

# Alfresco Dining and Outdoor Trading Guidelines

June 2021 (draft for 12 month trial)





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# 1. Introduction

Alfresco Dining and Outdoor Trading can make significant contributions to the visual appeal and atmosphere of public and private spaces within centres. They contribute to active vibrant streets with opportunities for social interaction and leisure.

The purpose of this document is to provide further guidance to business owners and operators on the establishment of Outdoor Trading and alfresco areas in accordance with the Local Government Property and Public Places Local Law 2016 ('Local Law').

These guidelines apply specifically to Alfresco Dining and Outdoor Trading adjacent to existing businesses on any public land that is under the care, control and management of the City of Mandurah (City), and allow for operators to expand their business beyond their property boundary.

Alfresco dining that occurs on private land, or on land that is subject to a lease or licence agreement, is not subject to these guidelines.

The objectives of the guidelines are:

- (a) To encourage the establishment of outdoor dining on paths and in public spaces in the area adjacent to restaurants/cafes;
- (b) To enrich the pedestrian experience and present an open, inviting environment that is safe and accommodating for all pedestrians;
- (c) To create an attractive, cohesive and vibrant streetscape.

It should be noted that alfresco dining and outdoor trading permits provide approved businesses with a non-exclusive arrangement to utilise City managed public land.

The areas subject to the permit must remain publicly accessible and the City and/or any other service authority may give notice requiring the removal of any furniture, structure, fixtures or fittings at any time.

In the case of this occurring, the applicant will be responsible for the cost of removal, storage and reinstallation of these items.

## 1.1 Definitions

*Alfresco Dining* the provision of facilities for outdoor dining.

*Outdoor Trading* the display of goods for sale outside an adjoining business.

## 1.2 Trading Zones

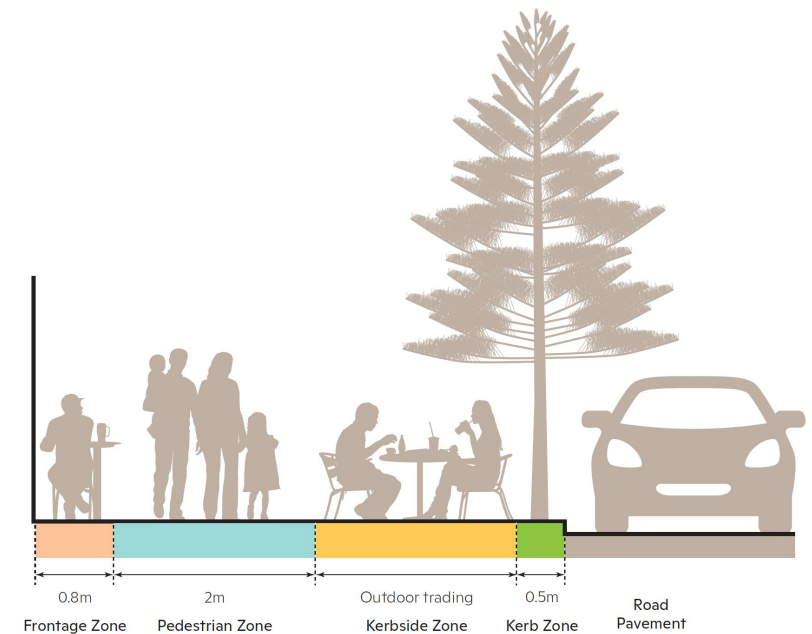
Unless otherwise identified, the public space between the property boundary and the road pavement is divided into four zones in order to provide a clear and consistently unobstructed footpath for pedestrian access.

These zones include:

- **Frontage zone** the area of land 0.8m wide, immediately adjacent to the property boundary;
- **Pedestrian zone** A clear 2.0m wide pedestrian accessway located immediately adjacent to the frontage zone, which is required to be maintained free of any obstacles or displayed goods;
- **Kerbside zone** the area of land located in between the pedestrian zone and the kerb zone available for Outdoor Trading; and
- **Kerb zone** the area of land 0.5m wide immediately located adjacent to the road pavement.

***No Alfresco Dining or Outdoor Trading is permitted within the pedestrian or kerb zones, and these areas must be maintained free of obstruction at all times.***

***Footpaths with a width of less than 2.85m may not be used for Outdoor Trading or Alfresco Dining.***



### 1.2.1 Smart Street Mall

Alfresco Dining and Outdoor Trading locations within the Smart Street Mall will be identified at the completion of the current redevelopment and may only be permitted in the identified locations.

