

Attachment B

**Planning Proposal: Display of Goods on the
Footway – Post Exhibition**

Display of Goods on the Footway



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Introduction

This Planning Proposal explains the intent of, and justification for, the proposed amendment to Sydney Local Environmental Plan 2012 to classify displays of goods on the footway as exempt development when they meet certain criteria.

The objective of this Planning Proposal is to remove the need for development consent when the operators of retail premises place displays of goods on the footway outside of their premises. The objective will be achieved by amending Schedule 2 of Sydney Local Environmental Plan 2012 by adding 'Displays of Goods on the Footway' as a new classification of exempt development.

Council has exhibited a draft Local Approvals Policy for the Display of Goods, and has received and considered submissions on that draft. Council has also consulted with the Office of Local Government and Transport for NSW and made changes to receive their concurrence. The intent of the ~~draft~~ local approvals policy is to encourage uses of minimal environmental impact on public land when those uses create interest, character and improve safety.

The ~~draft~~ local approvals policy encourages such uses by setting out circumstances under which displays of goods can be placed on the public footway without the need for an operator to apply for approval from Council.

The proposed change to Sydney Local Environmental Plan 2012 will support this by removing the need for development consent where the criteria identified in the draft local approvals policy are met.

This planning proposal has been prepared in accordance with section ~~55-3.33~~ of the Environmental Planning and Assessment Act 1979 (the Act) and the relevant Department of Planning, Industry and Environment Guidelines, including 'A Guide to Preparing Planning Proposals' and 'A Guide to Preparing Local Environmental Plans'.

The planning proposal applies to the area to which Sydney Local Environmental Plan 2012 applies.

Part 1 – Objectives and Intended Outcomes

The objectives are:

- a) To encourage displays of goods which improve the amenity and character of streets in the local government area; and
- b) To reduce unnecessary regulatory burden on businesses in the LGA.

The intended outcome is that retail operators will be able to place displays of goods on the footway without the need for development consent when the development standards are met. This will be achieved by identifying displays of goods on the footway as exempt development in Sydney Local Environmental Plan 2012, and by identifying the appropriate development standards.

Part 2 – Explanation of Provisions

This planning proposal seeks to introduce displays of goods on the footway as a new exempt development category in Schedule 2 of Sydney Local Environmental Plan 2012.

Example Sydney Local Environmental Plan 2012 clause:

Use of the footpath for displays of retail goods

- (1) Must be on a public road within the meaning of the Roads Act 1993;
- (2) Must not be in Central Sydney;
- (3) Must be associated with a lawful shop;
- (4) Must be carried out in accordance with any approval issued by Council under Division 3 of Part 9 of under the Roads Act 1993; and
- (5) Be carried out in accordance with any approval under section 68, or be exempt from approval under any policy adopted by Council under section 161 of the Local Government Act 1993.

Part 3

This section sets out the reasons for the Planning Proposal.

Section A – Need for the planning proposal

Is the planning proposal a result of any strategic study or report?

No. The planning proposal is required to implement Council's objective of allowing displays of retail goods on the public footways without the need for any approval from Council. Council has exhibited and received submissions on a draft local approvals policy that would allow the displays without an approval under the Roads Act 1993 or the Local Government Act 1993 as long as certain criteria are met. These criteria include:

- a) that the display is outside of Central Sydney;
- b) maintaining accessibility on the public footway
- c) the size and location of displays; and
- d) the items that can be placed on display.

Council has considered the submissions received, and have endorsed the draft local approvals policy for the purposes of undertaking the legislated concurrences and other steps required to implement it. One of those steps is to prepare a planning proposal to ensure that displays of goods which meet Council's criteria do not require development consent.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the best means of achieving the intended outcome.

Not proceeding with the planning proposal would mean that to place a goods display on the public footway, a retail operator would potentially require development consent from Council. This is counter to the objective of reducing the regulatory burden on businesses in the Sydney LGA.

Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategic (including A Plan for Growing Sydney and the exhibited draft strategies)?

~~A Plan for Growing Sydney and the draft Sydney Sub-Regional Strategy are not relevant considerations for the planning proposal. It deals only with the local management of development which is considered to be of minor environmental impact. The development in question—display of goods from a retail premises—is only permissible when it is ancillary to an existing, approved retail use. The planning proposal only proposes to classify the displays as exempt development if they are on the public footway or other public land.~~

~~The planning proposal makes no changes to the permissible uses or other development controls that apply to sites in Sydney Local Environmental Plan 2012.~~

Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

Greater Sydney Region Plan

Objective 12: Great places that bring people together

This objective identifies the dual role of streets for movement and place functions. The planning proposal is an important way to support the place functions of streets, and translate walkable environments into the desirable characteristics identified in the objective like local business success and economic participation.

