

Frequently Asked Questions — Footpath Seating

These FAQs will attempt to answer any questions a business may need to know about applying for a Footpath Seating Permit – if your question is not answered here or in the [Footpath Seating Policy and Guidelines](#), you can email Council’s Duty Planner at duty.planner@waverley.nsw.gov.au (the Duty Planner is available Monday, Wednesday and Thursday).

Footpath Seating Basics

What is the purpose of footpath seating?

Footpath seating provides businesses with the opportunity to expand their capacity by offering additional space outside. It activates the nearby streets creating lively spaces instead of empty footpaths. It encourages people to use and attend venues. People like eating and drinking outdoors, especially when the weather is nice. It increases the perception of safety by having more active streets. Ultimately it turns underused footpaths space into community and business serving space.

Do I need a permit to place any furniture (tables/chairs) on the footpath?

Yes, the use of any footpath seating or dining furniture requires an approved Waverley Council permit. Regardless of how small it may be.

Can I use the space outside my neighbour’s premises?

Yes, if the space is vacant and with the neighbour’s written consent. Your neighbour or Council can revoke it with 4 weeks’ notice.

Application Approval and Permits

Can I draw the plans required for an application?

Yes, you can draw the plans. They are required to be clear, legible and drawn to a high standard in accordance with the policy. Please see examples in the [Sample application form](#).

How long does a permit last?

5 years, with regular random compliance checks to ensure that conditions of permit are being maintained.

Does a permit stay with the property or business if it changes ownership?

No. The permit belongs to the business operator. If ownership or management changes, the new operator must apply for a new permit.

Can I make changes to my layout after permit?

No. Changing the size of the approved footpath seating area plan, significant variations to furniture and accessories like umbrellas, planters or other items will need to be reviewed under a new application.

How do I cancel a permit?

If you no longer want or need your approved permit. You can cancel it by contacting the Property Officer via info@waverley.nsw.gov.au.

Fees

What happens if monthly rental payments are delayed or not paid?

Your permit lapses immediately until payment is received – and you risk fines for obstructing the footpath.

Is a refund available if my application is withdrawn or not approved?

Application fees are non-refundable once assessment has begun.

What is Public Liability Insurance?

Insurance that covers you if someone is injured or property is damaged because of your outdoor seating (e.g. tripping, falling umbrellas). You need public liability insurance because you're using public land. Council requires it to protect both you and the community.

When is Public Liability Insurance required?

Only after approval of your permit. You must provide \$20m coverage naming Waverley Council. Certificate must be renewed annually.

Where can I find a list of all the Fees and Charges?

All Fees and Charges can be found on the application form.

Compliance

Can Council cancel my permit?

Yes, Council has the authority to cancel your permit at any time if:

- You breach conditions or receive 3+ infringements of a similar nature
- Fees are unpaid (due the first day of each month)
- Rental bond remains unpaid
- The area is required for public works
- The space is unsafe or unsuitable

Can Council change the controls and conditions of my permit at any time?

Yes, Council has the authority to change the conditions of your permit if the area changes for any reason. You will be notified if so.

What if I think it's unfair or unjust that Council has changed or cancelled my permit?

You will have the opportunity to send a response to the proposed change or cancellation, once a permit has been cancelled by Waverley Council the business owner will need to reapply.

What happens if I receive a compliance notice?

You will be given a timeframe to fix the issue. If not resolved, your permit may be suspended or cancelled.

Can I suspend/pause my permit temporarily if I'm renovating or closed for a period?

Yes, you can request a temporary suspension in writing, but fees generally still apply unless Council agrees otherwise.

Trading Hours and Operations

If I have a Development Application and a Footpath Seating Permit, which one takes priority?

The conditions on your Development Application always override your Footpath Seating Permit.

What are the trading hours for footpath seating?

Trading hours depend on many things:

- What is agreed on your development application
- The location of your business
 - Residential zones (R2, R3): 7 am–9 pm
 - Commercial/mixed zones (E1, E2, MU1): 6am–10pm
- No permits allow trading beyond 10 pm

Do I have to pack everything away each night?

Yes, unless you have specific approval outlined in your permit to leave items in place.

Can I serve alcohol outside?

Yes, but only if your liquor licence covers the outdoor area. You must also comply with Liquor & Gaming NSW requirements and have an approved Plan of Management in place.

Can patrons smoke or vape in the footpath seating area?

No. Footpath seating areas must be smoke-free, this includes vapes.

Can music be played outside?

No amplified sound is allowed outside.

Can prams and pets be in the footpath seating area?

Yes, but operators are responsible for managing space. If you get a lot of customers with prams, maybe consider pram tables/areas or collapsible chairs.

Can I host events or live performances in the footpath area?

No, footpath seating is only for dining and drinking, not events or performances.

What if a non-customer or delivery riders use my outdoor seating?

You're responsible for managing your seating area – it's still public land, but you control it under your permit. It is designed to be used for paying patrons.

Furniture and Design

What are the requirements for furniture and accessories?

For a detailed description of all furniture and accessories (tables, chairs, umbrellas, barrier, planters, heaters, lighting) please refer to the section 3.2 of the [Footpath Seating Policy and Guidelines](#).

What kind of heaters can I use?

Tall, freestanding portable radiant heaters are appropriate. They must switch off if tipped and be stored inside after use.

If my business is operating after dark, do I need lights?

Any footpath seating area that will be operating outside daylight hours must provide adequate lighting. This could be from streetlights or similar, if it ensures the safety and amenity of patrons, staff and the public.

Can I use my own lighting?

Yes, you can use your own lighting as long as it is safe, and doesn't spill into nearby homes. No overhead cables are to be used. Lights must be turned off and stored away from footpath seating areas outside the approved hours of operation. Wiring or cabling that is above ground or that crosses the public domain is not permitted as it is a potential trip hazard. You will need to provide details as a part of your application.