Once complete, a plan will be included in these guidelines for clarity.



## 2. Approvals

Three tiers of approval for Outdoor Trading and Alfresco Dining proposals are provided, dependent on the type and scale of trading proposed.

### 2.1 Tier One: Outdoor Trading in Frontage Zone

Approval *is not* required for Outdoor Trading within the Frontage Zone only, subject to the following criteria being met:

- The display of goods being wholly located within the frontage trading zone and being displayed within normal business hours;
- Goods being located outside the premises to which they relate only;
- The display being secured, protected or displayed in a manner that it cannot be displaced by wind or other elements or create an unsightly display on a public thoroughfare;
- The display not being fixed to any footpath, building, asset, pole or other structure unless written approval is sought; and
- The display having a contrasting colour to its background, to assist the vision impaired.
- Public liability insurance to the minimum value of \$10 million being held and maintained by the operator. Operators are required to be able to produce proof of public liability insurance at the request of the City of Mandurah.

**NOTE:** *Where the display of goods is proposed within the Kerbside Zone, Tier Two requirements will apply.*

### 2.2 Tier Two: Alfresco Dining and Outdoor Trading Within Kerbside Zone

As required by the *Local Law*, a permit is required to be obtained:

- for outdoor dining in either, or both, the frontage and kerbside zones; and/or
- for the trading of goods and displays within the kerbside zone.

Where all the criteria within these guidelines have been met and there are no proposed semi-permanent fixtures or fittings, permits will be fast-tracked.

### 2.3 Tier Three: Installation of Semi-Permanent Fixtures and Fittings

Where the installation of semi-permanent fixtures or fittings are proposed, a more detailed assessment is required.

Further details regarding acceptable outcomes are provided in Section 3.7.



## 3. Assessment Criteria

### 3.1 Location

Alfresco Dining and Outdoor Trading may be approved where:

- Located on a footpath with a width greater than 2.85m;
- Located adjacent to a road with a speed limit of less than 60kph;
- The Alfresco Dining and/or Outdoor Trading area proposed does not extend beyond the frontage of the premises to which the trading relates (unless written approval is obtained in accordance with Clause 3.3).
- The Outdoor Trading or Alfresco Dining areas do not obstruct the visibility or clear sight lines for pedestrians and motorists at an intersection of thoroughfares.

### 3.2 Pedestrian Access

- A pedestrian access way must be provided, located 0.8m from the property boundary and be a minimum of 2.0m wide.
- The pedestrian accessway must be maintained free and clear of any obstruction at all times, including moveable signs, menu boards etc.
- Overhead clearance for all signs within the pedestrian accessway is to be a minimum of 2.4m.
- A one metre wide pedestrian access break may be required at suitable crossing points to allow access to premises and the pedestrian accessway from alighting vehicles and pedestrians crossing the road.

### 3.3 Extension of Alfresco Dining/Outdoor Trading areas

Should a business seek to extend their Alfresco Dining/Outdoor Trading Area across the frontage of an adjoining premises, written permission is required from:

- the trader occupying the adjacent premises; and
- the owner of the adjacent premises;

***Note: Obtaining consent from adjacent occupiers/owners, does not prejudice the final decision of the City. This approval will cease if the permission of either the owner or occupier of the neighbouring property or business is withdrawn.***

In some circumstances, the extension of Alfresco Dining areas into parking bays directly in front of an applicants' business may be considered. These requests should be made in writing to the City and will be considered on a case-by-case basis, dependent on location, road environment and feedback from consultation.

Where modifications to the footpath/road network are required, to enable the extension of dining areas into adjoining parking bays, these costs shall be met by the proponent.





## 3.4 Insurance

All businesses with an Outdoor Trading or Alfresco Dining area will be required to carry and maintain public liability insurance to the minimum value of \$10 million.

Operators are required to be able to produce proof of public liability insurance as part of the application process, and at the request of the City of Mandurah at any time.

Where a person holding an Alfresco Dining permit has been granted permission to extend the outdoor dining area across the frontage of adjoining premises, the operator must have appropriate public liability insurance to cover the entire permit area.

## 3.5 Furniture

Public safety and comfort should be considered when choosing furniture. Particular care should be taken with any sharp edges and hinges or other moving parts, to ensure that they do not present a potential hazard to their users.

Furniture should be capable of being removed and stored at the close of business, unless otherwise approved. Further details are outlined in Section 3.7.

The permit holder must remove or repair any furniture the City of Mandurah determines unsuitable.

