

 City of Mount Gambier	COUNCIL POLICY Private Parking Areas Policy	Version No:	1
		Issued:	17 April 2025
		Next Review:	April 2029

1. Introduction

This Policy seeks to establish the framework for entering into private parking agreements with owners of private parking areas. The Policy ensures that prior to entering into an agreement, consideration is given to the needs of the owner of private parking areas, the community and Council in managing parking in the area.

The *Private Parking Areas Act 1986* regulates, restricts or prohibits the use by the public of private access roads, private walkways, and private parking areas, and makes special provision for the enforcement of provisions relating to private parking areas.

The objectives of this Policy are to:

- a) Ensure that Private Parking Area Agreements give consideration to the broader community benefit of managing car parking, so as to assist in achieving strategic objectives associated with equitable and accessible car parking within the central business district and the areas surrounding the private car parking area;
- b) Establish and clarify the role and obligations of both Council and the owners of Private Parking Areas when applying for an agreement and when an agreement has been entered into;
- c) Clarify the enforcement responsibilities of both Council and non-council authorised staff in relation to Private Parking Areas; and
- d) Ensure that the enforcement of Private Parking Areas is undertaken in line with Council's usual enforcement principles.

2. Definitions

The Act - means the *Private Parking Areas Act 1986*.

Authorised officer - means a person who is an authorised person for the purposes of the *Local Government Act 1999* and includes a member of the police force.

Council - means the City of Mount Gambier.

Council area - means the area in relation to which the City of Mount Gambier is constituted.

Private parking area - means an area—

- a) provided on land by the owner for the parking of vehicles used by persons frequenting premises of the owner; and
- b) marked by a notice denoting it as a private parking area, (and an area is capable of constituting a private parking area notwithstanding that certain parts of that area are not standing areas).

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Non-council authorised officer - means a person who is not an employee of Council, but is nominated by the owner of the Private Parking Area to be an authorised person for the purposes of enforcing the provisions of the Act as it relates to their private parking area. The non-council authorised officers are required to be authorised by the City of Mount Gambier under the *Local Government Act 1999*.

Owner, in relation to land, means—

- the holder of an estate in fee simple in that land;
- where the land is subject to a registered estate or interest conferring a right to possession—the proprietor of that estate or interest;
- where the land consists of a registered easement or right of way—the proprietor of the easement or right of way;
- where the land is not alienated from the Crown—the Minister or instrumentality of the Crown that has the care, control and management of the land.

Regulations - means the *Private Parking Areas Regulations 2014*.

3. Scope

This Policy applies to Private Parking Areas that are within the City of Mount Gambier that are subject to a Private Parking Agreement.

4. Policy


4.1 Application – Private Parking Agreement

The owner of a private parking area and the Council for the area in which the private parking area is situated may make an agreement for the enforcement of the provisions of Part 3 of the Act in relation to that private parking area by council authorised staff. An application for an agreement shall be made to Council in the manner specified by Council on the Application form and may include a fee for the application as determined by Council.

The application shall include information that will enable Council to make an informed decision on the need for an agreement and the benefits of an agreement to the owner of the private parking area and to the community, including (but not limited to) the following:

- Reason for application (including the need and benefits to be provided from the agreement);
- Total number of parking spaces and number of parking spaces for people with disabilities;
- Time limit(s) proposed;
- Number of permit zones proposed and type of permit zones proposed;
- Other restrictions: e.g. Loading zones, no standing, or restricted parking;
- Number of spaces not subject to restrictions (for staff and other users as identified by the owner of the private parking area).

As part of the application, the applicant may be required to undertake further assessment of car parking usage and demand in the applicants parking area and in proximity to the Private Parking

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Area and consideration of adjoining private and public parking capacity and demand, along with traffic movements.

An application for an agreement does not bind Council into entering into an agreement and Council reserves the right to reject applications. The decision to enter into an agreement with an owner of the private parking area will be made by the Chief Executive Officer or sub-delegate as appropriate.

4.2 Restrictions

Owners of private parking areas have limited enforcement options to regulate the use by the public of private carparks, unless they enter into a private parking agreement with a relevant authority, such as Council, under the Private Parking Areas Act 1986 (the Act).

The Act provides owners the ability to enter into an agreement with a council, where the council through its authorised officers, has the ability to undertake enforcement action for parking offences occurring within the area.

