



## Council Policy: Use of Public Footpaths and Roads for Business Purposes

<b>Classification:</b>	Council Policy
<b>First Issued:</b>	6 November 2012
<b>Dates of Review:</b>	2017, 2018, 2021
<b>Version Number:</b>	4.1
<b>Next Review Due:</b>	2026
<b>Objective ID:</b>	A8177
<b>Applicable Legislation:</b>	<a href="#"><u>Local Government Act 1999</u></a> <a href="#"><u>Planning, Development and Infrastructure Act 2016</u></a> <a href="#"><u>Disability Inclusion Act 2018</u></a> <a href="#"><u>Local Nuisance and Litter Control Act 2016</u></a> <a href="#"><u>Environment Protection Act 1993</u></a> <a href="#"><u>Food Act 2001</u></a> <a href="#"><u>Liquor Licensing Act 1997</u></a>
<b>Related Policies or Corporate Documents:</b>	<a href="#"><u>Advertising on Council Land and Public Infrastructure Policy</u></a> <a href="#"><u>Public Consultation Policy</u></a> <a href="#"><u>By Law 2 - Local Government Land</u></a> <a href="#"><u>By-law 3 : Roads</u></a> <a href="#"><u>By-law 4 : Moveable Signs</u></a> <a href="#"><u>Mobile Food Vendors Policy</u></a>

<p><b>Associated Forms:</b></p>	<p><a href="#">Commercial Vending of Goods Placed on Footpath Permit Application Form</a>  <a href="#">Hoarding/Scaffolding/Fencing Permit Application Form</a>  <a href="#">Mobile Food Vending Permit Application</a>  <a href="#">Mothers Day Flowers on Footpath Permit Application</a>  <a href="#">Outdoor Dining Permit Application Form</a>  <a href="#">Real Estate Advertising Boards on Footpath Permit Application Form</a>  <a href="#">Skip Bins and Containers Permit Application Form</a>  <a href="#">Temporary Vending from Street Stalls Permit Application Form</a></p>
<p><b>Note:</b></p>	
<p><b>Responsible Manager:</b></p>	<p><b>Manager Compliance and Waste</b></p>
<p><b>Confirmed by General Manager:</b></p>	<p>Date: 15 October 2021</p>
<p><b>Endorsed by Executive:</b></p>	<p>Date: 20 October 2021</p>
<p><b>Adopted by Council</b></p>	<p>Date: 2 November 2021</p>

## Table of Contents

- 1. Preamble ..... 4
- 2. Purpose ..... 4
- 3. Scope ..... 4
- 4. Definitions ..... 5
- 5. Policy Statement..... 6
  - 5.1 General ..... 6
  - 5.2 Permit System..... 7
  - 5.3 General Conditions of Permits ..... 8
  - 5.4 Enforcement..... 9
  - 5.5 Outdoor Dining on Footpaths ..... 10
  - 5.6 Commercial Vending of Goods Placed on Footpaths..... 13
  - 5.7 Placement of Mother’s Day Flowers ..... 15
  - 5.8 Mobile Vending on Public Roads..... 16
  - 5.9 Temporary Vending from Street Stalls ..... 16
  - 5.10 Temporary Hoarding, Scaffolding or Fencing on Footpaths ..... 17
  - 5.11 Temporary Placement of a Container on a Public Road..... 19

## **COUNCIL POLICY - Use of Public Footpaths and Roads for Business Purposes**

### **1. Preamble**

1.1 Council manages the use of public footpaths and roads for a mix of purposes:

- Functional - to facilitate the movement of people and traffic around the city;
- Aesthetic - to enhance the 'look' of the city and its precincts; and
- Social - to encourage a community 'feel' and vibrant street life.

1.2 Council believes that businesses play a strong role in each of these areas and that business use of public footpaths and roads could contribute positively and substantially to the look and feel of the city. Rising community expectations for outdoor dining experiences are one example of how street trading might enhance the social and cultural life of the city.

1.3 Street trading could also contribute to social capital by attracting community members to mix in a safe and vibrant setting and increase local economic development by revitalising strip shopping centres, encouraging a diversity of businesses to locate within the City of West Torrens (CWT) and attracting a wide variety of shoppers and visitors to the area.

### **2. Purpose**

2.1 This policy aims to:

- Maximise the benefits and return to the community from appropriate and approved business use of public footpaths and roads; and
- Specify the conditions under which public footpaths and roads could be used for commercial trading, so that space is shared equitably, the enjoyment of the community is enhanced, economic benefits are generated and public safety, convenience and amenity is not compromised.

