

Use of Road Reserves for Commercial Purposes

Classification:	Council Policy
Policy Name:	Use of Road Reserves for Commercial Purposes
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ECM tracking number:	988247
Responsible Officer:	General Manager Corporate and Development
Relevant Legislation:	S221 Local Government Act 1999 S222 Local Government Act 1999 Development Act 1993 Planning, Development and Infrastructure Act 2016
Related Policies:	By-law No 2 Moveable Signs By-law No. 3 Local Government Land

1. Introduction

- 1.1 Road reserves belong to the community as a whole and are under the care and control of Council. Many businesses seek to use such land for the purposes of commercial trade, enhancing their exposure to passing trade by establishing an advertising display, display of goods or trading on this land (footpaths and road reserves). This policy regulates the granting of permission for commercial use of Council road reserves.

2. Strategic Plan Desired Outcomes

- 2.1 A range of businesses and organisations that increase vitality and wealth in the City.
- 2.2 Delivery of good governance in Council business.

3. Our Approach

- 3.1 Support local businesses, organisations, home based employment and tertiary employment.
- 3.2 Regularly review, update and adopt leading governance, risk management and administrative practices.

4. Legislative Requirements and Corporate Policy Context

- 4.1 Pursuant to Section 221 and 222 of the Local Government Act 1999 the Council is able to issue consent for the alteration of a public road or its use for commercial purposes. Council is able to grant consent to such alterations and uses subject to conditions as it sees fit.
- 4.2 Authorisations for alterations to a public road cannot be granted for periods greater than 42 years, and permits for commercial uses cannot exceed five years.
- 4.3 The placement of advertisements comprising moveable signs on the road reserve are covered under Council's by-laws.
- 4.4 This Policy is principally concerned with commercial purposes in the form of outdoor dining.

5. Interpretation

- 5.1 The term "safety barriers" can be taken to include all forms of bollards including but not limited to Energy-absorbing bollards, and other forms of safety barriers as defined by Council.

6. Policy

- 6.1 Permits will only be granted for appropriate locations. Appropriate locations are those adjoining sites already approved for retail use and within the District, Neighbourhood or Local Centre or the Business (Glen Osmond Road), or Local Business zones. Approval will be granted subject to conditions as Council sees fit, including, but not limited to the following:
 - 6.1.1 a clear space of 1.5 metres for pedestrian flow is to be maintained;
 - 6.1.2 public liability insurance (cover note in favour of the Council on the trader's policy) for \$10m is required and copy provided to the Council and must be kept current for the life of the permit;
 - 6.1.3 flexi-removal structures (tables/chairs/umbrellas, storage/display structures on wheels), are preferred, but where structures are proposed to be fixed and permanent or semi-permanent, development and approval may be required;
 - 6.1.4 all street furniture is to be approved by Council, prior to installation and use;
 - 6.1.5 bollards and any structures are to be set back 0.6m from the adjoining kerb line and a reasonable supply of car parking is to be available in the near vicinity;
 - 6.1.6 street trees, seats, bins and paving are to be retained except in specific circumstances where removal, relocation or replacement is, in the opinion of Council, justified and then this shall occur at the cost of the trader. Any such changes require explicit approval from City of Burnside as the owner of the asset;
 - 6.1.7 the trader is responsible for cleaning the relevant area and ensuring no nuisance to the general public.

- 6.1.8 The trader is responsible to 'make good' any alterations after a permit is withdrawn or expired.
- 6.2 As part of the approval process for any Outdoor Dining Applications, City of Burnside will undertake a risk assessment of the site in accordance with its Road and Traffic Management policy and / or any subsequent or additional relevant policy. Where safety barriers including bollards are required to be installed for the protection of diners, pedestrians and / or motorists, a fee per bollard or safety barrier, as set by Council and reviewed annually through the Fees and Charges Schedule will be payable by the holder of the outdoor dining permit. The fees for safety barriers apply only to installations occurring after the adoption of changes to this policy introducing the fee at the meeting of 25 February 2014.
- 6.3 Where existing installations of safety barriers are upgraded, or installed as a result of change of risk profile at the site, end of usable life of the existing barriers, damaged barriers, or another reason, the annual rental fees associated with the safety barriers will apply.
- 6.4 For trading on the footpath area including outdoor dining, an initial and annual licence fee will be payable, as set by Council annually and published in the Annual Schedule of Fees and Charges, based on net area (excluding through pedestrian path way).

7. Availability

- 7.1 The Policy is available to be downloaded, free of charge, from Council's website www.burnside.sa.gov.au
- 7.2 The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

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