

# FOOTWAY RESTAURANT FACT SHEET

## AIMS

Council supports the establishment of footway restaurants to create a cosmopolitan café atmosphere in appropriate areas. Council aims to increase the attractiveness of this activity to residents and tourists and to provide opportunities for business owners to benefit from pedestrian circulation. Council is to ensure an equitable and safe thoroughway is maintained on footpaths for pedestrians including the users of wheelchairs, mobility scooters and prams.

## CONSENT FROM COUNCIL

### FOOTWAY RESTAURANTS

A footway restaurant in a public road reserve does not require development consent; however it must meet the requirements of the Cessnock Development Control Plan 2010 and requires an approval, issued by Council as the road authority, under [Section 125 of Roads Act 1993](#).

## REQUIREMENTS

The requirements for a footway restaurant are contained in [Part D Chapter 9 Of DCP 2010 - Outdoor Street Dining](#), which provides the criteria for the use and placement of outdoor furniture, toilet facilities for patrons, consumption of alcohol, the placement of shade structures and the cleanliness / maintenance of the outdoor dining area.

### SITE

In summary, the site requirements of a footway dining area must:

- Be adjacent to an approved *restaurant*;
- Be directly related to the operation of the *restaurant*;
- Maintain a clear unobstructed footway width of 1.5m for pedestrians, strollers and mobility aids such as wheelchairs or scooters;
- Maintain a greater width where ground levels, pavement surface or other conditions restrict access for disabled persons, the location is close to pedestrian crossings and traffic signals, or there is an existing high volume of pedestrian traffic;
- Have a safe, suitable, level ground surface to accommodate pedestrians and furniture;
- Maintain a minimum of 1.0m between the seating and kerb line where vehicles may park and a swing space is required to open vehicle doors;
- Maintain the approved overall seating capacity of the *restaurant*, so that additional toilet facilities or other essential services are not required.

*Restaurant* means premises in which food is regularly supplied on sale for consumption on the premises. (*Roads Act NSW 1993*)

### STRUCTURES

Temporary structures may be installed to compliment a footway restaurant, requiring a further approval under [Section 126 of Roads Act 1993](#).

### INSURANCE

It is important to note that a footway restaurant in a public place requires Public Liability Insurance with cover of \$20 million.

### SMOKING

Smoking in or adjacent to a footway restaurant area is not permitted.

**TRANSPORT for NSW**

If the footway restaurant area is adjacent to traffic control signals or a State / classified road, Council will refer the application to Transport for NSW (TfNSW). TfNSW may impose additional conditions of consent in the approval letter.

A map showing State / classified roads in the Cessnock LGA is available on Council's website.

**NSW POLICE & LIQUOR AND GAMING NSW**

If the Restaurant is licenced to serve alcohol, and you wish to extend the licence to include the footway restaurant area, Council will refer your application to both NSW Police and Liquor and Gaming NSW.

Any conditions or requirements relating to the service of alcohol will be communicated directly to the applicant by NSW Police and Liquor and Gaming NSW.

**A P P L I C A T I O N S****LODGEMENT**

The operator of a *restaurant* (that has development consent) may lodge an application for a footway restaurant via the NSW Government Planning Portal at: <https://www.planningportal.nsw.gov.au/development-assessment/section-125-roads-act-1993>, and must include:

- A site plan (see attached Example Site Plan for Guidance);
- Certificate of Currency – Public Liability Insurance for \$20M and listing Cessnock City Council as an interested party.

**FEES**

An application fee is payable on lodgement. A monthly fee for the use of the footpath space fronting the business is invoiced quarterly. View Council's current Fees & Charges [online](#).

