

**TRADING IN PUBLIC PLACES**

<b>DIVISION</b>	<b>BUSINESS UNIT</b>	<b>RESPONSIBILITY AREA</b>
Development Services	Development Services	Environmental Health

**SCOPE**

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

This policy does not apply to the following:

1. Where the trader 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 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 Fixed Location	A location which has been identified and pre-approved for traders to trade from with Shire approval.
Food Van	A form of trader being any vehicle, caravan, trailer or other similar mobile structure selling or offering for sale any food and/or drink (excluding alcoholic beverages).
Itinerant	A form of 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	Any Local Government property which the public are allowed to use. Does not include premises on private property from which trading is lawfully conducted under another written law.
Stall	A moveable or temporarily fixed structure, stand or table in, on or from which goods and services are sold, hired or offered for sale or hire.

Stallholder	A person who sells goods from a stall.
Trader	A person who sells takeaway food, goods and/or services from a food van and/or stall from a public place.
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 local government 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 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 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)
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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. Traders can only provide takeaway service. No additional infrastructure such as tables and chairs will be permitted on site.
4. No permanent advertising signage may be erected.
5. A single portable advertising sign may only be displayed during the operating times of the business if it does not exceed 500mm in height nor 0.5m<sup>2</sup> in area. Any portable advertising 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.
6. Traders must comply with local parking restrictions.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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.
12. The number of permits for multiple locations may be limited at the discretion of the CEO.
13. There are no stipulations on the type of food service which can be approved at each location, however, to reduce potential conflict, the numbers of permitted traders at each approved location can be limited at the discretion of the CEO.

### TRADING - FOOD VANS

Food vans, can only trade from 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 trader's permit can be rescinded for non-use and a pro rata payment may be refunded at the discretion of the CEO.
  4. A trader's permit does not provide exclusivity.
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5. For the purpose of determining fees a site is considered to be 14m<sup>2</sup> (or one car bay) meaning the vehicle and any associated awnings must not take up more space than 14m<sup>2</sup>.
6. Payment of the annual fee as per Council Budget Fees and Charges

### **TRADING – STALLS**

Stalls, such as seasonal fruit and vegetable stalls, can only trade within the Albany Highway and Muir Highway rest area approved fixed locations under the following conditions:

1. Trading must be conducted in daylight hours only.
2. Only sell approved produce.
3. Payment of fees (daily, 3, 6 or 12 monthly) as per Council Budget Fees and Charges.

### **TRADING – ITINERANT**

Itinerant traders 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.
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**ANNEXURE A: Fixed Trading locations**

Albany Highway rest stop – Adjacent to Mount Barker Caravan Park  
Maximum of 2 traders



Plantagenet Town Hall car park  
Maximum of 3 traders



Visitor Centre car park  
Maximum of 2 traders



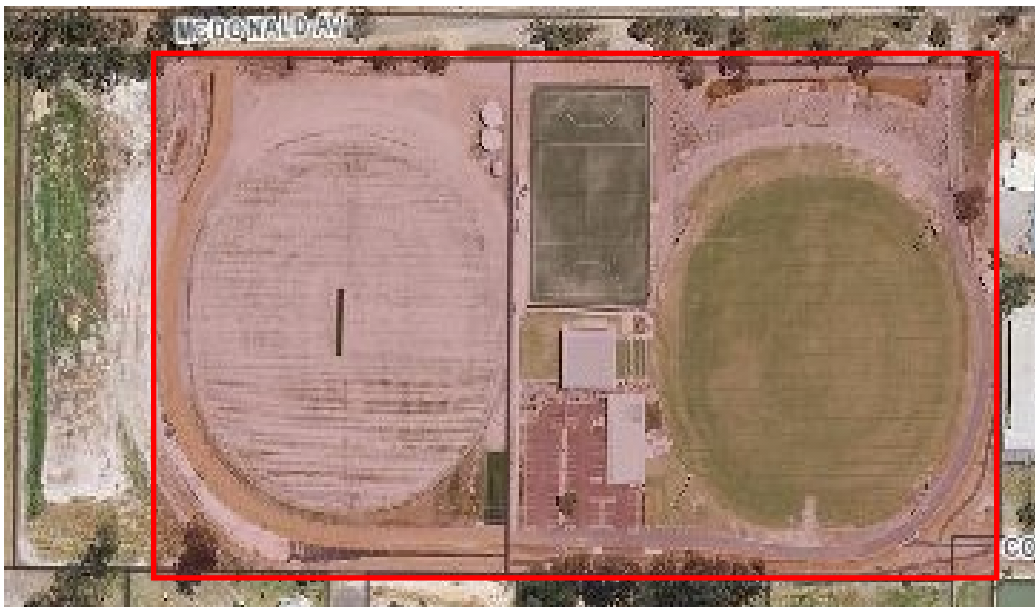
Reserve 6454 - Wilson Park  
Maximum of 2 traders



Reserve 15162 - Tower Hill  
Maximum of 1 trader



Sounness Park  
Maximum of 2 traders



Rocky Gully – Muir Highway rest area  
Maximum of 2 traders



**ADOPTED: 25 JANUARY 2022**

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