



CUMBERLAND  
CITY COUNCIL

# Goods on Display Guidelines

## AUTHORISATION & VERSION CONTROL

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## BACKGROUND

Council supports and encourages better practice design and planning controls to assist in establishing the display of goods on footpaths. Whilst Council actively supports local businesses, it is imperative that adequate controls are maintained at all times for the safety of the community. These Guidelines detail the implementation of the Goods on Display Policy.

Council promotes and encourages well managed use of goods on display to established operators to use part of the footpath space adjacent to their shopfront for the purpose of displaying goods associated with the adjoining business.

In determining the appropriateness of whether a location is suitable for goods on display, Council will assess each application against the Goods on Display Policy, and the criteria and requirements detailed in Council's Goods on Display Guidelines.

## OBJECTIVES

Goods on display is supplementary to businesses and attracts customers to individual retailers. The Goods on Display Guidelines set out Council's requirements in relation to the approach and the proposed use on how to display goods on footpaths.

These Guidelines apply to all land covered by the *Roads Act 1993* and/or that is owned or controlled by Council, where a proponent wishes to place goods on or over Council land. Council will apply these Guidelines to ensure the appropriate establishment of businesses displaying goods in Cumberland's commercial centres, which comply with the relevant legislation, and make a positive contribution to these centres and promote trade.

To support and implement the Goods on Display Policy, the purpose of the Goods on Display Guidelines is to:

- Establish the details, requirements, principles and approvals process for goods on display applications;
- Encourage and support local business displaying goods on Council footpaths that does not unduly obstruct pedestrian safety, by providing an active and attractive street frontage that does not compromise safety;
- Address pedestrian accessibility, safety and amenity;
- Encourage the fair and equitable use of Council footpaths by all members of the community;
- Promote the reasonable use of Council owned and managed land for goods on display associated with adjoining approved businesses;
- Manage the competing needs and interests of pedestrians and business owners by allowing goods on display in a manner that improves the usage, quality and image of Council;
- Support local business activity and vitality in Cumberland's commercial areas;
- Ensure goods on display do not obstruct the safe and reasonable movement of pedestrians and vehicular traffic, and other street activities;

- Ensure that adjoining premises are not unduly affected; and
- Ensure that all display areas are kept clean and regularly maintained.

Approvals are issued with consideration given to balancing the needs of residents, pedestrians, business operators and footpath users.

## HOW TO USE THESE GUIDELINES

Before making an application, applicants must read Council's Goods on Display Policy and these Guidelines. These Guidelines:

- Provide rules for applicants seeking to use the footways for goods on display purposes;
- Provide information for the public and for applicants seeking to use the road, including the footway, for displaying goods under the *Roads Act 1993*; or the *Local Government Act 1993* for other public spaces;
- Provide guidance for Council in determining applications for use of the road and other public spaces for goods on display; and
- Form part of the approval if granted by Council.

## DEFINITIONS

Term	Meaning
Approved Area	The approved Goods on Display area that the Business Operator must place Goods on Display, as shown on the survey plan included in the Footway Approval Notice.
Business Operator	A business/person applying for or in receipt of a Goods on Display Approval.
Classified Roads	Major arterial roads controlled by the Roads and Maritime Services (RMS) on behalf of the State Government of NSW. A schedule of all classified roads is available on the RMS website.
Council	Cumberland Council
DCP	Means <i>Cumberland Development Control Plan (DCP) 2021</i>
Development Consent	As defined in the <i>Environmental Planning and Assessment Act 1979</i> , means consent under Part 4 to carry out development and includes, unless expressly excluded, a complying development certificate.
Footway/Footpath	Means that part of a road as is set aside or formed as a path or way of pedestrian traffic (whether or not it may be used by bicycle traffic).
LGA	The Local Government Area of Cumberland Council.
Local Government Act 1993	Legal legislation in which supports the Goods on Display Policy & Guidelines.
Goods on Display	The use of the public footway by a Business Operator for the purpose of displaying goods/or signage for adjoining business.
Goods on Display (Approval)	An approval issued under Section 125 of the <i>Roads Act 1993</i> , granted by Council in accordance with Council's Goods on Display Policy and these Guidelines.
Goods on Display Area	Premises that are subject of a Goods on Display Approval.

