

Use of a road for a business purpose policy

1. Purpose

The purpose of this policy is to outline general Council position to the community and provide operational guidance to Council officers regarding the permitted use of public roads under Council's care and control for business activities.

2. Policy

2.1. Permits for Use of a Road for a Business Purpose

Vendors may sell a variety of products from public road either for short term occasions such as selling flowers for Mother's Day or for ongoing regular periods, including long term arrangements like those involving ice cream vans and coffee vans. A permit may grant rights of exclusive occupation in relation to part of a public road. A permit may be granted for a particular occasion or for a long term stated in the permit and the term of the permit cannot exceed 5 years.

2.2. Conditions of authorisation or permit

A condition must comply with any requirements prescribed by the regulations. The conditions could for example:

1. require compliance with specified safety requirements.
2. require the person to whom the authorisation or permit is given to carry out specified work (or additional work) such as earthwork, drainage work and fencing.
3. require specified insurance or indemnities.
4. require the maintenance of structures erected or installed, or vegetation planted, under the authorisation or permit in good condition and to specified standards.
5. in the case of an authorisation or permit given for business purposes—require the payment to the council of rent or other consideration.
6. require the removal of a structure erected or installed under the authorisation or permit at the end of a stated period

2.3. Short Term Permits – Fixed Point of Sale

Annual events such as Mother's Day where the selling period is clearly defined e.g. the eight (8) days leading up to and including Mother's Day require a single permit per site per applicant. Applicants wishing to operate from multiple sites may include these all locations within a single application, however, each site will be subject to a separate fee and assessment process.

Where an applicant intends to sell products from a location on a regular or extended basis exceeding nine (9) consecutive days, a separate fee will apply for each occasion beyond this nine day period. Roadside fruit vendors a typical example of this arrangement.

Permits shall not be issued unless the necessary approvals under the Planning Development and Infrastructure Act 2016 have been obtained, or it has been confirmed that development approval is not required for the proposed business activity.

If more than one point of sale location is approved under a permit, a separate fee will apply for each location.

2.4. Long Term Permits – Mobile Vehicles or Trailers

This clause applies to applicants seeking approval to sell ice cream/coffee or similar products on public roads on a regular or ongoing basis.

Where a vendor operates multiple vans or points of sale Council may, at its discretion, issue a separate permit for each van or location. Annual permit fees apply per vehicle.

2.5. Long Term Permits – Cafes, Restaurants and Outdoor Dining

Although they are not a current feature in the Tea Tree Gully landscape Alfresco type arrangements operating on a Council footpath require a permit from Council to occupy its land.

The granting of the permit under this policy may be subject to the requirement to obtain Development approval and a Liquor Licence.

2.6. Fees and Charges

Council will charge a fee for issuing these permits and the fees will be based on the following structure:

- a. Short Term Continual Use - Up to a maximum of nine (9) days as a fee per day
- b. Short Term Ad Hoc or Occasional Use - To include stalls such as fruit and vegetable i.e. one day per month for 12 months
- c. Annual Fee – Selling c from Council owned/controlled roads
- d. Long Term - Outdoor Dining fee per chair.

2.7. Records management

All applications, approvals (with conditions) and refusals are required to be in writing and appropriately recorded in Council's records management system in accordance with Council's Records Management Policy and procedures.

3. Definitions

For the purposes of this policy the following definitions apply:

CEO

Refers to the Chief Executive Officer (including their delegate) of the City of Tea Tree Gully.

Act

Local Government Act 1999

[Planning Development and Infrastructure Act 2016](#)

Section 102 of [the Planning Development and Infrastructure Act 2016](#)

Food Act 2001

Alfresco

An outside eating area.

Business Purpose

Council owned and that may be used for Business Purpose, even if it is not intended to make a profit. Examples of business use include:

- Operating a mobile food van or pie-cart on the roadside,

- Setting up a kiosk,
 - Extending a café or restaurant onto footpaths or verges,
- Depasturing livestock or cropping on road reserves.

City

The geographic area covered by the Council

Contiguous land

Under section 49 of the Local Government Act 1999, land will be regarded as being contiguous to other land if the land:

- a) Abuts on the other land at any point
- b) is separated from the other land only
 - (i) a road, street, lane, footway, court, alley, railway or thoroughfare
 - (ii) a watercourse or channel
 - (iii) a reserve or other similar open space

Council

The elected member body or employees acting under delegation or authorisation.

