

The Town of Mosman Park



POLICY NAME:	ALFRESCO DINING IN PUBLIC THOROUGHFARES
POLICY NUMBER:	3.2.10
RELATED POLICY:	
ADOPTION DATE:	23 MARCH 2010 (OCM-72-2010)
POLICY OWNER:	EXECUTIVE MANAGER DEVELOPMENT SERVICES

1. TITLE

Alfresco Dining in Public Thoroughfares

2. POLICY STATEMENT

3. PURPOSE

4. SCOPE

5. OBJECTIVE

- Encourage high quality alfresco dining to enhance the amenity, vitality and ambience of the Town of Mosman park;
- Provide a comprehensive framework for the development, management and control of alfresco dining;
- Ensure that alfresco dining does not interfere with the safe and reasonable movement of pedestrian and vehicular traffic; and
- Ensure that alfresco dining does not impact on the amenity of residential areas.

6. POLICY DETAILS

1. Application of Policy

This policy applies throughout the district, except Stirling Highway, which is under the control of Main Roads WA.

2. Definitions

In this policy, unless the context otherwise requires –

“Act” means the Local Government Act 1995.

“alfresco dining area” means an area in which tables, chairs and other structures are provided for the purpose of the consumption of food or beverages or both by the public on a public thoroughfare.

“local law” means the Town of Mosman Park Thoroughfares Local Law.

Words and expressions used in this policy which are not defined in this policy have the meanings given to them in the Local law and the Act.

3. Relationship with Liquor Act, Health Act and Local Laws

All applications for alfresco dining shall comply with:

- Liquor Control Act 1988
- Health Act 1911
- Town of Mosman Park Thoroughfares Local Law

4. Documents Which Are to Accompany an Application for a Licence

An applicant for a licence shall make an application by forwarding to the Chief Executive Officer:

- The fee; and
- The completed application in the form prescribed in Schedule 1 and all plans and other documents required to be attached to the application.

5. Matters to be Considered

The matters to which the Town of Mosman Park may have regard in determining an application for a licence include:

- (a) The desirability of the alfresco dining in the proposed alfresco dining area;
- (b) The proposed location of the alfresco dining area including but not limited to-
 - i. the size of the proposed location;
 - ii. safety issues such as levels and speed of traffic;
 - iii. whether any hazard or obstruction is likely to arise from alfresco dining;
 - iv. compatibility with existing uses including but not limited to, other businesses, street entertainment, loading zones, bus stops, trees and fixed street furniture; and
 - v. compatibility with pedestrian, vehicle and emergency access;
- (c) Whether the proposed alfresco dining area will-
 - i. obstruct the visibility or clear sight lines of any person at an intersection of thoroughfares; or
 - ii. impede pedestrian access;
- (d) Whether the proposed furniture-

- i. is unsuitable, in any respect to the location in which the licence is to operate; or
 - ii. may obstruct or impede the use of the public place for the purpose for which it was designed;
- (e) Whether users of the alfresco dining area will have access to proper and sufficient sanitary and ablutionary conveniences;
- (f) Whether alfresco dining is in keeping with the amenity of the locality of the proposed location;
- (g) Whether the interests of the amenity of the locality of the proposed alfresco dining area or public safety, or both, require that because of the locality, the alfresco dining should be of a higher standard or of an alternative form;
- (h) Potential for nuisance, including rubbish, increased noise, or anti-social behaviour;
- (i) Whether the application for a licence is an application for the renewal of a licence under clause 2.6 of the local law; and
- (j) Any other matters that the Town of Mosman Park considers to be relevant in the circumstances of a case.

6. Location

- i. The alfresco dining area should be located directly adjacent to the eating house.
- ii. The alfresco dining area must provide for a minimum clearance for pedestrians of 1.2m in a location determined by Council. If the alfresco area is located adjoining the street it shall be setback from the kerb to allow adequate setback from the street. A setback of 0.6m shall be required where the area adjoins parallel parking.
- iii. Alfresco dining will be prohibited within at least 6 metres of the building line on a street corner except in exceptional circumstances.

7. Number of Chairs

A maximum of one chair (in other words, patron) per square metre may be located in an alfresco dining area subject to any restrictions imposed by other laws including but not limited to, the Building Code of Australia.

8. Placement of Furniture

- i. The placement of furniture must not compromise the access and safety of patrons, pedestrians and emergency and service vehicles.

- ii. Furniture must not be fixed to the pavement without the written approval of the Council. Where fixed furniture is approved, the location of underground services should be determined prior to the installation of footings. The cost of any work and repairs to services and the pavement shall be paid by the licensee.
- iii. The style, layout and orientation of furniture should be chosen according to the extent and shape of the alfresco dining area and to dissuade patrons from moving furniture beyond the boundaries of the alfresco dining area. In kerbside locations, for safety reasons, chairs should not be placed with their backs to the kerb.
- iv. The furniture must be placed and kept within the alfresco dining area only.
- v. The furniture must not interfere with pedestrian access and safety and security camera visibility.
- vi. The minimum practical width of an alfresco dining area is one metre which will allow for two chairs and a table. A lesser width may be approved if the applicant can demonstrate that the furniture, when in use, will fit comfortably within the proposed alfresco dining area.

