

## Strategic Outcome Supported: 2 – A safe and healthy community

### OBJECTIVE

The objectives of this policy are:

1. To facilitate opportunities for small business traders on local government land in a way that adds to public enjoyment.
2. To limit the impact (both real and perceived) to existing local businesses within the townsite and/or locality because of traders.
3. To provide direction to Shire staff in assessing applications for trading in public places, in accordance with the *Shire of Donnybrook Balingup's Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law (Consolidated 2017)*.
4. To provide a clear set of conditions for operators to trade under.

### SCOPE

5. This policy applies to all public places within the Shire of Donnybrook Balingup and all businesses and individuals seeking to use public places to operate a mobile or temporary business for financial gain.
6. The policy does not apply to the following:
  - a. 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.
  - b. A 'produce stall' within private property; and
  - c. Trading from private property strictly under the consent of the landowner (food business certification is still required if selling food and drinks).

*Note: Trading on private property would need consideration under the Planning and Development (Local Planning Schemes) Regulations 2015 and is exempted from obtaining development approval if the trading event is in existence for less than 48 hours in a 12-month period and involves only temporary works and temporary use.*

### DEFINITIONS

7. **Approved Fixed Location** means a location which has been identified and pre-approved for traders to trade from with Shire approval.
8. **Trader** means a person who sells takeaway food, goods and/or services from a food van and/or stall from a public place.
9. **Food Van** means 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).

10. **Stall** means 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.
11. **Stallholder** means a person who sells goods from a stall.
12. **Itinerant Trader** means a form of trader who sells food to customers who have hailed down the vehicle to make a purchase (i.e. ice-cream van). The vehicle then moves on as soon as the customer has made their purchase.
13. **Public Place** means 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.
14. **Traders Permit** means a permit issued to a trader by an approving local government.
15. **Trading in Public Places** means a long-term or periodic occupation of local government owned or controlled land for the purposes of selling goods to customers that stop.

### POLICY STATEMENTS

16. The Shire of Donnybrook Balingup encourages improved economic and community vibrancy in a sustainable and fair manner.
17. 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:
  - a. Contribute to the vitality of the town.
  - b. Provide a safe, efficient, and accessible food service at peak times to service increased customer demand beyond the supply capabilities of permanent food outlets.
  - c. Provide an opportunity for local, seasonal products to be provided; and
  - d. Activate a particular location or precinct that meets the objectives of the Shire.
18. 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.

### General Conditions

19. All traders are required to apply for or hold the following:
  - a. Traders permit under the *Shire of Donnybrook Balingup's Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law (Consolidated 2017)*;
  - b. Food Business Certification under the *Food Act 2008* (if a food vendor).
20. 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.
21. Payment of fees as per the Shire's Fees and Charges.
22. Each trading event is to comply with the operating hours; and the cumulative number of events as specified under the relevant trading permit, and these may be reviewed by the Shire if complaints are received.

23. Traders can only provide takeaway service. No additional infrastructure such as tables and chairs will be permitted on site.
24. No alteration to the land or construction of structures will be permitted.
25. No permanent advertising signage may be erected.
26. 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 Shire, the sign is likely to obstruct lines of sight or cause danger to any person using a thoroughfare.
27. Traders must comply with local parking restrictions.
28. 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.
29. 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, Shire property or public place in which the Trader is situated.
30. 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.
31. Traders shall not have any claim for compensation or damages because of any disruption to business or loss incurred due to an event, market, approved works or any other contingency.
32. 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 can be considered but only at the discretion of the CEO, Director Operations or Manager Development Services.
33. The number of permits for multiple locations may be limited at the discretion of the CEO, Director Operations or Manager Development Services.
34. 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, Director Operations or Manager Development Services.
35. Itinerant traders must 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.
36. Trading at the Apple Fun Park Carpark is subject to consultation with the lessor of the Donnybrook Goods Shed. This may result in a permit being denied.

### Revocation of Traders Permit

37. The CEO, Director Operations or Manager Development Services may revoke a traders permit for the following reasons:
  - a. The nature of trading is different to that approved.
  - b. Vehicles and/or equipment are not as described in the application.

## Trading in Public Places

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- c. Conditions of approval are not being adhered to.
- d. The activity is causing a nuisance to other users of the public place or nearby residences.

### DELEGATION AND AUTHORISATION

- 38. *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000 (Amended 2017).*

### LEGISLATION

- *Food Act 2008*
- *Food Regulations 2009*
- *Australia New Zealand Food Standards Code*
- *Shire of Donnybrook Balingup's Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law (Consolidated 2017)*

### APPENDIX

#### Annexure A - Trading Locations

##### Donnybrook

- a. Irishtown Arboretum





## Trading in Public Places

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b. Old Caravan Park Site



c. Egan Park





## Trading in Public Places

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d. Apex Park Carpark



e. Apple Fun Park Carpark (refer to condition 36)





### Kirup

- f. Jim McDonald Oval



### Mullalyup

- g. Pioneer Park





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### Balingup

#### h. Balingup Transit Park



#### i. Balingup Town Hall Carpark



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## GOVERNANCE

Related Policy(s):

– Nil.

Related Procedure(s):

– Nil.

Revision Requirements and Version Control:

Responsible Department(s):		Operations		
Review to be conducted by:		Principal Environmental Health Officer		
Revision Frequency:		<input type="checkbox"/> Annual (1yr)	<input checked="" type="checkbox"/> Biennial (2yr)	<input type="checkbox"/> Triennial (3yr)
Current Version Date:		7/01/2025		Next Due: 12/2026
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#:	Synopsis:	Date:	Ref.:	Synergy:
1	Initial adoption of Council Policy	*/12/2024	-	NPP13448