

GREATER SHEPPARTON CITY COUNCIL

Policy Number 58.POL1

Itinerant Traders Policy

Version 1.0

Adopted: 21 October 2014

Last Reviewed: 2 September 2013

Business Unit:	Business
Responsible Officer:	Manager Citizen Services
Approved By:	Chief Executive Officer
Next Review:	1 July 2017

PURPOSE

Greater Shepparton City Council is committed to supporting and enhancing the local business, active street life and unique experiences available in the municipality.

This policy has been developed to allow the Council to manage the requests for the operation of itinerant traders on Council owned or managed land.

The aim is to ensure that the policy supports and reflects the fluid nature of such businesses whilst ensuring the amenity of the municipality's roads, streets, parks and public spaces.

The policy recognises the need for a permit to conduct such activities under Council's Local Law No 1, Community Living.

Council recognises that Itinerant Traders can:

- contribute to the vitality of the municipality
- provide a safe, efficient and accessible food service at times of reduced operation of permanent food outlets and support entertainment precincts
- provide a short term market for a particular product
- provide attractively priced products
- provide an opportunity for seasonal products to be provided in residential areas (ice cream vans)

OBJECTIVE

It is Council's intention that the adopted policy will minimise community conflict resulting from temporary business operations and provide a framework for assessing temporary business operations that is open and transparent.

The objectives of the Itinerant Traders Policy are:

- To avoid the creation of adverse traffic, pedestrian and general public safety conditions, particularly on routes where the dominant function is the safe movement of vehicular traffic.
- To ensure existing local businesses are not significantly disadvantaged through the granting of an itinerant traders permit
- To regulate the level and intensity of vendor activities on road reserves and other public places necessary to ensure that the site is retained primarily for its purpose (like community/traffic use and not commercial).
- To accommodate appropriate vendor activities in order to provide services that enhance the visitor/resident experience.
- To ensure that the parking of vehicles (or erection of other equipment) will not adversely affect the public amenity and the characteristic streetscape of the area and the street.
- To provide a simple, consistent and coordinated process for the assessment of applications for itinerant traders within the municipality.

SCOPE

The Itinerant Traders Policy is applicable in instances where businesses and/or individuals seek to use public land to operate a business for financial gain where land is owned or controlled by Council.

This Policy does not apply to the following:

- A 'produce stall' within private property;
- Selling of newspapers;
- Where a vendor is part of an event, carnival, market, fete or the like (this would require an event permit);
- Where the activity is a one-off occurrence such as an opening or open day for a business/premises (this would require an event permit);
- Trading from private property strictly under consent of the land owner; and
- Community health mobile clinics and other government/community like uses.

Council may, by resolution, exempt any itinerant trader from the need for a Local Law Permit. However, this exemption for the need for a permit under Local Law #1 – Community Living; does not affect the need for compliance with any other legislation.

DEFINITIONS

Reference term	Definition
Approved Locations	An approved location will be determined for each applicant through the application process, consistent with the Itinerant Traders Policy. Greater Shepparton City Council has identified an indicative list of locations within the Municipality from which Itinerant Traders may trade with a Local Law Permit (see CEO Directive 58.CEOD2.) Once approved, trading from these locations may occur independently of a Council approved market, festival or event.
Council	"Council" has the same meaning as it has in section 3(1) of the Local Government Act 1989. <i>"Council means a municipal council (including the Council of the City of Melbourne and the Council of the City of Geelong) whether constituted before or after the commencement of this section."</i>
Mobile/Temporary food premises	A "mobile/temporary food premise" (MTFP) includes any vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling or offering for sale any food and or drink (excluding alcoholic beverages).
Itinerant Trader	A person or persons, engaged in providing goods and/or services on a temporary basis, including MTFP's, spot or bulk sales.
Moveable Advertising Sign	Any moveable board, notice, structure, banner or similar device used for the purposes of notifying of a sale, soliciting sales or notifying people of the presence of an adjacent property where goods and services may be obtained. Includes A-Frame signs. This excludes commercial signage mounted on vehicles and/or trailers.
Municipal Place	All land owned, leased, managed, vested in or occupied by Council to which the public has access and includes buildings and other structures affixed to such land and includes a road, watercourse, reserve and reservation.

