

# **Controls and Guidelines for Display Material on Council Footpaths**

As at 7 June 2016



## POLICY

	<b>POLICY</b>		
<b>TITLE</b>	<b>CONTROLS AND GUIDELINES FOR DISPLAY MATERIAL ON COUNCIL FOOTPATHS</b>		
<b>DATE ADOPTED</b>	7 June 2016	<b>MINUTE</b>	152/16
<b>REVISED</b>	N/A	<b>REVIEW</b>	As required
<b>RECORD</b>	ECM No: 1101628		
<b>ASSOCIATED LEGISLATION/DOCUMENTS</b>	<ul style="list-style-type: none"> <li>• <i>Roads Act 1993;</i></li> <li>• <i>Food Act 2003;</i></li> <li>• <i>Liquor Act 2007;</i></li> <li>• <i>Local Government Act 1993;</i></li> <li>• <i>The Building Code of Australia (BCA);</i></li> <li>• <i>Disability (Access to Premises — Buildings) Standards 2010 pursuant to the Disability Discrimination Act (Comm) 1992;</i></li> <li>• <i>Disability Inclusion Act 2014;</i></li> <li>• <i>Smoke Free Environment Act 2000; and</i></li> <li>• <i>Strathfield Council Community Access Plan.</i></li> </ul>		
<b>RESPONSIBLE OFFICER</b>	Director Infrastructure & Development		

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## 1.0 INTRODUCTION

Certain types of merchandise and display material may be displayed on Council footpaths where approval for such use has been obtained from Council.

This policy provides guidelines for the approved use of Council footpaths to display merchandise for shops and other commercial and industrial properties.

These guidelines do not include usage of Council footpaths for outdoor dining purposes.

Refer to '*Controls and Guidelines for Outdoor Dining Areas*' available on Council's website at [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au).

## 1.1 Legislative and Policy Framework

An application for a permit under the *Roads Act 1993* must be submitted to Council. No display of merchandise on Council footpath can take place without a Council permit. This policy is subject to the provisions of the following:

- *Roads Act 1993*;
- *Food Act 2003*;
- *Liquor Act 2007*;
- *Local Government Act 1993*;
- *The Building Code of Australia (BCA)*;
- *Disability (Access to Premises — Buildings) Standards 2010 pursuant to the Disability Discrimination Act (Comm) 1992*;
- *Disability Inclusion Act 2014*;
- *Smoke Free Environment Act 2000*; and
- *Strathfield Council Community Access Plan*.

## 2.0 REQUIREMENTS

Strathfield Council is responsible for managing footpaths, except RMS classified roads within the Strathfield local government area.

The proprietor is required to obtain the approval of Council for the design and materials of the proposed area prior to displaying materials.

Council reserves the right to require proof of currency at any time and consent is automatically withdrawn on the lapsing or withdrawal of the public liability insurance policy.

Use of the footpath requires:

- Written approval by Council in the form of a permit.
- Payment of all fees and charges which are set out in Council's Annual Fees and Charges.
- Public liability insurance of \$20,000,000 (\$20 million dollars) with Strathfield Council shown as an interested party.

**Note:** Council will not issue permits where the application does not comply with Council requirements and where the applicant has outstanding fees or a history of non-compliance.

## 2.2 Making an Application

Prior to using Council's footpath to display items, an 'Application for Display Material on Council Footpaths' must be lodged. This form is available from Council's Customer Service Centre or downloaded from Council's website at [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au)

It is recommended that the applicant contact Council's Customer Service Centre on 9748 9999 to ensure they have the correct information about the process, requirements and fees and charges.

## 2.3 Approval Relating to Roads and Maritime Services Classified Roads

Application for use of footpaths on a 'classified' State road or adjacent to traffic controls will require separate approval from the Roads and Maritime Services (RMS) as well as Council.

A listing of RMS classified roads can be found in Appendix A.

Once the application has been lodged, Council will seek advice from RMS on the applicant's behalf. Alternatively, the applicant may wish to hold preliminary discussions with RMS to ascertain whether their application will receive agreement when Council refers the application.

