

Use of Road Reserves for Commercial Purposes Policy

Purpose

All roads are owned by the Council in Fee Simple and are under the care and control of Council unless the Commissioner of Highways has made a declaration to the effect part or whole of the road is under the care and control of the Commissioner. 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 managed road reserves.

Policy Statement

1. Introduction

- 1.1 All roads are owned by the Council in Fee Simple and are under the care and control of Council unless the Commissioner of Highways has made a declaration to the effect part or whole of the road is under the care and control of the Commissioner. 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 managed road reserves.

2. Strategic Context

- 2.1 Assess each application in a consistent and objective manner.
- 2.2 Regularly review, update and adopt leading governance, risk management and administrative practices.

3. Legislative Requirements and Corporate Policy Context

- 3.1 Pursuant to Section 221 and 222 of the Local Government Act 1999 the Council is able to issue permits for the alteration of a public road or its use for commercial purposes.
 - 3.2 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.
 - 3.3 The placement of advertisements comprising moveable signs on the road reserve are covered under Council's by-laws.
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- 3.4 This Policy is principally concerned with commercial purposes in the form of outdoor dining.

4. Policy

- 4.1 Permits for outdoor dining will only be granted for appropriate locations. Appropriate locations are those adjoining sites already approved for retail use and within business or commercial (or similar) planning zones. Approval will be granted subject to conditions as Council sees fit, including, but not limited to the following:
- a clear space of 1.5 metres for pedestrian flow is to be maintained;
 - public liability insurance (cover note in favour of the Council on the trader's policy) for \$20m is required and copy provided to the Council and must be kept current for the life of the permit;
 - 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 approval may be required;
 - all street furniture is to be approved by Council, prior to installation and use;
 - bollards and any other 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;
 - 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;
 - the trader is responsible for cleaning the relevant area and ensuring no nuisance to the general public.
 - The trader is responsible to 'make good' any alterations after a permit is withdrawn or expired.
- 4.2 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
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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.

- 4.3 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. Where bollards have been impacted in a collision, an inspection will be organised, and if necessary, the bollard(s) will be replaced at the cost of the Council. Periodical inspections of bollards may be undertaken.
- 4.4 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).

5. Review and Authority

- 5.1 This Policy will be reviewed every four years at maximum in line with Council's Policies and Protocols Framework.

6. Availability

- 6.1 The Policy is available to be downloaded, free of charge, from Council's website www.burnside.sa.gov.au.
- 6.2 The Policy will be available for inspection, free of charge, at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

Other Useful Documents

Related Documents

- By-law No 2 Moveable Signs
- By-law No. 3 Local Government Land

Relevant Legislation

- *Local Government Act 1999*
- *Planning, Development and Infrastructure Act 2016*

Glossary

Throughout this document, the below terms have been used and are defined as:

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.

Road reserve: has the same meaning as “road” and includes any footpath, verge, kerb and water table and carriageway. It is all the land designated as “road” and extends between adjacent private allotment boundaries.

Administrative

As part of Council’s commitment to deliver the City of Burnside Strategic Community Plan, services to the community and the provision of transparent information, all policy documents are reviewed as per legislative requirements or when there is no such provision a risk assessment approach is taken to guide the review timeframe.

This Policy document will be reviewed every 4 years unless legislative or operational change occurs beforehand.

Adoption Date: 16 July 2024

Review Date: June 2028

Strategic Plan Reference

Principles: Governing with Integrity

Theme: Spans all themes

Goals: Spans all goals

Priorities: Spans all priorities

Review History

ECM Reference:	Authorising Body:	Date/Decision ID	Description of changes
988247	Council	28/08/2012, C8842	
		8/08/2013, C9437	
		22/03/2016, C10583	
		8/05/2018, C11676	
		12/05/2020, C12547	

		16/07/2024 C72024/13730	Updates to: <ul style="list-style-type: none"> • Strategic Community Plan • Legislation • Responsibilities • Minor editorial and format changes • Planning zones • Insurance requirements • Definition of Road Reserve added
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Contact

For further information contact the City of Burnside:

401 Greenhill Road, Tasmore SA 5065

+61 8366 4200

burnside@burnside.sa.gov.au