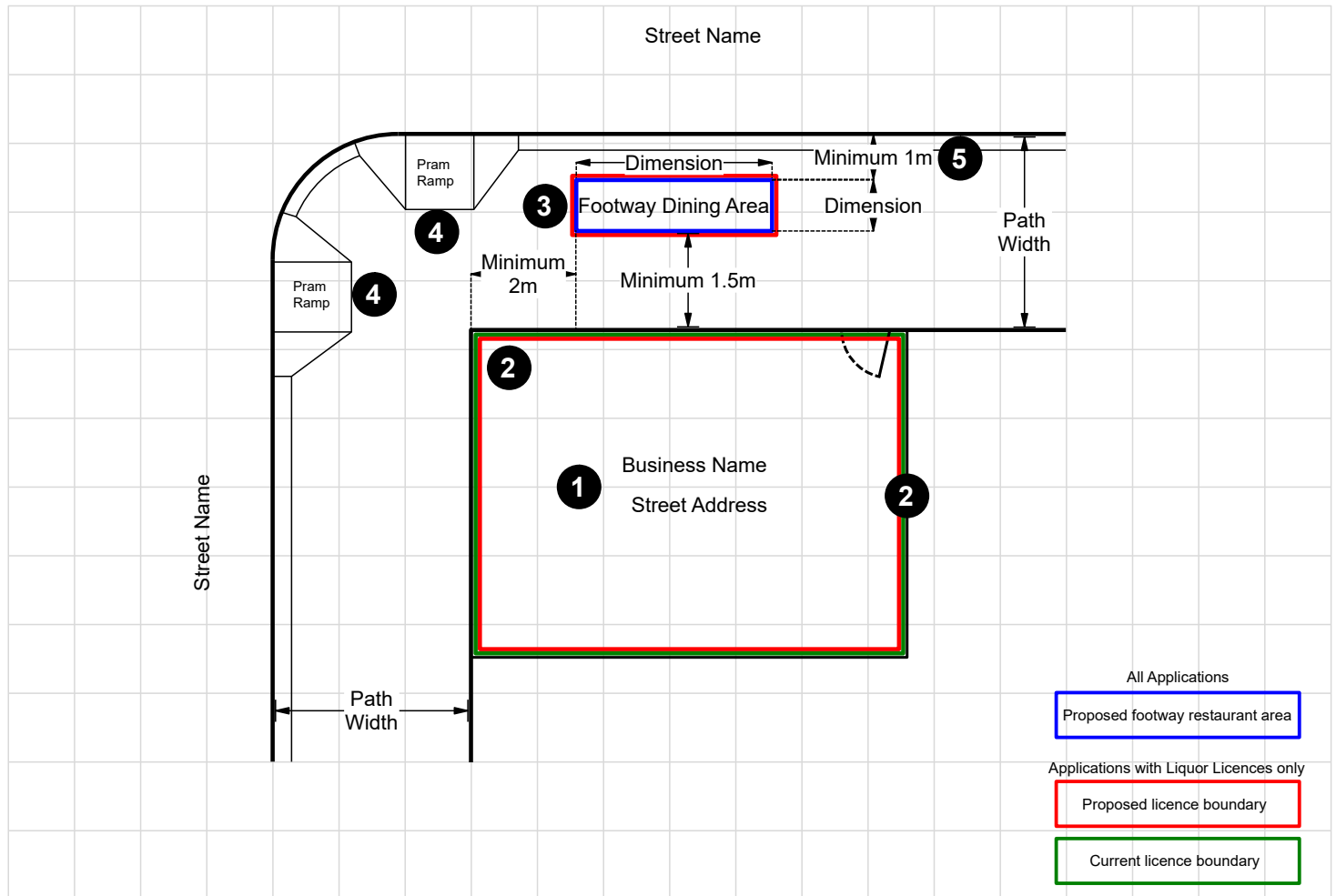
Council's Customer Service team will contact you to arrange payment of the application fee and ongoing rental fees.

**A S S E S S M E N T & A P P R O V A L N O T I F I C A T I O N**

Council will inspect the site and assess the application to ensure compliance with relevant policy and legislative requirements. Assessment takes approximately four weeks and is approved when a Footway Restaurant Consent letter is provided to the applicant.

Approvals are valid until 30 June of each year. Renewals for continued use of the footpath for outdoor street dining should be made prior to 30 June of each year.

# Example Site Plan



Information to be included on site plan:

- 1 The address of the premises;
- 2 The building line of your premises and any neighbouring premises;
- 3 The boundaries of your proposed outdoor dining area, and location of furniture, including dimensions;
- 4 Any existing street furniture, labelled, including bus stops, accessibility ramps, trees, light poles, road signs, service pits or any other fixed structure;
- 5 Minimum clearances for kerbs, property boundaries, setbacks, etc.

If applying for a liquor licence change of boundary you should also include:

- Existing on-premises (restaurant) licence boundary of business (in green);
- Proposed new on-premises (restaurant) licence boundary, including footpath and current licenced area (in red);
- All rooms and areas of the premises must be delineated and labelled, e.g. kitchen, dining area, toilets, etc.

The site plan should be in A4 size and drawn onto a grid at 1:100 scale.