### **3. Scope**

3.1 This policy deals with the business use of footpaths and roads for selling or offering products or services for commercial gain. Such business use requires Council approval under section 222 of the *Local Government Act 1999* (the Act).

3.2 It also deals with the placement of waste storage containers or the erection of hoarding, fencing or scaffolding on public footpaths and roads, which also require Council approval under section 221 of the Act.

3.3 This policy does not deal with advertising on Council land and public infrastructure which is dealt with in the *Council Policy - Advertising on Council Land and Public Infrastructure*.

3.4 This policy does not specifically deal with mobile food vendors. Specific requirements for mobile food vendors are contained within the *Council Policy - Mobile Food Vendors*.

#### 4. Definitions

- 4.1 **Business purpose** means the conduct of trading for commercial gain. This can include trading by not-for-profit education, welfare, cultural and other community organisations.
- 4.2 **Commercial vending** means the placement of goods for sale or display over or on the footpath.
- 4.3 **Community organisation** means registered public charities and local educational, sporting, cultural, welfare, special interest recreational and leisure organisations.
- 4.4 **Container** refers to a mini skip, shipping container or other similar device used for rubbish disposal, or the storage and/or transport of goods, furniture and equipment.
- 4.5 **Footpath** means:
- That part of the road not used as carriageway; or
  - A footway, lane or other place made or constructed for the use of pedestrians and not for the use of vehicles.
- 4.6 **Hoarding, scaffolding or fencing** refers to structures used to screen off a building or other site that may pose a safety risk to the public. It may include:
- A fence used to separate the public from a construction site, evacuation, or vacant land to prevent unauthorised entry;
  - Overhead protection for the public adjacent to a demolition or construction site (with or without sheds on top);
  - Two metre high open wire or mesh fixed to metal rails and posts;
  - One metre high plastic barrier mesh fixed to star droppers or similar;
  - Concrete barriers generally known as “new jersey kerbing”;
  - Modular plastic barriers that provide a flexible interlocking system which, when filled with sand or water, offer a level of impact resistance;
  - Bunting / flags supported on star droppers or similar, or mobile barriers;
  - Plastic cones.
- 4.7 **Mobile vending** means the sale of goods from a vehicle. It does not include mobile food vending.
- 4.8 **Outdoor dining** means the use of public footpaths by food and drink businesses (such as cafes and restaurants) to extend their services outdoors;
- 4.9 **Council land and public infrastructure** means footpaths, roads, Council buildings, community land and associated Council infrastructure.
- 4.10 **Public road** has the same meaning as in the Act.
- 4.11 **Road** has the same meaning as in the Act but excludes any roads in private ownership
- 4.12 **Street furniture** means chairs, tables, litter bins, water fountains, telephone boxes, street trees, planter boxes, bus shelters, street signs and other structures placed on a public road by Council or any other authority.
- 4.13 **Street stall** means any market stall, stand, table, trestle, BBQ or other structure used in temporary vending.

- 4.14 **Street trading** means use of footpaths and roads for outdoor dining, commercial vending mobile vending and temporary vending from street stalls.
- 4.15 **Temporary vending from street stalls** means business use of footpaths, such as use by local community organisations for fund raising and membership drives.

## 5. Policy Statement

### 5.1 General

5.1.1 While Council supports the conduct of footpath activity by established businesses, it recognises that controls are necessary, irrespective of the activity conducted on them, to ensure:

- Equity in the treatment of business proprietors;
- Public safety and disability access;
- Free passage of pedestrians;
- Clear sight lines for road users;
- Maintenance of streetscapes and their unique characters.

5.1.2 Council's approach is to facilitate:

- Outdoor dining and commercial trading in strip (main road) shopping centres, particularly when it will enhance the cosmopolitan nature of a precinct;
- Outdoor dining and commercial trading in residential streets when it extends services to residents without impacting on nearby properties or the character of the neighbourhood;
- Vending from mobile vehicles when they extend services beyond established shops and shopping areas and add to overall community enjoyment;
- Temporary vending from stalls on footpaths, particularly vending by community organisations to support charitable causes which enhance community welfare or well-being, promote community pride or encourage a sense of belonging.

5.1.3 Council's approach is to facilitate these activities while ensuring that they do not detract from the overall streetscape and image of the area by:

- Avoiding excessive advertising, unnecessary clutter, oversized or bulky items;
- Setting broad urban design standards;
- Ensuring cleanliness and community amenity is maintained;
- Requiring all structures and equipment to be in good working order;
- Requiring environmental, safety and noise standards to be met.