## 3.0 CONTROLS

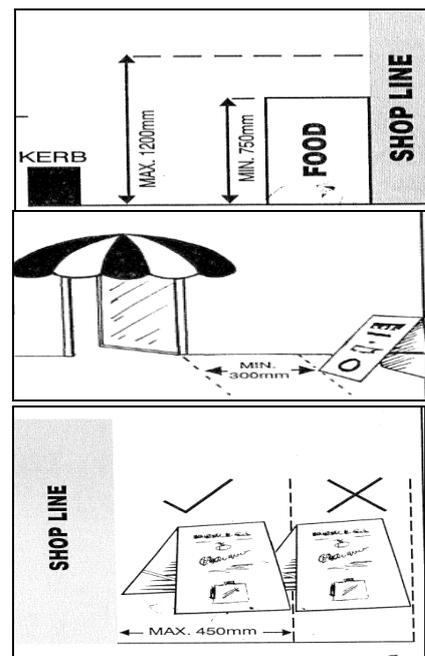
Use of the footpath for the display of materials is exempt development and does not require a DA. However, it must comply with the following:

1. No food (other than fruit or vegetables requiring peeling and/or cooking prior to consumption) which is capable of being consumed in the same state in which it is sold, or perishable food including meat, fish, poultry, dairy products, cooked rice, eggs and shellfish, but excluding flowers, fruit and vegetables consumed in the same state as sold, shall be displayed outside the confines of the building.

2. All displayed food to comply with the requirements of the *Food Act 2003*.

3. All externally displayed fruit and vegetables should be protected from contamination stored on display shelving 750mm off the ground away from animals.

4. Any food, including tinned and packaged goods, displayed outside the confines of the shop should be at a height not less than 750mm above footpath level.



5. No displayed food or articles including shop stands and other structures shall exceed a maximum height of 1200mm.

6. No displayed food or articles including shop stands and other structures shall encroach onto the footpath by more than 450mm at any point.

7. No displayed food or articles including shop stands and other structures shall be located within a distance of 300mm either side of any permanent shop access so as not to impede any persons from accessing the shop.

**Note:** In the case of an open shopfront, the proprietor is required to submit specific details showing how unimpeded access can be provided prior to displaying materials. The minimum access width is 1.0m.

8. No trolleys or shopping baskets shall be displayed or stored on the footpath at any time.

9. Materials shall not be stored for any period on the footpath during loading or unloading activities. All loading and unloading of goods shall be directly into premises.

10. When no other suitable onsite location exists, all loading and unloading must occur immediately from the vehicle to the interior of the shop.

11. No cardboard, foam or polystyrene boxes shall be displayed unless they are in a suitable enclosure.

12. Any food or articles displayed, shop stands and other structures referred to in Items 2, 3, 4 and 5 must relate to the approved use of the shop or premise. All display stands and structures must be stable, aesthetically pleasing in appearance and must be removed from the footpath at the close of business each day.

13. Any shopkeeper wishing to encroach onto the footpath in any way shall be required to provide Council with a written agreement and an annual proof of currency of a \$20,000,000 (twenty million dollars) public liability insurance policy prior to displaying material for each successive year.

#### 4. APPROVAL CONDITIONS

##### 4.1 Duration of Approval

1. Approved permits options include one (1) year, three (3) year and five (5) year renewals at the applicant's discretion.
2. Expiration of approval will require lodgement of a new application.
3. Approvals may be revoked by Council at any time for failure to comply with conditions of approval including failure to pay fees and charges. In particular, if fees are unpaid or fall into arrears, the approval to display merchandise or articles on Council footpaths may be withdrawn.
4. Either party can withdraw from the agreement with written notification and one month's notice.

**Note:** Approval is automatically cancelled when the public liability insurance expires and renewed insurance details have not been supplied to Council.