Policy	The Goods on Display Policy, and any schedules or annexures to it.
Premises	A property with an appropriate Development Consent to operate that is adjacent to the road where the approved area for Goods on Display will be located.
Public Road	Means: a) Any road that is opened or dedicated as a public road, whether under the Roads Act or any other Act or law, and b) Any road that is declared to be a public road for the purposes of the Roads Act.
Roads Act 1993	Legal legislation in which supports the Goods on Display Policy and Guidelines.

## GOODS ON DISPLAY APPROVAL

These Guidelines apply to business operators wishing to use the footway immediately adjacent to the premises in Cumberland commercial business centres. This includes public footpaths, plazas and public squares that are within the public domain and would ordinarily be used by the public for pedestrian movement or recreation. These operators must apply to Council for an approval under the *Roads Act 1993*.

Whilst Council actively encourages businesses to display goods on the footpath, there may be some areas where this activity is not appropriate due to insufficient footpath width. In determining the appropriateness of whether a location is suitable to allow goods to be displayed on the footpath, Council will give consideration to the following criteria:

- The need to retain a continuous accessible pedestrian circulation space along the footpath;
- The location of other goods being displayed, including the location of existing shop fronts and awnings;
- The location of streetscape elements including poles, signs, waste bins, fire hydrants, inspection chambers, telephone / electricity underground cables, water services pipes and the like; and
- The location of bus stops, taxi stands, and parking for the disabled.

### Minimum Footpath Width

- A clear and unobstructed pedestrian corridor of 2.0 meters minimum must be maintained to allow for continuous accessible paths of travel at all times.
- The display area must not extend more than 75cm away from the shop front boundary of the respective business subject to the approval.
- Goods are not permitted to be displayed away from the shop front adjacent to the kerb/roadway at any time.
- The surface area of the footpath must be suitably constructed and sufficiently level to support display stands.
- Compliance with the above standards does not necessarily ensure approval, consideration will also be given to existing circumstances such as:
  1. Position of paved footway;
  2. Adjacent pedestrian crossing;
  3. Any other matter impacting pedestrian routes.

Refer to Figure 1 below for more details.