Agreements will only be considered where there is a broader community benefit through managing the carpark, which assists in achieving strategic objectives including the equitable and accessible car parking for both private and public car park users. The agreement should be mutually beneficial for the owner, Council and the broader community.

Under Part 3 of the Act the owner of a private parking area may by a notice or notices exhibited at or near each entrance to the private parking area impose time limits on the parking of vehicles in the private parking area.

The owner of a private parking area may set aside any part of the private parking area as—

- a disabled persons parking area (accessible car parking spaces);
- a loading area;
- a no standing area;
- a restricted parking area;
- a permit parking area.

The owner of a private parking area must also comply with the requirements of the Building Code of Australia and *Disability Discrimination Act 1992* in relation to accessible car parking spaces.

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4.3 Enforcement

Enforcement of an agreement under the Act shall only be carried out by authorised officers.

Council authorised officers shall undertake enforcement at times and frequencies to be determined by Council. Enforcement shall be subject to staff availability and other priorities at the time.

Enforcement action will be undertaken to ensure that private parking areas are:

- a) Effectively managed to ensure compliance with the Act, and
- b) Utilised by the intended users of the parking area, namely shoppers, employees and other members of the community as identified.

Enforcement action will give consideration to Council's enforcement practices, including, (but not limited to) the following:


- a) the car park capacity at the time of the patrol (are there sufficient vacancies at the time of the patrol);
- b) Car parks with 50 or more spaces, that have approximately 25% vacancy throughout the day or at the time of the patrol should not warrant enforcement action, unless the area is a:
 - i. no standing or loading zone,
 - ii. disabled persons parking area, or
 - iii. permit parking area,
- c) Adequate notification and information has been provided to staff to utilise the appropriate areas;
- d) Adequate notification and information has been provided to the general community to utilise the appropriate areas.

Enforcement of the private parking area will only be carried out by authorised officers in a transparent manner without prejudice and will be consistent with Councils enforcement principles. Non-Council authorised officers shall apply the above principles to enforcement.

4.4 Roles and Responsibilities

Authorised Officers:

- Only officers who are competent by training, qualification and/or experience will be authorised to take enforcement action.
- Officers will also have sufficient training and understanding of Council's policies and procedures to ensure a consistent approach to their duties.
- Officers will be issued with an authority card and identification.
- Officers are required to show their authorisations on demand.
- Non-Council authorised officers that are deemed to require further training shall be required to attend additional training as required by Council or the relevant Council staff.
- Non-Council authorised officers that are deemed to be issuing expiations that are not in accordance with the enforcement principles above shall have their authorisations revoked and any expiation issued will be subject to review.
- Any requirements for further training may include a fee as determined by Council.

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Council will be responsible for:

- assessing the benefits and outcomes of the proposed agreement;
- preparing the Private Parking Agreement;
- giving notice to the owner of any concerns regarding the installation of signs, lines and traffic devices;
- issuing expiation notices including any costs incurred with enforcement action taken in accordance with Council's obligations under the Expiation of Offences Act 1996.

The Owner will be responsible for:

- the installation of signage at or near each entrance to the private parking area setting out such time limits on the parking of vehicles in the parking area in accordance with the Act;
- where any part of the private parking area is set aside for disabled persons parking, loading area, no standing area, restricted parking area or a permit parking area, the owners will ensure the signs and lines are marked out in accordance with the Road Traffic Act, Private Parking Areas Act and Regulations and in accordance with the Building Code;
- ensuring all signs, lines and traffic devices are installed in accordance with the Acts, Regulations and Codes and will ensure they are always maintained to the satisfaction of the Council;
- where permits have been issued for permit zones within the private parking area, the owner is responsible for issuing and maintaining a record of all permits issued and must be presented upon request of an authorised officer;
- ensuring no interference with Council enforcement of expiation notice and that decisions are within the absolute discretion of the Council.

5. Review of Policy

Council will review this Policy once during every Council term, or upon significant legislative change as required. The Council may, at any time by resolution, alter, or substitute, or revoke this Policy.

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Applicable Legislation:	Private Parking Areas Act 1986 Private Parking Areas Regulations 2014 Expiation of Offences Act 1996 Building Code of Australia Disability Discrimination Act 1992 Local Government Act 1999
Strategic Reference:	Priority 3: Infrastructure and Services Priority 6: Excellence in Leadership and Governance
Related Policies:	Nil
Related Procedures:	Nil
Related Documents:	Private Parking Areas Agreement

DOCUMENT DETAILS

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