

ECONOMIC DEVELOPMENT & PLACEMAKING &  
PROPERTY SERVICES

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# Footway dining - A guide for businesses

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# Contents

<b>1. Introduction</b>	<b>3</b>
1.1. Who can apply for footway dining?	3
1.2. Getting help from Council	3
<b>2. Application process</b>	<b>4</b>
<b>3. Quick guide to applying for approval</b>	<b>5</b>
3.1. Development consent or CDC	5
3.2. Public liability insurance	5
3.3. Site plan	5
3.4. Photos	6
3.5. Awning structural integrity	6
3.6. Required approvals	6
3.7. Formal agreement	6
3.8. Council conditions	6
<b>4. Designing your footway dining space</b>	<b>8</b>
4.1. Location of footway dining	8
4.2. Clear space	8
4.3. Kerb setback	8
4.4. Arrangement of footway dining	8
4.5. Operating hours	9
4.6. Furniture and fittings	9
4.7. Umbrellas	10
<b>5. Examples of footway dining layout</b>	<b>11</b>
5.1. Footway dining adjacent to building	11
5.2. Footway dining adjacent to kerb	11
5.3. Footway dining on the corner	12
<b>6. Fees and conditions</b>	<b>13</b>

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# 1. Introduction

Randwick City Council recognises the benefit that footway dining provides for businesses and customers.

Footway dining can help activate a street frontage, add vitality, and contribute significantly to the character and 'vibe' of an area.

It also attracts more people to an area helping the business, nearby businesses and local economy of the area.

As footway dining takes place on public footpaths, it is important that it is done so to maintain safe public access and not adversely affect adjacent properties.

Approval is required from council prior to use of any public space for dining purposes.

## 1.1. Who can apply for footway dining?

To be eligible to apply for footway dining you must be operating a food and/or drink premises adjacent to the footway. This premises must have current development consent or complying development certificate to operate as a café, restaurant, hotel, small bar, or takeaway defined as 'food and drink' premises by the Local Environmental Plan.

## 1.2. Getting help from Council



We are **here to help**

A Place Coordinator from our Economic Development & Placemaking team is available to help guide you through each step of the application process.

If you're interested in applying for footway dining, please contact us on **1300 722 542** or via [business@randwick.nsw.gov.au](mailto:business@randwick.nsw.gov.au) to be directed to your Place Coordinator to help.

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## 2. Application process



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## 3. Quick guide to applying for approval

### Documents you need to supply:



**Development consent or Complying Development Certificate**



**Food Premises Registration**



**Public liability insurance Certificate of Currency**



**Site plan**



**Photos**

### 3.1. Development consent or Complying Development Certificate

Your premises must have existing development consent or certificate to operate as a food and drink premises. This is also known as a Development Application (DA) or Complying Development Certificate (CDC) approval.

Citing the approval number is sufficient.

### 3.2. Public liability insurance

Your insurance must cover your business for a minimum \$20 million public liability insurance and note Randwick City Council as an interested party. You must provide a copy of your Certificate of Currency.

The Public Liability insurance must be maintained for the period of footway dining.

### 3.3. Site plan

A site plan (hand drawn is ok) which shows the measurements of your premises including:

- Width of the shop/building frontage of your premises and location of openings such as doors and windows;
- Width of the footpath and size and location of features such as trees, public utilities, parking restrictions, bins, street furniture, crossings, traffic lights and drains/pits;
- Location and distance of the kerb from your premises;
- The proposed location and dimensions of the footway dining area, including the total dining area in square metres. Ensure dimensions are shown from a point on the premises that can be measured to ensure that the dining plaques can be installed correctly on the footpath to indicate the boundary of the occupation area; and
- Details about proposed furniture to be used including any umbrellas, partitions, planer boxes.

### 3.4. Photos

Supply 3-5 photos taken from different angles showing where the footway dining area is proposed. Show the shop frontage including doors and windows as well as fixtures on the street including trees and tree pits, bus stops, street signs, street furniture, parking meters, traffic lights, crossings, bins etc.

### 3.5. Awning structural integrity

If the proposed footway dining area is situated under an awning, you must ensure you liaise with the property owner to ensure the building awning is structurally adequate and satisfies the requirements set out in the Building Code of Australia, Volume 1, B1P1 & B1P2.

