

Public Exhibition - Draft Display of Goods on the Footway Local Approvals Policy

File No: S060627-02.026

Summary

Outdoor goods displays can support strong local business, bring life to our high streets and foster shopping precincts as destinations. Council policies seek to provide a safe and comfortable environment for all users of footways and public spaces, noting a well-managed footway promotes both equitable access and creates places and streets that are amenable and attractive for all visitors.

The Display of Goods on the Footway Local Approvals Policy (the LAP) allows retailers to display goods on the footpath outside their premises without seeking development consent or approval from Council or Transport for NSW (on classified roads).

The LAP aims to:

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

The current LAP came into force on 19 December 2022. Under section 165(4) of the Local Government Act 1993, the LAP is automatically revoked 12 months following local government elections. As a result, the current LAP will be automatically revoked on 14 September 2025. For the policy to remain in force it must be re-adopted by Council before that date. This process must include a public exhibition period in accordance with the requirements of the Local Government Act 1993 and Local Government (General) Regulation 2021, and the concurrence of the Office of Local Government.

The draft LAP is largely unchanged from the previous version, with minor amendments to reflect recent and future changes to the Sydney Local Environmental Plan 2012 and to more closely align with the terminology of the Local Government Act 1993.

Recommendation

It is resolved that:

- (A) Council approve the draft Display of Goods on the Footway Local Approvals Policy, as shown at Attachment A to the subject report, for public exhibition in accordance with section 160 of the Local Government Act 1993 and section 77 of the Local Government (General) Regulation 2021;
- (B) Council approve the draft Display of Goods on the Footway Local Approvals Policy shown at Attachment A to the subject report, for submission to the Office of Local Government with a request for the consent of the Department Chief Executive for the adoption of the Policy in accordance with section 162 of the Local Government Act 1993; and
- (C) Council note that the Display of Goods on the Footway Local Approvals Policy, including any recommended changes, will be reported to Council for adoption following the exhibition period; and
- (D) authority be delegated to the Chief Executive Officer make any variations to the draft Display of Goods on the Footway Local Approvals Policy for clarity or correction of drafting errors prior to exhibition.

Attachments

Attachment A. Draft Display of Goods on the Footway Local Approvals Policy

Background

1. The Display of Goods on the Footway Local Approvals Policy aims to promote the use of the footway for the display of goods to support local business activity where it is safe. Displaying goods is balanced with ensuring that pedestrian thoroughfare is maintained as the primary purpose of the footway.
2. Prior to the implementation of the LAP, a display of goods often required a development application and, where located on a classified road, the approval of Transport for NSW. In 2020, Council approved a Planning Proposal to make displays of goods exempt development under the Sydney Local Environmental Plan 2012. By enacting a Local Approvals Policy under section 168 of the Local Government Act 1993, and a General Consent under section 138 of the Roads Act, the LAP makes it possible for businesses to have a display of goods on the footway in front of their premises without submitting an application.
3. The LAP sets the criteria for when approval is not required. If the criteria are not met then the display cannot be placed on the footpath. The criteria for placement in the footway include maintaining a predictable and consistent clear path of travel, establishing clearances around common obstacles, requirements for the nature of goods on display, and the size, design and maintenance of the display structure. Displays of goods on the footway are not permitted in Central Sydney. Should non-compliance with the LAP be observed, City Rangers can instruct removal.

