

Council

TRADING IN PUBLIC PLACES POLICY

Draft Policy

Meeting Date: 28 September 2021

Number of Pages: 8

DRAFT POLICY:

TRADING IN PUBLIC PLACES

DIVISION	BUSINESS UNIT	RESPONSIBILITY AREA
Strategic Development Services	Strategic Development Services	Environmental Health

SCOPE

This policy applies to all public land within the Shire of Plantagenet and all businesses and individuals seeking to use this public land to operate a mobile or temporary business for financial gain.

This policy does not apply to the following:

1. Where the vendor is part of an approved event or market, an approved outdoor eating facility or use of Shire land under a lease arrangement.
2. A 'produce stall' within private property; and
3. Trading from private property strictly under the consent of the landowner (food business certification is still required if selling food and drinks).

OBJECTIVE

The objectives of this policy are:

- To facilitate opportunities for small business traders on local government land in a way that adds to public enjoyment.
- To limit the impact (both real and perceived) to existing local businesses within the townsite and/or locality because of street traders.
- To provide direction to Shire staff in assessing applications for trading in public places, in accordance with the Shire of Plantagenet's *Activities on Thoroughfares and Public Places and Trading Local Law 2008*; and
- To provide a clear set of conditions for operators to trade under.

DEFINITIONS

Approved Location	Fixed	A location which has been identified and pre-approved for traders to trade from with Shire approval.
Itinerant Trader		A form of street trader who sells food to customers who have hailed down the vehicle to make a purchase (ie ice-cream van). The vehicle then moves on as soon as the customer has made their purchase.
Public Place		Includes: (a) Any thoroughfare or place which the public are allowed to use whether the thoroughfare is on private property or not; and (b) Local government property. But does not include premises on private property from which trading is lawfully conducted under a written law.

Stallholder	A person who sells goods from a moveable or temporarily fixed structure, stand or table.
Street Trader	A person who sells food, goods and/or services from a temporary stall or mobile vehicle from a public place.
Mobile Trader	A person who sells food, goods and/or services from a vehicle parked temporarily on the road/public place while they are parked (ie coffee van).
Traders Permit	A permit issued to a trader by an approving local government.
Trading in Public Places	Refers to long-term or periodic occupation of Shire owned or controlled land for the purposes of selling goods to customers that stop.

STRATEGIC CONTEXT

This policy links to Key Goal Areas (1), Community Pride and Wellbeing, (3) Prosperous and sustainable local economy

1.8.4 Support festivals, events and activities that strengthen our sense of identity and celebrate our history, heritage and diverse cultures.

3.1.3 Develop and review policy to facilitate and support business development and economic growth.

Both the *Food Act 2008* and the *Shire of Plantagenet Activities on Thoroughfares and Public Places and Trading Local Law 2008* require street traders to obtain a permit for trading and selling food.

POLICY STATEMENT

The Shire of Plantagenet encourages improved economic and community vibrancy in a sustainable and fair manner.

The Shire values its local business community and recognises that there are business opportunities which can occur on a temporary or mobile basis. It is recognised that traders can -

1. Contribute to the vitality of the town.
2. Provide a safe, efficient, and accessible food service at peak times to service increased customer demand beyond the supply capabilities and/or outside operating hours of permanent food outlets.
3. Provide an opportunity for local, seasonal products to be provided; and
4. Activate a particular location or precinct that meets the objectives of the local government.

Fees for the use of Shire land will be as per the Shire's Fees and Charges and will be reviewed annually as part of the annual Shire budget process.