Any damage to footpath, verge, or other street furniture caused by the placement of any furniture shall be the responsibility of the trader to repair.

### 3.5.1 Tables and Chairs

Tables and chairs must be:

- of a high standard in appearance and style, in keeping with the amenity of the area;
- constructed from high quality materials that are safe and durable;
- resistant to windy conditions (lightweight plastic furniture is not acceptable); and
- located entirely within the approved trading area, and not protrude into the pedestrian access or kerb zones.

### 3.5.2 Umbrellas

Market style umbrellas may be used to provide shade and weather protection for patrons where:

- the use of an umbrella will not interfere with or damage existing items;
- a minimum clearance of 2.4m (at the lowest point) above the ground level can be maintained;
- the canopy of any umbrella does not extend into the kerb zone or road pavement;
- they are maintained to a high standard and securely anchored in accordance to the Australian Standards AS1170 (wind loads) and/or manufacturer's specifications to ensure public safety; and
- are removed or closed in times of strong winds or storms.

***Lightweight gazebos are not considered appropriate shade shelters.***



### 3.5.3 Barriers

Barriers may be used to define Alfresco Dining and Outdoor Trading area boundaries. Where used, barriers must:

- have a maximum height of 0.9m; and
- must be adequately fixed or weighted down to prevent dislodgement.

Barriers requiring in ground sleeves/footings may be permitted subject to written approval (see Section 3.7).

These will require identification and avoidance of existing underground services (in accordance with Utility Providers Code of Practice for Western Australia).

### 3.5.4 Planter Boxes

Planter boxes may be used to further define Alfresco Dining areas, whilst providing visual interest and a vegetated setting. Where used, planter boxes shall be:

- aligned parallel to the kerb and within the permitted trading zone;
- freestanding and moveable, but may be left in place outside of trading hours if not easily moved;
- constructed of durable material adequate to meet functional requirements including resistance to vandalism and impact from pedestrians;
- maintained to a good standard, with all vegetation and material well maintained;

- a minimum height of 600mm and a maximum height of 900mm, with all components higher than 900mm designed to maintain high visual permeability of the Alfresco Dining area; and
- a minimum width of 400mm (inside planter) with a maximum length of 1.5m.

### 3.5.5 Outdoor Heaters

Portable gas heaters (suitable for outdoor use) or similar devices are permissible within Alfresco Dining areas but must be stored within the premises at the end of each day's trading.

### 3.5.6 Lighting and Electrical Installations

Adequate lighting must be provided and maintained by the permit holder to ensure the safety and amenity of both patrons and pedestrians is met outside daylight hours.

All electrical installations connected to lights, devices or appliances situated in or about the Alfresco Dining area require the prior approval of the City and are to be undertaken by a licenced electrician and a Certificate of Compliance provided to the City of Mandurah in regards to the works.

Electrical installations and power cords must not interfere with or obstruct the safe passage of pedestrians or vehicles.

### 3.6 Signage

Advertising on any item of furniture, including barriers shall be limited to the name and logo of the business or names of products sold at the premises. No third-party advertising is permitted.

Advertising is to take up no more than 25% of the surface area of these items.

No product pictures are permitted.

### 3.7 Semi-permanent Fixtures and Fittings



Public and private sector utility installations such as gas mains, electricity and communications cabling, and sewerage pipes, are commonly located within the road reserve, and access to these services may be required at any time.

For this reason, permanent structures are not permitted within the road reserve.

Approval for 'fixed' structures however, may be granted subject to written approval. This may include the installation of 'fixed' barriers, umbrellas or other shade structures.

It should be noted that any structure, fixtures or fittings may have to be removed for street improvements, utility work or emergencies and will be required to be removed upon cancellation of a permit.

In the case of this occurring, the applicant is responsible for the removal, storage and reinstallation of the structure, fixtures and fittings.

Minimum design and construction requirements apply as follows:

- Structures must be designed to be easily removed by the trader, within 48 hours upon notice, if required. Below ground footings with plate/bolt connections are required for ease of removal (posts are not to be direct buried).



