

Display of Goods on the Footway Local Approvals Policy



Contents

Introduction	3
Part 1 - Exempt from approval	7
Appendix A	13

Table of figures

Figure 1 Scope of Policy	4
Figure 2 Central Sydney	5
Figure 3 Example of a clear path of travel and required clearances	10
Figure 4 Display dimensions – simple example	11

Introduction

The purpose and title of this policy

This policy is called the Display of Goods on the Footway Local Approvals Policy. Its purpose is to set out the circumstances and conditions under which Council will allow goods to be display on the footpath and other similar public spaces.

The aims of this policy

The aims of this policy are to:

- promote activation of the footway;
- maintain the pedestrian thoroughfare as the primary purpose of the footway;
- maintain a consistent and predictable clear path of travel for all users;
- manage neighbourhood amenity through minimising additional visual clutter and other impacts; and
- ensure access and amenity is maintained by monitoring compliance with the criteria.

Scope of this policy

This policy applies to the City of Sydney local government area, except for the areas excluded as identified in Figure 1.

It was adopted by Council on 21 November 2022 and commenced operation 21 December 2022.

How this policy works

This is a Local Approvals Policy under section 158 of the Local Government Act 1993.

Part 1 – Exempt from approval

Part 1 of this policy sets out the circumstances where a display of goods does not require approval from Council. Where the display of goods meets all the criteria in Part 1 of this policy:

- no approval is required from Council; and
- no fee is payable to Council.

Part 2 – Criteria for approvals

There are no criteria for giving or refusing an approval. If a display does not meet the criteria in Part 1:

- no approvals are available; and
- the display is not permitted.

Part 3 – Other matters for approvals

There are no other matters relating to approvals.

Enforcement of the policy

Where a display does not meet the criteria in Part 1 of this policy, it is not permitted.

An authorised officer of Council may issue penalty notices, give orders or initiate court action for non-compliance with this Policy.

When will the policy be revoked?

Under s165(4) of the Local Government Act 1993, this policy is automatically revoked 12 months after the NSW local government elections, unless Council resolves to do so sooner (s164(3)).

Display of Goods on the Footway Local Approvals Policy

Figure 1 Scope of Policy



Display of Goods on the Footway Local Approvals Policy

Figure 2 Central Sydney



Display of Goods on the Footway
Local Approvals Policy

Key terms

Term	Meaning
Clear path of travel	<p>The area of the footway maintained for safe and equitable pedestrian circulation which is free from obstructions and assists in wayfinding and navigation. Also referred to as the continuous accessible path of travel, which is defined by the Australian Human Rights Commission as:</p> <p><i>An uninterrupted route to and within an area providing access to all features, services and facilities. It should not incorporate any step, stairway, turnstile, revolving door, escalator, hazard or other obstacle or impediment which would prevent it from being safely negotiated by people with disability.</i></p>
Display of goods	<p>The display of goods for sale, associated with a lawfully operating retail outlet which does not involve spruiking or sales activity from the footway.</p>
Exempt development	<p>Development which does not need development consent under the Environmental Planning and Assessment Act 1979, but which may still need some other approval.</p>
Footway	<p>That part of a road that is set aside or formed as a path or way for pedestrian traffic, whether or not it may also be used by bicycle traffic.</p>

Part 1 - Exempt from approval

This part (Part 1) sets out the circumstances under which operators using the footway to display goods from an adjacent shop are exempt from approvals.

The following criteria meet or exceed standards set under AUSTROADS Guide to Road Design Part 6A: Paths for Walking and Cycling, Section 5 Design Criteria.

A display is exempt from approval if it meets the following criteria.

1.1 Areas where displays are prohibited

Displays are prohibited in:

- The Light Rail Corridor as shown in Figure 1; and
- Central Sydney as shown on Figure 2.

1.2 Clear path of travel for pedestrians

The display should be located to allow for a consistent and predictable clear path of travel along the whole of the street block.

The clear path of travel should be at least 2 metres wide, except in a signposted 'shared zone' where the clear path of travel should be at least 4 metres wide.

An example of a clear path of travel is shown in Figure 3.

1.3 Location of the display

The display should generally be located against the building line of the shop.

The display cannot be located outside adjacent premises.