5.1.4 Development approval under the *Planning Development and Infrastructure Act 2016* will be necessary in certain cases involving the use of public roads for a business purpose, depending on the nature and / or size of an intended development and the extent to which a "change of use" is proposed. Staff responsible for the administration of this policy will confer with City Development whenever the possibility arises of development approval being necessary.

## 5.2 Permit System

5.2.1 Permit applications, issued under section 222 of the Act, must be submitted using the approved CWT application form. Applications will be considered on their merits and be assessed against the requirements of this policy, including but not limited to, local conditions that may pose a safety or physical constraint, such as:

- width of footpath
- speed of vehicular traffic adjacent to the area
- proximity to traffic
- proximity to intersections
- proximity to various types of parking including disability parking and passenger loading/unloading zones
- proximity to bus zones, taxi ranks, loading zones and traffic lights
- proximity to pedestrian crossings and pram crossings
- positioning of bicycle paths
- accident history of an area
- presence of and access to street furniture such as public seating, safety barriers or bollards
- clearance requirements
- access requirements of and access points for pedestrians
- volume of pedestrians using footpaths within particular times.

5.2.2 A permit is not, a tenancy arrangement and the permit may specify conditions such as hours of use, areas of operation, duration of permit and types of items permitted.

5.2.3 The CWT will require any person or organisation wishing to use a public road or footpath for a business purpose to obtain a permit from Council which will not be issued before:

- A completed application form with appropriate supporting documents;
- A certificate of currency showing the required level of public liability insurance (\$20,000,000) is provided to the CWT with the insurer's endorsement;
- Public consultation has occurred when required under section 223 of the Act and the *Council Policy - Public Consultation*;
- Development approval is issued, when required; and
- Required permit fees are paid.

5.2.4 The CWT will not grant a permit for an activity that would compromise pedestrian, diner, patron or traffic safety or inhibit access to parking, other businesses, street furniture or to public services. In some circumstances, such as narrow footpaths or busy roads, the CWT may not issue a permit.

5.2.5 The CWT is under no obligation to remove any Council owned property (eg litter bins, public seating) to allow commercial use of a footpath. If the CWT agrees to relocate or remove Council property, the business that makes the request will cover all costs.

5.2.6 The CWT may decide to grant or refuse a permit, or grant a permit on condition that specified safety measures are installed.

- 5.2.7 The CWT reserves the right to revoke a permit should public space be required for another purpose or if the conditions of use of the permit are not complied with.
- 5.2.8 Authorised officers will monitor the permitted use of public roads and footpaths for business purposes and take action against breaches of permit requirements. Repeated breaches will result in the cancellation of a permit without refund.
- 5.2.9 Those responsible for the business use of public roads and footpaths will be held accountable for any infrastructure damage that occurs and the cost of reinstatement.
- 5.2.10 Permits will have expiry dates applicable. The prior issue of a permit will not guarantee renewal on expiry.
- 5.2.11 Permit conditions may be amended at any time by the CWT. Permit holders will be notified in writing of the changes.
- 5.2.12 The CWT may add or remove directions in addition to conditions at any time. Failure to comply with directions will be taken as failing to comply with a condition of the permit.

### **5.3 General Conditions of Permits**

- 5.3.1 All structures or items to be erected or installed on a public road must meet certain standards, including construction and placement standards, and these are described in the policy.
- 5.3.2 The CWT will also require all businesses making use of public roads to comply with a range of general conditions, including the following to:
- Comply with all applicable industry standards, health or safety standards, current Australian standard or any applicable Codes of Practice;
  - Comply with relevant Council By-laws, policy and permit requirements;
  - Comply with state and federal legislation, with the issue of a permit not absolving the permit holder or their agents from any overriding legislation;
  - Maintain in good condition and to recognised standards all structures and object, erected, installed or placed on or over the land;
  - Indemnify and to keep indemnified the Council, its employees, servants and agents from and against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against them arising out of or in relation to the issuing and granting of the permit;
  - Maintain a current public liability insurance policy insuring the permit holder for the minimum sum of twenty million dollars (\$20,000,000);
  - Provide proof, upon the request of CWT, of current public liability insurance at any time
  - Accept total responsibility to make good any damage that occurs to the CWT roads or to public infrastructure as a result of the erection or installation of structures by the permit holder;
  - Not assign or otherwise transfer a permit without first obtaining the consent of the CWT in writing;
  - Notify the CWT and obtain prior approval for any changes to the approved activity contained in the permit (changes to the activity may

cause conditions to the permit to be altered, in which case a new permit will be issued);

- Notify the CWT within 14 days of any changes to circumstances that would affect the validity of the permit (eg change of ownership of a company);
- Make the permit available for inspection upon request by an authorised officer or police officer;
- Minimise any disturbances or nuisances to road users and owners of land adjacent to the road being used;
- Remove, if so directed by the CWT, any structure or object erected or installed on the road and to reinstate the condition of the road to the satisfaction of the CWT, at the expiration or earlier termination of a permit.

