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WESTERN AUSTRALIA

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City of Perth Alfresco Working Group  
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## **REVIEW OF CITY OF PERTH**

### **ALFRESCO DINING LOCAL LAWS & POLICIES**

The Australian Hotels Association WA (AHA) supports this review of alfresco dining in the City of Perth. We welcome the opportunity to consider the local laws and policies regulating these extended eating and drinking spaces and make recommendations that balance the interests of hospitality ratepayers and the modern demands of consumers.

As the peak industry body representing the commercial interests of tourism, accommodation hotel, licensed pubs, taverns, restaurants and small bar operators, our liquor licensed membership accounts for around 50% of all alfresco licenses in the City of Perth.

Investment by hospitality businesses in alfresco areas has played an important role in re-invigorating the City and re-activating forgotten precincts and laneways by attracting more foot traffic to coffee strips, main streets and public spaces. Outdoor dining has been able to bring together public and private spaces by allowing patrons to stop and enjoy a meal and or a drink whilst passively interacting with their surroundings and passers-by.

As a tourism destination, our climate lends itself to comparisons with European tourism favourites like Barcelona, Naples or Venice. The temperate climate in Perth attracts over 265 sunny days a year, lending itself favourably to comparisons to the Mediterranean cities that utilise alfresco dining areas extensively.

Since local laws and policies were last reviewed, the City of Perth and its hospitality landscape has changed and evolved. Private business investment by tourism, hotel accommodation, taverns, small bars and restaurant operators has contributed to a renewed interest in our capital city. New businesses strengthen the mix of hospitality options available to tourists and visitors, helping to grow the day and night-time economy.

Alongside traditional business investment, the City has embraced new and flexible food and beverage operations with more temporary events supported by the City and Metropolitan Redevelopment Authority (MRA). For example, mobile food trucks now trade at locations around the city and 'pop-up' food and beverage operators have become increasingly commonplace.

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Consumers have embraced alternative outdoor dining options, however there has been no corresponding innovation or flexibility offered to hospitality venues allowing them to offer a competitive alfresco experience.

Tough economic conditions have had the greatest impact on hospitality businesses with recent data showing the group presents the highest risk of insolvency. Recent closures represent the tip of the iceberg for the industry which has worked hard to compete for declining discretionary spend and tightening in corporate spend.

Venues have had to be more innovative to meet the challenges presented by tough economic conditions and would welcome the opportunity to better utilise these extended licensed areas.

The AHA has developed five recommendations that respond to the need for reduced administration and costs on council ratepayers and provision of alfresco areas that appeal to the evolving demands of consumers for alfresco dining.

Specific recommendations have been identified in relation to the following matters:

1. Reduction of the alfresco fee per square metre to reflect the low level of servicing of alfresco areas, with renewal periods and related fees extended to three years.
2. The minimum pedestrian clearance in the Central Perth area be reduced to 2000mm – 2400mm dependent on the zone.
3. If supported, Parklet policies must allow for the establishment of public and private parklets and establish requirements for applicants to consult to ensure the creation of these new spaces do not unfairly compete with existing business.
4. Local laws and policy be amended to provide for the preparation of beverages in alfresco areas, limited to licensed venues where the primary purpose of the license is the sale and supply of liquor.
5. City of Perth seek support from DLGSC for simultaneous processing of ETP alfresco licences, which represent a low risk to the community.

### **Alfresco Fees and Charges**

Hospitality businesses already contribute greatly to Council rates and these venues are therefore seeking relief from the full rate and schedule of fees and charges associated with alfresco areas.

Under section 6.16 and 6.17 of the *Local Government Act 1995*, City of Perth is able to impose and set fees and charges which include but are not limited to payment of council rates, parking levies, emergency services fees, health and building inspections, and fire alarm fees.

Alfresco licenses represent an additional cost to businesses with fees and charges consisting of a fee on new applications; an annual rate applied by square metre and a further fee for renewal of licenses. A comparison of costs by capital city is outlined in Figure 1.

**Figure 1 - Schedule of Capital City Alfresco Fees and Charges**

	New Application	Rate per Square Metre	Renewal Fee	Renewal Period
<b>Brisbane</b>	\$792.45	\$128 - \$445.40	\$111.25	1 year
<b>Sydney</b>	\$360	\$125 - \$640	\$110	<3 years*
<b>Adelaide</b>	\$350	\$34 - \$39.00	\$350	1 year
<b>Perth</b>	\$135	\$80 - General \$115 – SubCentral & Northbridge \$130 - Hay Street West \$150 - Central	\$125	1 year
<b>Melbourne</b>	\$50	\$33.55 - \$69.18	\$50	2 years
<b>Canberra</b>	Nil	\$65.70 - \$91.25	Nil	1 year

\*at the discretion of Council

Standard conditions in the Local Law and Policy relating to alfresco areas make alfresco licensees responsible for all costs. These are stated in the Local Law and Policy as follows:

- 2.6 l) *the payment of all fees, charges, rates and taxes levied or incurred as a result of the establishment and operation of the alfresco dining area*
- m) *the payment of costs associated with the City preparing the public place for the use as an alfresco area including but not limited to the reshaping of footpaths and marking the boundaries of the alfresco dining area.<sup>1</sup>*
- 2.3 (j) *be solely responsible for all rates and taxes levied upon the alfresco area*

In determining an application, officers are guided by a range of matters. Consideration is given to the safety, compatibility with existing uses, pedestrian and vehicle access, potential for nuisance, amenity, and aesthetic suitability<sup>2</sup>.

Businesses cover all costs relating to any works required including any construction or roadwork required to comply with pedestrian, traffic and parking requirements, establishment of permanent or temporary barriers, sufficient lighting, provision of suitable seating and shade.

Conditions also require businesses to 'ensure that alfresco dining areas are kept in a clean and tidy condition at all times'<sup>3</sup>. To meet this condition, staff are required to remove all furniture and clear the extended areas overnight.

Businesses have observed an imbalance between the costs incurred by business to establish and maintain alfresco areas and the level of servicing provided by the City given the return these spaces provide to the city.

New applications fees consisting of an assessment and inspection fee are considered broadly competitive against application fees nationally. However, once approved, alfresco licensees pay an annual fee per square metre of footpath that can add more than \$20,000 to a business' annual operating expenses. Renewal fees also add an additional \$125 per annum.

Council is encouraged to look for opportunities to streamline administration, fees and charges to reduce the impact on business. This can be achieved by extending the renewal period and reducing the renewal fee to recover the cost of inspections.

<sup>1</sup> *Alfresco Dining Local Law 2009, 2.6 (j)*

<sup>2</sup> CP14.1 Alfresco Dining 200 – Council Policy Manual 2.2

<sup>3</sup> CP14.1 Alfresco Dining 200 – Council Policy Manual 2.3 (g)

This is consistent with the approach taken in more populous capital cities like Sydney and Melbourne who offer businesses lower application fees and rates for periods of up to 3 years. A licensed period of 3 years awards operators with good records of compliance and reduces costs and administration on business.

#### AHA Recommendation

Reduction of the alfresco fee per square metre to reflect the low level of servicing of alfresco areas with renewal periods and related fees extended to 3 years.

### **Pedestrian Clearance**

Public footpaths need to provide safe, dignified and equitable access to pedestrians and other users travelling along the street and footpath. However, current minimum pedestrian clearances in the City of Perth exceed national standards and may provide scope for revised safe distances between premises and alfresco areas.

National standards under the Building Code of Australia (BCA) set out requirements for access to premises that allow for a minimum of 1000 mm with passing spaces at regular intervals. This takes into consideration obligations under the *Disability Discrimination Act*.

While public footpaths are not subject to the BCA Standards, they are subject to the general non-discrimination provisions of the DDA<sup>4</sup> and are used as a guide in relation to footpaths.

City of Perth currently stipulates a minimum clearance from the building line to the alfresco area of 3000 – 4000mm, a distance that generously exceeds a maximum width of 1800mm required for two people using wheelchairs to pass each other.

A comparison of minimum pedestrian clearances in other capital cities shows that Perth clearances are generous and exceed provisions in populous and vibrant city centres like Sydney and Melbourne CBD by 1000-2000mm. (See Figure 2).

**Figure 2 – Schedule of Minimum Pedestrian Clearances by Capital City**

MINIMUM PEDESTRIAN CLEARANCE		
<b>Brisbane</b>	CBD	2400mm
	Suburban	2000mm
<b>Sydney</b>	Streets	2000mm
	Central Laneways	1200mm
<b>Adelaide</b>	CBD	2000mm
<b>Perth</b>	Central	3000 - 4000mm
	Other	2500mm
<b>Melbourne</b>	Bourke, Lonsdale, Flinders, Elizabeth and Queen Sts	2000mm
	Lygon St	2000mm
	General Central	2000mm
<b>Canberra</b>	CBD	2000mm

<sup>4</sup> <https://www.humanrights.gov.au/frequently-asked-questions-access-premises>

Businesses would benefit from an increase in the available alfresco space allowing for more seating for patrons within the required ratio of 1 patron per 1m<sup>2</sup>.

#### AHA Recommendation

The minimum pedestrian clearance in the Central Perth area be reduced to 2000mm – 2400mm dependent on the zone.