When located on the building side, the display must leave:

- an unobstructed accessway into the shop; and
- unobstructed access to any fire exit, fire door, or pathway to a fire exit or fire door.

1.4 Kerbside displays

The display can only be located on the kerbside:

- if the road is not a classified road as defined under the Roads Act 1993;
- if existing business uses on the street block, such as outdoor dining, are already located towards the kerb; and
- if it is set back 0.6 metres from the kerb to enable unobstructed access for car passengers.

When located on the kerbside, the display must:

- occupy no more than 60% of the total street frontage of the shop; and
- have regular breaks of 1.2 metres.

This is to allow unobstructed access to the kerb.

1.5 Clearances around the display

In addition to the clear path of travel for pedestrian traffic, the display should maintain clearances in all directions around the following items:

- 0.5 metres from any tactile ground service indicators
- 1 metre from any service object including fire hydrant, utility pit, vents, drains, public seat, bike rack or ring, pay phones, parking meters, rubbish bins and the like;
- 1 metre from pedestrian and signalised crossings, kerb ramps, any landscaped area, street tree pit or grate;
- 2 metres from the corner alignment of the building at street intersections (as shown in Figure 3). This is to allow for a clear line of sight from the intersection; and
- 3 metres from bus zones, public transport access points and taxi stands.

1.6 Display structure – dimensions

The goods should be display on a structure or stand:

- no more than 0.6 metres deep, when measured perpendicular to the shopfront or building line;
- with the lowest 60 millimetres being solid to be detectable with a cane, and with colour and luminance contrast of at least 30%, to allow them to be identified by pedestrians with low vision; and
- no less than 0.5 metres high to avoid being a tripping hazard, and
- no more than 1.2 metres high (including the goods) to allow views between the road, the footway and the building (as shown in Figure 4).

1.7 Display structure – design

The display structure is to be designed:

- to keep the street tidy and free of clutter, with no objects hanging or protruding from the structure into the footway;
- to be durable and weather resistant;
- to prevent goods being blown about by wind;
- so as not to compromise trolleys, shopping baskets, crates or packing boxes;
- without electrical power, lighting, heating or refrigeration; and
- without mirrored or reflective surfaces.

Sandwich boards and advertising A-frames are not permitted.

1.8 Goods on display

The goods on display:

- are to be normally found for sale in the adjacent shop;
- do not emit noise or vibration that could cause annoyance, for example operating radios or electronic toys, and
- are to comply with any regulations ensuring the display of items is free from contamination, for example the Food Act 2003 for displays containing food.

The display must not contain the following goods for sale:

- furniture or white goods;
- sharp, dangerous, or protruding items (for example, uncovered hardware items);
- goods that may damage or stain the pavement (for example, oils or dyes);
- perishable foods (including meat, fish shellfish, poultry, dairy or cooked rice) other than fresh fruit and vegetables;
- restricted literature or goods, where restricted means publications classified Category 1 restricted, Category 2 restricted or RC under the Classification (Publications, Films and Computer Games) Act 1995 (Cth).

1.9 Permitted hours for the display

The display must be removed from the footway outside the approved operating hours of the adjacent shop, or between 10pm and 7am the next day, if the shop is approved to trade between 10pm and 7am the next day.

1.10 Use of the display

The display is not to be used for:

- conducting sales transactions;
- spruiking or broadcasting or amplified sales messages on the footway, or from within the shop so they can be heard on the footway; or
- for advertising, except where it relates to the items on display.

1.11 Maintenance of the display

The display structure:

- must not be attached to the footway, street poles, or any other street furniture or infrastructure with metal bolts, padlocks, chains or the like;
- must not damage the surface of the footway, including when it is being moved at the start and end of trading;
- is to be kept clean and tidy; and
- is to be kept in good repair and free of broken elements.

1.12 Insurance

The operator of the display must have a current public liability policy covering the display, with a minimum value of \$20 million. For displays on a classified road, the insurance policy must note the interests of Transport for NSW.

1.13 Removal of display

The road authority (Council or Transport for NSW) can request the goods display be removed if:

- the conditions of this policy are breached;
- the display is compromising public safety or public access;
- the footway area is needed for public works;
- the footway area is needed for a special event;
- the footway area is needed to manage an increase in pedestrians;
- the footway is needed for the installation of construction hoardings and scaffoldings; or
- the footway is needed to support pedestrian flow.