5.3.3 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 and moving parts. Items that have illuminated or flashing lights;
- Reflective items that pose a risk to vehicular traffic;
- Any other items that CWT may declare inappropriate.

5.3.4 Umbrellas are permitted provided that they:

- Have a clearance of a minimum of 2.1 metres above the footpath level;
- Are secured against the effects of adverse weather, and are closed or removed during extremely windy conditions;
- Are maintained in good condition at all times;
- Are removed from the footpath area when not in use; and
- Do not include side curtains.

Advertising on umbrellas is to be a minor element and restricted to one company, product or dining name.

5.3.5 The permit holder must:

- Ensure that all goods are securely contained and do not spill, stain or litter the footpath.
- Maintain the cleanliness of the footpath area during business hours and clean the area at the close of business each day.
- Ensure that all goods and associated structures are removed from the footpath at the end of the business day.

## 5.4 Enforcement

5.4.1 Authorised officers will monitor compliance with permit conditions and take action against breaches of authorisation. Repeated breaches will result in cancellation of permits without refund.

5.4.2 Authorised officers will require any proprietors operating business activities on public roads without a permit to remove any structures and to cease business activities in the public space immediately. Failure to do so will

result in a fine and costs will be recovered for the removal of any goods or structures.

- 5.4.3 On termination or expiration of a permit, the former permit holder must remove all structures and objects from the footpath within fourteen days. If all structures and objects are not removed within the specified time frame, the Council will remove the items and recover removal costs from the former permit holder.

## 5.5 Outdoor Dining on Footpaths

- 5.5.1 Outdoor dining on footpaths is dealt with by sections 222, 224, 225 and 242 of the *Local Government Act 1999*.

- 5.5.2 Permit holders must ensure that all activities and actions are compliant with all legislative requirements. This includes provisions of the *Environmental Protection Act 1993*, the *Disability Inclusion Act 2018* and the *Local Nuisance and Litter Control Act 2016*.

- 5.5.3 In some instances outdoor dining may be 'development' under the *Planning, Development and Infrastructure Act 2016* and require development approval. Items that require development approval may include:

- Fixed screens;
- Full height enclosures (e.g. plastic screens);
- Permanent structures (e.g. shade structures); and
- Signage.

Outdoor dining areas of a significantly large (not typical) scale may be considered 'change of use' of the footpath and under such circumstances are also subject to development approval.

- 5.5.4 When a licensee wants to serve alcoholic beverages in an outdoor dining area, a separate application must be made to the appropriate authority for a licence. A copy of any liquor licence granted by Consumer and Business Services for an outdoor dining area will be supplied to the CWT upon request.

- 5.5.5 Entitlement

A permit for outdoor dining entitles the permit holder to place approved furniture and accessories on the footpath in front of their food premises, but the permit does not grant exclusive rights over the relevant public space. Permit holders cannot exclude the general public from using tables and chairs if they opt not to avail themselves of outdoor dining services being provided.

- 5.5.6 Location

In determining whether a location is appropriate for outdoor dining, access to the area for pedestrians and vehicles, safety and the relationship between the associated food preparation and outdoor dining area will be considered. A decision on the appropriateness of a location will be at the total discretion of the CWT.

Generally, outdoor dining areas can only be established outside the premises to which they relate (i.e. not encroach across neighbouring property lines) and on footpaths with a width of at least 3.4 metres.

To maintain public access and circulation, a defined outdoor dining area must:

- Be located within the public road area that is aligned with the primary food business;
- Be at least one metre wide;
- Allow a minimum of 1.8 metres of footpath to be kept clear for pedestrians; and
- Allow a minimum space of 60 cm between the defined area and the kerb face.

Proposed layouts must be submitted to the CWT for approval and:

- Meet DDA requirements and relevant Australian safety standards;
- Incorporate appropriately positioned planter boxes if applicable;
- Provide diner safety features, including safety barriers and bollards when necessary;
- Provide traffic safety features as necessary; and
- Ensure that public access and egress is not obstructed.

#### 5.5.7 Design

The CWT may request to view the furniture styles and material used in street furniture as part of a permit application process. CWT reserves the right to refuse street furniture design and materials.

#### 5.5.8 Heating and cooling units may be installed with the permission of the CWT, but must be specifically designed for outdoor operation and be equipped with emergency shut off valves.

If gas heaters are used, permit holders must comply with safety requirements recommended by the South Australian Metropolitan Fire Service for gas bottles, gas lines and fire fighting equipment.

#### 5.5.9 Signage

Signage to advertise the business (business name or logo) or goods sold on the premises is only permitted on umbrellas and glass or canvas screens. No third party advertising is allowed on any outdoor dining item.

Details of any proposed signage on furniture must be submitted with applications for permits.

Only one moveable sign may be used in conjunction with an outdoor dining area and must be placed within the defined area. The *Council Policy - Advertising of Council Land and Public Infrastructure* applies in this regard.

#### 5.5.10 Lighting

When outdoor dining has been approved outside of daylight hours, adequate lighting must be provided by the permit holder to ensure safety

of pedestrians and maintain the amenity of the area. Lighting should not create unreasonable spill into neighbouring properties or the roadway.

#### 5.5.11 Safety Barriers

When an applicant needs to provide safety barriers (energy absorbing bollards) to protect patrons from the risk of impacting vehicles, the applicant must organise and bear all costs associated with the purchase and installation of the barriers.

Bollard casing designs and colours must complement the streetscape, with painting to be in a contrasting colour to buildings and the footpath to maximise visibility for sight-impaired persons.

#### 5.5.12 Blinds and Screens

Blinds must be:

- Constructed of a transparent and durable material;
- Affixed to the underside of the canopy;
- Rolled up when not in use;
- Installed only in conjunction with canopies or verandahs that are less than four metres in height.

Screens must:

- Be maximum of 1.5 metres in height;
- Not fully enclose the vertical space between the footpath and a building canopy;
- Not obscure visibility.

Screens greater than 90 cm in height should be made of safety glass or some similar durable and transparent material.

Portable screens must be appropriately secured at all times to maintain safety in adverse weather conditions.

#### 5.5.13 Litter containers

Litter containers must be installed and be of a design and number approved by the CWT.

#### 5.5.14 Area Management

The permit holder must ensure that all furniture, fixtures and other accessories are retained at all times in the area approved by the CWT as the defined area for outdoor dining and that they do not encroach onto other areas of the footpath.

The permit holder must ensure that any other objects associated with the outdoor dining area do not encroach beyond the defined area so that a footpath width of not less than 1.8 metres is maintained at all times for direct and free travel without obstruction.

The hours of operation of the outdoor dining area must be limited to the hours of operation of the adjacent business and when licensed to serve

alcoholic beverages, limited to the hours during which the licensed premises are permitted.

The permit holder must ensure furniture and fixtures are maintained in a good state of repair at all times, that any heaters and cooling units are serviced and maintained regularly and that any lighting is maintained in good working order.

The permit holder must maintain the outdoor dining area, including the footpath, in a clean, hygienic and tidy state at all times. If the CWT has to undertake cleaning and/or tidying of the area, the permit holder will be liable to reimburse the CWT for all costs incurred by the CWT in relation to the cleaning and/or tidying of the area.

The permit holder must maintain appropriate food safety standards.

Permit holders considering a 'dog friendly' outdoor dining area must:

- Refer to clause 24(1)(a) of the Food Safety Standard 3.2.2 (which prohibits live animals in areas in which food is handled) and to the exemption granted under the Food Regulations 2002 (which permits the presence of dogs in an outdoor dining area that is not enclosed);
- Be aware that dogs will need to be kept under effective control by means of a physical restraint by the owner or person responsible for the animal;
- Ensure that patrons understand that dogs are not allowed to be a nuisance or be fed within the outdoor dining area.

All outdoor dining furniture must be removed from the footpath at the close of business each day unless specific approval to fix the furniture to the footpath has been given in writing by the CWT. If the furniture forming part of the outdoor dining area is intended to remain on the footpath during hours of darkness, illumination of the obstructions must be provided by the permit holder and approved by the CWT.

The permit holder must ensure the orderly conduct of members of the public within the area and must not cause or permit any disturbance or nuisance to users of land adjacent to the area or to vehicles or pedestrians travelling along the area.

