

OUTDOOR EATING (TABLES AND CHAIRS) POLICY

PURPOSE

The purpose of this Policy is to provide support to the Local Law in interpretation and enforcement of Outdoor Eating and placement of tables and chairs on footpaths and public places. It is generally intended that the Council would support and encourage the practice of outdoor eating on tables and chairs in public places provided that public access is maintained and the licensees ensure that areas used are kept in a safe and clean condition.

CITY PLAN

This policy to support the establishment of outdoor eating areas conforms with the visions of the City Plan by supporting Fremantle as a beautiful and accessible place. The ability to sit outdoors and enjoy the ambiance of the city, the activities and people are important in maintaining the village atmosphere of Fremantle.

POLICY

1. Approval and requirements

An outdoor eating 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.

- 1.1. An application should be accompanied by plans, drawn to scale, indicating the number and location of proposed tables and chairs and their relationship to the building in which the eating house is located.
- 1.2. In granting approval, the Council may impose conditions requiring that the dining facilities be of a movable nature and/or, that the facility may only operate at certain specified times.
- 1.3. Any outdoor eating area should not obstruct pedestrian movement. A minimum clear footpath width of 1.8m to 2.1m should be provided dependent on the pedestrian traffic volume within the area. Determination shall be made by Council on the individual merit of the location. Pedestrians should be able to make normal use of the footpath without being obliged to step into the road at any point, or make other unwarranted detours.
- 1.4. An outdoor eating area should not obstruct sight lines for either vehicles or pedestrians, both at road junctions and vehicle access crossovers.
- 1.5. The establishment of an outdoor eating area should not normally require extension of the existing footpath, unless this can be done without unduly affecting the prevailing form of the street or prejudicing its proper use as a traffic route and, without involving

the loss of kerbside parking or loading zones, except in the case of those footpaths shown on the accompanying map, where a widening of the footpath may be permitted. Such widening would be at the full cost of the applicant and should use materials to the Council's satisfaction.

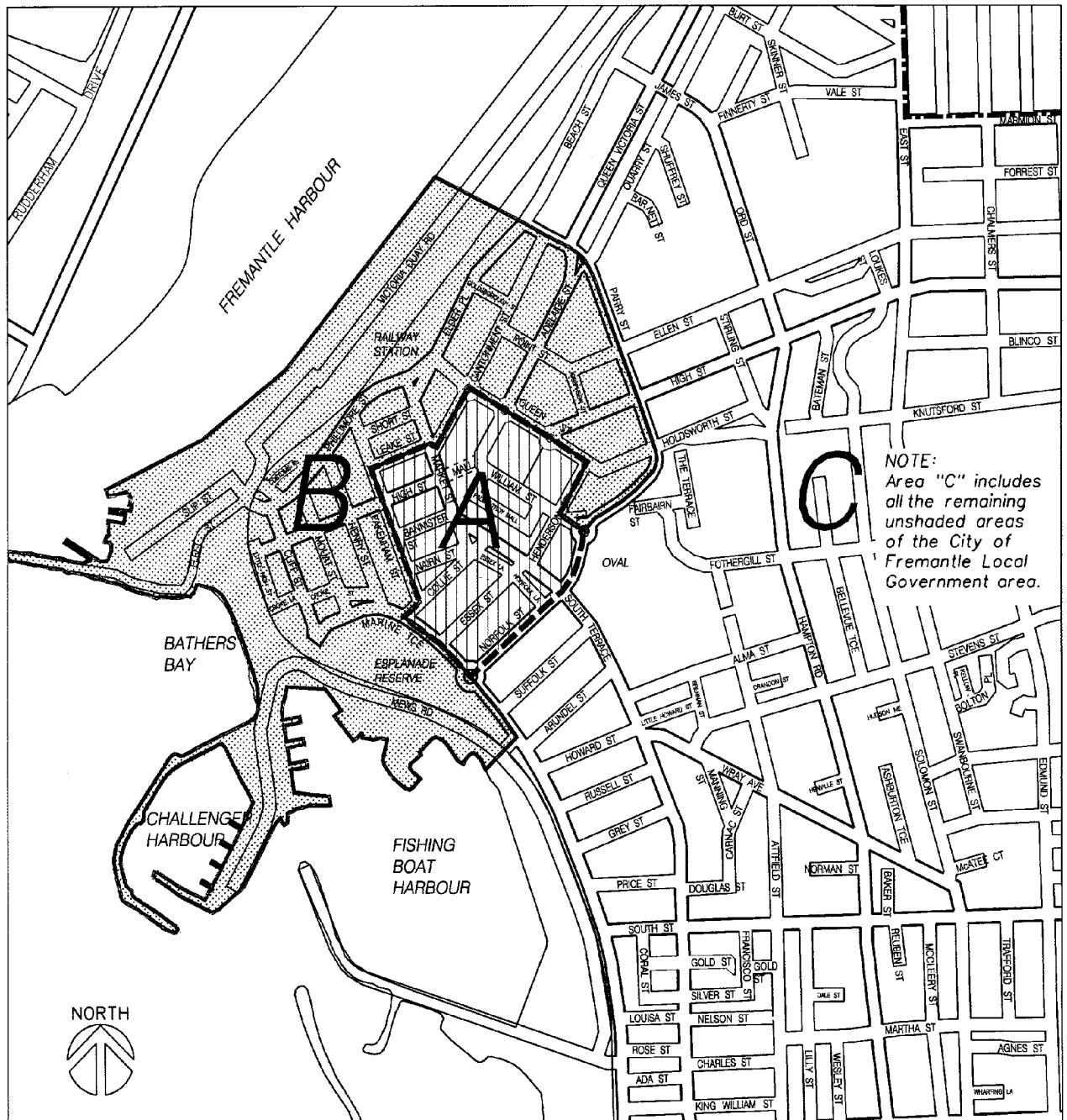
- 1.6. Outdoor eating areas should not be located in such a way that access from the footpath to kerbside parking is obstructed.
- 1.7. The establishment and use of Outdoor eating areas should not conflict with or inconvenience other retail and commercial activities, or obstruct the views of, or access to, adjacent properties. Where the Council believes that such problems may arise, it may consult with the owners and/or occupiers of the affected premises before reaching a decision on the application.
- 1.8. The general principles contained in this policy would also apply to proposals to establish outdoor dining areas other than on roadside footpaths; for example in pedestrian malls, on reserves or in other public places.
- 1.9. Sidewalk tables and chairs will not generally be permitted to be fixed in any manner to the footpath or to any other structure. In particular cases; for example, if specifically requested by the applicant, or where positive benefits to the public and the Council can be seen, then fixing may be considered but only subject to detailed conditions on the method of fixing and, the costs of any subsequent removal and restoration being borne by the license holder.