Display of Goods on the Footway
Local Approvals Policy

Figure 3 Example of a clear path of travel and required clearances

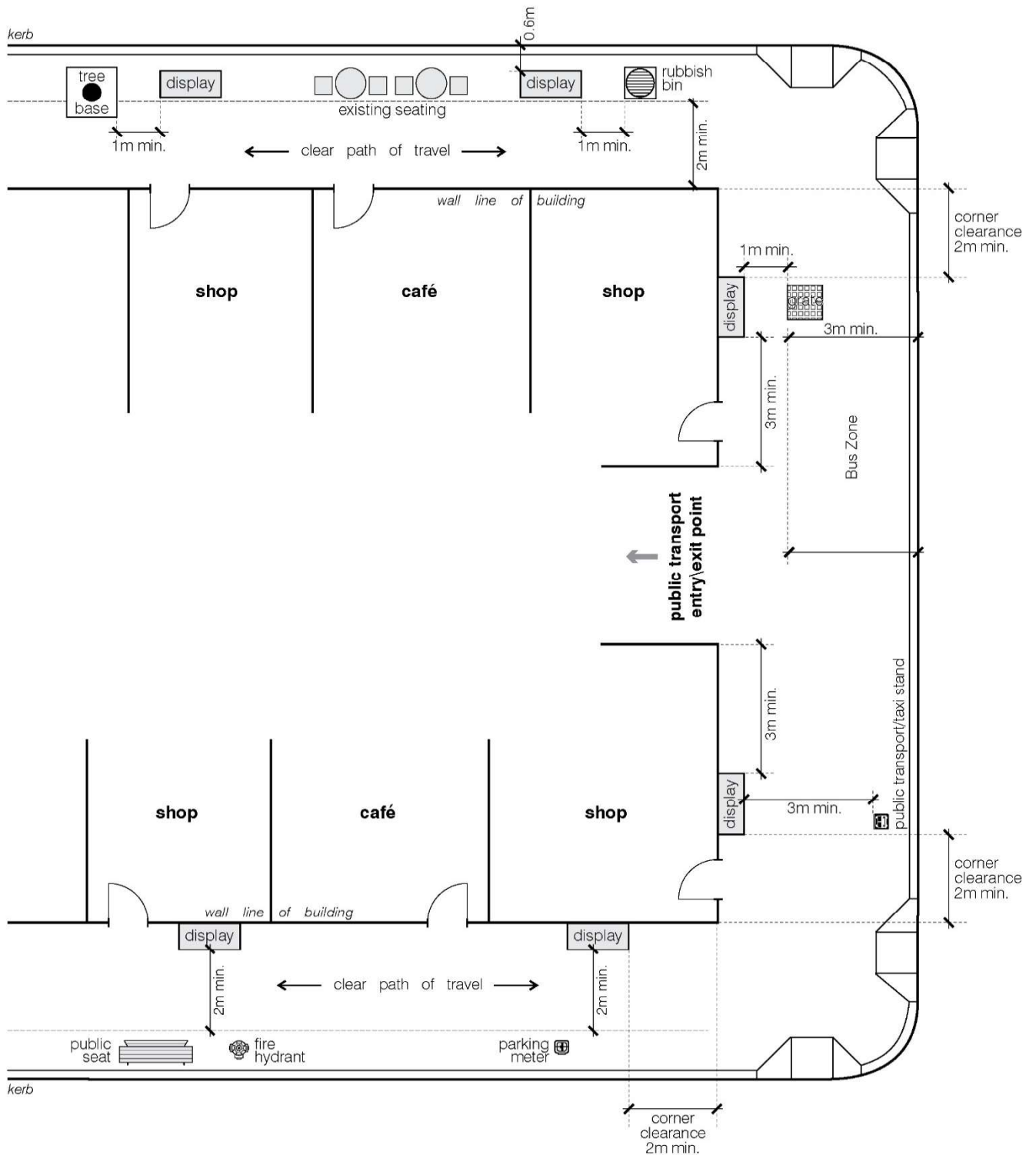
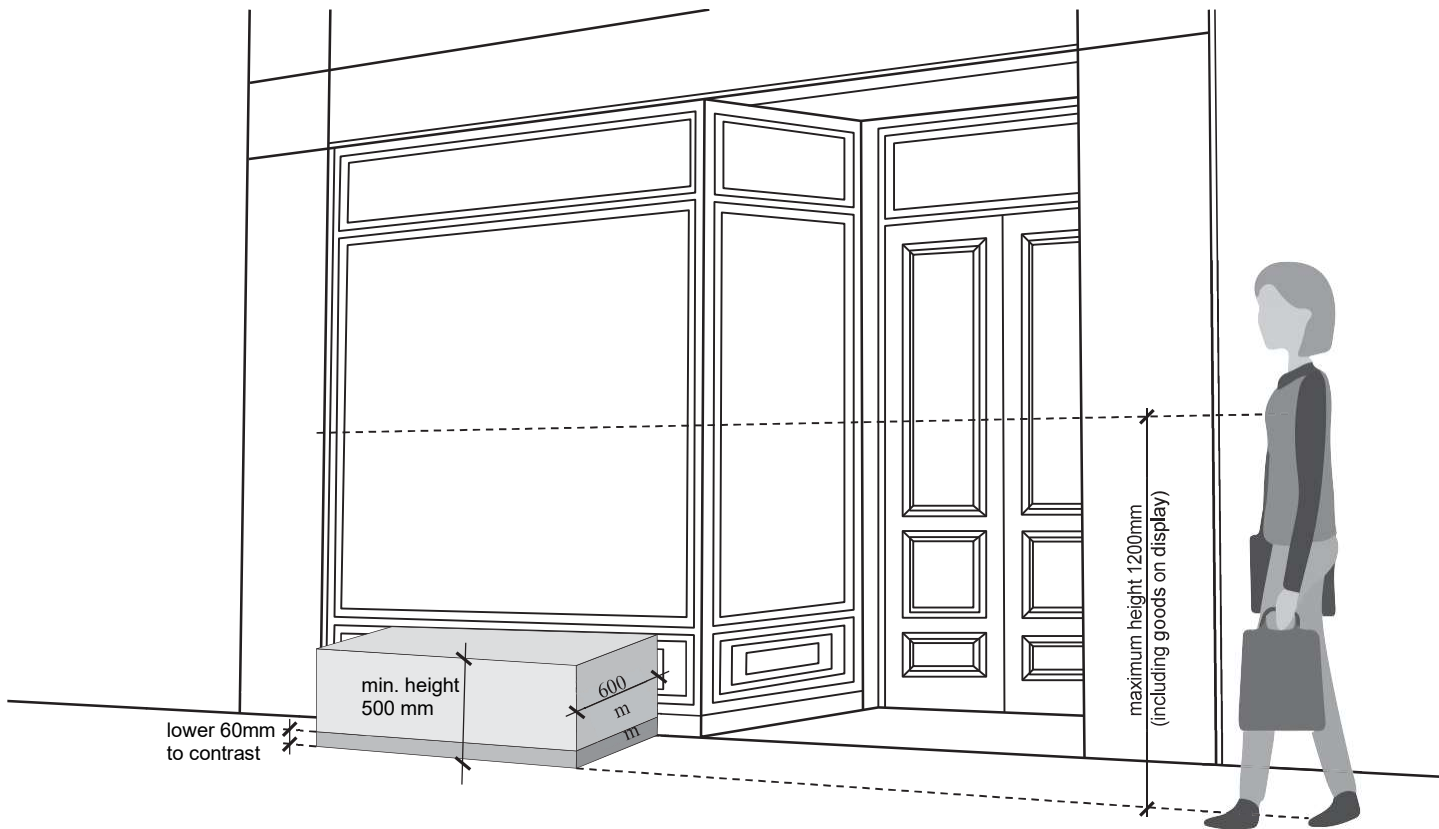


