

POL 0056: Outdoor Eating Facilities in Public Places

Purpose

The Shire recognises that appropriately located and designed outdoor eating facilities (alfresco dining area) can make a significant contribution to the vitality and ambience of public places and urban lifestyles. They offer opportunities for spontaneous and arranged social interactions or quiet reflection while introducing a visual vibrancy that can make a place memorable.

This Policy aims to provide a framework and urban design guidelines to promote the establishment of outdoor eating facilities in public places for the purpose of alfresco dining.

Policy aims are -

1. To ensure that alfresco dining does not interfere with the safe and reasonable movement of pedestrian and vehicular traffic;
2. To encourage high quality alfresco dining which enhances the amenity and vitality of the Shire of Esperance;
3. To provide a comprehensive framework for the development, management and control of alfresco dining throughout the Shire of Esperance; and,
4. To ensure that alfresco dining areas are accessible to all patrons, including people with disabilities.

Scope

This policy applies throughout the Shire of Esperance district.

Definitions

N/A

Practice

Alfresco Dining

1. Policy Application Area

Alfresco dining areas will only be permitted to be established on a public place adjacent to a food business that has been issued with a Certificate of Registration of a Food Business by the Shire of Esperance.

2. Development Requirements
 - a. Pedestrian Access;
 - i. A minimum footpath width of 2.0 metres must be provided directly adjacent to the building or running parallel to the street, unless otherwise approved by the Manager Waste and Environmental Health for an alfresco dining area to be considered;

- ii. In areas of heavy pedestrian traffic, the Shire of Esperance may require a wider pedestrian thoroughfare or may prohibit alfresco dining altogether; and,
- iii. Pedestrians must be able to make normal use of the footpath without being obliged to step into the road at any point or make other unwarranted detours.

b. Distance from Kerb

A minimum 0.6 metre setback from the alfresco dining area to any kerb line is required to provide an appropriate separation distance from vehicles using kerbside or parallel parking adjacent to an alfresco dining area, and for the safety of diners

c. Vehicle Sight Lines

Alfresco dining must not obstruct sight lines for either vehicles or pedestrians, both at road junctions and vehicle access crossovers.

d. Demarcation of Outdoor Eating Facilities / Alfresco Dining

The Shire may provide footpath identification of the approved alfresco dining area utilising coloured bricks, small brass plaques or the like, placed at regular intervals (approximately every 2.0m) along the alfresco dining boundary.

3. Furniture

a. Placement of Furniture

- i. All furniture, including barriers must be placed and kept within the alfresco dining area and at all times must not compromise the access and safety of patrons or pedestrians;
- ii. All furniture must be free-standing and removable, unless specific written approval has been given by the Shire;
- iii. Where umbrellas or similar sun protection is provided, they must be adequately secured, contained within the alfresco dining area and of sufficient height (minimum 2.1 metres) above the ground to prevent injury to patrons and pedestrians. Depending upon the structure proposed, structural certification from a practising Structural Engineer may be required.

b. Number of Chairs

A maximum of one chair per square metre may be located in an alfresco dining area. Other items of furniture such as tables and umbrellas can be incorporated as necessary. Note: Number of patrons may be restricted by numbers of toilet facilities available.

c. Design and Materials

- i. The design of the furniture, including barriers used for the alfresco activity should be in keeping with the style and character of the host building and reflect the interior of the business;
- ii. White tabletops and white chairs are not permitted in alfresco dining areas adjacent to public roads due to the possibility of glare;
- iii. Plastic tables and chairs are not permitted;

