



## Display of Goods on Council Footpaths Policy

Policy Number	POL-GOODSFP
File Number	3/POL/DGP/2
Responsible Officer	Director – Development and Environmental Services
Adopted	10 March 2009
Last reviewed at Council Meeting	10 June 2014
Minute Number	15803/2
Due date of next Review	Following next general election



## Purpose

To ensure that the commercial use of footpaths for the display of goods is managed without undue disruption to pedestrian convenience and safety and does not detract from the social function and general enjoyment of the street by the community.

The primary aim of this Policy is to ensure that footpaths work for pedestrians

## Policy

### PRINCIPLES

Council's policies are guided by principles of 'sustainability', good governance, advocacy, regulations and service provision. More guidance is provided in Council/Corporate/Procedural Policies, Council's Strategic Plan, Business Plan and other relevant documents.

The Mid Murray Council acknowledges that suitably positioned goods placed on the public footpath can enhance shopping enjoyment and provide an economic benefit to traders.

However, unrestricted and uncontrolled use of footpaths for commercial use can create visual clutter, potential hazards to pedestrians using the footpath, have potential impact on motorist sightlines and restrict a safe and clear path of travel for pedestrians using the footpath.

As the landowner it is Council's responsibility to ensure that the commercial use of its footpaths is managed in a manner that will ensure that footpaths primarily work for pedestrians.

Implementation of this policy is through the issue of a Display of Goods on Council Footpaths Permit.

### POLICY STATEMENT

#### When is a permit required?

The application of this Permit is restricted to those business premises that are located within the Mid Murray Council that want to offer, display or expose for sale, any of their normal goods on or over the public footpath area outside the front of their business premises on the public footpath.



## What are the footpath sections?

To achieve this aim and ensure a balanced use of the footpath area, the management of the footpath for the purpose of this Policy is divided into three sections:-



### 1. Pedestrian Section

Is along the shop front (property line) and must be clear of goods at all times. The minimum width of the Pedestrian Section, as depicted in the above graphic, should be 1.8 metres on all other footpath locations within the Council area.

Furthermore, no goods can encroach, from the building façade or the verandah, over the public footpath below a height of 2.1 metres above the footpath.

### 2. Goods Section

All goods on the footpath must be placed only within the Goods Section/Permit Zone.

Only the footpath in front of a business may be used by that business.

### 3. Kerb Section

The area which is ideally within 600mm (may be less in some circumstances) from the kerb face and must be clear of all goods at all times.

No goods are allowed to protrude across the Kerb Section. This section is required for persons to access parked vehicles.



### What may restrict the area that can be used to display goods?

Display of Goods is restricted to the front of the business premises and must not extend across a neighbouring premise.

In some locations the width of the footpath and the right for the public to access public use facilities including litter bins, public seats, pedestrian footpath access points, bus zones, loading zones, disabled parking and passenger loading/unloading zones and the like, may restrict the area that is available. This can mean that sometimes none of the footpath is available for the display of goods.

The Mid Murray Council is under no obligation to remove any street furniture (e.g. litter bin) to allow a business use of the footpath. In rare circumstances where an alternative location can be found, the street furniture may be removed at the expense of the business that makes the request.

