

Vehicles Parked on Footpath Policy



Record number	D19/25752
Responsible Manager	Manager Community Safety
Other key internal stakeholders	Director Community and Cultural Development
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Legal requirement	N/A
Due date next review	2022

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PURPOSE

Council is responsible for enforcing offences under the Australian Road Rules as it sees fit. The policy intent behind Rule 197 is linked to the protection of public infrastructure and public safety considerations. The purpose of this policy is to formally state Council's position in regards to vehicles parked on Council footpaths and the circumstances in which expiation notices will or will not be issued.

POLICY

The parking of vehicles on footpaths (off the carriageway) is generally not acceptable however there are circumstances in which a vehicle may park on a footway, and expiation will not be issued. These circumstances include:

- Where the driver has stopped in emergency circumstances in a manner permitted under Section 165 of the Australian Road Rules
- In circumstances where the offence is trifling for the purposes of the Expiation of Offences Act.

The decision to issue an expiation or not will be based on the merits of the particular circumstances identified at the time.

In assessing where an expiation may be appropriate, Council officers should have regard to the merit of the principles outlined in Council's Enforcement Policy and individual situations. They should also consider the protection of public infrastructure and any implications for public safety. Examples of where these considerations may arise include the following:

- The vehicle is parked over or across a paved, sealed or rubble constructed footpath
- The parking creates a public hazard
- The parking damages private landscaping on public land
- The vehicle is parked in front of a property under the care or control of Council.
- The vehicle is displayed for sale and the location of the vehicle is not related to the owners or drivers normal place of residence

LEGISLATIVE FRAMEWORK

There is no legislative requirement for Council to have a policy relating to this area.

The following legislation applies to this policy:

[Australian Road Rules \(under the Road Traffic Act 1961\)](#)

Under regulation 165 it is a defence to the prosecution of a driver for an offence against a provision of Part 12 if:

- The driver stops at a particular place, or in a particular way, to avoid a collision, and the driver stops for no longer than is necessary to avoid the collision
- The driver stops at a particular place, or in a particular way, because the driver's vehicle is disabled, and the driver stops for no longer than is necessary for the vehicle to be moved safely to a place where the driver is permitted to park the vehicle under the *Australian Road Rules*
- The driver stops at a particular place, or in a particular way, to deal with a medical or other emergency, or to assist a disabled vehicle, and the driver stops for no longer than is necessary in the circumstances

- The driver stops at a particular place, or in a particular way, because the condition of the driver, a passenger, or the driver's vehicle makes it necessary for the driver to stop in the interests of safety, and the driver stops for no longer than is necessary in the circumstances
- The driver stops at a particular place, or in a particular way, to comply with another provision of the *Australian Road Rules* or a provision of another law, and the driver stops for no longer than is necessary to comply with the other provision.

Under regulation 197 a driver must not stop on a bicycle path, footpath, shared path or dividing strip, or a nature strip adjacent to a length of road in a built-up area, unless:

- The driver stops at a place on a length of road, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under the *Australian Road Rules*
- The driver is permitted to stop under another law of this jurisdiction.

[Expiation of Offences Act 1996](#)

Section 5(1) provides for certain offences to be expiated. Expiations must be issued in accordance with this Act.

[Road Traffic \(Miscellaneous\) Regulations 1999](#)

Schedule 9 – Part 3 of the regulations sets the expiation fee for offences against the Australian Road Rules.

Other references

Council's documents including:

- Fees and Charges Register
- Enforcement Policy

STRATEGIC PLAN/POLICY

Strategic Plan

The following strategic objectives in Council's Strategic Plan 2020 are the most relevant to this report:

Theme	Objective	Comments
HEALTHY AND SAFE	<i>A community where people are safe in our public places and spaces.</i>	Our community is healthy and safe
	<i>A community where people have easy access to places, spaces and services that support good health.</i>	

This policy provides guidance in situations where vehicles in public places may cause a hazard to members of the public.

Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of organisational excellence. The themes most relevant to this report are: People and Leadership; Customers and community relations; Governance; Finance and systems, Continuous improvement

DEFINITIONS

For the purpose of this policy, the following definitions apply:

Built-up area

In relation to a length of road, means an area in which either of the following is present for a distance of at least 500 metres or, if the length of road is shorter than 500 metres, for the whole road:

- Buildings, not over 100 metres apart, on land next to the road;
- Street lights not over 100 metres apart.

Footpath

An area open to the public that is designated for, or has as one of its main uses, use by pedestrians

Trifling

An alleged offence will, for the purposes of this Act, be regarded as trifling if, and only if, the circumstances surrounding the commission of the offence were such that the alleged offender ought to be excused from being given an expiation notice on the ground that:

- There were compelling humanitarian or safety reasons for the conduct that allegedly constituted the offence
- The alleged offender could not, in all the circumstances, reasonably have averted committing the offence
- The conduct allegedly constituting the offence was merely a technical, trivial or petty instance of a breach of the relevant enactment.

POLICY IMPLEMENTATION

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

ACCESSIBILITY

This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: www.cttg.sa.gov.au

Hard copies, for a fee, can be provided in accordance with Council's Fees and Charges Register at Council's Civic Centre at 571 Montague Road, Modbury SA 5092.