Figure 4 Display dimensions – simple example



Part 2 - Criteria for approvals

There are no criteria for giving or refusing of an approval.

If the display does not meet the criteria under Part 1, it is not permissible, and no approval will be granted.

Part 3 - Other matters for approvals

There are no other matters relating to approvals.

Appendix A

Classified Roads – Kerbside displays are not permitted.

An up-to-date list of classified roads is available on the Transport for NSW website at rms.nsw.gov.au

Abercrombie Street (section)	Fig Street	O’Riordan Street
Anzac Parade	Fountain Street	Oxford Street (section)
Botany Road	Gardeners Road	Parramatta Road
Boundary Street	Gibbons Street	Pymont Bridge Road (section)
Bourke Street (section)	Harris Street (section)	Regent Street
Bridge Road	Henderson Road (section)	Ross Street (section)
Broadway	King Street	South Dowling Street
City Road	Lachlan Street	Swanson Street
Cleveland Street	Lee Street	Sydney Park Road
Copeland Street	McEvoy Street	The Crescent
Dacey Avenue	McLachlan Avenue	Wattle Street
Elizabeth Street, Waterloo	Minogue Crescent	Wyndham Street
Erskineville Road	Mitchell Road (section)	
Euston Road	Neild Avenue	



Attachment A: Conditions of Consent under Roads Act s 138

Display of Goods on the Footway Policy

The following comprise the Council of the City of Sydney's (**Council's**) conditions of consent as roads authority, to erect a Display of Goods on a road for which Council is the roads authority pursuant to section 138(1) of the Roads Act (**Consent**).

The Transport for NSW Conditions of General Concurrence Roads Act 1993, s 138(1) (**TfNSW Conditions of General Concurrence**) apply to any Display of Goods for sites on Classified Roads.

The following conditions (**Council Conditions**) apply to any Display of Goods for sites on all other Public Roads.

1. Definitions

Approval means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this Consent.

Authority means any government, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Classified Road has the same meaning as defined in the Roads Act 1993, and means any of the following: a main road, a highway, a freeway, a controlled access road, a secondary road, a tourist road, a tollway, a transitway and a State work.

Display of Goods means the display of goods on the footway, the subject of these conditions.

Operator means the operator in charge of the Display of Goods, to which the Consent is issued.

Premises means the area of road on which the Display of Goods is situated and includes the City's fixtures, fittings, plant and equipment.

Public Road has the same meaning as defined in the Roads Act 1993 and means:

(a) any road that is opened or dedicated as a public road, whether under this or any other Act or law, and

(b) any road that is declared to be a public road for the purposes of this Act.

TfNSW General Conditions means the general conditions contained in the Transport for NSW Conditions of General Concurrence.

Unclassified Road means a public road that is not a classified road.

2. Council Conditions

1. The Display of Goods must comply with the conditions of the Councils' Display of Goods on the Footway Approvals Policy (**Approvals Policy**) and the Operator acknowledges and agrees that a breach of the Approvals Policy will constitute a breach of the Consent.
2. The Operator must comply with the TfNSW General Conditions contained in the TfNSW Conditions of General Concurrence and the Operator acknowledges and agrees that a breach of the TfNSW General Conditions will constitute a breach of the Consent.

3. The Consent is subject to the provisions under Schedule 2 of Sydney Local Environmental Plan 2012 (LEP) and the Operator must ensure that the provisions of the LEP are complied with at all times, and acknowledges and agrees that a breach of the LEP will constitute a breach of the Consent.
4. The Operator must comply with the requirements of all governmental, consent and other like authorities in its use of the Premises, including obtaining any other applicable consents from adjoining land owners or any other applicable Approvals.
5. The Operator must permit the Council and any relevant Authority to enter upon the Premises with all necessary materials and equipment at all reasonable times and on reasonable notice (but at any time without notice in the case of an emergency) to:
 - a) Inspect the state of repair and condition of any services or utilities located with or passing through, under and above the Premises; and
 - b) Carry out works (including repairs, additions, replacements or renovation) to any services or utilities located within or passing through, under or above the Premises.
6. Council may suspend the Operators use of the Premises for the Display of Goods at any time if Council considers it necessary to enable the Council or any relevant Authority to carry out works in or around the Premises.
7. The Operator must not make any claim for compensation or abatement or any other demand in relation to the entry on to the Premises or the carrying out of works by the City or any relevant Authority or the suspension of use under the above clauses.
8. The Operator acknowledges and agrees that this Consent and the Operator's rights to occupy and use the Premises for the Display of Goods under this Consent are subject to the rights of passage and access along public roads granted to members of the public under the Roads Act, including under sections 5, 6 and 143 of that Act.
9. The Operator acknowledges and agrees that the City may enter into any arrangement or agreement with any occupier or other person interested in any land adjacent to or near the Premises, or any government agency, for the purpose of providing:
 - (i) public or private access to and egress from the Road;
 - (ii) support of existing or future structures erected on or from adjoining land; or
 - (iii) services including water, drainage, gas and electricity supply and telephone and electronic communication services.

