

Roadsides, Parks and Reserves Trading – Council Policy No. 123

1. POLICY PURPOSE

Policy No. 123 – Roads, Parks and Reserves Trading specifies Council’s requirements and expectations relating to authorisation of the use of public footpaths, roadside, parks or reserve areas for the purpose of operating an itinerant business and to ensure that such activities do not adversely impact on local residents or business operators.

2. DEFINITIONS

2.1 Itinerant Trading –

The temporary or regular offering of goods or services for sale for the benefit of a person, a company or organisation, in or on a public place, or a street or road, and from a vehicle, caravan, trailer, table, bicycle, stall or similar structure.

2.2 Designated Areas –

All locations within the Gannawarra Shire. Locations to be limited, reviewable and allocated by transparent procurement process.

2.3 Permit Holder –

A permit holder can be an individual, community group or commercial enterprise that is charged with the responsibility for a private function, commercial or public event. If the individual, community group or commercial enterprise holds the permit for an event, individual traders who participate in that event do not require a permit.

3. POLICY PROCESS

3.1 Fee Structure

Fees will be applied in accordance with Gannawarra Shire Council’s Fees and Charges Schedule, and will include a trading site fee payable in full in advance at the same time as the permit fee.

3.2 Duration of Permit

A permit will be issued for a period of not more than three (3) months per permit for the first application for any site by an applicant and a maximum of twelve (12) months for subsequent permits by the same applicant for the same site.

3.3 Hours of Operation

Traders will be limited by the time on the permit, but may be extended for special events by prior written agreement.

3.4 Risk Assessment and Insurance

Prior to a permit being issued, the applicant must provide evidence of:

- Compliance with the *Food Act 1984* and other relevant legislation.
- Public Liability Insurance for at least \$10 million
- Risk management plan, including traffic control for both pedestrians and vehicles.

3.5 Compliance Instrument

Council regulates itinerant (Roads, Parks and Reserves Trading) activity through the clauses and provisions of the Gannawarra Shire Council Local Law No 1 – Community Amenity 2012 Part 7 – Business and Builders Section 52 (1) Roadside Trading, Busking and Performing states:

A Person must not, without a Permit, erect or place on any Road 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.

Further, Part 9 – Public Places, Parks and Reserves, and Council Buildings – Section 76 states:

A Person who is required by this Local Law to obtain a Permit in order to use a Municipal Reserve in a specified way must not use the Municipal Reserve in this way without a Permit.

Permit holders are required to comply with a range of State and Commonwealth legislation and associated regulations and Australian Standards including, but not limited to the *Food Act 1984*, the *Public Health and Wellbeing Act 2008*, the *Building Act 1993*, the *Disability Discrimination Act 1992 (Cth)*, and the *Road Safety Act 1986*.

3.6 Approval:

Council's principal concern with itinerant trading is the protection of the amenity of the municipality including roads, streets and public places. Council is also obliged to ensure a fair return for the use of a public asset for private profit. Council will not grant permits where there is sufficient evidence to the Council, or 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 codes or other Council codes.

Council will take into consideration any concerns, opinions or submissions of businesses or traders within the municipality without in any way whatsoever discriminating against the applicant or breaching conditions of the *Australian Consumer Law and Fair Trading Act 2012* and its associated regulations.

In considering any application, Council will make reasonable assessment of the type of itinerant trading, proposed hours of operation and season of operation.

Council will adopt a fair and transparent site allocation process for itinerant trading sites.

Council will consider any complaints or non-compliance by the permit holder from any itinerant trading site within the Shire in accordance with the discretion guidelines set out in Local Law No.1 – Community Amenity 2012.

Council reserves the right to refuse to renew any permit or to change or cancel altogether any existing itinerant trading site location.

In addition to requiring a permit fee and an itinerant trading site fee for all itinerant trading applications, Council or its officers may impose any condition, separate to planning conditions which applications may be subjected to from time to time, which Council believes is necessary or which will increase the likelihood of trading activity being compatible with an area and municipal amenity.

4. POLICY REVIEW

Council will review this policy as required but always within two years after a general election of the Council.

At the time it was developed, this policy was compliant with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

5. FURTHER INFORMATION

Members of the public may inspect all policies at Gannawarra Shire Council's Kerang and Cohuna office or online at www.gannawarra.vic.gov.au.

Any enquiries in relation to this policy should be directed to Council's Local Laws staff on (03) 5450 9333.

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