



POLICY NO:-

CP3-002 – TRADING IN PUBLIC PLACES

GOVERNANCE INFORMATION

Procedure Link:	N/A	Administrative Policy Link:	
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ADMINISTRATION INFORMATION

History	1	CP3-002	OCM	14/7/26	Res	TBA	Synopsis:	Policy to be Considered for Advertising.
Version:	2							

1. RESPONSIBLE DIRECTORATE

Development Services

2. PURPOSE OR OBJECTIVE

This policy has been designed to ensure trading in a public place occurs in an appropriate context to support both the local community and local businesses and provide some parameters around the location and extent of mobile trading within key activation areas within the Shire.

- To protect the amenity and function of the Shire's public places and maintain priority use for community members.
- To provide direction to Shire staff in the processing of applications for trading in public places, in accordance with the Shire of Collie's Activities on Thoroughfares and Public Places and Trading Local Law 2012.
- Encourage traders to operate in locations that support the activation of underutilised public places and enhancement of community activity.
- Ensure traders operate in a manner that complements existing 'bricks and mortar' businesses and does not threaten the vibrancy of the Collie Central Business District (CBD) and retail centre.
- To provide a clear set of controls for operators to trade under.
- To support the Shire's tourism and liveability objectives.

3. SCOPE

This policy applies to trading in a public place trading within the Shire of Collie.

4. DEFINITIONS

- **Approved Location** means a location/s endorsed for a specific number of mobile vendors from which vendors can undertake trading activity with Shire approval.
- **Approved Event** means a Shire of Collie event or an event that has been approved under the Shire of Collie's event approval process.
- **Community Association** means an organisation that can demonstrate that its objectives are charitable, benevolent, religious, cultural, educational, recreational or sporting.
- **Food Stall** means a stall from which any perishable or potentially hazardous food, other than fruit or vegetables, is sold or offered for sale unless approved by the Shire of Collie.
- **Food Van** means any vehicle, caravan, trailer or other similar mobile structure selling or offering for sale any food and or drink (excluding alcoholic beverages).
- **Food Vendors** means a Mobile *food business* as defined in the *Food Act 2008*.
- **Itinerant Trader** means a form of Street Trader or Mobile vendor who travel along a road seeking customers and who sells a product from a vehicle which temporarily stops to serve customers who stop the vendor or come to the vendor while the vehicle is stopped.
- **Market** means premises used for the display and sale of goods from stalls, food vans or similar by independent vendors.
- **Mobile Vendors** means vehicles (including vans, caravans, trailers, trucks or carts) that are used for the purpose of preparation and sale of a good or product (including food products) to the public.
- **Potentially Hazardous Food** means all prepared or cooked food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, crustaceans, molluscs, gravy, cooked rice and pasta or ingredients capable of supporting the growth of infectious or toxigenic micro-organisms.
- **Public Place** includes:
 - Any thoroughfare or place which the public is allowed to use whether or not the thoroughfare is on private property; and
 - Local government property;
 - But does not include premises on private property from which trading is lawfully conducted under a written law.
- **Snacks** mean a small amount of food eaten between meals.
- **Stall** means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire.
- **Stallholder** means a person in charge of a stall.
- **Trader** means businesses or individuals seeking to use public land to operate a business or for financial gain.
- **Trader's Permit** means a person who sells food, goods and/or services from a vehicle parked temporarily on the road/public place while they are parked.

- **Trading Permits** means a permit issued by the Shire of Collie to allow for trading activity to occur, including approved public trading location(s) and hours of operation.
- **Trading Permit Holders** means a person named on the issued trading permit who holds responsibility for meeting Conditions of Trading and any other statutory requirements.
- **Trading in Public Places** refers to the long-term or periodic occupation of Shire-controlled land for the purpose of either selling or displaying goods or providing services to customers.

5. POLICY

5.1 Provisions applicable to all traders in public places

- a) The Shire will consider the interests of the community above the interests of the individual for all applications to trade in public places under the management of the Shire of Collie.
- b) For the Shire to consider any proposal to trade on public places to be in the interest of the community, the proposed use of public places must:
 - Enhance the experience of the public place.
 - Be consistent with long-term Shire goals and/or objectives.
 - Not impact community enjoyment of the public place.
 - Not disrupt the operation of, or cause nuisance to, the public place.
 - Not impact on the existing or desired amenity of the public place.
 - Not impact on the intended use of the land.
 - Not compromise public safety.
 - Not compromise traffic flow, car parking or landscaping.
 - Not conflict with, or prejudice permanent businesses or other normal Shire functions in the immediate vicinity.
- c) Given the wide variety of private uses that can be proposed in public places, the Shire reserves the right to identify additional matters not listed. Where additional matters are identified, the applicant will be provided with an opportunity to address these, prior to the final determination of the permit application.
- d) The Shire of Collie reserves the right to absolute discretion to grant or refuse an application for the use of public places, in the community interest.

