



CUMBERLAND
CITY COUNCIL

Goods on Display Guidelines

AUTHORISATION & VERSION CONTROL

Guideline Number	GDL-011
Guideline Owner	Director Governance & Risk
Date Approved	16 December 2020
Version No	1
Document ID	8661182
Review Date	December 2022

PURPOSE

These Guidelines outline 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*.

SCOPE

This policy applies to all land covered by the *Roads Act 1993* and/or is owned or controlled by Council, where a proponent wishes to place goods on or over Council land. Council will apply this policy 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.

PRINCIPLES

Goods displayed on Council land will:

- 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;
- encourage the fair and equitable use of Council footpaths by all members of the community;
- ensure that adjoining premises are not unduly affected; and
- ensure that all display areas are kept clean and regularly maintained.

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 volume of pedestrian traffic generated in the area;
- 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 & unobstructed pedestrian corridor of 2.0 metres 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.

Refer to Figure 1 below for more details.

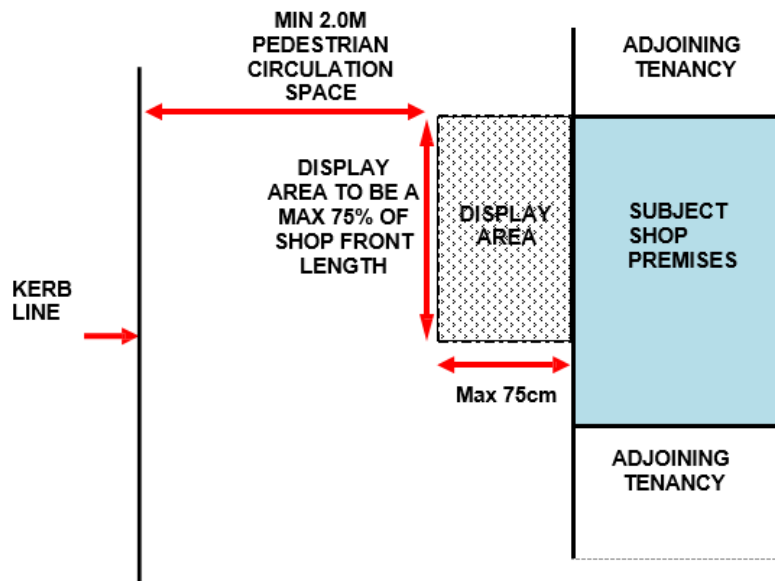


Figure 1: Indicative Site Plan Requirements

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.

This may be achieved by Council installing (at the applicant's expense) metal studs/discs flush with the paved surface. Alternatively, Council may consider other means of designating the licensed area (e.g. painting lines). Full details of the proposed method of marking the footpath must be provided with the application form.

Regardless of what method is agreed to, the marking must remain in place throughout the duration of the licence.

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.

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 proprietors' 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.

Prohibited Goods

All goods and articles, except those expressly permitted in Section 3 of this guideline are prohibited from being displayed on the footpath. All perishable (i.e. potentially hazardous) foods such as meat, fish, poultry, dairy products, cooked rice, eggs and shellfish are not permitted to be displayed on the footpath at any time.

Requirements

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 clearance of 0.5 metre 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; and
- Street and shop numbers must be visible at all times.
- The use of shopping trolleys to display goods poses a safety risk and therefore is prohibited.

Failure to adhere with any of the abovementioned controls may result in the licence permit being revoked.

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.

The licence agreement, which must be signed by the approval holder, will detail the provision for an annual rental fee. Prior to goods being displayed, a laminated copy of the licence agreement must be prominently displayed in the front window of the associated shop, together with an A4 copy of the approved layout showing the location and number of display stands.

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 Cumberland City 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.

Compliance with this Guideline

Council's aim is to manage all footway areas to ensure the objectives of the guideline are met. Council will take action for any breaches of this guideline or conditions set by the approval or licence. In the first instance, business proprietors will be given the opportunity to rectify any areas of non-compliance or breaches of conditions. If no action is taken to rectify the situation of non-compliance or breach of conditions, Council may issue a Penalty Infringement Notice, revoke its consent or commence legal action in a court of competent jurisdiction.

Use of Footpath by Council

The control and future usage of the footpath will remain at the discretion of Council at all times. The business proprietor must follow all directions of Council Officers to allow for any maintenance and cleaning of the footpath area. No compensation will be given for loss of opportunity to display goods on the footpath due to upgrade works, cleaning and/or maintenance activities under the control of Council.

If at any time the Council undertakes upgrade works to the footpath that effectively reduces the pedestrian width below the minimum required, the display of goods on the footpath will no longer be permissible. Council will notify the proprietor in this instance that the consent has been revoked.

Permit Renewal and Cancellation

A Goods Displayed on Footpath licence is valid for 2 years upon approval and may be cancelled or amended if:

- The operator fails to comply with the permit conditions; or
- There are changed conditions affecting the footpath area in its particular location, e.g. an increased risk to health or safety.

Other valid reasons that may necessitate a licence being cancelled include matters such as streetscape

upgrades and/or refurbishment. Council will only renew a licence 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:

- 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 land owner and Council.

Application Lodgement

This application must be accompanied by the prescribed fee and the following information:

1. Written authority of the General Manager and/or land owner to lodge the application;
2. Details of the items to be displayed on the footpath;
3. Copy of current public liability risk insurance policy;
4. Copies of a site plan drawn to a minimum scale of 1:100, detailing:
 - a. Street name, shop numbers and north point;
 - b. Dimensions and boundaries of the proposed footpath;
 - c. Location and dimensions of the proposed display area, width of the shopfront of the premises and adjacent shops and the kerb line of the street;
 - d. Current use of the premises and adjacent shops;
 - e. Existing and/or proposed car parking, manoeuvring aisles, driveways and truck turning areas in front of the display area; and
 - f. Location of any public utilities structures such as power poles, street poles, bus stops,

trees, planter boxes, street furniture, signposts or other such items, which are adjacent to the site;

- g. Elevation plans/details for any shelving and/or display stand(s) to be used.

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

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

RELATED LEGISLATION

- Local Government Act 1993(NSW)
- Roads Act 1993 (NSW)
- Environmental Planning & Assessment Act 1979 (NSW)