Amplification and/or live entertainment is not permitted in outdoor dining areas without prior approval.

Smoking is not permitted in public outdoor dining areas under section 52 of the *Tobacco Products Regulation Act 1997*. Outdoor dining areas must be smoke-free at all times when food is offered or provided.

## **5.6 Commercial Vending of Goods Placed on Footpaths**

### **5.6.1 Entitlement**

A permit for commercial vending on footpaths entitles the permit holder to place goods that they want to display, offer or expose for sale, on or over the footpath area outside their business premises. The permit does not, however, grant exclusive rights over the relevant public space. The ability to trade on the footpath is a concession granted to traders when the CWT

is satisfied that there is no danger to community safety or adverse effect on the street amenity.

#### 5.6.2 Location

To maintain public access and circulation, goods must:

- Be located entirely within the public road area that is aligned with the permit holder's premises and not encroach across the frontage of adjacent properties;
- Allow a minimum of at least 1.8 metres of footpath to be kept clear for pedestrians at all times; and
- Allow a minimum space of at least 60 cm from the kerb face to be kept clear of goods at all times.

Similarly, locations that have been associated with 'loss of control' vehicle crashes are unsuitable for the display of goods and the CWT will not issue permits in these circumstances.

The CWT is under no obligation to remove any street furniture (e.g. litter bin) to allow business use of the footpath. However, this may occur on occasions and in such circumstances will be at the expense of the business that makes the request.

#### 5.6.3 Layout and Setback

The following minimum layout and setbacks must be satisfied prior to a permit being issued:

- Goods on display must not compromise the safety of pedestrians;
- Goods are prohibited within:
  - Two metres of an intersection;
  - 1.2 metres of a pedestrian ramp;
  - 1.2 metres of a rubbish bin or street furniture;
  - A bus zone or bus stop;
- Goods must be placed at least two metres from a crossover or property entrance;
- If a loading zone, disabled parking zone or a passenger loading zone is in front a premises, a minimum space of 1.2 metres must be provided for footpath access at all times;
- An unbroken continuous display of goods cannot exceed 1.5 metres in a direction parallel to the footpath (e.g. trestle, display table).

At any time during the permit period, the CWT may assess the pedestrian density in the vicinity of the display of goods. If in the opinion of the CWT the pedestrian density is such that the free flow of pedestrians would be restricted or obstructed by the display of goods, the CWT reserves the right to refuse an application, cancel any current permit or amend permit conditions.

#### 5.6.4 Advertising and Signage

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.

Permit holders may display a mobile advertising sign directly adjacent to the area that goods are for sale, provided that the sign complies with all provisions of Council By-Law 4 Moveable Signs and *Council Policy- Advertising on Council Land and Public Infrastructure*.

## 5.7 Placement of Mother's Day Flowers

### 5.7.1 Entitlement

A permit for the sale of Mother's Day flowers entitles the permit holder to display and sell flowers on the public road areas outside of their residences. The permit does not however, grant exclusive rights over the relevant public space. The ability to trade on the footpath is a concession granted when the CWT is satisfied that there is no danger to community safety or adverse effect on the street amenity.

### 5.7.2 Location

To maintain public access and circulation, goods must:

- Be located entirely within the public road area that is aligned with the permit holder's residence and not encroach across the frontage of adjacent properties;
- Allow a minimum of at least 1.8 metres of footpath to be kept clear for pedestrians at all times; and
- Allow a minimum space of at least 60 cm from the kerb face to be kept clear of goods at all times.

The sale of flowers is prohibited in public parks, parklands and adjacent car parking areas.

### 5.7.3 Layout and Setback

The following minimum layout and setbacks that must be satisfied prior to a permit being issued:

- Goods are not within:
  - Two metres of an intersection;
  - 1.2 metres of a pedestrian ramp;
  - 1.2 metres of a rubbish bin or street furniture;
  - A bus zone or bus stop;
- Goods must be placed at least 2 metres from a cross over or property entrance;
- If a loading zone, disabled parking zone or a passenger loading zone is in front a premises, a minimum space of 1.2 metres must be provided for footpath access at all times;
- An unbroken continuous display of goods cannot exceed 1.5 metres in a direction parallel to the footpath.

### 5.7.4 Structures Associated with the Display of Flowers

Any structures associated with the display of flowers on the footpath must not pose a hazard or obstruction to users of the footpath.