#### 4.2 Public Indemnity Insurance

A current public liability insurance policy must be in force at all times that the agreement is in operation. The following conditions apply:

- Public risk insurance to the minimum value of \$20,000,000 (twenty million dollars) must be taken out by the applicant noting Strathfield Municipal Council as an interested party.
- The applicant must indemnify Council in writing against any action taken against it by persons suffering any loss or injury as a result of the existence or operation of the area in use.
- Proof of the agreement and public liability insurance must be maintained on the premises and produced on demand by any authorised Council officer.
- A certificate of currency renewal must be produced to Council if the insurance policy lapses or expires at any time during the agreement.

**Note:** Failure to comply with these conditions will automatically terminate Council approval.

#### 4.3 Fees and Charges

Fees and charges for the display items on the footpath are set out in the Annual Fees and Charges, available on Council's website. Fees and charges are reviewed and determined on an annual basis and apply from 1 July each year and are payable in advance.

Fees and charges include:

- Application Fee: This fee is payable at the time of each application and is non-refundable.
- Annual Rental Charges per square metre (m<sup>2</sup>): Refer to Council's Annual Fees and Charges.
- Line Marking Fee: This fee is payable at the time of agreement approval (subject to type of approval required).

Where considered appropriate, Council may also charge:

- Subject to the type of approval, a bond may be required. The bond is payable at time of approval of agreement. The bond is refundable at the end of agreement period, less any costs incurred by Council to:
  - Repair damage to council property.
  - Restore the foot path area to its original condition.

#### **4.4 Cleanliness**

The footpath area and its immediate surrounds are to be maintained and cleaned on a regular basis throughout the trading day keeping it free of litter. The area is to be left in a tidy condition at the end of the trading day and all equipment and displays removed from the footpath.

Dry processes, such as sweeping or vacuuming, are to be used for cleaning the area.

All paving within footpath areas is to be kept free of grease and grime. Occasional high pressure cleaning may be necessary to remove excessive grease and grime off paving surfaces.

#### **4.4 Non-compliance**

Council as a matter of policy will allow proprietors who encroach onto the footpath not in conformity with Council's Policy and without Council's approval one (1) written warning, requesting representations or compliance within seven (7) days of issue.

The use of Council's footpath area without approval or not in accordance with Council's conditions is an offence and may result in the issue of an infringement notice or other enforcement notices.

Should the review of representations or the matter of non-compliance remain unresolved, Council may terminate the agreement with one week's notice in writing. All subsequent breaches will result in Council issuing 'on-the-spot' infringement notices or the instigation of legal proceedings, whichever is appropriate, without further warning.

#### **4.5 Termination of Agreement**

In the event that an approval lapses, terminates or is withdrawn, the applicant shall immediately remove all goods and services from the footpath and reinstate and remedy all affected areas.

## APPENDIX A – RMS CLASSIFIED ROADS

The following roads are RMS classified Roads within the Strathfield Municipal Council area.

### C1 STATE ROADS

Parramatta Road	From Columbia Lane to Telopea Avenue
Raw Square	From Redmyre Road to Everton Road
Redmyre Road	From The Boulevarde to Raw Square
The Boulevarde	From Liverpool Rd to Redmyre Road
Liverpool Road	From The Boulevarde to Davidson Street
Centenary Drive	From Homebush Bay Drive to Liverpool Road
Homebush Bay Drive	From Centenary Drive to Powells Creek
Roberts Road	From Liverpool Road to Juno Parade
Juno Parade	From Norfolk Road to Punchbowl Road
Punchbowl Road	From Juno Parade to Coronation Parade

### C2 REGIONAL ROADS

Water Street	From Punchbowl Road to Dean Street
Homebush Road	From Water Street to Beresford Road
Cosgrove Road	From Punchbowl Road to Hume Highway
Underwood Road	From Parramatta Road to Homebush Bay Drive
Pomeroy Street	From Underwood Road to Powells Creek
Albert Road	From Raw Square to Elva Street
Elva Street	From Albert Road to Beresford Road
Broughton Road	From McKenzie Street to Beresford Road
Beresford Road	From Elva Street to Broughton Road
Arthur Street	From Broughton Road to Auburn Council boundary
Redmyre Road	From Homebush Road to Raw Square