### **Parklets**

City of Vincent describes parklets as a “small public park set into the existing streetscape... [they] repurpose part of the street into a public space for people and enhance the streetscape by adding interest and amenity. They are for anyone to use, and to provide a place to rest, eat or work.”<sup>5</sup>

In design, parklets are raised platforms which are constructed over existing parking spaces. They have already been introduced in nearby City of Vincent and Town of Victoria Park, nationally in capital cities like Hobart and Adelaide and embraced internationally.

The AHA recognises the contribution parklets can make to the revitalisation of cities and communities and supports the introduction of parklets as an alternative to footpath alfresco dining. In particular, where alfresco is constrained by parking bays and insufficient pedestrian clearance.

Parklet design, materials and construction requirements, recovery of lost fees through parking, any associated expenses together with the requirements for public liability insurance significantly add to the costs of establishing a parklet. It follows that businesses be afforded the right to determine whether to make the space public or reserve it for the exclusive use of patrons.

Careful consideration needs to be given to the number of parklets approved within the City of Perth to ensure that the removal of street parking does not remove necessary street parking.

Finally, applications for parklets should be subject to requirements for consultation to ensure that the establishment of public spaces do not unfairly disadvantage adjacent or nearby businesses.

#### AHA Recommendation

If supported, Parklet policies must allow for the establishment of public and private parklets and establish requirements for applicants to consult to ensure the creation of these new spaces do not unfairly compete with existing business.

### **Preparation of Beverages in Alfresco Areas**

Consumer tastes for alfresco drinking and dining have evolved with more patrons seeking alternatives to the traditional licensed built environment by patronising mobile food trucks, food festivals and temporary bars.

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<sup>5</sup> <https://www.vincent.wa.gov.au/business/town-centres-in-vincent/parklets.aspx>

With 'pop-up' events and venues becoming increasingly common-place, licensees are seeking the opportunity to better utilise their extended areas.

Relaxing the rules to allow full-time hospitality venues, bars and pubs to be able to mix drinks, serve drinks, prepare drinks and dispense drinks in alfresco areas makes sense. More specifically, this allows licensed venues to provide a more competitive offering.

The current alfresco dining policy prohibits licensees from preparing beverages in alfresco areas. We consider changes to this policy and any other necessary consequential amendments appropriate to allow businesses to locate temporary bars in these extended spaces to better activate and service patrons.

With respect to the service of liquor, the AHA seeks that this proposal be limited to hotels, taverns, small bars and selected special facility licenses, as this is consistent with the predominant purpose of their licence - the sale and supply of alcohol.

No limit should be imposed on the ability to prepare beverages in alfresco areas as demand would be self-regulated. If conditioned, licensees would be required to ensure the presence of additional RSA-trained staff and crowd controllers to satisfy liquor licensing regulations and licensees' interests in providing a safe and responsible licensed environment for patrons.

#### AHA Recommendation

Local laws and policy be amended to provide for the preparation of beverages in alfresco areas, limited to licensed venues where the primary purpose of the license is the sale and supply of liquor.

### **Liquor Service in Alfresco Areas**

To serve liquor in alfresco areas, licensed businesses must submit to a two stage process through Council and Liquor Licensing. This method adds extra time-costs, administration and expense to businesses.

Upon receiving approval by the City, businesses apply to the Department of Local Government, Sport and Cultural Industries (DLGSC), formerly the Department of Racing, Gaming and Liquor, for an Extended Trading Permit – Alfresco.

Applicants submit a copy of their "Licence to Set Up and Conduct Dining" issued by the local authority, a written submission, public interest assessment, plans and specifications accompanied by a prescribed application fee of \$345.<sup>6</sup> This process can add to the time taken to approve applications, particularly if DLGSC require the application be advertised or if it is subject to an intervention by WA Police and Health.

Predominantly, alfresco ETPs are approved by DLGSC adopting all trading conditions imposed by Council on the alfresco licence. This is largely reflective of the similar matters considered by both authorities including the impact of patrons on local amenity, noise and potential for nuisance.

It is considered that there exist some areas of duplication in the application processes of both authorities which could promote opportunities to reduce red tape on business and

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<sup>6</sup> [http://www.rgl.wa.gov.au/docs/default-source/rgl/etp\\_liquor\\_without\\_a\\_meal.pdf?sfvrsn=2](http://www.rgl.wa.gov.au/docs/default-source/rgl/etp_liquor_without_a_meal.pdf?sfvrsn=2)

government. Consideration should also be given to bringing renewal periods into line. Currently, DLGSC alfresco ETPs are approved for up to 10 years compared to the City's annual licence renewal.

AHA Recommendation

City of Perth seek support from DLGSC for simultaneous processing of ETP alfresco licences, which represent a low risk to the community.

The AHA appreciates the opportunity to make a submission to this review. Should you require any further information or would like to request a meeting to seek clarification on any of our recommendations, please contact Victoria Jackson, Government Relations Manager on 9321 7701.

Regards



**Bradley Woods**  
**CEO/ Executive Director**