

USE OF CAR PARKING BAYS FOR OUTDOOR EATING AREAS IN THE CBD COUNCIL POLICY

POLICY STATEMENT

To promote vibrancy in the CBD by providing alternative uses to the City's car parking bays through the provision of clear procedural guidelines for the assessment and approval of Alfresco Dining Area (ADA) licences in the CBD.

POLICY SCOPE

The cost of design, construction and maintenance of each Alfresco Dining Area (ADA) is generally paid for and maintained by the sponsoring business ('the applicant').

The consumption of alcohol may be permitted subject to the granting of a licence from the Department of Racing, Gaming & Liquor whilst smoking is not permitted under any circumstance. Seating is normally open to the general public, a café may provide table service at an ADA, however patrons using the café are able to order and pay for food inside the premises and bring it outside to the ADA.

An ADA usually takes up one (1) or two (2) vehicle parking spaces (excluding footpath areas) and may also include such amenities as bicycle racks, planter boxes, benches/other seating and temporary landscaping

This policy will be applied to all:

- new licenses; and
- existing licenses;

POLICY DETAILS

Proposals for ADA's must satisfy all of the following mandatory requirements. Where the proposal does not meet the following guidelines the application may be recommended for refusal.

1. The proposed installation shall be located on a road identified within the Suitable Locations section of the Application Guidelines.
2. The proposed installation will not result in a loss of space that serves as a valuable public purpose such as a space for the taxis, public transport, service vehicles or people with disabilities. Council may consider a variation to this requirement where the applicant demonstrates that suitable alternative arrangements can be made to compensate for such a loss in space.
3. The location and design of the ADA will not impede or negatively impact upon pedestrian or vehicular movement or sightlines at road intersections and vehicle access crossovers, or impede emergency vehicle movements.

4. Where the proposed installation makes use of a car parking bay it must ensure the maintenance of a two (2) metre clearance for the public footpath at all times. In instances where the ADA licence is provided on an existing footpath the maintenance of a one and a half (1.5) metre clearance is required at all times.
5. The proposal must demonstrate that it will be constructed in such a manner that it is capable of being removed and the road reserve reinstated, to the same condition as it was previously to the proposed installation, within a maximum period of 72 hours.
6. The proposed installation should not interfere with the functioning, or result in the damage or permanent removal of existing infrastructure, such as kerbing, crossovers, stormwater drainage, verge trees, lighting, underground services and / or any other services.
7. An applicant may request changes to infrastructure (as outlined in 6 above); approval of which requires approval by the City's Engineering Department and a Council resolution. In all cases the costs to change and reinstate any infrastructure shall be met wholly by the applicant.

Proposals for ADAs that satisfy the above requirements will be considered for approval having regard to the following criteria:

1. The design shall:
 - be interesting, creative and demonstrate an improvement in the quality of public space;
 - be compatible with the established improvement in the quality of public open space;
 - be compatible with the established streetscape character;
 - encourage interactions;
 - provide adequate disability and universal access; and
 - maintain or improve public safety in the street.
2. The location and design shall not negatively impact upon the amenity of occupiers of buildings in close proximity to the proposed installation.
3. The proposed installation shall contribute to a diversity of uses in the CBD.
4. The loss of public parking space(s) shall not be significantly detrimental to the parking needs of the immediate locality.
5. The maximum number of on road car parking bays that may be replaced shall not exceed two (2) spaces and only the spaces directly in front of the business premises of the applicant may be proposed for replacement.
6. The location of the proposed installation is in an area where the existing footpath width is too narrow to adequately accommodate vibrant street activities, such as alfresco dining, as well as pedestrian movements where the minimum footpath requirements identified in Policy Detail 4 above cannot be met.
7. The proposed installation shall comprise of easily removable components and be located in an area with adequate lighting.
8. The City reserves the right to determine the number of installations in the CBD to maintain adequate parking amenities.