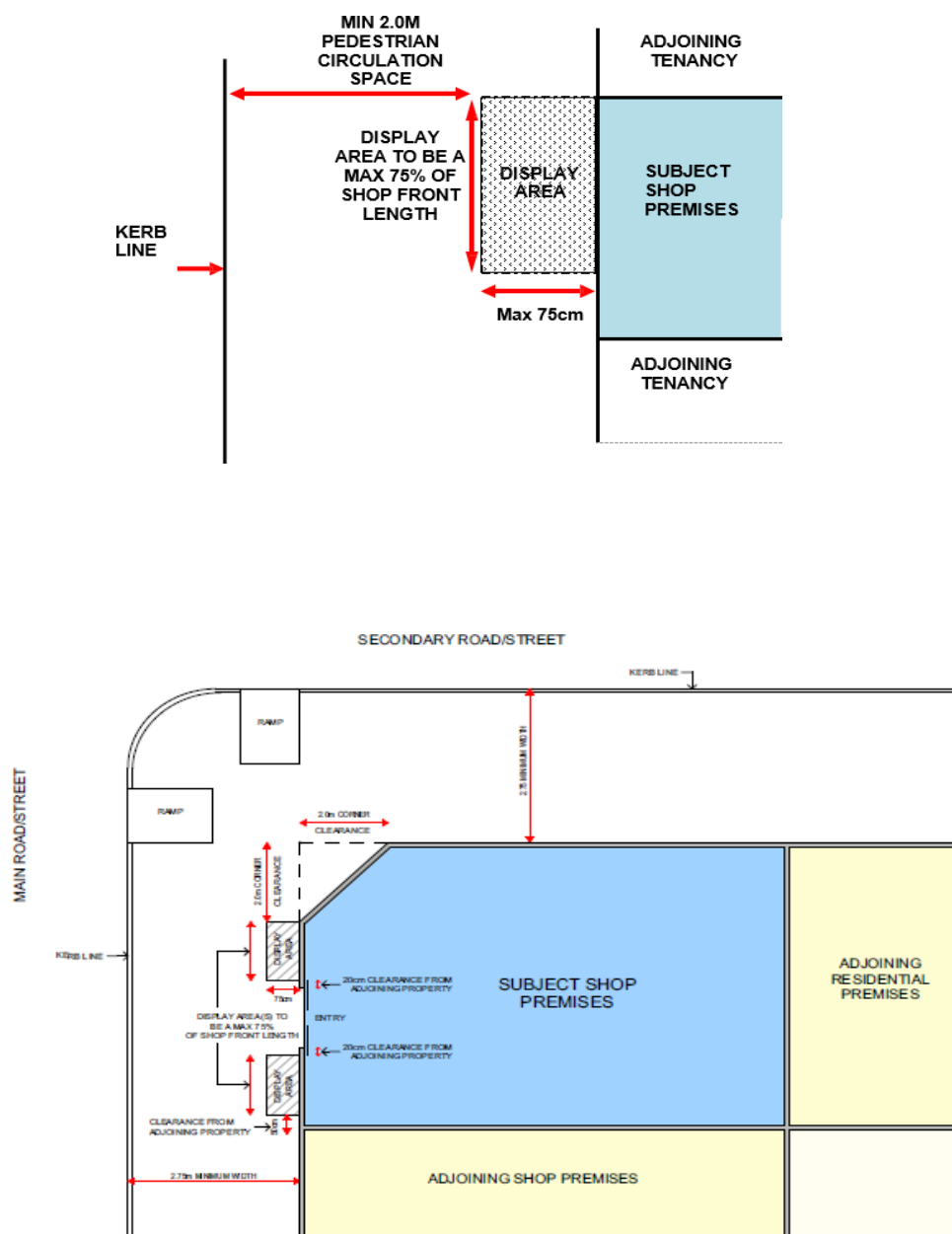


Figure 2: Indicative Site Plan Requirements – Corner Locations

## Defining the Area Used to Display Goods

Subject to an approved application, the boundaries of the approved licensed area must be appropriately marked out on the footpath.

A registered professional design plan must be provided by the applicant outlining the proposed dimensions of the items to be displayed on the footway and approved the Goods on Display Plan must be visibility displayed on the shopfront window throughout the duration of the Licence.

## Requirements

Before an application is made for an approval, the business operator must ensure that the operation of the premises has an appropriate Development Consent.

The following requirements must be adhered to in relation to the display of goods on all Council owned footpaths:

- Only the section of the footpath directly in front of the approved business premises may be used for the display of goods, and goods displayed must relate specially to the approved business;
- The display area must not occupy more than 75% of the length of the shop frontage;
- The display area must extend no more than 75cm out from the shop front, measured at 90 degrees to the boundary line;
- All display stands must maintain a minimum of 200mm from the entry to the shop and from the adjoining property boundary; and 2.0 metres from building corners at vehicular crossings, arcade entrances, street and lanes;
- Access to public utilities must be maintained at all times – namely a minimum 1.0m clearance to any asset permanently fixed to the footpath such as rubbish bin, parking signs, telecommunication infrastructure and to any public seat;
- The displayed goods must not exceed a maximum height of 1.5 metres at the back of the display area, and a minimum display height of 750mm at the front of the display area (inclusive of any display stand);
- Goods must be displayed on stands that are purpose built and capable of holding the items on display and are safely secured to ensure stability in wind gusts - all display stands must be fully enclosed down to ground level on all sides to assist pedestrians who may be visually impaired and rely on the use of a walking stick;
- Cardboard, foam or polystyrene boxes, pallets, milk crates, and other such articles are not deemed suitable for display purposes;
- Sufficient space must be provided in front of the subject premises for the temporary parking of disabled scooters;
- Driver mounted forklifts must not be used to place shop displays or goods on the footpath;
- Premises with dual street frontages are only permitted to display goods on one street frontage only;
- All goods or articles must only be displayed during daylight hours;

- Empty boxes or disused packaging must not remain on the footpath area or be rested against Council's litterbins, trees, or any other street furniture;
- Street and shop numbers must be visible at all times; and
- The use of shopping trolleys to display goods poses a safety risk and therefore is prohibited.