- iv. All furniture should be durable, waterproof, rust proof and weather resistant and should fold or stack for storage; and,
 - v. All furniture, including barriers must be maintained in a physically sound and aesthetically acceptable condition and in a good state of repair and be designed so that corners and fastenings do not create a potential hazard for patrons and pedestrian traffic to the satisfaction of the Shire.
- d. Removal and storage of furniture
- i. All furniture must be removed from the alfresco dining area at the close of business each day, unless otherwise permitted by the Shire of Esperance; and
 - ii. The Shire of Esperance may require the removal of any furniture or structure from public areas at any time to allow the undertaking of street or footpath works, maintenance, cleaning or other works as necessary.
- e. Advertising
- i. Advertising on furniture and structures may only bear the name of the associated establishment and/or the name of a commercial product sold within the premises; and,
 - ii. Any additional signage must be approved by the Shire of Esperance, and must not restrict access to any public thoroughfare as required by this Policy.
4. Operating Requirements
- a. Hours of Operation
- i. Unless otherwise specified by the Shire, hours of operation of the alfresco dining area may be determined at the discretion of the permit holder for the alfresco dining area;
 - ii. Alfresco dining areas serving alcoholic beverages will be limited to the hours stipulated in the liquor licence; and,
 - iii. The permit holder must ensure that no noise nuisance is created by the alfresco dining activity, and that any music complies in all respects with the *Environmental Protection (Noise) Regulations 1997*.
- b. Consumption of Alcohol
- i. The consumption of alcohol within alfresco dining areas is only permitted subject to compliance with the proprietor obtaining the necessary approvals from the Shire of Esperance and Department of Racing Gaming and Liquor, and must ensure ongoing compliance with all Liquor Licence conditions; and,
 - ii. Where alcohol is served, regular table service is mandatory and patrons must be seated at all times.
- c. Cleanliness and Hygiene

The permit holder is responsible for maintaining the alfresco dining area in a clean and sanitary condition free of visible dirt and food material at all times. This includes removing grease stains, keeping the vicinity clear of litter and waste materials and the

high pressure cleaning of the pavement, as and when required. No material from sweeping of the pavement is permitted onto the road or into the stormwater system.

d. Maintenance

The permit holder for the alfresco dining area is responsible for maintenance of the area over which the dining activity takes place and shall make good, to the Shire's satisfaction, any damage or staining to the surface

e. Lighting

- i. Where alfresco dining occurs outside daylight hours, the permit holder for the alfresco dining area must provide adequate, clear and well distributed lighting to ensure the safety and amenity of both patrons and the public; and,
- ii. Outdoor lighting shall not cause a nuisance by way of light spill to any nearby premises.

f. Electrical Wiring

- i. All electrical wiring connected to lights, devices or appliances situated in or about the alfresco dining area shall not be placed -
 1. On or under the alfresco dining area;
 2. Above any part of a public place so as to interfere or obstruct the passage of vehicles or pedestrians; and,
 3. In any manner or in any place which maybe prejudicial to safety.
- ii. Any electrical wiring must be approved by the appropriate authority and must not be placed across any thoroughfare.

g. Heating

- i. Heaters must be Australian Gas Association (AGA) approved and be used in accordance with manufacturer's instructions, particularly in relation to required clearances from other combustible objects.
- ii. Fixed gas heaters are not permitted without the express written consent of the Shire.
 1. Any fixed or portable gas heater within the outdoor eating area is to be installed and regularly checked by a registered gas fitter to ensure they comply with all relevant Australian Standards

h. Dogs are only permitted in the outdoor eating area under the following conditions:

- i. Area is to be sufficiently signed to advise patrons that dogs are permitted in the alfresco dining area;
- ii. Food premises to develop a dog management plan
- iii. Dogs do not enter the inside of the food premises
- iv. Area is to be kept clean at all times
- v. Pedestrian access ways remain unobstructed at all times.

i. Smoking

- i. The Shire of Esperance supports any State Government initiative to introduce state wide smoking bans in alfresco dining areas