The policy is due for review

4. On 27 June 2022, Council adopted a Display of Goods on the Footway Local Approvals Policy that came into force on 19 December 2022. Under section 165(4) of the Local Government Act 1993, the LAP is automatically revoked 12 months after local government elections. Following local elections on 14 September 2024, the existing LAP will be revoked on 14 September 2025. In order to remain in force, the LAP must be re-adopted by Council prior to this date.
5. Internal consultation has been undertaken with various business units in the organisation. This consultation raised no significant issues and indicated the LAP was fit to be re-adopted in its current form.
6. There have been minor amendments made to the draft LAP to maintain consistency with recent proposed amendments to the Sydney Local Environmental Plan 2012 (the Sydney LEP). On 11 December 2023, Council approved a Planning Proposal for public exhibition of a suite of Policy and Housekeeping Amendments to the Sydney LEP. This proposal included the reintegration of a number of areas previously excluded from the Sydney LEP, including the former Carlton United Brewery site on Broadway (Central Park), Harold Park, Glebe Affordable Housing Project, certain Redfern Waterloo Authority Area sites, and sites fronting Gardeners Road, Rosebery. The LAP will apply to these sites upon their reintegration and amendments to the text and maps have been inserted to make this clear.
7. There have also been minor changes to provide greater clarity and to align language and terminology more closely with the Local Government Act 1993. In the draft LAP, found at Attachment A, changes are shown with deletions in red strikethrough and new text in red underline.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

8. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This policy is aligned with the following strategic directions and objectives:
 - (a) Direction 3 - Public places for all - The policy promotes the activation of the footway supporting thriving streets. The criteria ensures that the footway remains safe, and amenity is maintained.
 - (b) Direction 5 - A city for walking, cycling and public transport - The activation of the footway supports pedestrian thoroughfare and clearance controls ensures footways remain suitable for walking.
 - (c) Direction 8 - A thriving cultural and creative life - The display of goods makes streets more lively and attractive destinations while allowing businesses to contribute to the cultural and creative life of the city.

Risks

9. City staff have considered the draft LAP and its continuing operation is within the City's risk tolerance and risk appetite. Where risks associated with activities can be effectively mitigated and there are reasonable benefits to the community, a minimal risk can be considered. The LAP is within the risk appetite as it includes criteria to address safe and equitable pedestrian access on the footway. The LAP also requires business with goods displays on the footway to hold a public liability insurance policy for at least \$20 million.

Social / Cultural / Community

10. Footway uses have the potential to impede movement of people with disability and people who are blind or have low vision. The LAP requires a minimum 2 metre clear path of travel which is to be provided in a predictable pattern consistent with footway uses along the length of the street. The LAP requires clearances from tactile ground service indicators, service objects, pedestrian and signalised crossings, and bus zones, public transport access points and taxi stands. The LAP also requires shelving to have a solid base of a contrasting colour for people who are blind or have low vision.

Economic

11. The policy supports businesses displaying goods on the footway, encouraging local business activity and contributing to a lively and attractive streetscape. Footway displays are important for attracting customers and fostering a vibrant retail environment.

Relevant Legislation

12. Local Government Act 1993.
13. Local Government (General) Regulation 2021.
14. Roads Act 1993.
15. Sydney Local Environmental Plan 2012.

Critical Dates / Time Frames

16. The current Display of Goods on the Footway Local Approvals policy came into force on 19 December 2022 and will be automatically revoked on 14 September 2025. The revised LAP must be re-adopted by Council prior to this date.
17. Prior to the LAP being made, it must be publicly exhibited for a period of 49 days, in accordance with the requirements of the Local Government Act 1993 and the Local Government (General) Regulation 2021. The document also requires concurrence of the Office of Local Government. The consent will be sought after exhibition and prior to post-exhibition reporting back to Council. This process can take between two to three months, which will determine when the documents can be reported back to Council for approval.

Public Consultation

18. The Display of Goods on the Footway Local Approvals Policy is subject to specific provisions in the Local Government Act 1993. Under section 160 of the Act, the LAP must go on exhibition for 28 days and submissions accepted for 42 days. In addition, under section 77 of the Local Government (General) Regulation 2021, public notice of the draft LAP must be published on the website at least 7 days before the commencement of the public exhibition and remain there at least until the conclusion of the period during which submissions may be made to the council. As a result, the LAP is required to be placed on public exhibition for at least 49 days.
19. Because the LAP sets out the criteria for when goods displays are exempt from seeking approval of Council, it is subject to section 162 of the Local Government Act 1993. This section requires the Departmental Chief Executive in the Office of Local Government to give consent to the LAP. The original LAP has this consent and any revised LAP will need an updated consent. This report recommends submitting the revised LAP to the Office of Local Government following public exhibition.

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