### 3.6. Required approvals

Applications for footway dining require approval under the

- Roads Act and
- Local Government Act.

Council will assist you in obtaining these approvals.

If your premises is adjacent to a classified road (that is a State or Regional road), then your application will be referred to Transport for NSW or the respective Roads Authority for consideration once you have applied to Council.

State and Regional Roads in Randwick City include sections of Anzac Parade, Bunnerong Road, Maroubra Road, Malabar Road, Avoca Street, Rainbow Street, Coogee Bay Road, Darley Road, Avoca Street and more.

Please see [Transport for NSW's Road Network classification map](#) for details.

Roads Act approval to use the footway dining is valid for a maximum period of seven (7) years from the date of the determination.

### 3.7. Formal agreement

Prior to using your footway dining area, you'll be required to enter into an Occupation of Footway Agreement with Council.

This will include all the relevant details relating to insurance requirements, fees payable and terms and conditions.

Your occupation of the footway will be managed by our Managing Agent who will be in contact with you regarding your direct debit and costs, and ongoing administration of the agreement.

### 3.8. Council conditions

Council retains management and ownership of its footpaths at all times. Council has the right to access and remove all trading items at any time for any purpose deemed suitable.

Smoking is prohibited in commercial Footway dining areas. The permitted areas must remain smoke free under the *Smoke Free Environmental Act 2000*.

The Applicant is responsible for the orderly conduct of the business and ensuring that the requirements of the Food Act and any other applicable legislation are fully met in the serving or display of food at outdoor tables. The Applicant agrees that no food storage, cooking or food preparation is permitted in the footway dining area. This area is designated solely for the dining and any violation of this condition may result in penalties or termination of the approval.

The Applicant will also be held responsible to ensure the good conduct of patrons and that noise is kept to a minimum. Failure to meet these conditions may result in fines and/or termination of the Occupation of Footway Agreement.

All items must be removed outside of permitted trading hours and the area must be cleaned daily to remove litter, grease and food stains.

An Occupation of Footway Agreement may be terminated if it is deemed to be in the interest of public safety or for any breach of the term and conditions as detailed in the agreement.

Requests to cancel a footway dining agreement must be put in writing. If you wish to recommence trading, a new agreement is required. Agreements cannot be 'paused'.

No compensation is payable in the event of Council or any statutory authority carrying out works which require the removal, cessation and/or alteration to any approved footpath trading activity.

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## 4. Designing your footway dining space

Footway dining should not have an unreasonable impact on the amenity of adjacent premises.

You also need to ensure that your business provides adequate toilet facilities for the additional patrons and that adequate lighting and/or heating is provided for safety and comfort.

Council requires that you have suitable measures in place to manage noise, litter, and the cleanliness of the dining area.

### 4.1. Location of footway dining

Only that part of the footpath or public place directly in front of a restaurant/café/bar may be used for footway trading. The area may not extend to the area in front of neighbouring properties.

Where no footway dining occurs in a locality, a proposed footway dining activity is to be provided adjacent to the kerb.

Footway dining can only be located next to the building line if there is similar existing footway trading, exceptional circumstances and/or a public benefit.

Seating may not be located next to the building line and the kerb side at the same time.

### 4.2. Clear space

Provide a clear zone on the footpath with a minimum width 2.0m or 2.5m for locations adjacent to classified roads, busy footpaths, footpaths in excess of 4m width and land within Randwick Junction Centre.

### 4.3. Kerb setback

Provide a minimum kerb setback 0.6m. Note the following kerb setbacks apply regardless of footpath width:

- a) 0.9m adjacent to loading zones
- b) 1.0m adjacent to “No Standing” zones
- c) 1.5m adjacent to pedestrian crossings (applies both from kerb and the crossing)
- d) 1.2m adjacent to angle parking
- e) is not adjacent to a disabled parking space or a bus stop.

If the minimum criteria in 4.1 and 4.2 cannot be achieved, applicants must discuss their footway dining with Council’s Place Coordinator to ensure that:

- a) Existing levels of public access and safety will be maintained for the footpath and the adjacent road, and
- b) No unreasonable impacts on amenity or streetscape.

