



Purpose:	To facilitate kerbside dining in a controlled and safe manner.
Scope:	The approval process for kerbside dining on Council controlled roads adjacent to food outlets.
References:	Kerbside Dining Policy.

Procedure

1. Approvals Required

- Kerbside dining is exempt from Development Consent under the SEPP Exempt & Complying Development 2008 (Codes SEPP). Development that cannot satisfy the criteria of the Codes SEPP 2008 must obtain Development consent. See link <http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+572+2008+cd+0+N>
- A Section 125 Approval (permit) under the *Roads Act 1993* is required for all kerbside dining proposals (valid for a maximum period of seven (7) years).
- Written Agreement with Council for permanent/ fixed street furniture including table, chairs, barriers, shading devices and waste disposal.
- An approval may not be granted in respect of a footway of a classified road except with the concurrence of RMS. Applications will be forwarded to RMS for assessment/concurrence.

2. Matters for Consideration before lodging Kerbside Dining Application

Prior to the lodgement of an application (form attached), discussions are to be held with Council regarding the overall design and size of the alfresco dining area. Any alfresco dining area shall be designed and configured in a way which will have a positive contribution to the overall streetscape.

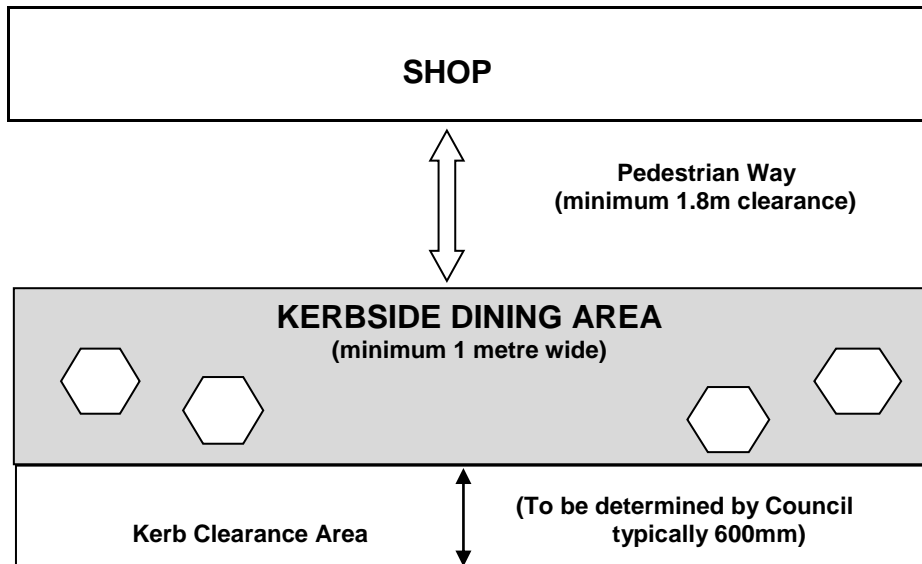
- Location and Dimensions

A kerbside dining area shall only be permitted as an integral part of a development proposal for a new eating establishment within an adjacent building or as an extension to a previously approved existing establishment operating within an adjacent building.

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The area shall be designed in such a way as to permit unobstructed pedestrian movement. A minimum clear footpath width of 1.8 metres shall be maintained in all cases. Pedestrians should be able to make normal use of the footpath without obstruction or unwarranted detours.

The following figure shows location and dimensional requirements.



Kerbside dining areas should take into account the multi-use of the public space they occupy and must provide for clear sight lines for vehicles and/or pedestrians, both at road junctions, vehicle access crossovers and/or pedestrian crossings. Also these areas are not to create conflict with, or inconvenience other retail and commercial activities, or unreasonably obstruct the views of, or access to adjacent properties. This issue is to be considered, where relevant, in accordance with the design/landscaping section of this policy.

- Safety/Crash Protection

A footpath dining area is not permitted in a position which, in the opinion of Council, compromises the safety of any users of the kerbside area or will create conflict between pedestrians, vehicles and diners.

Crash protection barriers and/or clearance areas from the kerb must be provided when additional protection for diners is required. These requirements will be determined by Council depending upon the type of road which the proposal fronts, existing car parking arrangements, location of existing services, the condition of the existing footpath and the like.

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In the event a crash protection barrier is required by Council, certification from a suitably qualified professional shall be submitted demonstrating the barrier has been designed and constructed so as to maximise safety of diners and vehicle occupants.

- Structures

All fixed street furniture associated with kerbside dining areas such as tables, chairs, barriers, shading devices, waste disposal and so forth, are to be removable, for footpath works or an agreement is terminated/ expired. All structures/furniture shall be shown and approved upon the plans attached to the Section 125 Roads Act application.

- Design/Landscaping

Prior to lodgement of a permit application, discussions are to be held with Council's Development Assessment Group regarding the design and landscaping of the proposed kerbside dining area under consideration.

Any design or landscaping incorporated into the development should:

1. Permit social interaction between pedestrians and dining patrons;
2. Provide positive contribution to the streetscape by:
 - a) permitting the visual continuity of the streetscape;
 - b) not unreasonably obstructing the existing vista;
 - c) where necessary, encouraging the use of appropriate low barriers and bollards;
 - d) associated plantings should not be used as a screening element but as a landscape technique to soften the hard surface elements of the streetscape;
 - e) the design of the kerbside dining area shall maintain the visual integrity of adjoining development;
 - f) in certain circumstances the design of the kerbside dining area may need to address or incorporate elements for the visually impaired, disabled or elderly.

