

## Council Policy – Trading in Public Places

<b>Responsible Directorate</b>	Office of the Chief Executive Officer
<b>Responsible Business Unit/s</b>	Regulatory Services
<b>Responsible Officer</b>	Manager Regulatory Services
<b>Affected Business Unit/s</b>	Regulatory Services

### Objective

The objectives of this policy are to:

- ensure community safety by mitigating adverse traffic, pedestrian, and trading conditions.
- ensure the operation of mobile traders on Shire land or in public places is carried out in accordance with the *Shire of Ashburton Public Places and Local Government Property Local Law 2023* (the local law).
- establish the difference between ‘Town Centre’ and ‘Rest of Shire’ areas for the purposes of applying fees for mobile trading permit applications,
- provide guidance on the application process for commercial activity involving stallholders, and mobile traders on Shire facilities or land,
- regulate the level and intensity of mobile trader activity on road reserves and other public places to ensure that the primary purpose and use of these locations is retained and protected,
- manage mobile traders in a sustainable way that allows for the ongoing provision of goods and services that promotes community vitality and satisfaction.

### Scope

This policy applies to Shire owned or controlled land and facilities and other areas that may be used for mobile trading in public places.

### Policy Statement

The Shire encourages trading in public places that supports the Shire as a vibrant location to live and visit especially where an application is creative and innovative.

### Mobile Trading Guidelines

This policy is to be read in conjunction with the Mobile Trading Guidelines found on the Shire’s website at [Traders » Shire of Ashburton](#).

## Policy Statement

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### Fees and Charges

Fees and Charges apply to applications for trading in public places within the Shire. They are set out in the Annual Fees and Charges schedule accessible on the Shire website

[Fees and Charges>> Shire of Ashburton](#)

Fees and charges are based on:

1. Trading within a town centre,
2. Trading outside a town centre (Rest of Shire),
3. Not-for-profit trading group.

Any application for any 12-month period entitles the permit holder to trade anywhere within the district, or in specified places as stated on the permit.

The rationale for providing two distinct mobile trading permit classes *within* or *outside* a town centre is to provide a measure of natural justice to businesses that are established on permanent sites within the town centres, who are subject to Shire rates.

The higher fee associated with applications for permits within town centre areas reflects the desire of the Council to provide a more commercially 'level playing field' without stifling competition or the vibrancy of our towns.

### Exemptions

The following exemptions apply:

- A produce stall within private property outside of Town Centre boundaries,
- Selling of newspapers,
- Where a mobile trader is part of an event, festival, carnival, market, or the like and is listed in the event application, and provides written confirmation of their involvement from the event organiser,
- Where the activity is a one-off occurrence, whose primary purpose is to promote or inform the community about a product, service or activity and is not trading for profit. It includes open days and information displays,

- Community groups conducting fundraising activities that include car washes, BBQs, and product stalls where legislative requirements are met, safety is managed, and the property owner has given consent.

## Conditions

The following conditions will apply to all approvals for operating as a mobile traders in a public place:

- The use of amplified music or mechanical chimes which could cause a noise nuisance is not permitted, under the *Environmental Protection (Noise) Regulations 1997*,
- Where generators are used, their noise is to be managed so they do not constitute a nuisance under the *Environmental Protection (Noise) Regulations 1997*,
- Public liability insurance (Certificate of Currency) to a minimum of \$10 million or cover suitable to the risk presented is required where an activity occurs on Shire land,
- Camping within trader equipment is not permitted and is restricted by the *Caravan Parks and Camping Grounds Act 1995* and associated regulations,
- Traders are responsible for managing all waste generated as part of their trading activity,
- Mobile traders are not permitted to establish 'Alfresco Dining' areas as part of their business. A maximum of three small tables with four chairs per table are permitted for customers who are waiting for their purchase, who move on when their purchase is received. The chairs and tables are not to obstruct thoroughfares or cause damage to grassed and reticulated areas,
- Alfresco styled dining associated with trader's attendance at an organised event is managed by the event organiser, and this policy does not apply,
- Advertising must not obstruct designated thoroughfares or restrict pedestrian access or movement,
- For itinerant traders, moving to a new location once most customer requests have been serviced.

## Trading Zones

Mobile traders cannot operate within 50 metres of a fixed business where they are in direct competition with the fixed business except where operating under an event application for a set period.

Direct competition includes the sale and supply of the same or related products and/or operating the same trading hours as the fixed business.

Where trading zones are located within an area that a major event is planned to occur, the trading zone will be suspended and come under the management of the event organiser. Notice in writing will be provided to affected traders. This does not restrict their involvement in major events, but their location will be determined by the event organiser.

