

Attachment E

**Transport for NSW - General Terms
of Concurrence for Section 138
General Consent**



8 April 2020

Our Reference: SYD17/00113/05 (A31783759)
Council Ref: 2017/595965 File No: S060627-02

Chief Executive Officer
City of Sydney Council
GPO Box 1591
SYDNEY NSW 2001

GSD20/03174

Attention: Tim Wise

Dear Ms Barone

Planning proposal to include display of goods on public footway as Exempt Development and Display of Goods on the Footway Local Approvals Policy

Reference is made to the abovementioned policy and proposed General Consent, which was referred to Transport for NSW (formerly Roads and Maritime Services) for concurrence in accordance with Section 138 of the *Roads Act, 1993*, where it meets the criteria of the policy.

It is noted that the policy has been prepared in conjunction with a planning proposal to amend the Sydney Local Environmental Plan 2012, to include displays of goods on the public footway as Exempt Development.

Transport for NSW has reviewed the submitted documentation and is supportive of the key objectives of the policy, the initiative to activate streets in appropriate locations, to provide consistency across the local government area and reduce approval procedures, delays and costs for businesses.

Transport for NSW requests that its general terms of concurrence provided at **Attachment A** are incorporated into the policy and included in any conditions of General Consent issued by Council.

Should you wish to discuss this matter, please contact Aleksandar Tancevski, Senior Manager Land Use Assessment, on 0411 025 426 or at development.sydney@transport.nsw.gov.au.

Yours sincerely

Colin Langford
Director Land Use, Networks and Development
Greater Sydney Division

Attachment A: Conditions of General concurrence Roads Act 1993, section 138 Display of Goods on the Footway Policy

The following comprise of Transport for NSW general terms of concurrence for any consent issued by City of Sydney Council as the roads authority, to erect a display of goods on a classified road pursuant to Section 138 of the *Roads Act 1993*.

General terms of concurrence

1. This general concurrence only applies with respect to a section 138 consent to erect a *Display of goods* on the footway of a classified road. Separate concurrence from Transport for NSW must be obtained in relation to any application under section 138 of the *Roads Act* in connection with any other works and substantial structures.
2. It should be noted that Transport for NSW General Concurrence does not apply to *kerbside* displays of goods on the footway of classified roads. Separate concurrence from Transport for NSW must be obtained in relation to any application under section 138 of the *Roads Act* for a kerbside display of goods on a classified road.
3. For the purposes of this concurrence, the term *Display of goods* has the same meaning as defined in the policy, generally as follows: the temporary placement and display of goods for sale, associated with a lawfully operating retail outlet which does not involve spruiking or sales activity from the footway.
4. The section 138 Consent is to be revoked or suspended at any time if Transport for NSW or their contractors:
 - (a) undertake or propose to undertake works in the approved display of goods area
or
 - (b) undertake or propose to undertake works or an event that otherwise impacts access to adjoining footways, roadways, transport infrastructure, parks or public places.

General Conditions

1. The display of goods must comply with any relevant council policy that applies to these types of structures, works and activities.
2. Clearance widths for pedestrians should be maintained in accordance with AUSTROADS Guide to Road Design Part 6A: Paths for Walking and Cycling (Section 5 Design Criteria) with additional allowance made for transverse movements by staff and customers.

The clearance widths must consider any existing or proposed landscaping, vegetation, garden beds and street furniture, which may impact on the clearance. The display of goods should not impact pedestrian movements on footways, with consideration given to all users.

3. Pedestrians should not be forced on to the road carriageway by displays or other non-permanent items on the footpath.
4. All improvements are not to be fixed structures and are to be stored away at the close of business.
5. The display of goods shall not obstruct motorist's line of sight to regulatory signage, driveways, traffic control signals or other critical road infrastructure.

6. The display of goods shall not cover or impede access to public utilities and drainage pits. Access is to be made available at any time and at no cost to Transport for NSW, if required.
7. The owner/operator of the display of goods on public footways of classified roads must obtain Public Liability insurance for an amount not less than \$20 million which notes the interests of Transport for NSW, prior to placing any displays on the public footway that are the subject of the section 138 Consent. The Public Liability insurance must be held for the full duration that the displays are in place on the public footway.
8. All costs and works associated with the display of goods are to be at no cost to Transport for NSW.