

# Alfresco Dining

## Introduction

This is a Local Planning Policy (LPP) prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

## Objective

The policy establishes guidelines that will:

- Apply to all commercial alfresco dining activities within the Shire of Toodyay.
- Permit the establishment of outdoor eating areas within the Shire of Toodyay in such a way that they do not jeopardise the safety of patrons, pedestrians or motorists.
- Ensure that the alfresco dining area is not detrimental to the surrounding uses in terms of interference of pedestrian or vehicular access, visual amenity or the creation of excessive noise or rubbish.

## Scope

This policy applies to Commercial Alfresco Dining applicants who must be a registered food business within the Shire of Toodyay and have a tenancy outdoor dining will be situated, with clear and unobstructed access and views to this area.

Each application will be assessed by the Shire on a case-by-case basis.

## Definitions

Term	Definition
Act	<i>Planning and Development Act 2005</i>
Alfresco dining	Outdoor dining or drinking or both in a public place.
Alfresco dining area	An approved area in which tables, chairs and other structures can be placed for the supply and consumption of food or beverages, or both. Furniture and other approved items must be always located within this area when the business is operating.
Alfresco dining permit	A permit, approved by the Shire of Toodyay, which allows the operation of an Alfresco dining area in a public place Under the Thoroughfares and trading in thoroughfares and public place local law 2001, a permit from the Shire of Toodyay is required to operate an alfresco dining area in any public
Applicant	The business or representative of a registered food business formally applying to operate an outdoor dining area in a public place, within the Shire of Toodyay.

Term	Definition
CEO	Chief Executive Officer
Council	The local government, responsible for making decisions in formal meetings held under the auspices of Part 5 of the <i>Local Government Act 1995</i> and under the <i>Shire's Standing Orders Local Law 2008</i> .
Fixed items	Furniture and items that are permanently fixed in the street and not easily removeable at short notice or at the end of trading each day. This includes glass screens.
Non-fixed items	Furniture and items that can be easily and quickly removed from the alfresco dining area are considered non-fixed. This includes tables and chairs.
Permit holder	The business or representative of the business that holds an alfresco dining permit.
Public place	A public place is a location to which every member of the public has access and is not a place exclusively used for a private gathering or any other personal purposes.
Regulations	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
Semi-fixed items	Furniture and items which require a permanent footing or structural installation system. This includes umbrellas, canvas screens and planter boxes.
Shire	the Shire of Toodyay.

## Policy Statement

No person shall establish an alfresco dining area or activities within the Shire without first obtaining the written approval of the Shire.

### 1. Application Requirements

- 1.1 No person shall establish an alfresco dining area or activities within the Shire without first obtaining the written approval of the Shire.
- 1.2 Applications for alfresco dining will be treated as a Development Application and considered in accordance with this policy, the *Shire of Toodyay Thoroughfares and Trading in Thoroughfares and Public Places Local Law* and the *Shire of Toodyay Local Planning Scheme No 4*.
- 1.3 An alfresco dining area will be approved only where the proposal is part of an application to establish an eating house within an adjacent building or is

proposed as an extension of an existing eating house already operating within an adjacent building.

- 1.4 An application for approval to establish an alfresco dining area, in addition to the usual application requirements, should be accompanied by the following information (Printed or electronic plans accepted):
  - (a) Plans, drawn to scale (1:50), indicating the number, location and dimension of proposed tables and chairs and their relationship to the building in which the eating house is located.
  - (b) A colour photograph, or manufacturer's brochure, of the tables, chairs and other structures to be set up in the alfresco dining area.
  - (c) Details of the total number of patrons seats, including those existing and those proposed (both inside and outside the premises) as well as details on the total number of sanitary conveniences; and
  - (d) Certificate of currency for public indemnity insurance to a minimum value of \$10 million.
- 1.5 Alfresco dining areas will only be supported where the Council considers them to be appropriate to the character and functions of the area in which they are proposed to be located.
- 1.6 The Council may vary the requirements of this policy, where it is considered that full compliance with the policy is impractical or such variation is warranted in the circumstances of the case.

