from umbrellas and awnings are not permitted;
- 2.3.4 Boundary definition on all sides of an alfresco dining area is mandatory where alcohol is served;

2.4 Accessibility and Footpaths

- 2.4.1 No alfresco dining area shall obstruct the entrance to any entrance, cause demonstrated inconvenience to adjacent retail or commercial activities, or residential properties, or obstruct the views or access to adjacent properties. Where the City believes that such problems may arise it may consult with the owners and/or occupiers of the affected premises as part of the assessment of the application.
- 2.4.2 The establishment of alfresco dining areas should not normally require extension of the existing footpath, unless this can be done without unduly affecting the prevailing form of the street or prejudicing its proper use as a traffic route and, without involving the loss of kerbside parking or loading zones. Such widening will be at the full cost of the applicant and should use materials to the satisfaction of the City.

2.5 Operating Times

2.5.1 The City may minimize the potential for conflicting uses by specifying operating times;

2.5.2 If alfresco dining occurs outside daylight hours the licensee must provide adequate, clear and well distributed lighting to ensure the safety of both patrons and the public. The lighting shall not adversely impact on surrounding residential land uses.

(3) Information to Accompany Applications

3.1 Applications for alfresco dining areas are to include one set of scaled plans indicating the number and location of proposed tables, chairs and other furniture and their relationship to the building in which the eating house is located;

3.2 Diagrams indicating the style and dimensions of all furniture proposed to occupy the alfresco dining area are required.

3.3 Applicants are required to stipulate the hours of operation for the proposed alfresco dining area. These may be approved or amended in consultation with the applicant depending upon the location and nature of the alfresco dining.

3.4 Applicants should indicate whether alcohol is intended to be served and consumed within the alfresco dining area;

(4) Conditions of Approval

If the City is prepared to support an alfresco dining proposal the following conditions may be applied (including a new proposal incorporating the sale of alcohol, or modification of an existing licence to incorporate alcohol):

4.1 The tables and chairs are not to be fixed to the public footpath paving material;

4.2 The tables and chairs shall be removed from the public footpath area outside normal trading hours, unless otherwise permitted by the City of Cockburn;

4.3 The tables and chairs are to be maintained in good, clean and serviceable condition at all times;

4.4 The applicant shall ensure that rubbish shall be regularly removed from the premises in order to ensure high public amenity;

- 4.5 The licensee is to maintain the footpath to a high standard of cleanliness and hygiene to the satisfaction of the City of Cockburn. This will include removing grease and stains and washing of the pavement. Under no circumstances are waste materials to be swept or placed in the gutter;
- 4.6 The serving of alcohol shall not commence unless the relevant approval has been obtained from the Liquor Licensing Division of the Office of Racing and Gaming;
- 4.7 The use of plastic resin chairs is not permitted;
- 4.8 Tables and chairs placed in a public place that enables unlimited public use shall not be considered as part of the premises in calculating the required number of public toilets under the Health Act;
- 4.9 The licensee is not permitted to prepare food or beverages in the alfresco dining area
- 4.10 The manager/operator shall apply for and maintain, in accordance with the City's Local Laws and the conditions of this approval, a license to operate a facility on public land and shall accord to the conditions of the licence to the City's Satisfaction.
- 4.11 The landowner/application shall enter into a legal agreement with the City to indemnify the City against any injury, loss, liability or costs suffered or incurred as a result of the use of the public place as an alfresco, as depicted on the approved plans dated XXX.
- 4.12 The landowner/applicant shall maintain public liability insurance of a value of not less than \$10 million which covers business activities including the provision of an outdoor eating area, footpath, signage and all structures as per the approved plans dated XXX.
- 4.13 In relation to conditions XXX and XXX (above), the legal agreement indemnifies the City against any loss or damage suffered as a result of the development, and secures indemnification by the developer obtaining an appropriate insurance policy. The legal agreement shall stipulate that the developer shall maintain, alter, repair or remove the development, in part or in whole, if the land is required for the purpose of carrying out any public works, or other authorised by statute, without the City being liable to compensate any person, and require the developer to make any damage cause to the road reserve within a prescribed period of time.
- 4.14 In regards to condition XXX, the written legal agreement shall be prepared by the City's solicitor at the applicants cost and shall provide for the City to

lodge an absolute caveat against the certificate of title to the owners of the land to provide security for the ongoing indemnification of the City.

(5) Indemnifying the City

- 5.1 In submitting a development application for alfresco dining within the City’s land (footpath or road infrastructure), the applicant shall ensure the City will not be responsible for any future cost or injury (in association with the proposed structure).
- 5.2 In accordance with the City of Cockburn (Local Government Act) Local Laws 2000 a Facility (defined as an outdoor dining establishment within any public place) is required to have evidence of public liability insurance of not less than \$10,000,000.
- 5.3 For this process to be agreed upon by both parties (the City and the venue operator/manager) a formal legal agreement needs to be signed to ensure that the City is not responsible for any injury, loss, liability or costs suffered or incurred as a result of the use of the public place as an outdoor eating area.
- 5.4 Once a legal agreement is formalised, a caveat will be executed (at the applicants cost) and placed on the certificate of title to ensure that future owners are aware of the potential responsibilities in regards to public liability insurance

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