POLICY PROCEDURES

1. Development of an Alfresco Dining Area:

A brief overview of the process for establishing an Alfresco Dining Area is as follows:

- 1.1 An Alfresco Dining Area application shall be submitted to the City's Manager Community Services by completing the application form as shown in Appendix A.
- 1.2 The Manager Community Services will undertake a site visit and review and discuss any requirements with other relevant City Directorates.
- 1.3 Potentially affected businesses in the street will be consulted regarding the proposal.
- 1.4 The City's administration shall provide a recommendation in accordance with Council Policy: Use of Car Parking Bays for Alfresco Dining Areas in the CBD to the CEO for determination.
- 1.5 Should the matter be approved a licence will be issued by the City to the applicant.

CONDITIONS OF LICENCE:

1. Amendment of Licensed Area

The alfresco dining area may, at any time, be amended by the CEO or Manager Health to allow changes to the footpath or parking area. This may include but is not limited to the provision of pedestrian crossing nibs, street furniture or other works necessary for the safe and orderly management of pedestrians and vehicles.

2. Transfer of Licence

The sale of business or transfer of interests, which include an Alfresco dining Area licence, will require a new licence application and Council approval. Providing that the new owner has met the conditions contained in the Local Laws and these conditions, such approval will not be unreasonably withheld.

3. Licence Period

A licence will be valid for the period between the date of issue and the following 31 August or specified timeframe. The applicant will be responsible to applying for a renewal of the licensed area.

4. Consumption of alcohol

Where alcohol is permitted to be served patrons must remain seated at all times while it is being consumed.

5. Fees and Charges

Application and licence/renewal fees will be determined annually by Council as part of the fees and charges review. Only new applications for an Alfresco Dining Licence will pay the application fee.

6. Insurance

The applicant shall effect and maintain during the term of the alfresco dining area licence, a public risk policy with an insurance company approved by Council in an amount of not less than ten million dollars (\$10m) with the City of Bunbury listed as an interested party.

Before the issuing of a licence, the applicant shall produce to Council the original policy of insurance. Receipts for payment of premiums and the certificate of currency shall be produced upon request and upon renewal of the policy.

7. Smoking Is Not Permitted in Alfresco Dining Areas

In accordance with the *Tobacco Products Control Act 2006* (as amended), smoking is not permitted in any alfresco dining area unless a liquor licence (other than a restaurant licence) has been issued.

8. Toilet Facilities

An applicant for an alfresco dining area licence shall demonstrate that the premises has sufficient toilets available for the use of patrons seated inside or seated in any leased area as specified in the Building Code of Australia. Seats provided in alfresco dining areas on Council land in conjunction with an alfresco dining licence shall not be included in the calculation for toilet requirements.

9. Obstruction of Footpaths

Alfresco Dining Areas shall not obstruct pedestrian movement. A minimum clear footpath width of at least 2 metres shall be maintained in CBD streets that are using car parking bays for alfresco dining areas. All other alfresco dining areas shall maintain a minimum clear footpath width of 1.5 metres.

All tables, chairs and other furniture must not be set-up in the clearance area unless otherwise approved by the CEO or Manager Community Services in consideration of traffic sightlines.

In any circumstance, pedestrians shall be able to make normal use of the footpath without being obliged to step onto the road at any point, or make other unwarranted detours.

10. Street Furniture

All furniture and fixtures must be maintained in good visual appearance, without visible fading, dents, tears, rust, corrosion or chipped or peeling paint. All furniture and fixtures must be maintained in a clean condition at all times. All furniture must be durable and of sufficiently sturdy construction as not to blow over with normal winds, be contained within the alfresco dining areas and must not obstruct the footpath.

All furniture other than tables, chairs and umbrellas/shade structures is prohibited. This includes but is not limited to serving stations, bar counters, shelves, racks, sofas, televisions, heaters and rubbish bins.

Except as otherwise approved by the CEO or Manager Community Services, tables, chairs and other furniture associated with an alfresco dining area shall be removed from any street or public place at the close of business.

An applicant or person operating with an alfresco dining area licence and wishing to secure tables, chairs or other furniture to the paving or to any other Council owned fixture shall be in

possession of the written approval of the CEO or Director Works & Services to do so before any work is carried out.

10.1 Tables & Chairs

Tables shall have rounded edges and corners and shall be of a sturdy manner that prevents them from being blown into the road or onto the footpath. Breakable glass tops are not acceptable. They should be of sufficient height (minimum 700 mm clearance from the floor to the table) to be easily accessible for wheelchairs.