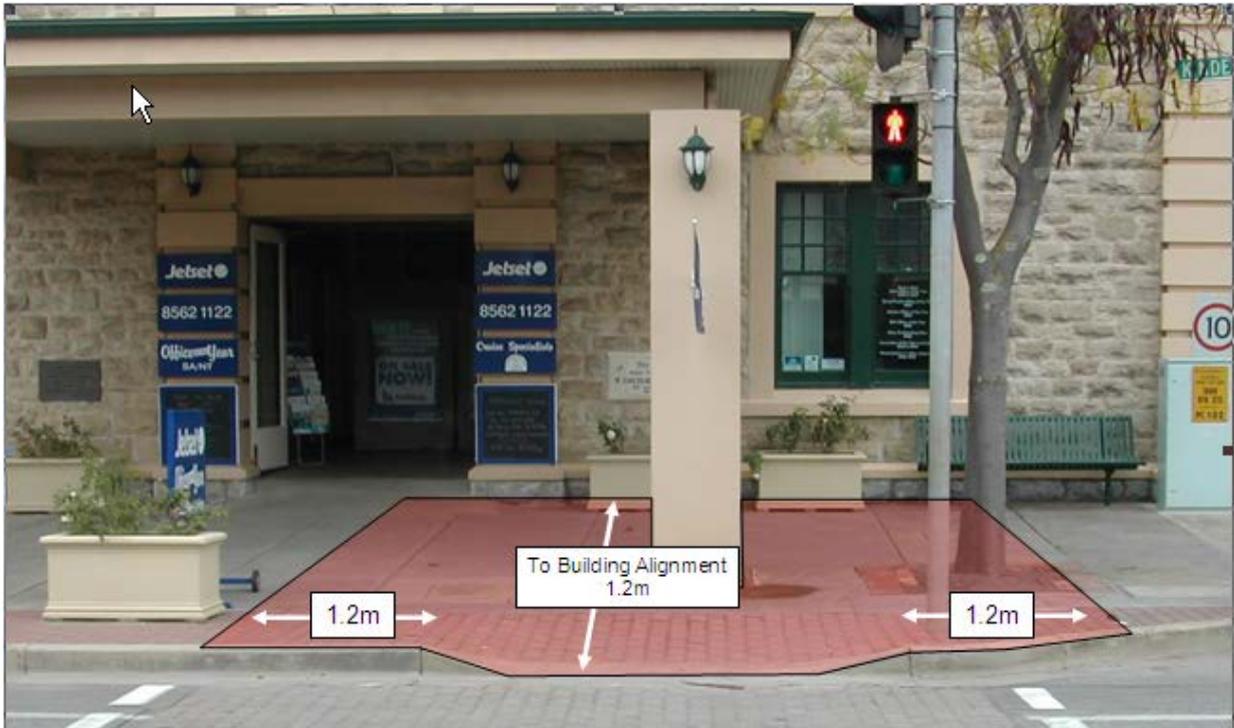
### Layout and Setback Criteria of Goods on Display

The following graphics depict the minimum layout and setbacks that must be satisfied prior to a Permit being issued:-



Goods prohibited within 3 metres of an intersection



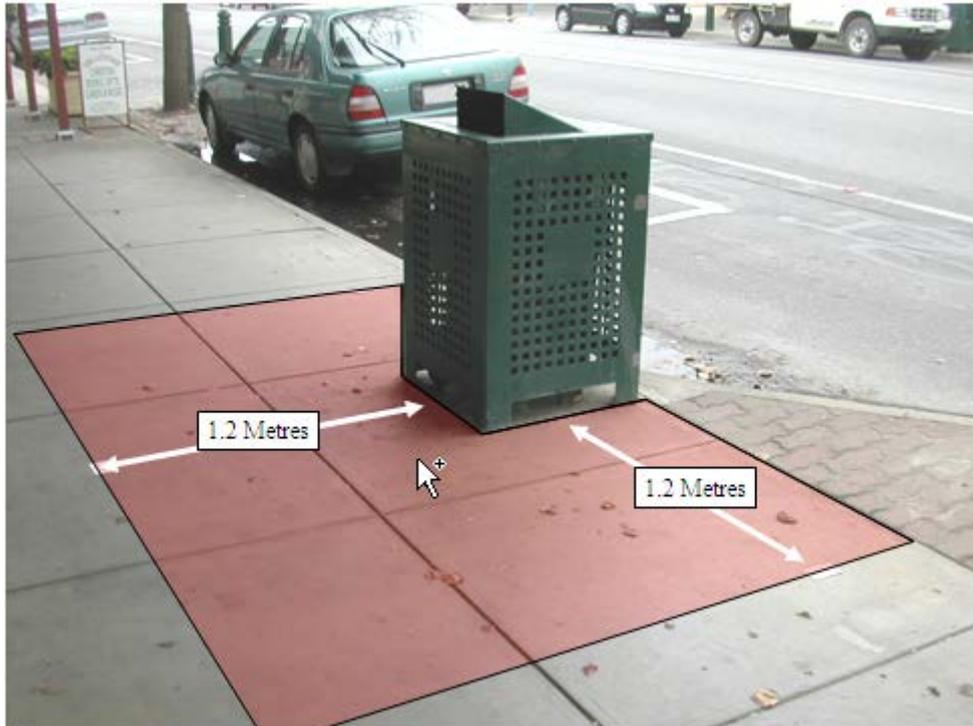


Goods prohibited within 1.2 metres of a pedestrian footpath access also allowing access to the pedestrian access



Goods must not exceed a height of 1.6 metres with a minimum height of 600mm measured from the footpath