9. Hours of Operation

- i. The applicant is required to stipulate the hours of operation on the application form and these may be approved or amended in consultation with the applicant depending upon the location and nature of the alfresco dining.
- ii. The hours of operation of an alfresco dining area serving alcoholic beverages will be limited to the hours stipulated in the extended trading permit of the adjacent licensed premises or as otherwise directed in writing by the Town of Mosman Park.
- iii. Where the alfresco dining is opposite residential land uses Council shall consider the impact on the amenity of that area and may limit the hours of operation or not support night time usage.

10. Removal and Storage of Furniture

All furniture must be removed from the alfresco area at the close of business each day, unless otherwise permitted by the Town of Mosman Park.

11. Table Service

Table service is encouraged. Where alcohol is served, table service is mandatory and patrons must be seated at all times.

12. Cleanliness and Hygiene

- i. The alfresco dining area and its management and operation must comply with the Health Act 1911, regulations made under that Act, the Town of Mosman Park's local laws, the Litter Act 1979 and all other relevant legislation.
- ii. The licensee is not permitted to prepare food or beverages in the alfresco dining area. For example, cappuccino machines are not permitted in the alfresco dining area.
- iii. Licensees will maintain the footpath to a high standard of cleanliness and hygiene, to the satisfaction of the Town of Mosman Park. This will include removing grease and stains, keeping the vicinity clear of litter and waste materials and may include washing down of the pavement. No waste or sweepings are to be swept or placed in the gutter.

13. Lighting

If the alfresco dining occurs outside daylight hours, the licensee must provide adequate, clear and well distributed lighting to ensure the safety and amenity of both patrons and the public. The lighting shall not impact on the amenity of residential areas.

14. Parking

- i. The increase in seating shall only be permitted where there is an increase in car parking in a suitable and convenient location that will not impact on the amenity of adjoining or opposite residential areas.
- ii. Adequate car parking shall be provided to the satisfaction of the Council.
- iii. Where parking is not provided on site, the applicant shall demonstrate they are permitted to utilise the proposed parking area.
- iv. Where the parking does not comply with the requirements of the Town of Mosman Park Town Planning Scheme or there is an increase in the number of seats, the application shall be referred to the Council for determination.

15. Processing of Applications

- i. Applications are required for all alfresco dining on the form contained in Schedule 1. The Council shall issue a decision on the form contained in Schedule 2.
- ii. Once an approval is issued an Annual Licence is required to be made on the form contained in Schedule 3. This shall only be issued where all conditions of the original approval have been complied with and

there is no nuisance of impacts on the amenity of the surrounding residential area.

- iii. Initial applications shall be advertised for comment for a minimum of 14 days to owners and tenants of businesses and dwelling in the area that may be affected by the alfresco dining as determined by the Town of Mosman Park.

16. Indemnity and Public Liability

In making applications for alfresco dining, the applicants shall provide agreement to:

- (a) Indemnify the Town of Mosman Park and Council against any claim for loss, damage or injury however arising from the operation of the alfresco dining area; and
- (b) not to claim from the Town of Mosman Park or the Council or any person acting on their behalf, for any loss, damage or injury however arising from any public work on the public place.

Applicants shall also provide evidence of \$10,000,000 public liability insurance coverage, with a reputable insurer, of the alfresco dining area which must be attached to the signed application.

17. Safety

Council may require protective devices adjoining the street to be erected by the Applicant at no cost to Council that conform with Australian Standards and the specifications of Council.

18. Fees

The fee consist of a fee for:

- (a) receiving an application or approval, granting an approval, making an inspection and issuing a licence; and
- (b) providing the use of a public place.

As at 2008 the following fees apply:

- (a) Original Application \$250
- (b) Renewal \$125
- (c) Annual Fee \$125 per square metre

These fees will be continually monitored and updated by Council.

SCHEDULE 1

TOWN OF MOSMAN APRK

THOROUGHFARES LOCAL LAW

APPLICATION FOR LICENCE

TO: The Chief Executive Officer

I.....

.....

(Full Name)

Of.....

....

.....

(Residential Address)

.....(Occupation)

Apply for a licence to set up and conduct alfresco dining under the Town of Mosman Park Thoroughfares Local Law.

I declare that the following details are true and correct-

Details of Proposed Alfresco Dining Area

Item
No.

1. Name and Address of Eating House (Including the Zone)

.....
.....