### 4.4. Arrangement of footway dining

For trading areas longer than 10m, provide a 1.5m break in the centre of the trading area (excluding doorways and other essential openings).

Provide a minimum break of 1.0m from public utilities including fire hydrants, rubbish bins, seats, telephones, bicycle stands, bus shelters, and taxi ranks.

Provide a minimum break of 0.5m from all other street furniture including bollards, tree pits, streetlights and traffic and electricity poles.



Provide a minimum depth of 1.1m within the footway dining area for the comfort of patrons.

Comply with a footpath gradient (crossfall) range of 1:100 to 1:40 (maximum) or demonstrate to Council that suitable access can be provided if a proposal is located on grades outside this range.

Locate the footway dining area consistent with adjacent footpath trading activities, existing public utilities, landscaped areas and open spaces to provide consistent pedestrian access subject to the minimum setbacks above.

Provide clear sight lines from the indoor premises to the outdoor trading area.

NOTE: References to footpaths in this guide relate to existing grades. Structures or works to change footpath levels (for example, platforms) will generally not be supported, unless it can be demonstrated that pedestrian access on the footpath and to premises will not be impaired.

## 4.5. Operating hours

The following standard hours of operation apply to all footway dining areas:

Note: except for cafes, restaurants and take-away food and drink premises within an E1 or E2 zone, which are subject to the provisions of Subdivision 23B of the SEPP (Exempt and Complying Codes) 2008, all food and drink premises must comply with the approved hours of operation of the associated premises. You should confirm the approved hours of operation prior to submitting an application for footway dining, this can be done by obtaining a copy of the relevant development consent for the premises.

### **E1 – Local Centre Zone:**

- Monday – Saturday: up to 10:00pm;
- Sunday: up to 09:30pm.

### **E2 – Commercial Centre Zone**

- Monday – Saturday: up to 11:00pm;
- Sunday: up to 10:00pm.

Note: Extended hours of operation (i.e. 6:00am to 10:00pm, Monday to Sunday) may be considered for footway dining areas associated with a café, restaurant or takeaway food and drink premises.

For footway dining areas in potentially sensitive areas (e.g. in proximity to residential zones or premises), the hours of operation of the footway dining is generally limited up to 9:30pm and further limitations may also be required for premises in areas within proximity to any residential premises.

### R1, R2, and R3 Residential Zones

Hours of operation of the footway dining area must comply with the approved hours of operation of the associated food and drink premises.

## 4.6. Furniture and fittings

All furniture and fittings are to:

- a) fit into the dining area providing a comfortable experience for patrons:
- b) be safe, sturdy, waterproof and weather resistant and easily able to be removed at the close of business each day;

- c) not damage the footpath or other public infrastructure or pose a trip/fall hazard or inconvenience to the public
- d) be significantly heavy or weighted down to prevent accidental dislodgement;
- e) visually complement and be physically aligned with other street furniture (including adjacent footway trading areas) and adjacent public utilities;
- f) define a footway dining activity by landscape planter boxes and flowerpots, bollards, or screens (all to a maximum 1.2m height and maximum 1.8m length) provided they are located within the boundaries of footway dining area and are removable at the close of business or otherwise designed as an integral part of a public open space area; and
- g) not enclose the area with full height solid plastic or other type of enclosure.

Fittings are supplied and maintained at the expense of the applicant.

#### 4.7. Umbrellas

If umbrellas are provided they are to:

- a) be consistent in heights consistent with adjacent umbrellas or shade structures (if applicable) with a minimum height clearance from the footpath of 2.6 metres when open;
- b) maintain views (if existing) of traffic signals, signs and pedestrian crossings;
- c) maintain views (if existing) of historic facades or vistas of valued or historic streetscapes.
- d) be safely secured to an anchor point (permanently fixed and not posing a trip hazard when the umbrella is in storage).
- e) Not overhang the roadway.
- f) Be made from fire retardant materials if located near a heater
- g) Be market style, not beach umbrellas.

Umbrellas should not be provided where there are building awnings unless it can be demonstrated that both can be appropriately accommodated.