Goods prohibited within 1.2 metres of a rubbish bin or other fixed object, for example a bench or seat





Overhanging objects must have a minimum clearance of 2.1 metres measured from the footpath

#### ADDITIONAL LAYOUT AND SET BACK CRITERIA

- **Goods cannot be displayed within a bus zone.**
- **If a business has a loading zone, disabled parking zone or a passenger loading zone in front of their business, a minimum space of 1.2 metres parallel to the footpath must be provided for footpath access at all times.**
- **An unbroken continuous display of goods cannot exceed 2.0 metres long in a direction parallel to the footpath (e.g. trestle, display table).**

#### What will not be permitted on the footpath?

Goods on or above the footpath must not pose a hazard or obstruction to users of the footpath. Goods that will generally not be permitted on the footpath include:



- Sharp/protruding items
- Items with oscillating/moving parts including fans, banners or bunting
- Items that have illuminated or flashing lights
- Reflective items that pose a risk to vehicular traffic
- Items that are unstable
- Any other items that Council may declare inappropriate.

## Making an Application

The application form and General Conditions for the Display of Goods on Council Footpaths can be collected from the Mid Murray Council.

Should it be considered that the footpath in front of a business premise can accommodate a display of goods in compliance with the Layout and Setback Criteria the application form "Goods on Footpaths Authorisation" must be completed and returned to the Mid Murray Council for assessment.

The applicant must submit a Certificate of Currency (Public Liability Insurance) for a minimum of ten million dollars (\$10,000,000). This insurance must remain current during the term of a Permit and must include written confirmation that cover extends to cover goods on footpath. In this regard it is confirmed a separate insurance policy/cover is not required providing the businesses existing policy cover extends to goods on the footpath.

It is the applicant's responsibility to submit a detailed sketch with dimensions included to show that the proposed goods can be positioned on the footpath in accordance with the Layout and Setback Criteria. An inadequate sketch will delay the assessment process. The applicant cannot place any goods on the footpath until a permit has been issued by Council. The permit must be displayed on the business premises where it can be easily seen by a Council officer from outside the front of the premises.

Risk Assessment to be completed by applicant.

## Permit Period

All permits will expire on 30 September each year. An application form (renewal) will be posted to all Permit Holders during the month of July each year for the permit period 1 October to 30 September.

## Shelters

Umbrellas may be used to provide shade from sun, and shelter from wind and rain. Umbrellas must be securely fixed to prevent blowing over in strong winds - the fixing must be into a concrete footing underneath the footpath pavement. No part of the umbrella stand should protrude above the pavement level so as to present a hazard to pedestrians when the umbrella is removed. Umbrellas must achieve a minimum of 2 metres height clearance from the pavement when in use.



## Signs/Attachments

This Policy does not preclude the attachment of signs or objects to the façade (outside wall) of the business premises providing such signs and objects do not overhang or protrude into the pedestrian section of the footpath.

## Advertising

The Permit Holder must not permit any third party advertising on or about the displayed goods other than price tags and small labels associated with the displayed goods.

## Monitoring and Enforcement

Authorised Officers of the Council will monitor the display of goods on Council footpaths.

## Displaying Goods on the Public Footpath without a Permit

The Council or its Authorised Officer may require the proprietor or their employee to remove the goods immediately from the footpath. Failure to do so will result in the issue of an expiation fee of \$210. (Section 222 Local Government Act 1999) and Council may impound the goods.

If a business displays goods on a Council footpath without a permit, and Council has previously notified the business in writing that they must have a permit, an expiation fee of \$210 will be issued.

## Non Complying Applications

Any applicant who lodges an Application to Display Goods on Council Footpaths, which does not comply with Councils Policy, may request the application be considered by Council.

## Breach of Permit Conditions

The following represents a guideline as to what will happen if there is a breach of a permit and/or authorisation or this Policy:-

- First breach - verbal warning issued (with note on operators file)
- Second breach - written notice regarding non-compliance and consideration given to the issuing of an Expiation Notice
- Third breach – Expiation Notice and written notice
- Fourth breach – Issue of an Expiation Notice and cancellation of the permit and/or authorisation in accordance with permit and/or authorisation for a period of 14 days
- Fifth breach - Issue of an Expiation Notice and cancellation of the permit and/or authorisation in accordance with permit and/or authorisation.

Before Council cancels a permit for a breach of condition(s), the permit holder will be advised in writing, stating the grounds on which the Council proposes to act.

