

# **Attachment C**

<p><b>Section 138 General Consent: Display of Goods on the Footway</b></p>
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## **Attachment A: Conditions of Consent under Roads Act s 138**

### **Display of Goods on the Footway Policy**

The following comprise the Council of the City of Sydney's (**Council's**) conditions of consent as roads authority, to erect a Display of Goods on a road for which Council is the roads authority pursuant to section 138(1) of the Roads Act (**Consent**).

The Transport for NSW Conditions of General Concurrence Roads Act 1993, s 138(1) (**TfNSW Conditions of General Concurrence**) apply to any Display of Goods for sites on Classified Roads.

The following conditions (**Council Conditions**) apply to any Display of Goods for sites on all other Public Roads.

#### **1. Definitions**

**Approval** means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this Consent.

**Authority** means any government, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

**Classified Road** has the same meaning as defined in the Roads Act 1993, and means any of the following: a main road, a highway, a freeway, a controlled access road, a secondary road, a tourist road, a tollway, a transitway and a State work.

**Display of Goods** means the display of goods on the footway, the subject of these conditions.

**Operator** means the operator in charge of the Display of Goods, to which the Consent is issued.

**Premises** means the area of road on which the Display of Goods is situated and includes the City's fixtures, fittings, plant and equipment.

**Public Road** has the same meaning as defined in the Roads Act 1993 and means:

(a) any road that is opened or dedicated as a public road, whether under this or any other Act or law, and

(b) any road that is declared to be a public road for the purposes of this Act.

**TfNSW General Conditions** means the general conditions contained in the Transport for NSW Conditions of General Concurrence.

**Unclassified Road** means a public road that is not a classified road.

#### **2. Council Conditions**

1. The Display of Goods must comply with the conditions of the Councils' Display of Goods on the Footway Approvals Policy (**Approvals Policy**) and the Operator acknowledges and agrees that a breach of the Approvals Policy will constitute a breach of the Consent.
2. The Operator must comply with the TfNSW General Conditions contained in the TfNSW Conditions of General Concurrence and the Operator acknowledges and agrees that a breach of the TfNSW General Conditions will constitute a breach of the Consent.

3. The Consent is subject to the provisions under Schedule 2 of Sydney Local Environmental Plan 2012 (LEP) and the Operator must ensure that the provisions of the LEP are complied with at all times, and acknowledges and agrees that a breach of the LEP will constitute a breach of the Consent.
4. The Operator must comply with the requirements of all governmental, consent and other like authorities in its use of the Premises, including obtaining any other applicable consents from adjoining land owners or any other applicable Approvals.
5. The Operator must permit the Council and any relevant Authority to enter upon the Premises with all necessary materials and equipment at all reasonable times and on reasonable notice (but at any time without notice in the case of an emergency) to:
  - a) Inspect the state of repair and condition of any services or utilities located with or passing through, under and above the Premises; and
  - b) Carry out works (including repairs, additions, replacements or renovation) to any services or utilities located within or passing through, under or above the Premises.
6. Council may suspend the Operators use of the Premises for the Display of Goods at any time if Council considers it necessary to enable the Council or any relevant Authority to carry out works in or around the Premises.
7. The Operator must not make any claim for compensation or abatement or any other demand in relation to the entry on to the Premises or the carrying out of works by the City or any relevant Authority or the suspension of use under the above clauses.
8. The Operator acknowledges and agrees that this Consent and the Operator's rights to occupy and use the Premises for the Display of Goods under this Consent are subject to the rights of passage and access along public roads granted to members of the public under the Roads Act, including under sections 5, 6 and 143 of that Act.
9. The Operator acknowledges and agrees that the City may enter into any arrangement or agreement with any occupier or other person interested in any land adjacent to or near the Premises, or any government agency, for the purpose of providing:
  - (i) public or private access to and egress from the Road;
  - (ii) support of existing or future structures erected on or from adjoining land; or
  - (iii) services including water, drainage, gas and electricity supply and telephone and electronic communication services.

For the purposes of this clause 9 the City may dedicate land or transfer, grant or create any privilege or other right, in favour of any other party, any adjoining or neighbouring land or any government agency over or affecting the Public Road. The Consent is subject to any agreement, dedication, arrangement, right, easement or privilege granted under this clause 9 or existing in respect of the Public Road at the Commencement Date.

When exercising its rights under this clause 9, the City must not dedicate any land or create any easement, privilege or other right which substantially or permanently affects the enjoyment of any rights conferred on the Operator by the granting of the Consent other than in the case of resumption by a government agency, in which case the Consent will be revoked. The City will not be liable to the Operator in respect of that revocation.

10. The Operator acknowledges and agrees that nothing in the Consent relating to the Display of Goods will be construed as authorising the permanent obstruction of the Public Road, or prevent the City from altering the levels of or reconstruction the Public Road.
11. If at any time the City or TfNSW request the removal of the Display of Goods the Operator must at its own cost:
  - a) Remove the Display of Goods from the Premises;
  - b) Remove any alterations or additions made to the Premises by the Operator; and
  - c) Make good the Premises to the condition at the commencement of the Consent.
12. If the Operator is in breach of any of the Council Conditions and fails to perform any required act to rectify the breach within 10 business days of notice by the City to the Operator of that breach, then the City may request the Operator to remove the Display of Goods, and the provisions of clause 12 of the Council Conditions will apply.