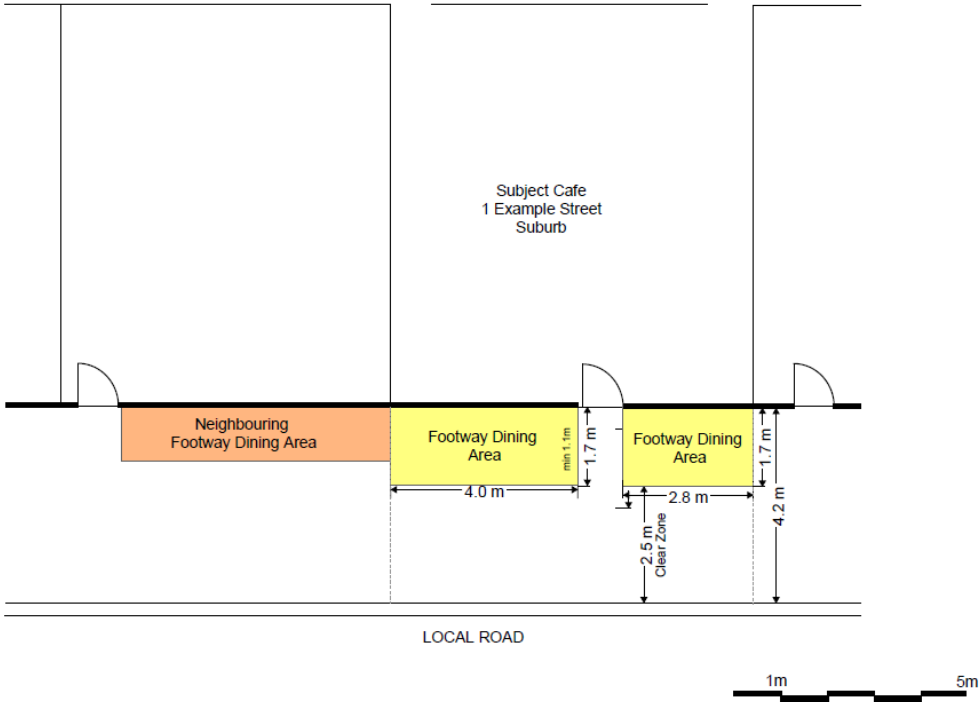
Design details of the proposed furniture shall be submitted to the Council for approval as part of the application.

Fully enclosed café structures are not encouraged. This can privatise the public place which results in reduced accessibility, visibility, amenity, and safety to the public.

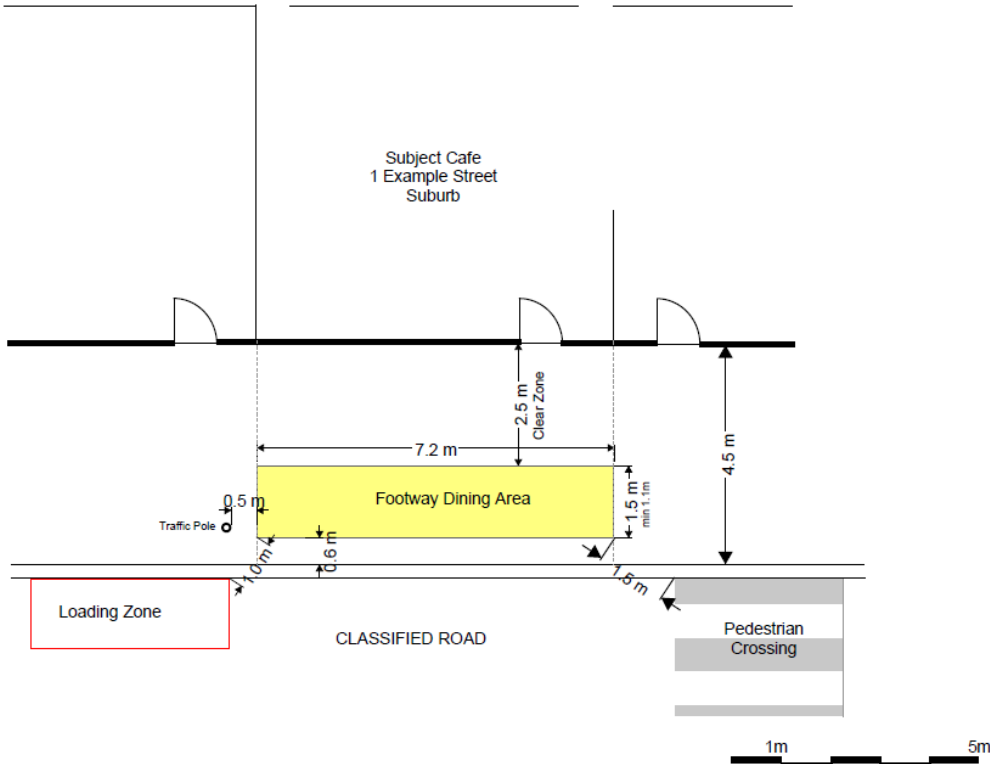
Council reserves the right to require the replacement of inappropriate tables and chairs as a condition.