Council will allow the permit holder a reasonable period, being not less than 28 days, to make written representations to the Council on the proposed cancellation.



Council may give less than 28 days notice should it be determined that the grounds for cancellation are to protect the health and safety of the public, or otherwise to protect the public interest.

With each application and from time to time thereafter, Council may assess the pedestrian density in the vicinity of the display of goods. If in the opinion of Council the pedestrian density is such that the free flow is, or would be restricted or obstructed by the display of goods, Council reserves the right to refuse such application, cancel any current permit or amend the permit conditions.

## Attachments

Application form

## Policy Responsibility

The Director – Development and Environmental Services is responsible for ensuring the proper operation of this Policy.

## Availability/Accessibility

This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: [www.mid-murray.sa.gov.au](http://www.mid-murray.sa.gov.au).

This Policy is available for inspection at Council's principal office during ordinary business hours. Hard copies, for a fee in accordance with Council's schedule of Fees and Charges can be provided upon request.

## Legislative Framework / Other References

Local Government Act 1999 – Section 222

Mid Murray Council Development Plan and the Development Act 1993

Disability Discrimination Act 1992

Mid Murray Council Strategic Plan

## Definitions

**Goods** include the offer, display or exposure for sale, any goods, merchandise, wares, commodity, article or thing but does not include any movable advertisement or sign that is required to comply with Council's By-laws

## Document History

This Policy shall be reviewed at least every four (4) years or more frequently if legislation or Council requires.



Version	Adopted	Minute No	Description of Change
1	10 March 2009	11069/3	Policy adopted
1	10 May 2010	11901/1	Policy reviewed
2	10 June 2014	15803/2	<p>Policy reviewed and amended.</p> <p>Under the heading "Making an Application" – the following words added to paragraph 3 – "In this regard it is confirmed a separate insurance policy/cover is not required providing the businesses existing policy cover extends to goods on the footpath."</p> <p>Under the heading "Permit Period" delete the following words– "Permit fees are non refundable unless the application is denied. Permit fees are reviewed annually."</p> <p>Under the heading "Policy Statement" – new Paragraph added - "Signs/Attachments</p> <p>This Policy does not preclude the attachment of signs or objects to the façade (outside wall) of the business premises providing such signs and objects do not overhang or protrude into the pedestrian section of the footpath."</p> <p>Delete item (c) relating to permit fees -</p> <p>"(c) the Permit Holder pays the prescribed one-off setup fee \$100.00 where applicable (no GST applicable) with a further \$55 annual renewal fee;"</p> <p>And change item (d) to be numbered (c).</p> <p>Under the heading "General Conditions of the Permit – Alter point 2 to read as follows - A Public Risk Insurance policy shall be</p>



			<p>maintained in the name of the Permit Holder, insuring the Permit Holder for the minimum sum of ten million dollars (\$10,000,000) against all actions, costs, claims, damages, charges, and expenses whatsoever, which may be brought, made, or claimed against the Permit Holder in relation to the activity. In this regard a separate Policy may not be required providing the existing business policy covers the display of goods on the footpath.</p> <p>Under the heading "Council Authorisation" – delete the words "Fee Payable: \$" and "Receipt No:"</p>
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**GOODS ON FOOTPATHS AUTHORISATION**

I \_\_\_\_\_ for and on of behalf

of \_\_\_\_\_ hereinafter called the 'Permit Holder' of  
(Business Name)

\_\_\_\_\_ (address)

\_\_\_\_\_ Telephone \_\_\_\_\_

hereby make application to the Mid Murray Council for a Goods on Footpaths Permit, pursuant to Section 221 and 222 of the Local Government Act 1999, and in accordance with the information described below:-

Proposed location: \_\_\_\_\_

Proposed hours of operation: \_\_\_\_\_ to \_\_\_\_\_

on the following days: \_\_\_\_\_

Licence Period: \_\_\_\_\_ to \_\_\_\_\_

A sketch showing the area requested to be occupied and the proposed position of goods on display must be provided on the following page.

**NOTE: A MINIMUM 1.8 METRE PEDESTRIAN ACCESS IS REQUIRED.**



## PLAN OF GOODS ON FOOTPATH

The issuing of this Permit is subject to:-

- (a) the Permit Holder agreeing to the general conditions of the Permit as contained herein;
- (b) the Permit Holder agreeing to all special conditions that the Council may determine;
- (c) the Permit Holder providing a copy of all appropriate insurances as required by either the General Conditions, or Special Conditions of Permit.