## **Permitted Goods**

The footpath area can only be used to display the following goods and activities.

- Cut flowers and pot plants;
- Newspapers, pamphlets and brochures provided they are secured in a windproof device;
- Fruit and vegetables stalls; and
- Any other items or goods that are deemed acceptable and safe by Council and not offensive.

All sale transactions/purchases must be completed inside the business premises and not on the footpath.

## **Prohibited Goods**

All goods and articles, except those expressly permitted in Section 3 of these Guidelines are prohibited from being displayed on the footpath these include the following:

- All perishable (i.e., potentially hazardous) foods such as meat, fish, poultry;
- Dairy products;
- Cooked rice;
- Eggs;
- Shellfish is not permitted to be displayed on the footpath at any time; and
- Barbeque equipment and tools.

## **Display Stands**

Goods on display stands must:

- Satisfy relevant Australian Standards;
- Must be strong, durable, weather resistant and robust designed for outdoor use that withstands the wear and tear of outdoor commercial usage;
- Must be made from high quality commercial materials to enhance the character of the street;
- Must be of non-lightweight construction so as not to be easily blown around in strong winds;
- Must be located and kept in the approved area when in use;
- Must be capable of being removed from the footway out of trading hours;
- Be safe for patrons and pedestrians by avoiding sharp edges, hinges and moving parts;

- Must reflect the character of the business, the building and the surrounding area;
- The use of mismatched display stands is not permitted;
- The display stands must be non-reflective;
- Be flood compatible if located within an identified flooding/overland flow path area;
- Must not impact wheelchair users;
- The colour scheme of the proposed display stand will be assessed on merit and considered in the context of the surrounding streetscape;
- Must not cause damage to the footway; and
- Must have an open appearance, and not be cluttered.

## **Fruit and Vegetables Stalls**

The following controls relate specially to the display of fruit and vegetables:

- All fruit and vegetable displays must comply with the Australian and New Zealand Food Safety Standard and AS. 4674 – design fit out and construction of food premises;
- All premises wishing to display fruit and vegetables must be registered as part of Council's food shop inspection program and comply at all times with the relevant food related legislation and any directions of Council Authorised Officers;
- No washing or spraying of the fruit and vegetables shall occur on or adjacent to the footpath;
- It is the proprietor's responsibility to ensure that any waste from the fruit and vegetables is removed from the footpath immediately and stored in receptacles within the premises;
- Fruit and vegetables displays must not be located where they are exposed to direct sunshine and/or rain; and
- Fruit and vegetables displays must be a minimum of 750mm off the ground.

## **Approved Goods on Display Area**

Goods on display placement should fit within the size and shape of the approved area. The width of the footpath will determine the depth of the goods on display area.

The location of all goods on display must not extend beyond the boundaries of the approved area or overshadow the road reserve.

The approval holder is responsible to ensure that goods, stalls and signs are displayed correctly within the boundaries of the area at all times. The goods on display layout must be capable of accommodating wheelchair users and the flow of pedestrians.



## **Maintenance, Cleaning and Waste Disposal**

- The business operator using the approved area must maintain the area by regular cleaning throughout the day and at the close of trade day;
- All goods on display stalls must at all times be maintained in a physically sound and aesthetically acceptable condition to Council's satisfaction;
- Waste and litter must be removed promptly from the approved area and disposed of properly;
- Public bins are not to be used for the disposal of waste by the business operator and the approval holder must have suitable arrangement for commercial waste collection services. A copy of the approval must be attached with application;
- Approved areas should be kept dry swept and solid waste disposed of appropriately or recycled where possible.

