



# WORKS AND INFRASTRUCTURE

## Footway Restaurant Information Kit

### AIMS

Cessnock City Council (CCC) supports the establishment of footway restaurant 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 thoroughfare is maintained on footpaths for pedestrians including the users of wheelchairs, mobility scooters and prams.

### DEFINITIONS

**Public Road Reserve:** Public space between property boundaries including travel and parking lanes, road shoulder, verge, gutter, footpath, and nature strip.

**Road Authority:** Section 125 of the Roads Act requires that all work undertaken within the public road reserve be approved by Council prior to the works being undertaken as the Council is the Road Authority required to implement the provisions of the NSW Roads Act, 1933.

**State Roads:** Roads classified by Roads & Maritime Services (RMS) due to their hierarchy in the road network and traffic volumes.

**The Applicant:** The Applicant is the property owner, developer or contractor/person/company undertaking the work, and is seeking consent to do so.

### CONSENT FROM CESSNOCK CITY COUNCIL

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 (DCP 2010) and requires an approval, issued by Council, as the road authority, under [Section 125 of Roads Act 1993](#).

Approvals for footway restaurant on private property are issued by development consent however the approvals for footway restaurant on the footpath (associated with adjacent food businesses that have development consent under the Environmental Planning And Assessment (EP&A) Act 1979).

### CONSENT FROM OTHER AGENCIES

Where the footway restaurant area is adjacent to a classified road or State Road, Council requires concurrence from the RMS. Therefore Council will refer the application to RMS. There may be some additional requirements from RMS in the approval letter.

### REQUIREMENTS

Footway restaurant requirements are contained in [Part D Chapter 9 Of DCP 2010 - Footway restaurant](#), 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.

The DCP 2010 can be downloaded from [www.cessnock.nsw.gov.au](http://www.cessnock.nsw.gov.au).

The operator of a food business (that has development consent) can submit a completed Footway restaurant Application Form or at Council's Customer Services Administration Building. The application form will assist the applicant in the provision of relevant information, including:

- Consent of the land owner;
- Plan showing the proposed layout;
- Certificate of Currency for Public Liability Insurance.

Temporary or permanent structures may be installed to complement footway restaurant. Permanent structures on footpath areas require a further approval under [Section 138 of Roads Act 1993](#) and applications can be lodged with Council for consideration.

Evidence of insurance as follows:

- Cover of \$20 million for all State Road locations and \$10 million for all Regional and Local Road
- A Certificate of Currency for Public Liability Insurance must indicate the following:
- The applicants name
- Council as the interested party
- Location of footway restaurant and
- Be applicable for the rental period
- Be in the applicant name

- Note the Council as an Interested Party.

### SMOKING

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

### RENEWAL, TERMINATION OR SUSPENSION OF THE APPROVAL

If your application is approved, the following conditions will apply (but Council reserves the right to apply additional conditions specific to location):

- The term of an approval is to be such period (not exceeding 7 years) as is specified in the approval as per section 125 of the Roads Act 1993 however can be terminated by the applicant with minimum 2 week's written notice.
- A renewal of this approval will be required by applicant upon expiry of your approval term. Council will contact the applicant to determine their renewal status.
- Should the applicant sell or permanently close the business it is the applicants responsibility to notify Council with a minimum of 2 weeks' notice. This approval is transferable on the applicant selling the business. The new owner must submit their details to Council so we can update our records. No right that existed to recover costs or obtain indemnity shall merge or cease on termination of the approval and Council shall be entitled to recover any losses or costs that arose prior to any termination.
- If Council undertakes work on the road it may, for whatever period necessary on giving reasonable notice and at its absolute discretion, suspend this approval and the approval shall not be entitled to any compensation.
- Council reserves the right to terminate this agreement within 14 days by written correspondence should the applicant fail to pay the prescribed fees and charges or fails to comply with the Terms and Conditions set out under Section 125 of the Roads Act 1993 and Cessnock Development Control Plan 2010.
- If Council decides to undertake works to the road/footway that would make it not viable or practical for the licence to continue. Such determination of viability or practicability shall be at the sole determination of Council.
- Regular inspections will be made of the footway area to ensure compliance with this or any other approval, including that the area is maintained and kept clean and tidy and in accordance with Cessnock Development Control Plan 2010. Non-compliance with terms and conditions of this application may result in Council terminating the Agreement. Council, on giving the business owner/applicant 30 days' written notice, may terminate, vary or change conditions relating to this approval.

### RENTAL FEES

Rental fees for the current year are to be paid at time of lodgement. The fees shall be paid as specified in Council's fees and charges.

All ongoing fees will be invoiced.

### CHECKLIST

	Yes	N/A
I have shown the direction of north on the plan or sketch?	<input type="checkbox"/>	<input type="checkbox"/>
I have provided the street name in which the footway restaurant area is located?	<input type="checkbox"/>	<input type="checkbox"/>
I have provided the name of the food business (adjacent to the proposed footway restaurant area) on the plan?	<input type="checkbox"/>	<input type="checkbox"/>
I have checked that the footpath area is sealed or paved for its full width?	<input type="checkbox"/>	<input type="checkbox"/>
I have checked the proposed footway restaurant area is only located at the frontage of the premises related to?	<input type="checkbox"/>	<input type="checkbox"/>
I have shown the location of all tables, chairs, umbrellas and furniture associated on the plan?	<input type="checkbox"/>	<input type="checkbox"/>
I have checked that the location of furniture in your footway restaurant area permits access to public utilities such as; fire hydrants, access holes, inspection chambers, telephone and electricity cable pits, water service pipes etc?	<input type="checkbox"/>	<input type="checkbox"/>
I have checked that you have a clear footpath width of 1.5m for pedestrians, that the pavement surface or other conditions allow access for disabled persons, noted the location of any nearby pedestrian crossings or traffic signals and lines of high volume pedestrian traffic?	<input type="checkbox"/>	<input type="checkbox"/>
I have checked that you have a minimum distance of 1m between the boundary of the seating area and the kerb of the road or any other area where vehicles may park and require door swing space?	<input type="checkbox"/>	<input type="checkbox"/>
I have checked that your footway restaurant area preserves the overall seating capacity of the food business, such that additional toilet facilities or other essential services are not required?	<input type="checkbox"/>	<input type="checkbox"/>