2. Conditions relating to outdoor areas

- 2.0. In submitting an application to establish an outdoor eating area, applicants will be requested to indicate whether it is intended to serve alcohol to patrons at the tables applied for.
- 2.1. If Council is prepared to support an outdoor eating proposal in principle, the following conditions may be applied (including a new proposal incorporating the sale of alcohol, or modification of an existing license to incorporate alcohol):
 - (a) The public shall be free to use the tables and chairs at all times, whether paying customers or not, in accordance with Council's Outdoor Eating Local Law.
 - (b) The tables and chairs shall not be fixed to the public footpath paving material unless otherwise approved by Council.
 - (c) The tables and chairs shall be removed from the public footpath area outside normal trading hours.
 - (d) In the event that the conditions of the cleaning agreement with Council are not fully met or the cost of cleaning fall in arrears, the approval for the Outdoor Eating License shall be revoked.

- (e) Council shall be indemnified against any damage which may arise, with the indemnity being Public Liability Insurance cover of \$5 million minimum.
- (f) Council shall be advised directly by the Insurance Company of the Policy and any changes to that Policy, a copy of which is required to be kept at Council.
- (g) The applicant shall ensure that rubbish shall be regularly removed from the premises (the subject of the Trading in Public Places License) in order to ensure high public amenity.
- (h) The service of alcohol shall not commence unless the relevant approval has been obtained from the Liquor Licensing Division of the Office of Racing and Gaming.
- (i) The Council will provide footpath identification of the approved area of the outdoor eating facility.
- (j) Use of plastic or resin chairs within the area designated A on Map 1 is to be not permitted.
- (k) Tables and chairs placed in a public place that enables unlimited public use shall not be considered as part of the premises in calculating the required number of public toilets under the Health Act.

MAP 1 TRADING AREAS



Areas

- (k) The service of alcohol shall not commence until the applicant has been issued with Section 39 and Section 40 Certificates from Council.
- (l) The hours of sale of alcohol shall not exceed the licensed hours of the establishment; the subject of the Trading License.
- (m) The applicant be advised that alcohol can only be consumed from the chairs and tables where patrons are served a bona fide meal by the establishment; the subject of the relevant Trading License.
- (n) The applicant shall ensure that signs are placed on the tables to ensure that the patrons are aware of the requirement to have a substantial meal if alcohol is served.
- (o) The applicant be advised that failure to comply at any time with the conditions of the Trading License may, upon Council resolution, result in the revocation of the License.
- (p) Not less than one (1) month prior to the expiry of a Trading License which includes provision for the sale of alcohol, the Council will review the operation to determine whether renewal for a further twelve (12) month period should be approved. As part of this review, the Council will consider the need to amend any existing Trading License conditions or to add further conditions deemed necessary to ensure its satisfactory operation.
- (q) Notwithstanding (e), failure to comply at any time with the conditions of a Trading License may, upon Council resolution, result in the revocation of that License.
- (r) The Council may attach to the Trading License any other conditions considered necessary to ensure that the service of alcohol to the patrons of Outdoor eating areas takes place in a satisfactory manner.

3. Fees and Administration

- 3.0 Fees and charges relating to placement of tables and chairs on public land will be set by the Council each year.
- 3.1 Tables and chairs on private land that is accessible to the public is described in the Local Law as a Public Place will not be subject to the payment of fees other than an application fee.
- 3.2 The Council will after approving a license for an outdoor eating area place plaques on the footpath designating the area. Licensees should ensure that tables and chairs are not placed outside the designated area otherwise the Council may revoke the license.

3.3 Council will undertake enforcement of the licenced area in the following manor

- a) Where by routine inspection a breach of the licence is observed the licensee will be given verbal advice that a breach has occurred and be requested to comply to the condition.
- b) Where a licensee has breached a condition of the license for a second time the licensee will be given a written notice of the breach and advised that a further breach will result in legal action being taken.
- c) Where a third breach for the same issue has occurred legal action is to be commenced in accordance with the enforcement provisions of the local law.

Adopted: 15/6/98 (Interim Policy)

Interim Policy