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3. Permit Application Requirements

An application is to contain:

- a) a completed Application Form accompanied by the relevant fee as per Council's Revenue Policy;
- b) site plans identifying the relevant areas in relationship to the applicant's premises, details of the proposed street furniture, bollards, barriers and landscaping
- c) details of the premises seeking approval for kerbside dining such as hours of operation, service of alcohol etc;
- d) insurance coverage (see Section 9).

All plans accompanying the application must be drawn to scale clearly indicating all structures, furniture and clearance areas and their relation to the building in which the eating house is located.

In granting approval, Council may impose conditions requiring that the facility may only operate at certain specified times. For permanent street furniture, a more formal Licence Agreement between the applicant and Council will be required prior to the kerbside dining commencing.

4. Application Fee

The application fee for the proposed kerbside dining area will be as per Council's Revenue Policy for Kerbside Dining Application.

5. General Application Standards

- a) A clear footway with a minimum dimension of 1.8 metres must be maintained at all times. A larger minimum dimension may be required where pedestrian traffic density is assessed by Council as requiring increased clear footway.
- b) A clearance of 1.0 metre is required from public infrastructure at all times. This includes litter bins, public seats, payphones, bike stands, fire hydrants and the like.
- c) A kerbside dining reserve must be no narrower than 1 metre.

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- d) Unless specifically approved, the kerbside dining area must not extend along the footpath beyond the frontage of the principal food premises.
- e) Council may delineate the extent of the kerbside dining reserve on the footpath at the applicant's expense. Kerbside dining areas shall be clearly defined by the use of markers and/ or barriers to give a sense of identity to the area and facilitate its policing to maintain unobstructed footpath passage.
- f) A kerbside dining area is not permitted in a position which, in the opinion of Council, will create a traffic hazard or compromise the safety of diners or pedestrians.
- g) Crash protection barriers must be provided when, in Council's opinion, additional protection of diners is required. Certification from a suitably qualified professional shall be submitted demonstrating the barrier has been designed and constructed so as to maximise safety of diners and vehicle occupants.
- h) The kerbside dining area must only operate during the business hours approved by Council for the specific premises.
- i) Unless otherwise approved by Council, all tables and chairs and other items placed by the applicant on the footpath must be removed from the footpath when the principal food premise is not open for business.
- j) The applicant must at all times ensure the cleanliness of the kerbside dining area, all infrastructure within that area, and its immediate surrounds.
- k) No advertisements, including sandwich boards, will be permitted on the footpath area.
- l) Where Council has approved the use of shade umbrellas or other structures, a minimum vertical clearance of 2.2 metres above the footway is required.
- m) Depending on the scale and location of the application, approval may be limited in the first instance to a trial period. Upon the expiration of this period, Council will re-assess the operation in the context of its compatibility and/or functionality with the footpath system, the adjacent land uses and the streetscape generally.
- n) In the event problems or conflicts are experienced with the kerbside dining area, they must be resolved to Council's satisfaction within a reasonable timeframe. Failure to do so will result in the any licence or permit being cancelled.

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6. Approval

All kerbside dining areas are to be Council approved in accordance with *Section 125 Roads Act 1993*. All costs for establishing an approval are to be borne by the applicant. Approval will be in writing for a period of up to seven (7) years.

Approved kerb side dining areas will be clearly identified on the footpath, in a manner approved by Council. The method of identifying the approved area will be conditioned on the approval. For permanent street furniture, an annual fee applies / m² of kerbside dining area (see Council Revenue Policy).

<http://www.richmondvalley.nsw.gov.au/?action=search&query=revenue+policy>

8. Exemptions

Upon written application, the General Manager may dispense with all or any of the conditions of this policy for special Council approved festive occasions such as Beef Week.

9. Indemnities and Responsibility

Any damage caused to Council's footpaths as a direct result of trading activities shall be the responsibility of the respective proprietor. All repair work shall be undertaken by Council at the owner's expense. Proprietors shall indemnify Council against all claims of public liability and shall maintain a public risk policy for a sum of not less than ten million dollars (\$10,000,000) at all times, and provide Council with an annual **Certificate of Currency nominating Richmond Valley Council as the interested party.**

Review

This procedure is to be reviewed as required and at least annually.

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Richmond Valley Council

Application for Kerbside Dining Approval (Kerbside Dining Policy/Procedure No 15.1)

(Please allow 10 working days for processing)

I _____
(Applicants Name)

Of _____
(Business Name)

wish to apply for a Kerbside Dining Approval in accordance with the Kerbside Dining Procedure for:

(Street Address of Business)

(Postal Address of Business)

The following is to be attached to the application:

- Copy of Current Public Liability Insurance ***
*(*mandatory – permit will not be issued without insurance; Kerbside Dining to be specifically listed)*
- Payment of Application Fee** (as per Council Revenue Policy)
- Plan of proposed layout and relevant notes**

24 Hour contact phone number _____ email _____

(Signature of Applicant) _____
(Date)

Office Use Only: Required details provided (CSO initials) _____

Fee payable	\$ _____		
Fee waived	Authorised by: _____		
Receipt No.		Receipt date	