## 5.8 Mobile Vending on Public Roads - Ice cream and confection vans

### 5.8.1 Entitlement

A permit for mobile vending for ice cream and confection vans entitles the permit holder to trade on council roads from a mobile vending vehicle. No person is allowed to trade from a mobile vending vehicle without such a permit.

### 5.8.2 Policy Requirements

The permit holder must only trade in those goods indicated on the permit.

The name and address of the permit holder must be displayed on the vehicle and be clearly visible to onlookers. A copy of the permit must be displayed in the vehicle.

The issue of a permit does not exempt the mobile vendor/driver from any provisions of the *Road Traffic Act 1961* or Australian Road Rules regarding the stopping or parking of the vehicle.

Mobile vending vehicle must not be parked in such a way, or the business of street trading conducted in such a way, that the free flow of traffic is hindered or that a dangerous or hazardous situation is created. Operators must apply due diligence towards the safety of approaching patrons, and must give special consideration to assessing safe stopping locations.

When ice cream and confection vans stop to sell a product, the driver should use the vehicle hazard lights to warn approaching drivers of their presence.

The permit holder must ensure the orderly conduct of patrons purchasing goods from the mobile vending vehicle and that no nuisance is caused at the site to pedestrians or residents where the vehicle is temporarily parked.

The permit holder must provide a receptacle for ensuring that food or other packaging can be disposed of responsibly and does not litter the streets. The permit holder must also ensure that stopping areas are left clean and tidy before the vehicle moves on.

Music or other audible device or decorations such as banners or flags will only be permitted if approved as a condition of the permit.

## 5.9 Temporary Vending from Street Stalls

### 5.9.1 Entitlement

A permit for temporary vending entitles the permit holder to place approved street stalls and carry out business activities on the footpath in front of their premises or, with approval, in front of Council facilities.

### 5.9.2 Policy Requirements

Council restricts the use of temporary street stalls to locally based, not-for-profit community organisations operating adjacent to local community facilities, Council facilities or the premises of charitable organisations.

The conditions for placement of street stalls on footpaths are:

- The width of the footpath is at least than 3.4 metres;
- A width of at least 1.8 metres is kept clear for pedestrians;
- A minimum of 60 cm is kept clear between the stall and the kerb;
- The speed limit of the road is 60 km/h or lower;
- The stalls are not placed within 10 metres of intersecting roads; and
- The site has not been associated with 'loss of control' vehicle crashes.

The sale of goods from the street stall must not, in the opinion of the CWT, have a detrimental effect on nearby commercial premises by presenting unreasonable competition to their trading.

The erection of street stalls will be limited to two occasions per year for charitable organisations and once per year for other community organisations.

5.9.3 Conditions for temporary vending from street stalls are as follows:

- The organisation must ensure that litter or waste is prevented from falling, spilling or blowing onto the footpaths or gutters;
- Within two hours of the close of the stall, the organisation will ensure the area is cleared of all rubbish and left in a neat and tidy condition;
- The street stall must remain in its designated location and no movement of the street stall to any other location will be permitted without separate approval;
- Street stall operators must comply with the CWT's health and hygiene requirements;
- Vehicles associated with the approval must not park on footpaths or plaza areas;
- Street stall operators must not play amplified music or other amplified content without prior written permission.

## **5.10 Temporary Hoarding, Scaffolding or Fencing on Footpaths**

### **5.10.1 Entitlement**

This permit entitles the authorisation holder to erect hoarding, scaffolding or fencing over the footpath area outside their premises for a limited period of time while work is being undertaken.

### **5.10.2 Location**

To maintain public access and circulation, structures must be:

- Located entirely within the alignments of the authorisation holder's premises and not encroach across the frontage of adjacent properties; and
- Allow a minimum of at least 1.8 metres of footpath to be kept clear for pedestrians at all times.

The holder of a permit must:

- Comply with all relevant requirements of government departments and statutory authorities;

- Comply with any direction of the CWT to remove, raise, lower or otherwise alter the position of a hoarding, scaffolding or fencing;
- Prior to the installation of any structure on a public footpath or road, check the location of underground cables, wires, pipes and other infrastructure;
- Ensure that hoardings do not interfere with or cause damage to or affect in any way any wire, post, cable, pipe or other item which is the property of a public infrastructure organisation; and
- Accept total responsibility to make good any damage that occurs to public infrastructure.

#### 5.10.3 Design and Construction

Structures on the footpath must not pose a hazard or obstruction to users of the footpath. On all sides exposed to the public, hoardings must be free of projections of any kind including shakes and slivers of timber, nails, sharp edges and corners of metal sheets.

