

FOOTPATH SEATING INFO SHEET

New Applications for Footpath Seating (first time use)

Applicants seeking to use the footpath area/s outside their café or restaurant for footpath seating must obtain development consent for the provision of outdoor dining under S125 of the *Roads Act 1993*. Consent (via a Development Application or Complying Development Certificate) must also be in place for the use and operation of the premises prior to any consent being granted for the associated footpath area.

In order to obtain consent for the use of the footpath seating, the business operator ('Holder') of a food and drink premises must lodge a 'Footpath Seating Application' to Council for assessment. Once the application is assessed and determined, the consent is valid for **three (3) years only** from the date of consent and the Holder must abide by the conditions contained in the consent at all times.

Footpath Seating applications should be lodged with Council at the Customer Service Centre and contain the following:

- **Footpath Seating Application Form** – form available to download from Council's website.
- **Supporting Statement** –The statement must address *Waverley LEP 2012* and *Waverley DCP 2012 (refer to Part D3 Footpath Activity and Seating)* and address the impact of the proposed footpath seating on the surrounds and the proposed method of mitigating any adverse impacts. You are required to comply with guidelines set in the DCP, however if you are seeking any variations you must justify them in your supporting statement, however this may result in delays in the assessment time. Variations may not be supported.
- The supporting statement should also include details on the number of seats and tables, size of seating area (in m²), hours of operation, liquor licence details, number of toilets and clearance distances between the shop front, footpath and kerb. An example of what your statement should include is available on Council's website.
- **Floor Plan** – Dimensioned at a scale not less than 1:100 showing the layout for the entire premises including tables, seats, kitchen area, sanitary facilities and proposed footpath seating area. Proposed seating and tables should be drawn to scale, provide a minimum 600mm per seat and per table. Note: the plan should correspond with your development consent to which the premises operates under.
- **Consent** – Details of the parent consent (issued via Development Application consent or Complying Development Certificate) is to be provided detailing the operational and use conditions that apply to your premises.
- **Liquor Licence** – Provide a copy of your existing liquor licence (if applicable)
- **Application Fee** – payable at the Customer Service Centre at time of lodgement.
- **Electronic copy of all documents** - USB or CD with ALL forms, plans and documents in digital form are required to accompany your application. Refer to 'Electronic Lodgement Guidelines: Building and Development Applications' Info Sheet on Council's website.

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Once your application has been determined, the following requirements must be provided to Council within 14 days.

- **Certificate of Currency for Public Liability Insurance:** in the amount of \$20 million noting Waverley Council as an Interested Party
- **Food Premises Registration Form** – form available to download from Council’s website.
- **Security Bond:** to be paid at the Customer Service Centre, equivalent to three (3) month’s rent
- **Direct Debit Form for Payment of Monthly Footpath Rent** – form available to download from Council’s website.

Council will then issue you with a **Footway Plan (Approval Display Notice)** that must be displayed in the premises window in a prominent location.

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Renewing a Footpath Seating consent

Footpath Seating consents are only valid for a period of 3 years from the date of consent. For those with existing footpath seating consents, that seek to renew their consent (that is, to seek to continue for a further 3 years), the business operator ('Holder') must submit a new footpath application at least **six (6) months prior** to the expiry date of the existing footpath consent.

If a new application is lodged before the expiry date of the Footpath consent, then the Holder may continue to use the footpath seating until the new application is determined (and approval is granted) provided the Holder complies with the conditions of the consent, including payment of rent, insurance and bond in the interim period. Upon the new renewal application being determined, that decision and the associated conditions of consent shall apply and take effect.

The continuation or use of footpath seating is **not permitted** after the expiry of the Footpath Seating consent, unless a new application for Footpath Seating has been lodged with Council prior to the expiry of previous consent. Holders must re-submit a new application every three (3) years.

Sale and Transfer of Food & Drink Premises and Change of Business Ownership

The Holder of a Footpath Seating consent must within seven (7) days, provide written notice to Council of the sale and transfer of premises and/or change of business ownership including the date of the sale/transfer and the new business owner's details. Footpath rental fees must be **paid up to date (no arrears)** for the Bond to be refunded to the Holder.

New business owners must register their food premises with Waverley Council by completing the Food Premises Registration Form (available to download from Council's website).

New business owners may take over and use an existing Footpath Seating consent from a previous operator and become the Holder of the Approval provided the Footpath Seating consent is still valid (i.e. not expired) and the use and operation is in accordance with the conditions of consent.

The new business owners must provide the following to Council:-

- Trading name, address & contact details
- Proprietor's name, proprietor's address, ABN, phone numbers and email address
- The date commenced the use of the footpath seating/transfer of business.
- Public liability insurance of \$20 million noting Waverley Council as an interested party
- Bond equivalent to three (3) month's rent

If the Footpath Seating consent is expired then a **new application must be submitted** and no use of the footpath for seating shall occur until the application is determined.

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Where to get more information

Footpath Seating requirements

Your application for footpath seating will be assessed having regard to the requirements set out in the *Waverley Development Control Plan*. Refer to Part D3 for footpath seating and activity controls that you will need to consider in the preparation of your application.

http://www.waverley.nsw.gov.au/_data/assets/pdf_file/0003/65343/5_Waverley_DCP_Amendment_No_5_Part_D_-_Commercial_Development.pdf

Footpath Seating Fees

Fees vary depending on location.

Please refer to Location Maps in Part D3 Footpath Activity & Seating of WDCP 2012 and Footpath Fees & Charges 2018/19

Waverley Council – Food Safety

Information for food business on food safety

http://www.waverley.nsw.gov.au/building/compliance_and_regulations/environmental_health_regulations/food_safety

Waverley Council – Food Registration Form

All food businesses must be registered with Council

http://www.waverley.nsw.gov.au/_data/assets/pdf_file/0005/37292/Food_Premises_Registration_Form.pdf

NSW Food Authority

For further information regarding food safety please refer to NSW Food Authority

<http://www.foodauthority.nsw.gov.au/>

Liquor Licence

Cafes and restaurants wishing to serve alcohol are required to apply for a separate license under the Liquor Act, refer to www.liquorandgaming.nsw.gov.au