## **2. Vehicle and Pedestrian Movement**

- 2.1 Alfresco dining areas will not be approved where the gathering of customers or the elements of design will impede pedestrian or vehicular movements or negatively impact on vehicle or pedestrian sight lines at road junctions and vehicle access crossovers.

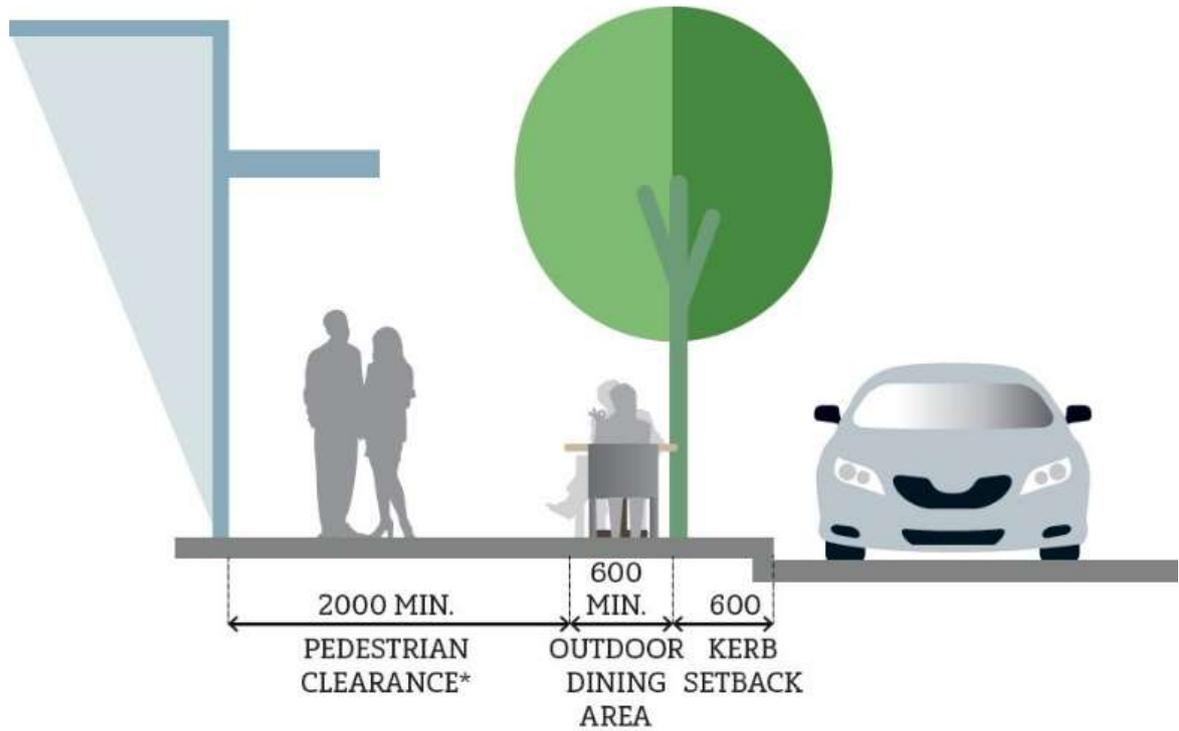
## **3. Clearance and setback**

- 3.1 The minimum width of an outdoor dining area is 600mm from the face of kerb; relevant kerb setback and pedestrian clearances (see Fig. 3) will need to be allowed for.
- 3.2 The following minimum clearances and setbacks (see Fig 4) are required to ensure safe pedestrian movement and existing street functions are maintained.

## **4. Pedestrian clearances**

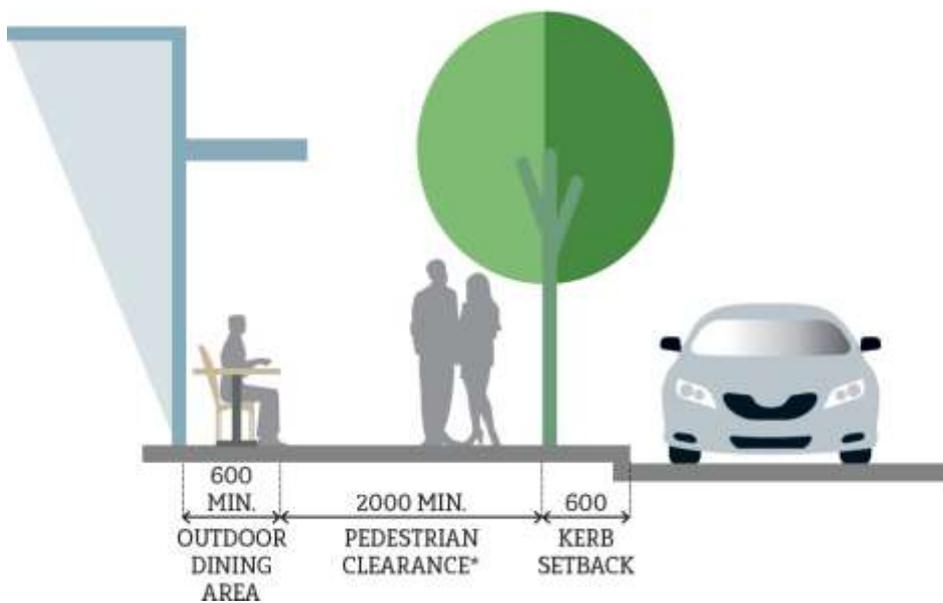
- 4.1 A minimum continuous clear width of 2m for pedestrian circulation is required for footpaths throughout the Shire (see Fig 4).
- 4.2 The Shire of Toodyay reserves the right to vary pedestrian clearances to respond to the local conditions of the proposed outdoor dining area, including pedestrian and vehicular traffic volumes, footpath conditions and other street uses.

**Figure 3:** Kerb Setback with outdoor dining adjacent to kerbs



*\*Pedestrian Clearance determined by Figure 2: Pedestrian Clearances*

**Figure 4:** Kerb Setback with outdoor dining adjacent to building in low pedestrian volume area



## **5. Kerb setback**

- 5.1 A setback of 600mm is required from the front face of kerb to the outdoor dining area or pedestrian clearance if outdoor dining is adjacent buildings. This helps creates a safe environment for patrons and should reduce the likelihood of conflicts with on- street activity.
- 5.2 Where an alfresco dining area is situated adjacent to a major roadway, consideration should be given to the protection of the dining area from vehicles through the use of bollards or other similar features.
- 5.3 Alfresco dining areas should not be located in such a way that access from the footpath to kerbside parking is obstructed.
- 5.4 The exits from the main building that the alfresco dining area is associated with are not to be impeded in any way.
- 5.5 The alfresco dining area is to be designed to accommodate disabled access.
- 5.6 The alfresco areas will need to be designed to accommodate emergency vehicle movements.
- 5.7 The Shire of Toodyay will determine the impact and appropriateness, with respect to location, for all outdoor dining applications and amendments. The final location and position of the outdoor dining area is subject to the Shire's approval.
- 5.8 Please be aware that not all locations are suitable for setting up an outdoor dining area.
- 5.9 In minor streets and laneways, and areas with low pedestrian activity, outdoor dining may be aligned adjacent to buildings, subject to the Shire's approval.

## **6. Designing the outdoor dining area**

- 6.1 Outdoor dining areas should respond to the existing street environment. Culturally significant features and street trees should be integrated into the space. Unless approved by the Shire they should not be removed, relocated, or modified.

## **7. Advertising and signage**

- 7.1 Advertising should be kept to a minimum.
- 7.2 The Shire does not support advertising in outdoor dining areas as it privatises the public space and adds visual clutter.
- 7.3 Advertising on any item of furniture, including barriers, shall be limited to the name and logo of the business.
- 7.4 No third-party advertising is permitted.
- 7.5 Advertising is to take up no more than 10 per cent of the total surface area of these items. There shall be no advertising on tables or chairs.
- 7.6 Advertising of product brand names is limited to umbrellas and must only relate to products sold at the business, with no liquor or tobacco advertising.
- 7.7 No product pictures are permitted.

## **8. Electrical Works**

8.1 No lighting or other items requiring mains power, including point-of-sale and power outlets, are to be installed in the public place. All electrical works need to be contained within the private lot.

## **9. Placement of furniture and fixtures**

9.1 Outdoor dining furniture and fixtures shall be located so that:

- Clear and unobstructed views of the outdoor dining area from inside the business are maintained.
- Street frontages are not obstructed.
- Natural air and light is maintained.

## **10. Permanent and semi-permanent structures**

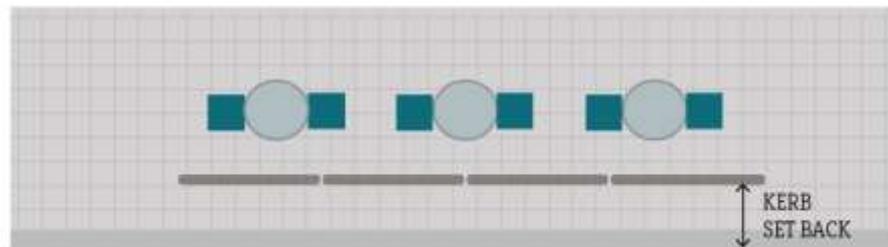
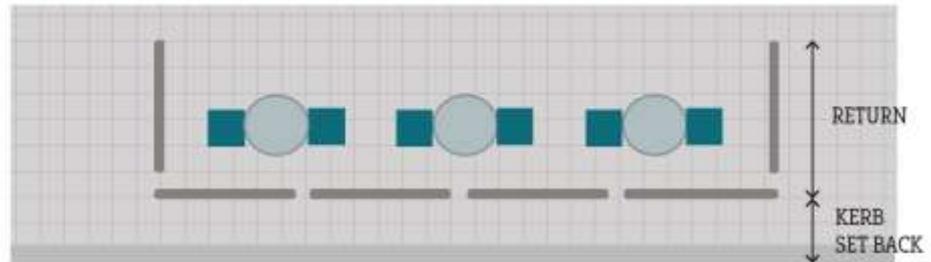
10.1 Permanent and semi-permanent structures compromise pedestrian access and obstruct views of and through the public place.

10.2 Ensuring that businesses, pedestrians and vehicles can see and be seen is key to the success of public places with outdoor dining areas.

10.3 These structures create maintenance issues and privatise what is a public place. As such, permanent and semi-permanent structures are not permitted, including:

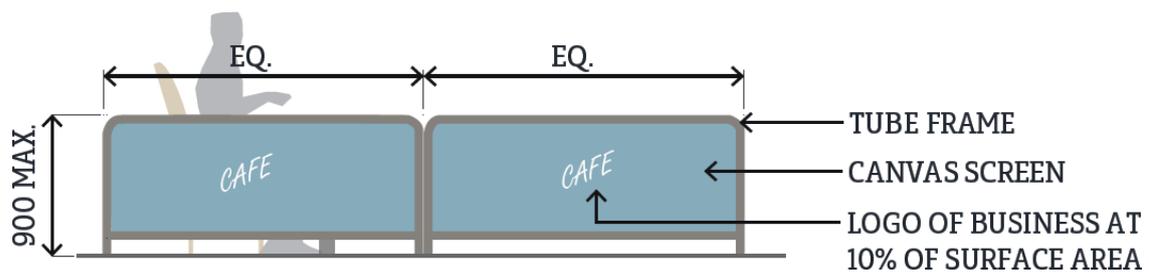
- Decking over existing paving
- Shipping containers
- Canopies
- Pergolas
- Canvas and plastic blinds
- Drop down shades
- Plastic covers
- Temporary shelters
- Walls (timber or brick)

10.4 Existing structures such as verandas, awnings and trees should be integrated into the outdoor dining area, to provide shade and shelter. Using additional structures where these items are present, makes the public place feel cluttered and detracts from the building's frontage and street appearance.



## 11. Barrier furniture

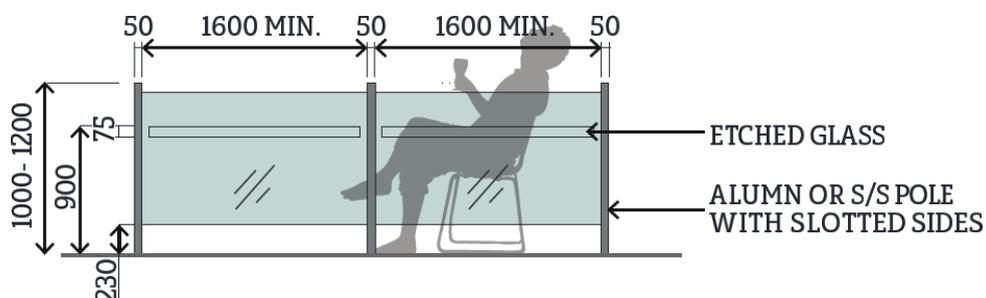
- 11.1 The Shire does not encourage the use of items that create a barrier between the outdoor dining area and the public place, as they compromise pedestrian access and obstruct view of and through the public place. Barriers are not encouraged where there is already protection from on-street activity in the form of kerbside parking and lanes.
- 11.2 Barriers will only be considered for approval where protection from the street environment is required for the outdoor dining area to be useable, as determined by the Shire.
- 11.3 Barriers should not be used to enclose the area as this presents issues with cleaning and maintenance.
- 11.4 If barrier furniture is approved, only one type of barrier may be used for each outdoor dining area (i.e., a combination of canvas screens and planter boxes is not permitted).
- 11.5 Barrier furniture must help create a high-quality urban space and should not obscure street frontages. Barrier furniture includes:
- Canvas screens
  - Glass screens
  - Planter boxes barrier furniture shall be placed:
    - Parallel with the road, on the kerbside boundary of the alfresco dining area (figure above)
    - Abutting, with no gaps between barrier furniture shall not be placed
    - Between the building and outdoor dining area perpendicular to the road



## 12. Barrier requirements

### 12.1 Canvas screens

- Be placed according to the requirements of barrier furniture and semi-fixed items.
- Made of a canvas material with metal frame.
- 900mm high to ensure the street remains open in appearance and feel.
- Positioned with weighted footings, which do not pose a trip hazard. Footings must attach directly to the screen and must prevent the screen blowing over in strong winds. Additional weights to secure the screens and footings, such as sandbags, are not permitted.
- Designed in accordance with above figure.



### 12.2 Glass screens

As glass screens need to be permanently fixed, they impact on the openness and character of the public place outside of trading hours. They also make cleaning and maintenance of streets difficult. Glass screens will only be considered for approval where permanent protection from the street environment is required for the alfresco dining area to be useable, as determined by the Shire.

Glass screens shall be:

- Placed according to the requirements of barrier furniture and fixed items.
- Simple in appearance and design.
- Between 1000mm and 1200mm in height

- Designed with a 230mm gap between the ground and base of the glass panel.
- Designed and certified by a structural engineer.
- Compliant with Australian Standards. Consideration shall be given to the requirements of glass panels in public place.

### 12.3 Planter boxes

Plant species shall be hardy and low maintenance. Consideration should be given to the ongoing upkeep of the plants including vandalism. The Shire can provide advice on the selection of plants, upon request.