Public Place	Includes a reserve, public highway, mall, road, street, bridge, footway, footpath, court, alley, passage or thoroughfare, notwithstanding that it may be formed on private property and any other place to which the public may resort.
Road	Highway, street, lane, bridge, thoroughfare or other place that is open to or used by the public for passage with vehicles. It includes a public highway, carriageway, footpath, traffic island, nature strip and any other area that is provided to separate vehicle traffic on a highway, street, lane, bridge, thoroughfare or other place. It also means any place that is declared to be a highway under section 3(1) of the Road Safety Act 1986.
Sell	<p>“Sell” means the definition within the Food Act 1984 and includes —</p> <ul style="list-style-type: none"> • Offer or attempt to sell; or • Receive for sale; or • Display for sale; or • Have in possession for sale. <p>In addition to the requirement to obtain a local laws permit a person must also comply with the requirements in this policy as well as the requirements of the Food Act 1984</p>
Spot or Bulk Sales	The temporary use of a public building, Municipal Place or Public Place for the sale of products including overstocked, damaged, end of line items (eg. rugs, shoes) or artworks.
Trading of Goods or Services	<p>No person shall without a permit:</p> <p>(i) erect or place on any highway or Council land a vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling or offering for sale any goods or services; or</p> <p>(ii) sell or offer to sell goods or services on any highway or Council land.</p> <p>An itinerant trader must obtain a permit under Council’s Local Law #1 – Community Living in compliance with Council’s Itinerant Traders Policy.</p>

POLICY

5.1 Policy Statement

The Itinerant Traders Policy has been developed to facilitate the management of requests from itinerant traders wishing to operate on Council owned or managed land.

Through this policy Council will assist temporary business operations that provide an enhanced use and enjoyment of public and municipal places within the City of Greater Shepparton. Any person operating without a permit under this policy is in breach of Council's Local Law #1 – Community Living - Clause 4.2.

This policy has been developed to support the existing and future operations of Itinerant Traders within the community and to provide a framework for their management which reflects the fluid and often short term nature of such businesses.

5.2 Policy Principles and Application

Council will apply the following fundamental principles in facilitating and supporting itinerant traders;

- Council's principal concern with itinerant trading is to protect the public and the amenity of the municipality including its roads, streets and public places. Council will not grant permits where there is sufficient evidence to the Council or any of its officers that granting the permit would have detrimental effects on an area or is not in accord with a surrounding public area, its general amenity, Council heritage listed area, or other Council codes.
- In addition to requiring a permit fee for all itinerant trading applications, Council or its officers may impose any condition, separate to planning conditions which Council believes is necessary or which will increase the likelihood of the itinerant trading activity being compatible with an area and municipal amenity.
- In considering any application, Council will make reasonable assessment of the type of itinerant trading, proposed hours of operation and season of operation. Consideration will also be given to the number of operators currently providing similar product or service.
- Council may consider waiving a fee for a charitable or not for profit organisation. These circumstances would be assessed by the Team Leader Regulatory Services and approved by the Manager Citizen Services.
- Permits will only be granted to operators who comply with the standards and conditions in this policy.

5.3 Itinerant Trading Standards

5.3.1 Safety and accessibility

Council aims to ensure as far as practicable, the safety of all members of the community, at all times, on or nearby Itinerant Trading locations.

To ensure safety and accessibility is achieved itinerant traders must:

- provide clear, continuous access for all pedestrians along nearby footpaths and ensure no obstruction occurs to nearby road users at all times;
- not cause an obstruction to existing traffic conditions and sightlines;
- ensure access to an itinerant trader must be via adjacent pedestrian walkway and not via nearby roadway;
- comply with existing parking restrictions which apply to the area at all times; and
- monitor the site and general area should be able to be monitored at all times and provide an inviting, clean and safe place for people to use.

5.3.2 Community amenity

To ensure the amenity of the area surrounding an itinerant trade site is protected and enhanced, the following standards must be met:

- Compliance with Environment Protection Authority requirements, particularly with respect to noise.
- Avoid obstructive furniture, excessive signage or lighting displays which may create unnecessary clutter that detracts from the image of a particular street or shopping precinct and/or create a hazard to members of the public.
- Itinerant trader vehicle must be neat and tidy in appearance.
- Residential amenity must not be unreasonably compromised by the operation of an itinerant trader.

5.3.3 Hygiene and Cleanliness

To ensure the hygiene and cleanliness of an itinerant trading site is maintained, the following standards must be met:

- Litter must be cleared at all times from in and around the site. The site must be left in a clean and tidy manner.
- Appropriate rubbish bins must be provided in numbers adequate to service the needs of patrons and the operation.
- Litter generated by the operation must not be swept into the street gutter and must be picked up and deposited within the operator's own bins.
- Trade waste must not be placed in public street bins.
- The preparation, handling and serving of food and drinks to patrons must be conducted in accordance with the requirements of the Food Act 1984 and Council's Environmental Health Services Department.
- Wastewater must be collected and removed from the site.

Without limiting the requirements of the Food Act 1984, the following standards must be met:

- Food vehicles must be registered with the local Victorian Council that is the primary place of storage of the vehicle.
- A copy of a current Food Act Registration Certificate from the relevant Council must be submitted with each application for a mobile food vehicle permit.
- The mobile/temporary food premise must comply with the National Food Safety Standards, including Standard 3.2.2 Food Safety Practices and Standard 3.2.3 Food Premises and Equipment.