Chairs shall have rounded edges and corners and shall be of a sturdy manner that prevents them from being blown into the road or onto the footpath. Plastic chairs are not permitted to be used.

10.2 Umbrellas/Shade Structures

Where umbrellas are used, there shall be a minimum height of 2.3 metres from the lowest part of the canopy to the pavement, maintained at all times. Umbrella canopies must not extend past the kerb line of the footpath or onto the road. To ensure effective pedestrian flow, all parts of any umbrella (including fabric and supporting ribs) must be contained entirely within the alfresco dining area.

Umbrellas and shade structures are not permitted to be of any fluorescent or other strikingly bright or vivid colour. The fabric of umbrellas/shade structures must be of a material suitable for commercial outdoor use and must be of one solid colour. Construction must be engineered so that it is wind rated for the weather conditions. Umbrellas/shade structures must not contain signage for the restaurant or for any other entity in the form of wording, logos, drawings, pictorial or photographic representations, or any other likewise identifying characteristics.

Shade structures must be designed by an appropriately qualified person (or organisation) from approved materials. Shade structures and decking must be able to bear at least 7.2kpa.

10.3 Barriers

All barrier material must be maintained in good visual appearance, without visible fading, dents, tears, rust, corrosion, or chipped or peeling paint. Barriers must be effective between patrons and vehicles and must be able to be detected for persons with visual impairments.

Sectional fencing (generally defined as rigid fence segments that can be placed together to create a unified fencing appearance), or rail-type fencing is recommended as a barrier.

Any barrier (whether sectional fencing or rail-type) must be freestanding, without any permanent or temporary attachments to buildings, footpaths or other infrastructure. Barriers are to be constructed of metal (aluminium, steel, iron or similar) and must have flat bases.

The use of chain-link, cyclone fencing, chicken wire or similar accessories is prohibited.

10.4 Planters

Planters may be used in addition to or in place of other barrier designs. Planters may not exceed a height of 1 metre above the level of the paving. All planters must have plants contained within them. If the plants within a planter die, the plants must be replaced or the planter removed.

Any planters supplied by the City of Bunbury will be provided by the City 'ready to plant'. Planting and ongoing maintenance is the responsibility of the applicant at all times who should keep plants in good health, water, weed and trim when necessary; any plants that require replacing will be the applicant's responsibility.

10.5 Signs

Signage is permitted within the alfresco dining area in accordance with the City of Bunbury Local Laws relating to Signs, Hoarding and Bill Posting. The use of sandwich board signs in the street or other public areas is prohibited.

11. Cleaning and Maintenance of Licenced Area

The applicant is required to keep the licenced area free of debris, grime and graffiti at all times. The applicant must clean the surface of the licenced area at least three times per week, including the footpath if applicable.

12. Suitable Locations for Alfresco Dining Area Licences in the CBD

- Victoria Street from Stirling Street to Carey Street
- Prinsep Street from Wittenoom Street to Haley Street
- Stephen Street from Wittenoom Street to Arthur Street
- Wellington Street from Wittenoom St to Blair Street
- Symmons Street from Wittenoom Street to Blair Street

COMPLIANCE REQUIREMENTS

LEGISLATION

- *Local Government Act 1995*
- [City of Bunbury Health Local Laws 2001](#)
- [City of Bunbury Public Places and Local Government Property Local Laws 2020](#)
- [Local Planning Policy: Signage and Advertisements](#)

INDUSTRY

ORGANISATIONAL

Document Control					
Document Responsibilities:					
Owner:	Director Sustainable Communities	Owner Business Unit:	Community Services		
Reviewer:	Manager Community Services	Decision Maker:	Council		
Document Management:					
Adoption Details	Res 147/1512 May 2015 –	Review Frequency:	biennial	Next Due:	2023
Review Version	Decision Reference:	Synopsis:			
DOC/455782[v3]	Council Decision 66/21 27 April 2021	Policy reviewed and amended to be consistent with the City of Bunbury Local Law.			
DOC/455782[v2]	Council Decision 049/20 17 March 2020	Consolidate policies and corporate guidelines in accordance with revised Policy Framework.			
DOC/455782[v1]		Converted from Mydocs to Content Manager			
CP-028897					
Date Printed	30 April 2021				