The planning proposal supports the balanced use of streets for movement and place, with the supporting Local Approvals Policy including minimum clear path of travel and separation distances from public transport stops, street furniture and other uses. The Local Approvals Policy enables more active uses of streets by also protecting their movement function and use by people of all ages and abilities.

Objective 24: Economic sectors are targeted for success

This planning proposal is related to tourism as a targeted economic sector. In line with Strategy 24.2, the planning proposal supports the amenity, vibrancy and safety of centres, making retail high streets more interesting, vibrant and attractive for visitors.

Eastern City District Plan

Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage

Goods displays help reinforce the retail character of local areas, presenting more opportunities for local businesses to express their creativity and show what they have for sale. In this way the planning proposal delivers on the objectives of this planning priority to create streets that are destinations that people want to visit.

Through the Local Approvals Policy and its clear expectations about clear path of travel and other minimum distances, the planning proposal delivers the balance of accessibility, connectivity and amenity discussed under this planning priority.

Planning Priority E13: Supporting growth of targeted industry sectors

The visitor economy is included as a targeted industry sector in under this planning priority. The priority identifies the opportunity to support retail offerings in local neighbourhoods as a way to expand and diversify the Eastern District's tourism offering. Outdoor goods displays are a way of

supporting this kind of experiential and retail-oriented tourism offering in neighbourhood shopping streets.

In this way, the planning proposal delivers on Action 62, which is to implement place-based initiatives to attract more visitors and improve visitor experiences.

Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

City Plan 2036: City of Sydney Local Strategic Planning Statement

Priority L2: Creating great places

This priority highlights the importance of streets that are active, interesting, engaging, while still enabling safe and comfortable movement. This planning proposal balances the movement function of streets, by protecting clear path of travel and minimum distances between obstacles, and promotes active and creative goods displays that add the attractiveness of streets.

Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal is consistent with the relevant State Environmental Planning Policies (SEPPs) and Regional Environmental Plans (REPs).

SEPPs with which the planning proposal is consistent

Not applicable

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 – This planning proposal is consistent with the objectives of this SEPP and will not impede its application.

SEPPs that are not applicable to the planning proposal

~~State Environmental Planning Policy No 1—Development Standards; State Environmental Planning Policy No 14—Coastal Wetlands; State Environmental Planning Policy No 15—Rural Land-sharing Communities; State Environmental Planning Policy No 19—Bushland in Urban Areas; State Environmental Planning Policy No 21—Caravan Parks; State Environmental Planning Policy No 26—Littoral Rainforests; State Environmental Planning Policy No 29—Western Sydney Recreation Area; State Environmental Planning Policy No 30—Intensive Agriculture; State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land); State Environmental Planning Policy No 33—Hazardous and Offensive Development; State Environmental Planning Policy No 36—Manufactured Home Estates; State Environmental Planning Policy No 39—Spit Island Bird Habitat; State Environmental Planning Policy No 44—Koala Habitat Protection; State Environmental Planning Policy No 47—Moore Park Showground; State Environmental Planning Policy No 50—Canal Estate Development; State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas; State Environmental Planning Policy No 55—Remediation of Land; State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential; State Environmental Planning Policy No 62—Sustainable Aquaculture; State Environmental Planning Policy No 64—Advertising and Signage; State Environmental Planning Policy No 65—Design Quality of Residential Flat Development; State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes); State Environmental Planning Policy No 74—Coastal Protection; State Environmental Planning Policy (Affordable Rental Housing) 2009; State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; State Environmental Planning Policy (Exempt and Complying Development Codes) 2008; State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004; State Environmental Planning Policy (Infrastructure) 2007; State Environmental Planning Policy~~

<p>(Kosciuszko National Park—Alpine Resorts) 2007; State Environmental Planning Policy (Kurnell Peninsula) 1989; State Environmental Planning Policy (Major Development) 2005; State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007; State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007; State Environmental Planning Policy (Penrith Lakes Scheme) 1989; State Environmental Planning Policy (Rural Lands) 2008; State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011; State Environmental Planning Policy (State and Regional Development) 2011; State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011; State Environmental Planning Policy (Sydney Region Growth Centres) 2006; State Environmental Planning Policy (Three Ports) 2013; State Environmental Planning Policy (Urban Renewal) 2010; State Environmental Planning Policy (Western Sydney Employment Area) 2009; State Environmental Planning Policy (Western Sydney Parklands) 2009; <u>State Environmental Planning Policy (Aboriginal Land) 2019</u>; <u>State Environmental Planning Policy (Coastal Management) 2018</u>; <u>State Environmental Planning Policy (Concurrences and Consents) 2018</u>; <u>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</u>; <u>State Environmental Planning Policy (Koala Habitat Protection) 2019</u>; <u>State Environmental Planning Policy (Primary Production and Rural Development) 2019</u>; <u>State Environmental Planning Policy (State Significant Precincts) 2005</u>; <u>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</u>.</p>
<p><i>REPs with which the planning proposal is consistent</i></p>
<p>Not applicable</p>
<p><i>REPs that are not applicable to the planning proposal</i></p>
<p>Sydney Regional Environmental Plan No 8 (Central Coast Plateau Areas); Sydney Regional Environmental Plan No 9—Extractive Industry (No 2—1995); Sydney Regional Environmental Plan No 16—Walsh Bay; Sydney Regional Environmental Plan No 18—Public Transport Corridors; Sydney Regional Environmental Plan No 19—Rouse Hill Development Area; Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997); Sydney Regional Environmental Plan No 24—Homebush Bay Area; Sydney Regional Environmental Plan No 26—City West; Sydney Regional Environmental Plan No 30—St Marys; Sydney Regional Environmental Plan No 33—Cooks Cove; Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.</p>

Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

The Planning Proposal has been assessed against the s117 Ministerial Directions and with each of the relevant matters, as outlined below.

Ministerial Directions which this planning proposal is consistent

N/A

Ministerial Directions which this planning proposal is inconsistent

Ministerial Directions which are not applicable to the planning proposal

1.1 Business and Industrial Zones; 1.2 Rural Zones; 1.3 Mining, Petroleum Production and Extractive Industries; 1.4 Oyster Aquaculture; 1.5 Rural Lands; 2.1 Environmental Protection Zones; 2.2 Coastal Protection; 2.3 Heritage Conservation; 2.4 Recreation Vehicle Areas; 3.1 Residential Zones; 3.2 Caravan Parks and Manufactured Home Estates; 3.3 Home occupations; 3.4 Integrating Land Use and Transport; 3.5 Development Near Licensed Aerodromes; 3.6 Shooting Ranges; 4.1 Acid Sulfate Soils; 4.2 Mine subsidence and Unstable land; 4.3 Flood Prone Land; 4.4 Planning for Bushfire Protection; 5.1 Implementation of Regional Strategies; 5.2 Sydney Drinking Water Catchments; 5.3 Farmland of State and Regional Significance on the NSW Far North Coast; 5.4 Commercial and Retail Development along the Pacific Highway, North Coast; 5.8 Second Sydney Airport, Badgerys Creek; 5.9 North West Rail Link Corridor Strategy; 6.1 Approval and Referral Requirements; 6.2

Reserving Land for Public Purposes; 6.3 Site Specific provisions; 7.4 Implementation of A Plan for Growing Sydney

Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

This planning proposal has been assessed against each of the Section 9.1 directions. Consistency with these directions is shown in the table below.

<u>Ministerial Direction</u>	<u>Comment</u>
<u>1. Employment and Resources</u>	
<u>1.1 Business and Industrial Zones</u>	<u>Consistent. This planning proposal gives effect to the objectives of this direction, including supporting the viability of identified centres.</u>
<u>1.2 Rural Zones</u>	<u>Not applicable</u>
<u>1.3 Mining, Petroleum Production and Extractive Industries</u>	<u>Not applicable</u>
<u>1.4 Oyster Aquaculture</u>	<u>Not applicable</u>
<u>1.5 Rural Lands</u>	<u>Not applicable</u>
<u>2. Environment and Heritage</u>	
<u>2.1 Environment Protection Zones</u>	<u>Not applicable</u>
<u>2.2 Coastal Management</u>	<u>Not applicable</u>
<u>2.3 Heritage Conservation</u>	<u>Not applicable</u>
<u>2.4 Recreation Vehicle Areas</u>	<u>Not applicable</u>
<u>2.6 Remediation of Contaminated Land</u>	<u>Not applicable</u>
<u>3. Housing, Infrastructure and Urban Development</u>	
<u>3.1 Residential Zones</u>	<u>Not applicable</u>
<u>3.2 Caravan Parks and Manufactured Home Estates</u>	<u>Not applicable</u>
<u>3.3 Home Occupations</u>	<u>Not applicable</u>
<u>3.4 Integrating Land Use and Transport</u>	<u>Not applicable</u>
<u>3.5 Development Near Regulated Airports and Defence Airfields</u>	<u>Not applicable</u>
<u>3.6 Shooting Ranges</u>	<u>Not applicable</u>
<u>4. Hazard and Risk</u>	
<u>4.1 Acid Sulfate Soils</u>	<u>Not applicable</u>
<u>4.2 Mine Subsidence and Unstable Land</u>	<u>Not applicable</u>

<u>4.3 Flood Prone Land</u>	<u>Not applicable</u>
<u>4.4 Planning for Bushfire Protection</u>	<u>Not applicable</u>
<u>5. Regional Planning</u>	
<u>5.10 Implementation of Regional Plans</u>	<u>Consistent. This planning proposal gives effect to objectives in the Greater Sydney Region Plan.</u>
<u>5.11 Development of Aboriginal Land Council land</u>	<u>Not applicable</u>
<u>6. Local Plan Making</u>	
<u>6.1 Approval and Referral Requirements</u>	<u>Consistent. Concurrence of public authorities was only sought with approval of the Department of Planning, Industry and Environment.</u>
<u>6.2 Reserving Land for Public Purposes</u>	<u>Consistent. This planning proposal will not affect any land reserved for public purposes.</u>
<u>6.3 Site Specific Provisions</u>	<u>Not applicable</u>
<u>7. Metropolitan Planning</u>	
<u>7.1 Implementation of A Plan for Growing Sydney</u>	<u>Consistent. This planning proposal gives effect to objectives in the Greater Sydney Region Plan, which replaces the Plan for Growing Sydney.</u>

Section C – Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The planning proposal will not adversely affect any critical habitat or threatened species, populations or ecological communities, or their habitats.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No. The proposed amendment relates to development that is considered of minimal environmental impact.

How has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal has the potential to economic benefits by supporting small businesses in the Sydney LGA. Social benefits are likely from increased activation of streets in the Sydney LGA and include improved perception of community safety through increased activity on streets.

Potential negative impacts relate to universal accessibility, pedestrian amenity and safety due to footway congestion. These have been addressed by the application of criteria which preserve a clear path of travel for pedestrians, and which limit the size and contents of displays to ensure they have minimal impact. Displays will not be permitted in Central Sydney due to the high pedestrian volumes on the footways.

Section D – State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

The planning proposal will not lead to a need for greater public infrastructure.

What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

~~The Gateway Determination will advise the full list of public authorities to be consulted as part of the planning proposal process.~~

~~The City is separately seeking concurrence from the Office of Local Government for the Local Approvals Policy in accordance with the *Local Government Act 1993*, and a general approval from Roads and Maritime Services to place a structure on the footway in accordance with the *Roads Act 1993*.~~

The Gateway determination did not require consultation with public authorities.

The City has separately received the concurrence of the Office of Local Government and Transport for NSW for the Local Approvals Policy and Roads Act general consent related to this planning proposal.

Part 4 – Mapping

No maps proposed.

Part 5 – Community Consultation

Statutory Requirements

~~If supported, the planning proposal will be exhibited for a period of not less than 14 days in accordance with section 5.5.2 of 'A Guide to Preparing Local Environmental Plans', to allow for proper consultation with the community and affected landowners.~~

~~Notification for public exhibition will include:~~

~~(a) advertisement on the City of Sydney website; and~~

~~(b) advertisement in The Sydney Morning Herald and relevant local newspapers.~~

~~Exhibition material is proposed to be on display at the City of Sydney neighbourhood service centres.~~

~~The exact requirements for community consultation are to be set out in the Gateway Determination issued by the Greater Sydney Commission.~~

This planning proposal was exhibited from Monday 9 January to Tuesday 14 February 2017.

Exhibition was advertised in the Sydney Morning Herald and City News, and the planning proposal was available for review online at Sydney Your Say and in print at One Stop Shop, Green Square Neighbourhood Service Centre, Redfern Neighbourhood Service Centre, Glebe Neighbourhood Centre and Kings Cross Neighbourhood Centre.

During the exhibition period, the Sydney Your Say page had 269 page views, the documentation was downloaded 67 times, and one submission was made.

The sole submission to this planning proposal was in support, noting a desire to reduce “red tape” for small business and encourage “colour” in the neighbourhood.

Part 6 – Project Timeline

The indicative timeframe for the completion of the planning proposal is as follows

STAGE	TIMELINE
Submit planning proposal to the Greater Sydney Commission seeking Gateway Determination	October 2016
Receive Gateway Determination	November 2016
Public exhibition and public authority consultation	December 2016
Review of submissions received during exhibition and public authority consultation.	January 2017
Council and Central Sydney planning Committee consideration of submissions and final planning proposal for approval	January 2017 <u>June 2020</u>
Drafting of legal instrument	February 2017 <u>July 2020</u>
Amendment made	March 2017 <u>August 2020</u>