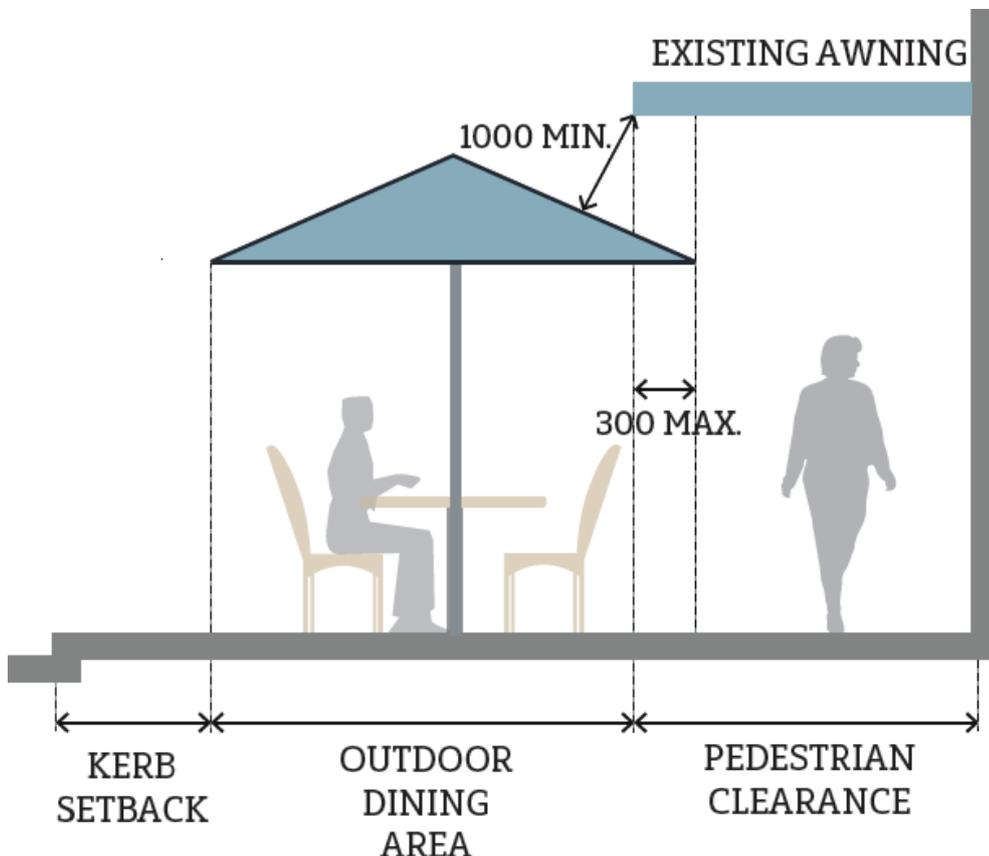
Planter boxes shall be:

- Be placed according to the requirements of barrier furniture, and semi-fixed items or fixed items.
- Made of metal or timber only.
- No greater than 1800mm long x 800mm wide x 1000mm high.

### 12.4 Retractable Awnings

Retractable awnings should only be used where verandas, permanent awnings, trees, or other forms of existing shelter are absent.

Note that retractable awnings are subject to approval and will require a Development Application to be submitted to the Shire.

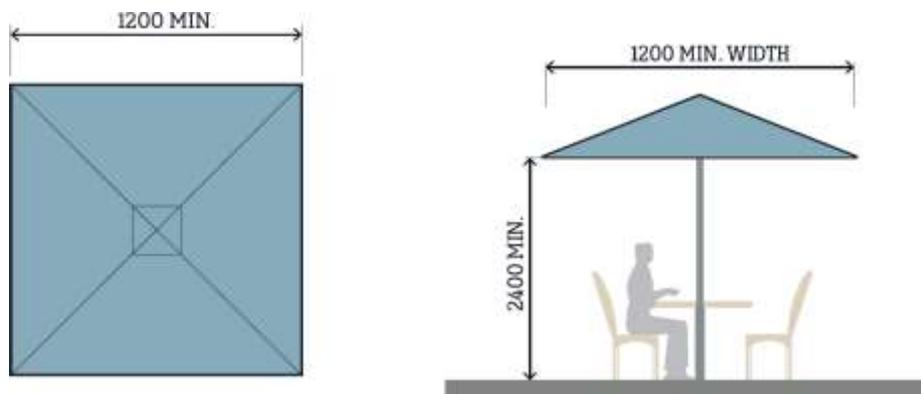


## 12.5 Umbrellas

Umbrellas should only be used where verandas, awnings, trees, or other forms of existing shade or shelter are absent. Using umbrellas where these items are present makes the public place feel cluttered and detracts from the building's frontage and street appearance.

Umbrellas:

- Shall be placed according to the requirements of semi-fixed items.
- Shall be placed 1000mm minimum, in all directions, from buildings and existing infrastructure such as canopies, verandas and trees



- Canopy cannot extend more than 300mm beneath an existing awning, veranda or canopy.
- Canopy may extend a maximum of 300mm over the outdoor dining area boundary facing the shopfront and shall comply with kerb setbacks outlined above.

Umbrellas shall:

- Be minimum 1200mm wide with a 2400mm vertical clearance.
- Have a structural grade aluminium frame.
- Be a patented product, with structural design considerations (wind speed, wind pressure, and live loads) that are compliant with Australian Standards.

Umbrella fixings:

- To prevent blowing over in strong winds, umbrellas shall be securely fitted into a socket and sleeve footing, such that they are not a trip hazard.
- Socket and sleeve footings shall have a protective lid that will not present a tripping hazard when the umbrella is removed at the end of trading.
- Footing sockets for umbrellas shall be designed and constructed so that the pavement is not damaged.

- Details of the footing design shall be provided to the Shire as part of the application process.

### 12.6 **Portable gas heaters**

Heaters may be used in outdoor dining areas subject to the Shire's approval. They must be compliant with all relevant safety standards and placed so that they do not pose a fire hazard or present a safety issue to patrons or the community.

For patron and venue safety, heaters must be free-standing, self-contained and stable. They shall be removed and properly stored when the outdoor dining area is not being used.

### 12.7 **Maintenance**

All furniture, planters and other fixtures must be maintained in a physically sound, and safe condition to the Shire's satisfaction.

Umbrellas shall be replaced by the permit holder every three to five years or at signs of weathering, such as fading or fraying, to ensure a high level of presentation is maintained.

## 13. **Planting**

Plants require constant attention and, if allowed to deteriorate, can have a negative effect on the streetscape. To ensure a high level of presentation, the following guidelines for the maintenance of planter boxes apply:

- Planter boxes shall be constantly checked and maintained to a high standard by the business owner. Plants are to be in good health and must look neat and tidy at all times. To ensure this, they must be appropriately pruned, watered, fertilised, and receive enough sunlight.
- The business owner is responsible for the replacement of dead plants and the removal of rubbish such as cigarette butts.

Planter boxes that are sparse, overgrown, or weedy must be removed from the outdoor dining area immediately, and only returned once they are appropriately filled out. Failure to do so will result in approval of the planter boxes being withdrawn

## 14. **Food And Beverage Hygiene**

The following requirements apply to food and beverage hygiene, including service and preparation, in outdoor dining areas:

- The permit holder is not permitted to prepare food in the outdoor dining area. There is the allowance of service of pre-packaged food from within the outdoor dining area. All food is to be prepared in an approved food preparation area.
- Beverage preparation and service from within the outdoor dining area is allowed.
- The permit holder is to discourage patrons from feeding birds in the outdoor dining area.

## 15. Alfresco Dining – Fees & Renewal

- 15.1 The imposition of application and renewal fees for alfresco dining establishments will only apply to activities that will occur on Council controlled land.
- 15.2 Council shall charge an initial application fee and annual renewal fee as set in the Shire of Toodyay Schedule of Fees and Charges.
- 15.3 The application to operate an alfresco dining area must be renewed on a twelve-monthly basis.
- 15.4 Council reserves the right to refuse renewal for an alfresco dining area or to revoke approval at any other time if it considers that the alfresco dining area has not or does not fully comply with the requirements of this policy, the Council's current Local Planning Scheme and the Shire of Toodyay Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

## 16. Change of ownership

- 16.1 If the ownership of the business with an approved permit is transferred, the new proprietor is responsible for submitting a revised application form noting the change of ownership. They will be issued with a new permit subject to meeting the eligibility criteria and conditions. A permit application fee will apply to this process.

### Reference Information

Nil.

### Legislation

- [Planning and Development Act 2005](#)
- [Planning and Development Regulations 2009](#)
- [Planning and Development \(Local Planning Schemes\) Regulations 2015](#)
- [Shire of Toodyay Local Planning Scheme](#)

### Associated documents

Internal.

### Version control information

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