Advice: Any refusal to use public places should not be taken as precluding you from operating the proposed commercial venture, rather the commercial venture is unable to be supported within a public place.
- e) Traders must ensure that the trading location is kept clean and tidy at all times. The permit holder is responsible for the disposal of all litter associated with the provision of the goods or services and the cleaning of the permit location.

Advice: No waste or litter shall be disposed of into the Shire of Collie rubbish bins. Traders must provide adequately sized bins for patrons' and business use and remove all rubbish from the approved location at the end of trade.

- f) Wastewater, solid waste, litter or any other pollutant must not be placed or discharged on to the site or allowed to enter the stormwater drainage system.

Advice: Mobile food vehicles must have a holding tank for wastewater.

- g) Traders shall 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.
- h) 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, parade, thoroughfare works or any other contingency.

Advice: The Shire is under no obligation to relocate a trader(s) should operations be impacted under this policy.

- i) Traders shall not obstruct, cover, remove, relocate or modify trees or landscaping, public art, benches, bins, bus shelters, footpaths, roads or other Shire-owned infrastructure.
- j) Trading shall only take place in a suitable area with the Shire of Collie's permission and where it does not cause a safety or nuisance concern or impact the existing or desired amenity of a place. [T
- k) Traders may use public car parking areas subject to compliance with all relevant provisions of this Policy provided local car parking requirements (car parking numbers, appropriate vehicle maneuverability, vehicle access/egress etc.) are not impacted.
- l) To ensure public safety, trading must be conducted in areas that are serviced by adequate lighting, should trading be proposed during hours of darkness.
- m) Advertising signs are restricted to the location from which the business is conducted. No permanent signage will be permitted in a public place. All temporary signage requires approval as part of the application.
- n) Associated fixtures such as tables and chairs may be provided on-site at the discretion of the Shire of Collie.

Advice:

- *Fixtures are to be of a temporary nature and removed from the site at the end of trade;*
- *Fixtures must not obstruct pedestrian flow or vehicular traffic.*

- o) To apply for permission to operate as a trader within the Shire, the following documentation will be required:

A completed Permit Application form, including;

- Any other information deemed relevant by the Shire of Collie (Applicants are advised to discuss information requirements with the Shire of Collie as early as possible).

- Details of the vehicle and trailer (if relevant) to be used in the proposed operation, as well as a site plan detailing where the vehicle/trailer will be stored when not in operation if within the Shire of Collie.
Advice: Please note the vehicle and trailer must be stored entirely within property boundaries (verge parking not permitted) and shall ensure sufficient on-site parking bays for any existing use of the site (as required under LPS6 or the R-Codes). If this is not possible at your residence, alternative parking locations should be explored.
- Photographs of the trading vehicle depicting the external appearance of the vehicle, trailer or caravan.
- A copy of current public liability insurance to the value of \$10 million; and
- If food is sold, a current copy of your *Food Act 2008* Certificate of Registration (noting the vehicles' internal fit-out must comply with the requirements of the *Food Regulations 2009*, applicable ASNZ Food Standards Codes and the Shire of Collie Health Local Law No.8 is required).

5.2 Approved Events and Markets

Subject to approval from event holders:

- If your food business (registered food business and as a stall holder) is based within the Shire of Collie, no food stall approval is required to trade at an event or market.
- If your business is located outside of the Shire of Collie, an Application for a Temporary Food Stall Approval will be required (unless proof of appropriate registration in another local government area is provided).

5.3 Approved Fixed Locations

- a) The Shire of Collie has identified fixed trading locations where trading may be permitted only by the approved trader in accordance with their licence (refer to Annexure B).
- b) Traders cannot submit an application to trade at a location not currently listed as a fixed location within Annexure B. The Shire will assess any location(s) outside of the fixed location against the objectives of this policy and the purpose of the Reserve before granting approval.