DIT

Department for Infrastructure and Transport

Fixed Point of Sale

Situations where the permit is for a single specific/fixed site.

Long Term Permit

A permit issued for a period of more than nine (9) consecutive days but not greater than one (1) calendar year and will be subject to annual review and renewal.

Permits

For the purpose of interpretation of this Policy the terms “permits”, “licence” and “authorisation” will have the same meaning.

Public Street or Road

The road, for the purpose of this Policy, includes the road carriageway, the road shoulder, the kerb and water table, footpath or other similar paths and verge areas.

Short Term Permit

A permit issued for a period of not more than nine (9) consecutive days or for single non-consecutive days.

4. Legislative framework

4.1. Reference to legislation

Local Government Act 1999

Section 188(1)(f) of this Act provides for Council to impose fees and charges in relation to the granting of Permits.

Under Section 222 of the Local Government Act 1999 Act a Council may issue a Permit authorising the use of a public road for business activities. These permits can be granted for a specific occasion or for a fixed term not exceeding 5 years.

Section 222(1) makes it an offence for any person to conduct business on a public road without a valid permit issued by the council. Breaching this provision may result in a maximum penalty of \$2,500 and an expiation fee of \$210.

Planning Development and Infrastructure Act 2016

Section 102 of the *Planning Development and Infrastructure Act 2016* require Council as an approving authority to deal with alterations or encroachments over public land places in a satisfactory manner.

Depending on the specific nature and characteristics of the individual business, the selling of ice cream etc. may constitute a change in land use, and may therefore require a separate development approval in accordance with the provisions of the PDI Act.

Food Act 2001

This Act is to ensure that food for sale is both safe and suitable for human consumption, prevent misleading conduct in connection with the sale of food and to provide for the application of the Food Standards Code.

4.2. Other references

Council's documents including:

- a. Application to sell from streets and roads (form)
- b. Application to sell ice cream or coffee from streets and roads (form)
- c. Mobile food vending permit application (form)
- d. Fees and Charges Register
- e. Records Management Policy and Procedures

5. Strategic Plan 2030

5.1. Strategic objectives

The following strategic objectives and aspirations in Council's Strategic Plan 2030 are the most relevant to this report:

Strategic Objective	Comments
1. Our Community We create opportunities for people to connect with one another and to their local community.	
1.1. Our programs, events and services are accessible, inclusive and adaptable to meet community needs.	The policy provides flexible permit options for short-term and long-term business use of public roads, supporting diverse community and business needs
2. Our Economy Our city is the place to invest, work and do business.	
2.1. Our centres are vibrant with Modbury Precinct as the region's key activity centre.	By enabling mobile vendors and outdoor dining, the policy contributes to activating public spaces and enhancing vibrancy in key precincts.
2.2. Our economy is innovative, prosperous and diverse and is underpinned by sustainable population growth.	The policy supports small businesses and entrepreneurial activity by allowing commercial use of public roads under clear guidelines.

4. Our Places Our City is a desirable place to live, stay and play.		
4.1.	Our public places are attractive, adaptable and fit for purpose.	The permit system ensures that business use of roads is managed responsibly, maintaining the amenity, functionality and safety of public spaces.
5. Our Leadership We are trusted to make good decisions that are in the best interest of our community.		
5.4.	Our planning and decision making is evidence based, consistent and focused on outcomes for the future.	The policy incorporates development approval requirements and recordkeeping practices, supporting consistent and accountable decision-making.

5.2. Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on four key pillars of customer care, trust, teamwork and growth. The pillars most relevant to this policy is customer care, trust, teamwork and growth.

6. Policy Implementation

This Policy will be implemented by the Chief Executive Officer or relevant portfolio General Manager and managed in accordance with Council's scheme of delegations.

Record number	D25/62627
Responsible Manager	Manager Regulatory Services
Other key internal stakeholders	General Manager Community Services
Last reviewed	26 May 2026
Adoption reference	Council
Resolution number	944
Previous review dates	15/12/2021, 30/11/20, 13/3/18
Legal requirement	N/A
Due date next review	2030
Delegations	N