An inspection by an Environmental Health Officer from the Environmental Health Services Unit is required prior to a permit being granted. If the food vehicle is registered with another Council, Greater Shepparton Environmental Health Officers may not need to inspect the vehicle. The requirement of the Food Act 1984 is that an inspection is performed annually. Current registration and inspection status can be accessed by our Environmental Health Officers.

An inspection will check for compliance with the above-mentioned standards and to ensure the structure, fixtures, fittings and equipment are suitable and satisfy themselves that the operating will be implementing appropriate food handling practices.

Council's priority is to support food traders and local retailers currently operating or wishing to operate from commercial premises within the municipality.

To ensure an itinerant trader does not compromise the operation of existing businesses or future businesses within commercial premises in the area, the following standards must be met:

- The operational hours of an itinerant trader may be limited to those outside of the existing business hours for surrounding food or retail premises.
- Food or products offered for sale from the itinerant trader may be restricted and specifically described within the permit conditions.
- Trading permits shall be reviewed annually to ensure existing businesses within proximity of the site are not compromised.

5.4 Sites and Locations

5.4.1 Appropriate Locations

In considering the options that are available for potential itinerant trading sites, it is important to acknowledge that any commercial use of public space is a privilege, not a right. The location of an itinerant trader must always comply with Council standards in relation to safety and accessibility, community amenity, hygiene and cleanliness.

To ensure appropriate locations are determined, the following criteria should be met:

- Sites must not be located less than 100 metres from an existing and operating business, unless the proposed hours of operation are outside those of the existing trading hours of the affected businesses.
- A minimum clearance of 2 metres must be maintained from fire hydrants, litter bins, public seats, payphones, bicycle stands, parking meters and other public infrastructure.
- Clearance of 20 metres is required for bus stop zones to ensure safety and access.
- A site must comply with the requirements of the Road Safety Act with respect but limited to the obstruction of sight lines, traffic signals and road signage.
- Sites cannot be located within or immediately adjacent to areas zoned as residential under the Greater Shepparton City Council Planning Scheme.
- Residential areas are restricted to applications for mobile/temporary food vans, eg: ice-cream vans.
- Mobile/temporary food premise sites cannot be located on footpath areas with the exception of areas nominated by council for fundraising activities where food is sold.
- Mobile/temporary food premise sites cannot be located within Council parks or open space with the exception of areas nominated by Council.
- Permit applications must be specific in naming and identifying the locations to be used and where there are multiple locations associated with an itinerant trader, these must also be nominated.

5.4.2 Adjacent Premises

If seeking to occupy space immediately adjacent to an entertainment venue or other business, the applicant is required to provide the written consent from both the owners and occupiers of the adjacent premises.

5.4.3 Special Events

During annual festivals, parades or special events, a mobile/temporary food premise permit located within the event precinct will not be valid.

A temporary permit to operate within a Council park or reserve may be granted during events, festivals or other occasions as determined by Council.

5.4.4 Trading on Private Space

While no Council permit is required if the itinerant trader is operating from private land, the operator is still subject to all relevant state legislation. Amenity impacts may also be considered under Council's Local Law #1 – Community Living.

5.4.5 Existing public infrastructure

Existing trees, artwork, street furniture and other public infrastructure as well as the width of the road or footpath may prohibit or limit the establishment of any mobile food vehicle. No existing street trees or public infrastructure will be moved prior to or after a mobile food vehicle permit is granted.

Existing street trees or public infrastructure must not be used for any trading purposes including business signage or displays. Permit holders will be charged the cost of making good any damage to council's infrastructure.

6. Management and Responsibilities

6.1. Operators Responsibilities

6.1.1. Daily Management

The management of an itinerant traders permit is the responsibility of the permit holder. To ensure appropriate management, permit holders are required to:

- Operate in accordance with this policy and with any specific permit conditions that apply to the site
- Comply with any applicable parking restrictions
- Monitor the surrounding area i.e. observe patrons at all times to promote orderly patron behaviour
- Ensure the cleanliness of the site and surrounding area of the approved location
- Ensure vehicle is neat and tidy in appearance
- Maintain access for all users in and around the footpath at all times
- Observe Local Law provisions relating to community amenity
- Comply with all directions given by Council's Authorised Officers

6.1.2 Insurance requirements

The permit holder must ensure they are adequately covered by public liability insurance. To meet council requirements, the policy must note the Council's interest and be for the amount not less than \$10,000,000 in respect of any single occurrence and must be up to date at all times.

6.1.3 Indemnity requirements

The permit holder must also complete a "Form of Indemnity" to indemnify the council against all claims of any kind arising from any negligent act either by the permit holder or the permit holder's agents and users.

6.1.4 Display of Permit Registration

Permit holders must display and be in possession of their permit at all times. Failing to present the current permit registration at the request of Council is a breach of the permit conditions.