# 5. Examples of footway dining layout

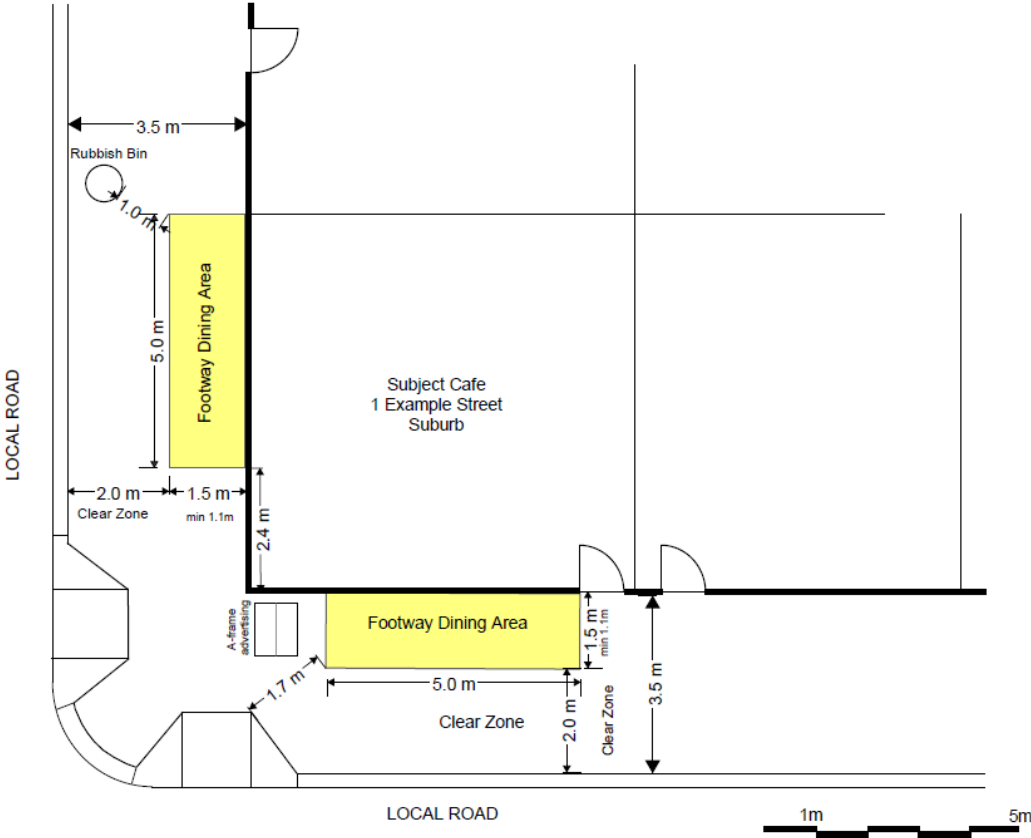
## 5.1. Footway dining adjacent to building



## 5.2. Footway dining adjacent to kerb



### 5.3. Footway dining on the corner



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## 6. Fees and conditions

When approved, you will enter into an Occupation of Footway agreement with Council and pay fees for the occupation of the footway.

All fees and charges associated with the footway dining application and ongoing occupation can be found on the Council [website](#).

Application fees and occupation costs for footway dining areas are outlined in the Randwick Fees and Charges.

The rates can change each financial year, and the latest schedule is available on the Council website.

The ongoing usage fees will depend on the location and size of the outdoor dining area.