## **OPERATIONAL MATTERS**

### **Conduct of Business**

It is the business operator's responsibility to:

- Ensure that the goods on display does not intrude or impact on the amenity of neighbouring shops or surrounding street activities;
- Minimise the potential for personal injury; and
- Remove all goods on display stalls and other features from the footpath and ensure they are stored within the building outside business operation hours.

### **Public Liability Insurance**

The business operator is required to maintain a valid public liability insurance policy for a minimum of twenty million dollars (\$20,000,000).

The policy must:

- Indemnify Council against any public liability claims within the area between the front property boundary of the shop and the kerb line for the full frontage of the shop; and
- Be in force at all times that goods are displayed. Upon annual renewal, the business operator must send a copy of the renewal to Council. Proof of currency must be kept on the premises and produced on demand by any authorised Council officer.

### **Licence Agreement and Rental Cost**

Once Council approves an application, written notification will be issued to the approval holder stipulating the conditions of approval. Upon receipt of the approval, the approval holder is then required to produce a copy of their public liability insurance and payment of appropriate fees and bond to Council. A goods on display agreement will then be issued to use and occupy the footpath in accordance with conditions of approval.

The agreement, which must be signed by the approval holder, will detail the provision for an annual rental fee as outlined in Council's Fees and Charges document, available on Council's website ([www.cumberland.nsw.gov.au](http://www.cumberland.nsw.gov.au)). Approval holders may also enquire at Council's Customer Service Desk as to current fees applicable.

## **Public Display of Agreement**

Prior to the operator using the goods on display area, a laminated copy of the agreement must be prominently displayed in the front window of the shop front, together with an A4 copy of the approved layout showing the goods on display area.

## **An Approval Can't be Sold, Reassigned or Transferred**

The approval applies to the business operator that applied for and received the approval for the goods on display area.

The approval cannot be sold, reassigned, or transferred.

If the business is sold or leased to another party or entity, then the new owner or tenant will need to make an application for a new approval.

## **Revoking, Suspending, or Amending a Goods on Display Approval**

As a goods on display is approval for an activity occurring on a public road or footpath, Council may as a Roads Authority may revoke, suspend, or amend the approval at any time and for any reason.

Specific circumstances where Council may revoke, suspend, or amend an approval include but are not limited to:

- The conditions of the goods on display approval being breached (including the non-payment of rent);
- The use of the footpath/approved area for the purposes of the approval is causing public safety and or public access is compromised;
- The use of the footpath is causing a disturbance to the adjoining business operators and neighbourhood and residents;
- The approved goods on display area is needed for public infrastructure works;
- The approved goods on display area is needed for a special event; or
- The approved goods on display area is needed to manage the flow of pedestrians or vehicle traffic.
- Repeated or continuous breaches or failure to comply with an existing approval and/or the reasonable directions of Council Officers, including but not limited to Compliance Officers, may result in a penalty infringement notice, early termination of an approval, and all paid fees and rental paid in advance will not be refunded and all subsequent applications are made by the offending party and/or their associated businesses may not be considered.

## **Goods on Display Approval**

A goods on display approval is valid for 3 years upon approval and may be cancelled or amended if:

- The business operator fails to comply with the permit conditions; or
- There are changed conditions affecting the approved goods on display area in its particular location, e.g., an increased risk to health or safety; or
- Non-compliance with legislation may lead to enforcement action by Council which may include fines and/or termination of goods on display approvals; or
- Other valid reasons that may necessitate an approval being cancelled include matters as streetscape upgrades and/or refurbishment. Council will only renew an approval after a review of health and safety conditions are undertaken to ensure compliance with policy guidelines and a history check of past operations.

## **Approval Process**

Council approval is required prior to displaying goods on the footpath pursuant to the:

- *Local Government Act 1993*;
- *Environmental Planning and Assessment Act 1979*; and
- *Roads Act 1993*.

Any business that applies for approval to display goods on the footpath must have current development consent to occupy the associated shop. If approval has not been granted, the application will not be considered.

All applications must be made on Council's 'Display of Goods on Council Footpath Application Form'.