For the purposes of this clause 9 the City may dedicate land or transfer, grant or create any privilege or other right, in favour of any other party, any adjoining or neighbouring land or any government agency over or affecting the Public Road. The Consent is subject to any agreement, dedication, arrangement, right, easement or privilege granted under this clause 9 or existing in respect of the Public Road at the Commencement Date.

When exercising its rights under this clause 9, the City must not dedicate any land or create any easement, privilege or other right which substantially or permanently affects the enjoyment of any rights conferred on the Operator by the granting of the Consent other than in the case of resumption by a government agency, in which case the Consent will be revoked. The City will not be liable to the Operator in respect of that revocation.

10. The Operator acknowledges and agrees that nothing in the Consent relating to the Display of Goods will be construed as authorising the permanent obstruction of the Public Road, or prevent the City from altering the levels of or reconstruction the Public Road.
11. If at any time the City or TfNSW request the removal of the Display of Goods the Operator must at its own cost:
 - a) Remove the Display of Goods from the Premises;
 - b) Remove any alterations or additions made to the Premises by the Operator; and
 - c) Make good the Premises to the condition at the commencement of the Consent.
12. If the Operator is in breach of any of the Council Conditions and fails to perform any required act to rectify the breach within 10 business days of notice by the City to the Operator of that breach, then the City may request the Operator to remove the Display of Goods, and the provisions of clause 12 of the Council Conditions will apply.

Attachment B: Conditions of General concurrence Roads Act 1993, section 138

Display of Goods on the Footway Policy

The following comprise of Transport for NSW general terms of concurrence for any consent issued by City of Sydney Council as the roads authority, to erect a display of goods on a classified road pursuant to Section 138 of the *Roads Act 1993*.

General terms of concurrence

1. This general concurrence only applies with respect to a section 138 consent to erect a *Display of goods* on the footway of a classified road. Separate concurrence from Transport for NSW must be obtained in relation to any application under section 138 of the *Roads Act* in connection with any other works and substantial structures.
2. It should be noted that Transport for NSW General Concurrence does not apply to *kerbside* displays of goods on the footway of classified roads. Separate concurrence from Transport for NSW must be obtained in relation to any application under section 138 of the *Roads Act* for a kerbside display of goods on a classified road.
3. For the purposes of this concurrence, the term *Display of goods* has the same meaning as defined in the policy, generally as follows: the temporary placement and display of goods for sale, associated with a lawfully operating retail outlet which does not involve spruiking or sales activity from the footway.
4. The section 138 Consent is to be revoked or suspended at any time if Transport for NSW or their contractors:
 - (a) undertake or propose to undertake works in the approved display of goods area
 - or
 - (b) undertake or propose to undertake works or an event that otherwise impacts access to adjoining footways, roadways, transport infrastructure, parks or public places.

General Conditions

1. The display of goods must comply with any relevant council policy that applies to these types of structures, works and activities.
2. Clearance widths for pedestrians should be maintained in accordance with AUSTROADS Guide to Road Design Part 6A: Paths for Walking and Cycling (Section 5 Design Criteria) with additional allowance made for transverse movements by staff and customers.

The clearance widths must consider any existing or proposed landscaping, vegetation, garden beds and street furniture, which may impact on the clearance. The display of goods should not impact pedestrian movements on footways, with consideration given to all users.

3. Pedestrians should not be forced on to the road carriageway by displays or other non-permanent items on the footpath.
4. All improvements are not to be fixed structures and are to be stored away at the close of business.
5. The display of goods shall not obstruct motorist's line of sight to regulatory signage, driveways, traffic control signals or other critical road infrastructure.

6. The display of goods shall not cover or impede access to public utilities and drainage pits. Access is to be made available at any time and at no cost to Transport for NSW, if required.
7. The owner/operator of the display of goods on public footways of classified roads must obtain Public Liability insurance for an amount not less than \$20 million which notes the interests of Transport for NSW, prior to placing any displays on the public footway that are the subject of the section 138 Consent. The Public Liability insurance must be held for the full duration that the displays are in place on the public footway.
8. All costs and works associated with the display of goods are to be at no cost to Transport for NSW.