Trading zones will be marked and signposted by the Shire to ensure the appropriate zone is used and not exceeded. Barriers may be used where there are concerns for safety to the community and conflict of use of the nominated area with non-trading zone activity.

Where an event is to be held at a sporting field. Trading zones are not to be set up in the exclusion zones marked (in red) or physically marked on the playing field.

Approval to hold non-sporting events on Shire owned or managed sports fields requires the approval in writing of the Chief Executive Officer or his delegate. This is to mitigate damage to the playing field and disruption to sporting clubs and their activities.

Areas not designated as trading zones may be considered upon written application to the Shire.

To identify approved mobile trading zone locations, refer to the Mobile Trading Locations document on the Shire website at Traders » Shire of Ashburton.

### **Consent to use land**

Where the road is under the control of Main Roads WA, their written consent is preferred prior to processing the application.

Where the land is not under the care, control or management of the Shire, the written consent of the Crown via the Department of Planning, Lands and Heritage is preferred prior to processing the application.

Where the land is privately owned, the written consent of the landowner is required prior to processing the application.

### **Trading restrictions**

The following limitations apply to the Town Centre which are all of the areas detailed in the Mobile Trading Locations document.

Trading restrictions in the trading zones do not apply to itinerant traders who move about frequently.

Large vehicles or large vehicles with a trailer that do not fit within a trading zone space are required to set up in a trading zone allocated for their size as indicated in the Mobile Trading Locations document.

Other suitable alternatives may be permitted on written application to the Shire

## Tom Price Town Centre

- Trading in the Visitors Centre carpark on Tamarind Street is restricted to one vehicle, or one vehicle and a trailer that fits within the designated trading zone space.

## Onslow Town Centre

- The Shire prefers traders to utilise the Visitor Centre-Museum carpark at Lot 937 Second Avenue, where practical.

## Trading hours

Trading may only take place between the hours of 5:00am and 10:00pm. A Trader must be actively trading or leave when trading has ceased.

## Definitions

**Restricted Zones** means a zone located on Shire managed land such as a sporting field where trading activity cannot be established to protect infrastructure (reticulation etc). These are marked in red on the Mobile Trading Locations document.

**Event Trading Zones** means where an event is established, and it has control of trading activity in the specified location for a period. Permission to participate is required from the event organiser. Zones are marked in blue on the maps contained in the Mobile Trading Locations document, where they are pre-organised due to the venue, or they will be marked on the day and allocated.

**Fixed Business** means a business that is established in a permanent location and pays rates usually within a town centre or area set aside for their business activity.

**Itinerant Trader** means a trader who travels along a road looking for customers or is hailed by them. The vehicle stops temporarily to conduct business and then moves on once the business transaction with customers is complete.

**Markets** means an organised activity where diverse groups or traders /use land or facilities to set up a variety of stalls to sell products and services. This is either by invitation or payment of a fee.

A trading permit is not required, and this policy does not apply to a market. A market is managed through an event application made to the Shire.

**Mobile** means working in one place for a short period of time and then moving on to operate in another place (for example: fish truck, meat truck etc.).

**Open Trading Zone** means a designated zone, as indicated in the Mobile Trading Locations document, where mobile traders can set up their business and operate from. Trading in these zones is for short duration and the trader moves on. Zones are marked in yellow.

**Town Centre** means the land within the townsites of Tom Price, Paraburdoo, Pannawonica, and Onslow.

**Rest of Shire** means the whole of the Shire excluding the Town Centre areas.

**Stall** means working in one place for a short period of time usually from a fixed structure such as a tent or shade shelter (for example: clothing and trinkets sales).

## Relevant policies/documents

[National Competition Principles Agreement](#)

[Shire of Ashburton Mobile Trading Guideline](#)

[Mobile Trading Locations](#)

## Relevant legislation/local laws

*Local Government Act 1995*

*Shire of Ashburton Public Places and Local Government Property Local Law 2023*

*Food Act 2008*

*Public Health Act 2016*

*Food Act 2008*

*Shire of Ashburton Town Planning Scheme No.7*

*Environment Protection Act 1986*

Office use only				
<b>Relevant delegations</b>				
<b>Council adoption</b>	<b>Date</b>	14 February 2023	<b>Resolution #</b>	019/2023
	<b>Date</b>	15 October 2024	<b>Resolution #</b>	197/2024
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	<b>Date</b>		<b>Resolution #</b>	
<b>Next review due</b>	2026			