- Fixed structures requiring in ground sleeves/footings will require identification and avoidance of existing underground services (in accordance with Utility Providers Code of Practice for Western Australia.
  - Structures are to be of heavy duty, high quality construction that is suitable for the public realm and coastal conditions.
  - Structures should be visually attractive, and the use of a combination of materials to provide interest and character is encouraged.
  - Heavy duty aluminium (clear anodised or powder coated) and/or hardwood timber are preferred materials for post/frame/hard roof structures.
  - All fixings are to be stainless steel/tamper proof.
  - Certified engineering Drawings and Certificate of Design Compliance are required for all structures. Certificate of Design Compliance and certification by a professional engineer to be sought following review of concept and detail plans/elevation and approval by the City of Mandurah.
  - A minimum clearance of 2.75m is required to be maintained between any roof structure and the ground level.
  - No gutters are to be installed with roof grades to direct rain to road.
  - Built in screens/seating/benches can be installed to perimeter edges (café side left open) to a max. 0.9m high;
- Drop down blinds may be permitted on a maximum of two sides of the Alfresco Dining area to provide weather protection, subject to the blinds being:
    - transparent;
    - high quality and durable;
    - used only when required for protection from rain;
    - raised or removed during fine weather and after hours; and
    - maintained in good condition.



## 4. Approval Requirements

### 4.1 Tier One

Approval is not required for Outdoor Trading within the frontage zone, subject to compliance with the requirements of Section 2.1.

Where these requirements cannot be met, or where Outdoor Trading is proposed within the kerbside zone, an application should be completed in accordance with Tier Two requirements as detailed below.

### 4.2 Tier Two

An application form is required to be completed and submitted to the City of Mandurah for all Tier Two proposals. All applications must be accompanied by the following:

- Plans and specification of the proposed dining or display area at a scale of 1:50 showing:
  - The location and dimensions of the proposed dining/trading area;
  - The location of any existing street fixtures and fittings, e.g. street furniture, signs, light poles etc; and
  - The location of any proposed furniture, barriers, planter boxes, displays proposed to be provided in the dining area, and which items, if any, are to be retained within the dining area at all times.

- Details of the days and operating hours for the Alfresco Dining area.
- Number of chairs and tables to be provided.
- Details of the number and location of toilets to be made available to dining customers.
- Written particulars of arrangements made in respect of public liability insurance of not less than \$10 million.
- Payment of the applicable fee.

Permits issued will be subject to an annual licence fee as specified within the City's Annual Fees and Charges.

### 4.3 Tier Three

In addition to the above information, where semi-permanent fixtures are proposed the following additional information is required:

- Plans, elevations and sections of any structure proposed to be erected or altered;
- A detailed schedule of all finishes, including materials and colours of the proposed structures;
- Details of the proposed in ground footing and fixtures proposed; and
- Certificate of Design Compliance and certification by a professional engineer.

Permits issued will be subject to an annual licence fee as specified within the City's Annual Fees and Charges.



## 5. Conditions of Approval

Permits may be subject to conditions relating to:

- the permit holder having non-exclusive rights to establish and conduct an Alfresco Dining area in the relevant area;
- the colour, number, type, form and construction, as the case may be, of any furniture which may be used in the Alfresco Dining area;
- the care, maintenance and cleaning of any furniture used in the Alfresco Dining area;
- the removal and storage of all furniture used in the Alfresco Dining area prior to the close of business of the abutting food business on any day that the Alfresco Dining area is operating;
- the removal of all furniture and fixings used in the Alfresco Dining area for the purposes of events or other activities of the City;
- The requirement to remove any semi-permanent fixtures for street improvements, utility work, or emergencies within 48 hours of receiving notice and returning the area to its original state before the permit was issued;
- the requirement to maintain pedestrian access between the Outdoor Trading area and the abutting business;
- the Alfresco Dining or Outdoor Trading area not impeding or obstructing any City property or public place used by either pedestrians or vehicles;

- the requirement to maintain clear sight lines for vehicles entering or leaving City property, a thoroughfare or a vehicle crossing;
- the payment of costs associated with preparing any City of Mandurah property or public place for use as an Alfresco Dining area including the reshaping of footpaths and marking the boundaries of the Alfresco Dining area;
- the payment of costs associated with repair to any damage to footpath, verge, or other street furniture caused by the operation of the Alfresco Dining or Outdoor Trading area;
- the need for public liability insurance of \$10 million indemnifying the City of Mandurah from any claims that may arise out of the use of the area subject to the permit; and
- The prohibition of smoking within all outdoor dining areas.

Permits may be cancelled or suspended if:

- the Permit Holder has not complied with the conditions of the Permit.
- the Permit Holder has not complied with a provision of any written law that relates to the activity regulated by the Permit.
- there is non-payment of the applicable fees and charges.
- the City of Mandurah or a utility requires access to or near the Alfresco Dining area for the purposes of carrying out works in or near the vicinity of the Alfresco Dining area.