Lights must be fixed at each corner of the hoarding and on any hoarding at intervals not exceeding six metres at a height of 1.5 metres above ground level. Lights must be kept clean and illuminated from sunset to sunrise during the whole of the period for which the footpath is occupied

No placards, signs or advertisements of any description may be posted on or attached to any hoardings, scaffolding or fencing or exhibited within such space without approval.

The road or footpath adjacent to the hoarded area must be kept clear of plant, equipment, materials, debris and rubbish at all times.

Hoardings must meet the relevant Australian standard.

#### 5.10.4 Maintenance and repair

The holder of a permit must, during the period of the authorisation, maintain the structures erected over the footpath and keep them in good safe and proper repair and condition.

The holder of a permit must erect warning signs and install appropriate warning devices as warranted by the structures.

The CWT may at any time inspect the structures and the holder of the permit must comply with all reasonable requirements of the CWT in relation to maintenance and repair.

If the holder of a permit does not adequately repair and maintain the structures, the CWT may carry out any such repair and maintenance and recover its costs from the permit holder for doing so.

#### 5.10.5 Damage to the Footpath

The holder of a permit must take all reasonable precautions to avoid damage to the road or to any Council owned property located within or adjacent to the road.

The permit holder must immediately notify the Council of damage that occurs to the road or any Council owned property located within or

adjacent to the road and will be held accountable for the cost of reinstatement;

When damage is caused to the footpath and reinstatement work is necessary, Council will carry out the reinstatement work at the permit holder's expense.

## **5.11 Temporary Placement of a Container on a Public Road**

### **5.11.1 Entitlement**

This permit entitles the permit holder to temporarily place a container on a public road or footpath.

### **5.11.2 Container Location**

The holder of a permit must ensure that the container is placed:

- As close as practicable and parallel to the kerb;
- At least 10 metres from any road intersection or junction;
- At least 2 metres from a crossover or property entrance;
- So that the footpath is not obstructed and a minimum of at least 1.8 metres of footpath is kept clear for pedestrians at all times;
- Outside of any prohibited or restricted parking zones or area;
- Only on a road where the speed limit is less than 60 km/hr;
- In a position so as not to block access to utility service manholes or devices that require servicing such as traffic signal boxes, telephone boxes, post boxes, fire hydrants and plugs.

Approval for the temporary placement of containers will not be granted on a street if there is less than three metres clearance between the object and the centre line of the road or to the opposite kerb line of the road.

Additional conditions, specific to the placement site, may also be imposed for safety or access requirements.

### **5.11.3 Visibility of container**

A flashing light must be placed each end of the container on the road side and be operated between sunset and sunrise, or yellow retro-reflective tape must be placed on the corners of containers as a safety measure for motorists, pedestrians and cyclists. Damaged tape must be replaced to ensure that adequate visibility is maintained.

Orange flag bunting, plastic traffic safety cones or barrier mesh must be placed around containers during daylight hours.

### **5.11.4 Cleanliness and Maintenance**

The holder of a permit must ensure the road is left in a clean and tidy condition at the end of each day and at the end of the period of the authorisation.

When the CWT has to undertake cleaning or tidying of the road, the authorisation holder will be liable to reimburse the CWT for all costs incurred by the CWT in the cleaning or tidying of the road.

The containers must be kept in a safe condition, during the period of the authorisation.

#### 5.11.5 Compliance with Directions

The holder of a permit must:

- Comply with all relevant requirements of government departments and statutory authorities along with any direction of the CWT.
- Ensure that containers do not interfere with or cause damage to or affect in any way any wire, post, cable, pipe or other item which is the property of the SA Power Networks, Telstra, SA Water and/or United Water, Boral Ltd, or other federal, state or local government authority or other infrastructure owner.
- Accept total responsibility to make good any damage that occurs to public infrastructure.

#### 5.11.6 Damage to the Road

The holder of a permit will take all reasonable precautions to avoid damage to the road or to any Council owned property located within or adjacent to the road.

The permit holder must immediately notify the CWT of damage that does occur to the road or to any Council owned property located within or adjacent to the road;

Any damage, whether unintentionally or negligently resulting from the holding of a permit will be recovered by the CWT under the provisions of section 233 of the Act.

If damage is caused to the road or footpath and reinstatement work is necessary, the CWT will carry out the reinstatement work at the permit holder's expense.

The permit holder will be responsible for reimbursing the CWT for all reasonable costs incurred to repair or rectify any damage caused to the road.