6.1.5 Applying for a Mobile/Temporary Food Premises trading permit

Applicants are advised to read and familiarise themselves with this policy prior to any formal application being made to council. Understanding the responsibilities involved in managing the itinerant trading site, location requirements, legal obligations, costs involved and other relevant matters detailed in this policy is important.

6.2 Council Responsibilities

6.2.1 Trading in the Public Realm

Council maintains assets within the public realm and reserves the right to reclaim access to these assets at any time.

6.2.2 Compensation and loss of trade

Where service authorities and others are required to carry out works within the road reserve which require removal and/or alteration to the itinerant trading arrangements, no compensation is payable for any loss of trade experienced due to these works. Where practical, Council may suggest an alternate trading location.

6.2.3 Monitor Compliance with Approved Permit

Council's Local Laws Officers proactively monitor the operation of itinerant trader and ensure the conditions of each permit are being met. Following a complaint or observation of a breach of permit, Council's officers will contact the permit holder and take appropriate enforcement action. Depending upon the gravity of the offence, this may result in verbal instructions, a notice to comply, an infringement notice, or the cancellation of the permit.

7. THE APPLICATION PROCESS

7.1. Applying for a Mobile/Temporary Food Premise Trading Permit

Applicants are advised to read and familiarise themselves with this Policy prior to any formal application being made to the Council.

7.2. Required Information from the Applicant

Prior to any formal consideration, the following information is required from the applicant when submitting an application form:

- A completed Itinerant Traders Application Form.
- A current certificate of currency (Public Liability Insurance), for a minimum \$10,000,000. The policy must note Greater Shepparton City Council as an interested party.
- A copy of the current Food Act Registration Certificate
- Form of Indemnity.
- Application fee as stipulated by Council in annual fees and charges.
- Failure to submit all the above details may result in delays processing the application.
- Nominated sites for which an application is being made.
- Proposed time(s) of operation.
- Proposed period of operation (seasonal, weekends only, full week)

7.3. Council Assessment and Consideration

Upon receipt of a complete application Council will:

- Check that all relevant information has been received.
- Assess the application against the permit conditions.
- Undertake an assessment of compliance with the permit conditions.
- Internal referrals with Council officers as required.
- Assess the application against other matters that may relate to the proposed location.
- Approve or refuse the permit application.
- If approved and once permit fees have been received a permit will be issued and operation of the itinerant trader may commence.

7.4. Decision Making

Where applications meet all the standards, the Council will normally grant a permit. In cases where an application does not clearly meet the standards or where there are special circumstances, the application may be referred to the Director Business if the authorised officer supports a variation to the standards.

The Director will provide their recommendation to the authorised officer who will approve or refuse the permit application.

7.5. Decision Review

If a permit applicant is dissatisfied with the decision of the Council Officer, this decision may be reviewed. A written request must be made to Council for consideration for a Council resolution.

7.6. Renewal of an Existing Permit

Permits for itinerant traders are renewed annually at the beginning of each financial year. A renewal notice is issued to all existing permit holders. It is the responsibility of the permit holder to ensure all permit renewal details including public liability and fees are forwarded to the Council by the due date provided. Failure to provide all renewal documentation and fees will result in the cancellation of the permit.

For renewal of a permit, existing permit holders may be offered first right of refusal at their current location(s) subject to satisfactory compliance with their permit conditions.

Greater Shepparton City Council reserves the right to reassess and amend permit conditions to ensure compliance with the current itinerant traders standards.

7.7. Amendment to an Existing Permit

Permit holders must submit an application form for any proposed amendments to their existing permit.

Amendments may include a change of vehicle, registration details, hours of operation, or approved location.

8. Fees and Charges

Fees and charges will be determined by Council each year, commencing from 1 July.

9. Roles and Responsibilities

It is the responsibility of the Manager Citizen Services to maintain the Itinerant Traders Policy and to establish a procedure for the management of processes which are covered by this Policy.

The Team Leader Regulatory Services is responsible for the overall administration of the Itinerant Traders Policy.

10. MONITORING, REVIEW AND EVALUATION

This policy shall take effect for three (3) years following adoption of the policy by Council. The policy shall be subject to review by Manager Citizen Services not later than 1 July 2017. This policy replaces Policy 58.POL3 – M12/31978

RELATED LEGISLATION

- Planning and Environment Act 1987
- Greater Shepparton City Council Planning Scheme.
- Greater Shepparton City Council Local Law No. 1 – Community Living - Parts 3 & 4
- Procedure for Control and Management of Itinerant Traders
- Road Safety Act 1986
- Road Safety Regulations 1999
- Food Act 1984
- Public Health and Wellbeing Act 2008
- Crown Land (Reserves) Act 1978
- National Competition Policy

Gavin Cator
Chief Executive Officer

Date