### **General Conditions of the Permit**

1. The Permit Holder agrees to indemnify and to keep indemnified the Council, its servants and agents and each of them from and against all actions, costs, claims, damages, charges, and expenses whatsoever which may be brought, made or claimed against them, arising out of, or in relation to, the issuing of this Permit.
2. A Public Risk Insurance policy shall be maintained in the name of the Permit Holder, insuring the Permit Holder for the minimum sum of ten million dollars (\$10,000,000) against all actions, costs, claims, damages, charges, and expenses whatsoever, which may be brought, made, or claimed against the Permit Holder in relation to the activity. In this regard a separate Policy may not be required providing the existing business policy covers the display of goods on the footpath.
3. The Permit Holder must provide confirmation of this public liability insurance to the Council.
4. The Permit Holder, where appropriate, shall ensure that it is licensed, or registered, to carry out the activity authorised by the issuing of this Permit.
5. This Permit is not transferable.
6. The Permit Holder shall comply with, and give all notices required by any Act of Parliament, Ordinance, Regulation, or By-law relating to the activity.



7. This Permit is liable to be revoked by Council if the Permit Holder fails to comply with any condition, of this permit, or may be revoked in any other justifiable circumstance.
8. This Permit will not come into operation until proof of the appropriate insurance has been provided to the Council, the relevant fees paid, and a copy of this document, signed by Council has been returned to you.
9. No tables, chairs, umbrellas, movable signs, freestanding screens or plant pots etc. are to be located outside the defined permit area.
10. Once the Permit is granted no alteration to the defined area or the hours of operation will be allowed. If any alteration to the Permit is required then a new application for a Permit must occur.
11. The defined area shall be cleared of obstructions as required by the Council for pavement maintenance and repair work. Except for emergencies, at least twenty-four hours notice will be given of this requirement.
12. The Permit Holder shall bear the cost of all pavement repairs carried out by the Council within the defined area which in the opinion of the Council have been caused by the activities of Goods on Footpaths. This shall include, but not be limited to, the replacement of jointing material removed from brick paving due to the sweeping and washing down of the pavement.
13. All Goods on Footpaths shall be removed from the footpath at the close of business on each day.
14. An Authorised Officer of Council may give notice requiring certain work to be done by the Permit Holder within 14 days from the giving of such notice. If the work specified in the notice has not been completed within the said 14 days, an Authorised Officer may by notice cancel the Permit forthwith.
15. This Permit is to be construed as continuing for the purposes of indemnification and insurance whilst goods are on the footpath (whether authorised by this Permit or not), for the period from the commencement of this Permit until a Permit is obtained by the transferee of the Permit Holders business, for which this Permit was obtained, or until this Permit is renewed by the Permit Holder.



16. The hours of operation are to be as set out in the Council Authorisation notice at the end of this Permit.
17. The minimum 1.8 metre pedestrian access zone is to be unobstructed at all times, this zone shall only be used for the movement of pedestrians to the designated permit area.
18. Umbrellas do not protrude and have a minimum clearance of 2.0 metres above the footpath level.
19. Umbrellas are not to be used under verandahs.
20. Clear vision of oncoming traffic is not impaired for other users of the road.
21. A 400mm safety zone is kept clear and unobstructed at all times. See diagram 1.
22. Pursuant to Section 222 of the Local Government Act, 1999, if any other portion of the road or footpath is used other than stipulated in this permit you will be liable to a maximum penalty of \$2,500 or can be given an Expiation Notice with a fee of \$210.



I acknowledge that I have read and understand the Permit conditions, and agree to abide by the said conditions.

Enclosed with my application is a copy of my current Public Risk Insurance Policy.

Signed for and on behalf of the Permit Holder:

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_

**PUBLIC CONSULTATION PROCESS**

The issuing of this permit is subject to Council's Public Consultation Process.

The following actions have been taken in accordance with Council's Public Consultation Process.

\_\_\_\_\_

\_\_\_\_\_



**COUNCIL AUTHORISATION**

Permit Approved / Denied \_\_\_\_\_ Issued to \_\_\_\_\_

Site inspected by \_\_\_\_\_ Date \_\_\_\_\_

Approved hours of operation: \_\_\_\_\_

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Public Risk Insurance valid to \_\_\_\_\_