- ii. Smoking is not permitted within the alfresco dining area and the use of appropriate non-smoking signage by the permit holder is required.
- 5. Application and Administration Procedure
 - a. Assessment and compliance
 - i. All applications shall be assessed in accordance with the requirements of this Policy and the Shire of Esperance Activities in Thoroughfares and Public Places and Trading Local Law 2016 and Local Government Property Local Law 2009, by the Shire's Health Services. The Shire's Planning Services shall be consulted during the assessment process.
 - ii. Once an alfresco dining area has been approved and established, the Shire's Environmental Health Department is responsible for ensuring the permit holder complies with all imposed conditions of approval.
 - b. Application for Permit
 - c. Notwithstanding the requirements of the Shire of Esperance Activities in Thoroughfares and Public Places and Trading Local Law 2016 and Local Government Property Local Law 2009, a proprietor of a food business seeking the issue of an Outdoor Eating Facility Permit shall make application to the Shire in writing on the prescribed form (Application for Traders License) and such application shall be accompanied by –
 - i. The appropriate fee
 - ii. A set of plans of the proposed alfresco dining area to a scale of 1:50 showing –
 - 1. the location and dimensions of the proposed alfresco dining area and the means by which the eating area is to be separated from the balance of the street or public place;
 - 2. the position of all tables, chairs and all other structures proposed to be provided in the alfresco dining area;
 - 3. a description of the type and make of all tables, chairs and all other structures proposed to be provided in the alfresco dining area;
 - iii. A set of plans at a scale of 1:200 depicting the alfresco dining area and all land improvements thereon within 30 metres of the boundaries of the alfresco dining area.
 - iv. Photograph(s) or images of the proposed furniture and other structures to be set up in the alfresco dining area.
 - v. Additional information as required.
 - d. Renewal of Permit

On or by the 30 June each year the permit holder may apply to the Shire in writing, or submit an application form (Application for Traders Permit), for a renewal of their Outdoor Eating Facility Permit. This written request must be accompanied by the prescribed fee and certificate of currency confirming public liability insurance.

6. Cancellation of Permit

The CEO may, by notice in writing, cancel a permit at any time if the requirements of this policy or any specific condition of approval are not complied with.

7. Fees

Fees and charges are established in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*, listed in the Shire of Esperance Schedule of Fees and Charges.

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Document Information

Responsible Position	Manager Waste and Environmental Health
Risk Rating	Medium

Referencing Documents

- *Local Government Act 1995*
- *Environmental Protection (Noise) Regulations 1997*
- *Activities in Thoroughfares and Public Places and Trading Local Law 2016*
- *Local Government Property Local Law 2009*

Revision History

Date	Version	CM Reference	Reason for Change	Resolution #	Next Review
Sept 2012	1		New policy	O0912-022	Sept 2014
Mar 2016	2		Update to current names and titles. Addition of fifth point: No smoking permitted in outdoor eating areas. Additional note outlining patron numbers are subject to number of available toilet facilities.	O0316-008	Mar 2018
Apr 2018	3	D16/29050	Change document controller title and Manager title in 2.1.1	O0418-075	April 2020
Mar 2020	4		No change, laid on table for further discussion.	O0320-073	Mar 2022
Jun 2020	5	D16/29050[v2]	Remove 'outdoor eating facility' and replace with 'alfresco dining area', minor wording changes, formatting changes to numbering throughout, Amended wording to allow alfresco development adjacent to a building. Addition of dogs and smoking paragraphs to section 4, addition of sections 5-7 relating to the Application and Administration Procedure, Cancellation Procedure and Fees.	O0620-183	June 2022
Dec 2021	6	D16/29050[v3]	Remove reference to officer in 3(v)(b) and replace with Shire of Esperance. Adjust	O1221-225	Dec 2023

numbering for consistency throughout. Minor grammar adjustment to 4(viii)

Feb 2024	7	D16/29050[v4]	Amend references to Manager Development & Statutory Services to Manager Waste & Environmental Health. Remove specific standards and include general reference. Remove requirement for two sets of plans, proof of public liability insurance and indemnity from 'Application and Administration Procedure'. Amend 'renewal of permit' section to simplify insurance requirements.	O0224-018	Feb 2026
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