Advice:

- *This process may require amendments to this Policy and/or a determination at an Ordinary Council Meeting. Traders likely to experience time pressures are therefore encouraged to commence this process as soon as possible or apply for an existing fixed location.*
 - *The Shire may make a determination as to whether a trading permit can be issued to the operator under the provisions of this policy before progressing with an application for a new fixed location.*
- c) A fixed location trader licence may be issued for a maximum of one year.
 - d) A fixed trading location becomes available for reallocation if the trader ceases trading for a period of three months or advises that they wish to cease trading at that location.

- e) Unoccupied fixed locations remain available until a licence has been issued.
- f) Annual fixed location trading fees will be set each year by the Council through the budget process.

Advice: Please contact the Shire of Collie Planning Department should you wish to discuss fees payable for individual sites.

- g) Shire reserves the right to refuse an application for a fixed location licence should the application not successfully demonstrate compliance with any or all of the above criteria, even if the proposed site is currently unoccupied.
- h) Approval of a fixed location permit or any permit issued under this policy does not grant the permit holder exclusive rights to the permit area.

5.4 Non-Food Operators

- a) Aside from the approved fixed location listed above, applications for non-food fixed or itinerant traders (particularly retail and personal services) will generally not be supported by the Shire of Collie in a public place.
- b) Notwithstanding the above, exceptional non-food offerings which can demonstrate they achieve the relevant criteria of this policy may be supported, at the discretion of the Shire.

Advice: Please note that a resolution of the Council may be required in these circumstances.

5.5 Itinerant (Mobile) Traders

- a) Traders may apply for a Permit to sell to the public by travelling from place to place throughout the Shire in accordance with this Policy.
- b) Traders operating under this arrangement are precluded from selling within the Collie Central Business District (CBD), as indicated within Annexure A: Collie CBD – Itinerant Traders Exclusion Zone.
- c) Trading is permitted in areas outside of the Collie CBD provided that:
 - It occurs a minimum of 200 metres away from any shop or other permit holder, offering a similar product for sale (except when the Trader has been invited onto a property by the property owner/occupier and is participating in an approved event such as a weekend market or sporting event); and
 - It occurs a minimum of 200 metres away from a school between the hours of 7.00 am and 9.00 am and 2:30 pm and 4.00 pm during school days; and
- d) Itinerant coffee vendors are permitted to temporarily locate (maximum stay time is 15 minutes) on private property and sell goods following this clause, excluding points that reference public land, provided landowner approval has first been obtained.
- e) The Shire may limit the number of itinerant food trader permits issued if it is determined the operation of itinerant food vendors is causing undesired impacts to local amenity, the operation of existing bricks and mortar businesses, or any other issue considered relevant by the Shire.

5.6 Stallholders

- a) Approval for stalls, other than stalls that are part of an approved market or extend the service area of an existing business onto the adjacent footpath, will be restricted to community associations and not-for-profit purposes only.

5.7 Market Operators

- a) Operators of markets on public land are required to hold a permit under the provisions of the *Activities on Thoroughfares and Public Places and Trading Local Law*.

Advice: For a market on private land, development approval under the Shire of Collie Local Planning Scheme No 6 is required.

- b) Individual stalls, other than stalls selling food, are covered by the market operator's licence - individual licencing fees will not be charged.
- c) Stallholders proposing to operate a food stall, which will offer for sale food, are required to be registered/hold registration under the provisions of the *Food Act 2008*.

6. LEGISLATIVE AND STRATEGIC CONTEXT

The Shire of Collie *Activities on Thoroughfares and Public Places and Trading Local Law 2012* require street traders to obtain a licence and or permit for trading in public places.

This policy aims to provide direction and guidance for Shire officers assessing applications and to ensure equity for all commercial outlets.

7. REFERENCE 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:

- *Food Act 2008*
- *Food Regulations 2009*
- Australia New Zealand Food Standards Code
- *Activities on Thoroughfares and Public Places and Trading Local Law 2012*
- **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: COLLIE CBD – ITINERANT TRADERS EXCLUSION ZONE



ANNEXURE B: CBD FIX PERMIT AREA (Shown in GREEN)

Soldiers Park and Hardstand

Special Conditions

1. Trading limited to a maximum period of 6 hours at any one time.
2. Trading limited to between 7:00am and 9:00pm.
3. Traders to provide their own power, gas, and water supply.
4. Traders are responsible for the collection, storage and disposal of waste generated by their business.