2. Location of Proposed Alfresco Dining Area (Including the Zone)

.....
.....

3. Description of Premises Adjacent to Proposed Alfresco Dining Area

.....
.....

4. Details of Proposed Alfresco Dining Area

.....
.....

5. Does the Eating House have a Liquor Licence?
 If not, do you intend to apply for a liquor licence for the eating house?

 ..
6. Proposed Days of Operation
7. Proposed Hours of Operation
8. Proposed Number of Tables
9. Proposed Number of Chairs
- 10 Proposed Number of Other Structures.....
 .
- 11 Description of Tables and Chairs Including Materials and Dimensions
 .
 ..
- 12 Description of Other Structures Including Materials and Dimensions
 .
 .
- 13 Details of Proposed Eating House Name Signage to be Placed on Furniture
 .

Note: No third party advertising permitted except for advertising of products sold by the eating house in accordance with the Alfresco Dining policy

I hereby declare that –

- (a) the eating house referred to in item 1 above is registered as required by Division 3 of Part V of the Health Act 1911;
- (b) I am the proprietor of that eating house and I am licensed in accordance with Division 3 of Part V of the Health Act 1911;
- (c) the eating house referred to in item 1 above is registered by the Liquor Licensing Act 1988; and
- (d) I am licensee of that eating house and I am licensed in accordance with the Liquor Licensing Act 1988.

Note: Paragraphs (c) and (d) of the declaration only apply if the application relates to an eating house which is licensed under the Liquor Licensing Act.

The following are attached –

- (a) two copies of a plan and specifications of the proposed alfresco dining area on a scale of 1:50 showing -
 - (i) the location and dimensions of the proposed alfresco dining area;
 - (ii) the position of furniture to be provided in the proposed alfresco dining eating area; and
 - (iii) the manner in which the alfresco dining area is to be separated from the balance of the public place;
- (b) two copies of a plan and specification of the proposed alfresco dining area and all land within 30 metres beyond the boundaries of the proposed area in a scale of 1:500 which plan and specification shall show the location of all thoroughfares, footpaths, public facilities, public places, streets and street alignments.
- (c) photograph of the proposed alfresco dining area in relation to adjacent premises;
- (d) photographs or brochures of the furniture to be set up in the proposed alfresco dining area;
- (e) details of any advertising proposed to be displayed on the furniture, including but not limited to the content, dimensions, colour and proposed location.
- (f) details of storage areas for furniture;
- (g) a written statement of the manner in which food, drink and dining accessories are to be conveyed to, and protected from contamination within the area;
- (h) if the eating house is licensed under the Liquor Licensing Act 1988, the liquor licence and the extended trading permit;
- (i) written particulars of arrangements made in respect of public liability insurance coverage in the sum of \$10,000,000 for the Town of Mosman Park and licensee in respect of alfresco dining; and
- (j) written statements from the owner and occupier of the adjacent premises consenting to the conduct of alfresco dining in the area adjacent to their premises.

I acknowledge that if the owner or occupier of the adjacent premises, or their successors or assigns, revokes their consent for alfresco dining in the area adjacent to their premises, then this area may no longer be used by me for alfresco dining.

In making this application for a licence, I agree on the issue of a licence to –

- (a) indemnify the Town of Mosman Park and Council against any claim for loss, damage or injury however arising from the operation of the alfresco dining area; and

- (b) not to claim from the Town of Mosman Park or the Council or any person acting on their behalf, for any loss, damage or injury however arising from any public work on the public place.

I enclose the fee of \$.....

Dated the Day of 20.....

Signature of Applicant

NOTE: Only a holder of a liquor licence may sell liquor. Under the Liquor Licensing Act 1988, the holder of a liquor licence, with the consent of the Council, may be issued an extended trading permit which permits the sale and supply of liquor on a road or footpath. Any application for a liquor licence or extending trading permit should be sent to –

*The Director of Liquor Licensing
Liquor Licensing Division
Office of Racing, Gaming and Liquor
1st Floor
87 Adelaide Terrace
EAST PERTH WA 6004*

SCHEDULE 2

TOWN OF MOSMAN PARK

THOROUGHFARES LOCAL LAW

LICENCE TO CONDUCT ALFRESCO DINING

This licence is issued to –

.....(Full Name)

Of(Address)

This licence authorises you to set up and conduct an alfresco dining area –

- (a) on those portions of the public place, adjacent to
shaded blue on the licence plan attached to and forming part of this licence;
- (b) on those portions of the public place, adjacent to
shaded red on the licence plan attached to and forming part of this licence, subject to the
consent of the owner or occupier, and their successors or assigns, of the adjacent premises;
and
- (c) in compliance with the conditions attached to the licence and the alfresco dining local law
and the alfresco dining policy.

This licence is valid commencing on the date of issue shown below and expires at 12.00 o'clock
midnight on or on the sooner cancellation of this licence.

If the owner or occupier, or their successors or assigns, of the premises adjacent to the area referred
to in paragraph (b) revokes their consent, the licensee must immediately cease to use that area for
alfresco dining.

In accepting this licence, the licensee agrees –

- (a) to indemnify and hold indemnified the Town of Mosman Park and Council against any
claim for loss, damage or injury however arising from the operation of the alfresco dining
area; and
- (b) not to claim from the Town of Mosman Park or the Council or any person acting on their
behalf for any loss, damage or injury however arising from any public work in or around the
public place.

Issued this day of 20.....

Chief Executive Officer

SCHEDULE 3

TOWN OF MOSMAN APRK

THOROUGHFARES LOCAL LAW

APPLICATION FOR RENEWAL OF LICENCE

TO: The Chief Executive Officer

I.....
.....

(Full Name)

Of.....
.....

.....
(Residential Address)

.....(Occupatio
n)

Wish to apply for renewal of the licence to set up and conduct alfresco dining under the Town of Mosman Park Thoroughfares Local Law.

I declare that the details set out below are true and correct-

Details of Alfresco Dining Area

Item
No.

1. Name and Address of Eating House (Including the Zone)

.....
.....

2. Location of Alfresco Dining Area (Including the Zone)

.....
.....

3. Description of Premises Adjacent to Alfresco Dining Area

.....
.....

4. Details of Alfresco Dining Area

.....
.....

5. Is alcohol served?

If yes, attach a copy of the liquor licence and extended trading permit.

.....
..

6. Days of Operation

7. Hours of Operation

8. Number of Tables

9. Number of Chairs

10. Number of Other Structures.....

.

11. Description of Tables and Chairs Including Materials and Dimensions

.

.....
..

12. Description of Other Structures Including Materials and Dimensions

.

.....
.

13. Details of Proposed Eating House Name Signage to be Placed on Furniture

.

.....
...

Note: No third party advertising permitted except for advertising of products sold by the eating house in accordance with the Alfresco Dining policy

I hereby declare that –

(a) the eating house referred to in item 1 above is registered as required by Division 3 of Part V of the Health Act 1911;

(b) I am the proprietor of that eating house and I am licensed in accordance with Division 3 of Part V of the Health Act 1911;

(c) the eating house referred to in item 1 above is registered by the Liquor Licensing Act 1988; and

(d) I am licensee of that eating house and I am licensed in accordance with the Liquor Licensing Act 1988.

Note: Paragraphs (c) and (d) of the declaration only apply if the application relates to an eating house which is licensed under the Liquor Licensing Act.

In making this application for renewal of the licence, I agree to –

- (a) indemnify the Town of Mosman Park and Council against any claim for loss, damage or injury however arising from the operation of the alfresco dining area; and
- (b) not to claim from the Town of Mosman Park or the Council or any person acting on their behalf, for any loss, damage or injury however arising from any public work on the public place.

I enclose the fee of \$.....

Evidence of \$10,000,000 public liability insurance coverage, with a reputable insurer, of the alfresco dining area must be attached to the signed application.

Dated the Day of 20.....

Signature of Applicant

7. LEGISLATION

This policy is to be read in conjunction with the Thoroughfares Local Law, Health Act 1911, Liquor Control Act 1988 and the Town of Mosman Park Town Planning Scheme.

8. RELATED POLICIES

CONTROL DOCUMENT

Managed by:	Responsible position:	Version: 1
Contact person:	Approved by: CEO/COUNCIL RESOLUTION	File number:
Contact position:	Date approved:	Status:
Contact number:	Next review date: 2 years	Security classification:

REVISION RECORD

Date	Version	Revision description
	1	NEW FORMAT IMPLEMENTED AS PART OF MAJOR POLICY REVIEW 2011

HEADING DESCRIPTORS

- I. **Policy Number:** The Town of Mosman Park's policy number
- II. **Title:** A descriptive title of the policy
- III. **Policy Statement:** A concise statement of the Town of Mosman Park's intent in relation to the particular matter.

This may include:

- Specific regulations
- Requirements, modifications to provide
- Clear directions to guide decision making

It should be contained within one or two sentences

- IV. **Purpose:** A brief description of why the Town is issuing the policy and what is the desired effect or outcome
- V. **Scope:** A statement describing who the policy affects and which actions will be impacted by the policy. The scope may also include; what, when and where the policy applies. Exclusions to the policy application should also be included, if applicable.
- VI. **Objective:** The desired objectives of the policy should relate to the policy statement. Policy objectives should be concise and achievable. They should not contain background information.
- VIII. **Policy Details:** The principles, rules or assumptions associated with the implementation of the policy. These should reflect the policy objectives and provide a more detail context for related procedures or guidelines.
- VIII. **Legislation:** Any legislation mandate or Local Government requirement relevant to the policy.