## **Council Owned Land**

The written authority of the General Manager or delegated officer is required to be obtained to formally lodge an application to occupy Council owned footpaths.

Once the signature has been obtained, the applicant will be contacted to pay the appropriate fees upon which the application can be lodged, and formal assessment will commence. The signature of the General Manager or delegate does not infer that approval will be granted.

## **Privately Owned Land**

If the land upon which the proposed activity is privately owned, the written consent of the owner will be required. The application form contains provision for the owner's details and signature. The application form and supporting detail must be completed in full and submitted to Council incomplete applications will be returned.

Activities that involve both privately owned and Council land require the consent of both the private landowner and Council.

## HOW TO MAKE AN APPLICATION

The applicant must provide the following:

1. A completed application form – the application form is available on Council's website [www.cumberland.nsw.gov.au](http://www.cumberland.nsw.gov.au) and at Council's Customer Service Centres;
2. Payment for the application fee – All applications must be accompanied by payment of the prescribed application fee (as per Council's adopted Fees and Charges Policy) and all relevant documentation;
3. Proof of Development Consent for the adjoining business use;
4. Evidence that the applicant is the business operator of the adjoining premises; such as contract of sale, executed lease agreement, business registration and or other evidence requested by Council under receipt of application;
5. If applying under a company name, a copy of an ASIC report showing the name of the company, the ACN, ABN and Company Director names.
6. Written authority of the landowner to lodge the application;
7. Details of items to be displayed on the footpath and outlined how these are items are to be displayed;
8. A registered professional design plan of the proposed goods on display area and surrounds consistent with the requirements to include:
  - a) Street name, shop numbers and north point;
  - b) Dimensions, property boundary of footpath identifying adjoining tenancies;
  - c) Kerb line of the street;
  - d) Width of the footpath from outside face of kerb to building line, and the length of the building frontage associated with business operator premises;
  - e) Building line of the shop and adjacent shops either side;
  - f) Location of all existing features and permanent features of the streetscape such as existing awnings, bus stops, taxi zones, traffic signs, poles, waste bins, pedestrian lights and crossings, bollards, planter boxes, trees, light poles, pits, fire hydrants and car parking;
  - g) Proposed location and configuration of all displays, stalls and signage including all setback dimensions;
9. Colour photographs of the site and the surrounding areas, including the paved footpath area;
10. Full details of the number of displays or stalls including manufacturer's brochures, specifications and photographs. Council must be satisfied that the designated area is capable of accommodating the displays. It is the business operator's responsibility to ensure that a 2.0m pedestrian corridor is maintained at all times;
11. A written statement detailing the proposed hours of operation, storage of display and cleaning of the footpath;
12. Copy of business operator's public liability insurance; and
13. Fees in accordance with Council's Schedule of Fees and Charges.

The application will be notified to neighbouring property owners and business proprietors for 14 days. The submission of an application does not imply automatic approval.

## **FEES AND CHARGES**

All fees and the appropriate bond will be charged in accordance with Council's adopted Fees and Charges. Where any charge, fee, supply of products or services under this Policy is subject to a goods and services tax (GST), an amount equal to the GST paid or payable in respect of the charge, fee, supply of products or services, shall be included in the amount of consideration paid or payable under this Policy.

## **RELATED DOCUMENTS AND COUNCIL POLICY**

- Good on Display Policy
- Cumberland Development Control Plan (DCP) 2021

## **RELATED LEGISLATION**

- *Local Government Act 1993(NSW)*
- *Roads Act 1993 (NSW)*
- *Environmental Planning & Assessment Act 1979 (NSW)*
- *Crown Land Management Act 2016*
- *Work Health and Safety Act 2011 Food Act 2003 (NSW)*
- *Disability Discrimination Act 1992 (Cth)*
- *Disability Inclusion Act 2014*
- *Smoke Free Environment Act 2000 (NSW)*

## **DISCLAIMER**

These Guidelines will be reviewed every four years or as required in the event of legislative changes. Any amendment to these Guidelines must be by way of a Council resolution.