TRADING – GENERAL REQUIREMENTS APPLICABLE TO ALL APPLICANTS

1. All traders are required to apply for or hold the following:
 - a. Traders permit under the *Thoroughfares and Public Places and Trading Local Law 2008*
 - b. Food Business Certification under the *Food Act 2008* (if a food vendor)
-

2. All traders operating within the Shire must hold a public liability policy of insurance in respect of the activities being undertaken, providing cover of at least \$10,000,000.
3. No permanent advertising signage may be erected.
4. A portable direction sign may only be displayed during the operating times of the business if it does not exceed 500mm in height nor 0.5m² in area. Any portable direction sign must not be placed on a footpath or in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight or cause danger to any person using a thoroughfare
5. Traders must comply with local parking restrictions.
6. The trader is responsible for containment and removal of all waste arising from their operations. The site and surrounds must be maintained in a clean manner at the end of trade.
7. Traders must depart from a trading location upon the direction of any person or body authorised to carry out any works in the street, thoroughfare, local government property or public place in which the Trader is situated.
8. The Shire is under no obligation to relocate a Trader which has been forced to depart due to works, however, an alternate location may be offered if an appropriate location is available.
9. Traders shall not have any claim for compensation or damages as a result of any disruption to business or loss incurred due to an event, market, approved works or any other contingency.
10. The Shire has identified approved fixed trading locations (see Annexure A) which traders may apply to trade from. Locations outside of the approved fixed trading locations will generally not be permitted, however additional locations can be approved at the discretion of the CEO.
11. Traders may apply for multiple locations. The CEO, at their discretion, may limit the number of permits for traders.
12. There are no stipulations on the type of food service which can be approved at each location, however in order to reduce potential conflict, the numbers of permitted traders at each approved location can be limited at the discretion of the CEO.

MOBILE TRADERS

'Mobile traders', such as coffee vans or the like, can only trade within the approved fixed locations under the following conditions:

1. Trading must be conducted in daylight hours or areas that are serviced by adequate lighting.
 2. Only sell approved foods as per their food business certificate.
-

3. A mobile traders permit can be rescinded for non-use and a pro rata payment will be refunded at the discretion of the CEO.
4. A mobile traders permit does not provide exclusivity.
5. For the purpose of determining fees a site is considered to be 14m² (or one car bay) meaning the vehicle and any associated awnings must not take up more space than 14m².
6. Payment of fees (daily, 3, 6 or 12 monthly) as per Council Budget Fees and Charges

STALLHOLDER

'Stallholders', such as seasonal fruit and vegetable stalls, can only trade within the approved fixed locations under the following conditions:

1. Only trade in daylight hours, Monday to Sunday; and
2. Only sell approved produce.
3. Payment of fees (daily, 3, 6 or 12 monthly) as per Council Budget Fees and Charges.

ITINERANT TRADERS

'Itinerant Traders', such as ice-cream vans or the like that stop for custom on public property when hailed by a customer, are permitted to trade outside of Approved Fixed Locations under the following conditions:

1. Serve only approved foods.
2. Only trade in daylight hours, Monday to Sunday.
3. Must not trade within 100 metres of a permanent food business of the same food type.
4. Only remain at a particular location for as long as there is a customer making a purchase. If there is no person making a purchase, the itinerant trader must move on from that location within a reasonable time of the last purchase having been made.
5. Payment of annual fee as per Council Budget Fees and Charges.

ASSOCIATED DOCUMENTS

Strategies, procedures, references, guidelines or other documents that have a bearing on this policy and that may be useful reference material for users of this policy include the following:

- *Food Act 2008*
 - *Food Regulations 2009*
 - *Australia New Zealand Food Standards Code*
 - *Shire of Plantagenet Activities in Thoroughfares and Public Places and Trading local Law 2008*
-

- National Competition Policy: Noting Australia's National Reform Agenda is the successor program to the National Competition Policy. Clause 7 of the Competition Principles Agreement extended elements of the National Competition Policy reform agenda to local government.

ANNEXURE A: Fixed Trading Locations

Albany Highway rest stop – Adjacent to Mount Barker Caravan Park

*Stallholders only



Plantagenet Town Hall car park



Visitor Centre car park



Reserve 6454 - Wilson Park



Reserve 15162 - Tower Hill



Sounness Park



Rocky Gully – Muir Highway rest area



ADOPTED: **XX XX 2021**

LAST REVIEWED: