



(H1) TRADERS AND STALL HOLDERS' PERMITS

POLICY OBJECTIVE

The objective of this policy statement are:

- a) To allow for the operation of trading activities in thoroughfares and public places in such a manner that they do not conflict with or prejudice the Shire's permanent retail and service base, or other normal functions of the towns located within the Shire.
- b) 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.
- c) To regulate the level and intensity of vendor activities on road reserves and private land accessible to the public to ensure that the site is retained primarily for its purpose (community/traffic use, parking and commercial activities).
- d) To accommodate appropriate vendor activities in order to provide services that enhance the visitor/resident experience.
- e) 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 carparks, and private commercial areas.

POLICY DEFINITIONS

Mobile means working in one place for a short period of time.

Public Place includes a road or place which the public are allowed to use, whether or not the road or place is on private property.

Vendor means someone who promotes, exchanges or hires goods or services for money.

Itinerant Vendor means a person who travels along a road looking for customers and who sells, hires or provides a product or service from a vehicle which is parked temporarily to customers who stop the vendor or come to the vendor while the vehicle is so parked.

Note: The main difference between an itinerant vendor and a mobile vendor is that a mobile vendor can solicit business from a parked location whereas an itinerant vendor stops to serve waiting customers (an ice cream van is an itinerant vendor whereas a vehicle parked selling pre-prepared food or produce is a mobile vendor).

POLICY STATEMENT

A. All Applications

This section applies to all forms of trading as defined in Division 1, Part 6 - ~~Division 1~~ Trading in Thoroughfares and Public Places of the *Shire of Derby/West Kimberley Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2011*.

Trading activities should meet a demand for goods and services which are not already being met by existing, permanent facilities.

Applications to establish trading activities in public places will be subject to the same planning considerations as are applied to applications for the use of private land. Particular attention will be paid to the impact of the proposal on the public environment.



Trading activities should be appropriate to the character and functions of the area in which they are proposed to be located.

Trading should not take place where the gathering of customers would impede pedestrian or vehicle movements, or cause conflicts with other activities.

Trading locations should be readily and safely accessible to potential customers.

Where trading is proposed to take place from a unit such as a stall or barrow, the form, design and appearance of that unit should be appropriate to its intended location.

Applications to establish trading activities should also comply with the specific requirements of any relevant policy relating to the location and/or type of activity proposed.

Where the location or type of activity proposed does not fall within the scope of an adopted policy, the Council may consider the application in the light of the desirability of the proposed activity and its location, and the general circumstances of the case.

B. Trading in Food

In assessing an application for a licence to trade in food, the suitability of the proposed site for that purpose will be considered, having particular regard to health requirements and standards or any other matter considered necessary for the satisfactory operation of the activity.

The place of trading should have a sealed or graded surface and should be adequately drained.

The place of trading should be accessible to service vehicles if appropriate.

Where trading involves the preparation and cooking of food for sale to the public, particular regard to the following will be given, and conditions may be imposed relating to:

- a) The form and structure of the stall;
- b) The provisions to be made for the storage of cooked and uncooked food; and
- c) The storage and disposal of waste material, for both operators and patrons.

Provision of on-site power, if required, will be the responsibility of the operator, and to the satisfaction of the Shire.

A food-trading activity may be required to have access to a supply of potable water and/or to a sewer for the disposal of wastewater. Where such conditions are imposed, arrangements for compliance will be the responsibility of the operator, but be to the satisfaction of the Shire.

1. LOCATION OF MOBILE VENDORS:

1.1 General

1.1.1 Itinerant vendors are to move on when all customers at a particular location have been satisfied.

1.1.2 Public liability insurance cover of \$20 million is required where an activity occurs on local government managed land.

1.1.3 The local government may seek contribution towards the upgrading and/or construction of a site used by a mobile vendor.



1.1.4 A mobile trading licence shall only be issued to the specific applicant and is not transferable to any other person or to any other land parcel.

1.1.5 Activities may require additional approvals/permits under the applicable health standards.

1.1.6 If an additional approval/permit is required then the mobile trading licence shall only remain valid while the additional approval/permit remains current and valid. On the expiration or earlier termination of the additional approval/permit, the mobile trading licence shall cease to be valid.

1.1.7 This policy does not apply to the following:

- A 'produce stall' within private property;
- Where a vendor is part of an event, carnival, market, fete or the like;
- Where the activity is a one-off occurrence such as an opening or open day for business/premises; and
- Community health mobile clinics and other government/community like uses.

1.2 Application Requirements

1.2.1 Applications must be accompanied by:

- Details of goods/merchandise and or services to be offered;
- Details of vehicle intended to be used for trading including a photograph(s) of the vehicle (such vehicle may be subject to assessment in order to determine its suitability for the purpose proposed);
- For mobile vendors, specific details of area(s) or route (including site plans);
- Times, days and dates sought; and
- Evidence of public liability insurance.

1.2.2 Where the land is not under the care, control and management of the local government, the written consent of the Crown via the Department of Lands or vesting Authority or Management Authority is required prior to processing the application.

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

1.3 Schedule of Declared Trading Locations

1.3.1 The Schedule of Declared Trading Locations has been created to identify various locations within Derby as being worthy of encouraging or allowing mobile trading within certain parameters due to the particular needs of the community and the benefit that mobile trading can bring to the public place. The Schedule should be interpreted in the light of the declared benefit that is provided for each item.

1.4 Site Requirements

1.4.1 A place will only be approved if it:

- Is located within a place identified in the Schedule of Declared Trading Locations;
- Is readily and safely accessible to customers;
- Provides adequate parking for customers;



- Does not present a traffic hazard or danger to the public;
- Has adequate rubbish disposal facilities;
- Does not breach any regulatory or signposted car parking restrictions;
- Takes place where the goods displayed and the gathering of customers will not impede pedestrians or vehicle movements or cause conflict with other activities; and
- Will not interfere with access to other facilities and/or businesses (including occupying car parking areas to the detriment of the public).

1.4.2 Trading in road reserves will not be supported unless the site has a formal parking area (such as parking bays, a car park or rest area).

1.4.3 Itinerant vendors are generally not appropriate on roads with speed limits greater than 70km/hr.

1.4.4 Based on experience of the impacts of previous/similar activities (within or outside the municipality), the fragile nature of certain areas, and/or the dominant public use of certain areas, the local government is of the view that activities should not be supported in certain areas and also that a restriction on the number of certain activities in certain areas should be prescribed.

1.4.5 These restrictions (if any) are attached to this policy and area based on knowledge and experience at this time and may be amended from time to time by the local government as further knowledge and experience is accumulated.

1.5 Approval Periods

1.5.1 Approval periods for mobile vendors are generally restricted to:

- No more than 4 hours in any one location each day.
- A maximum period of 12 months shall be approved for each licence.

2. REFERENCE TO COUNCIL – MOBILE VENDORS

Should an application be lodged with the Shire by a Mobile Vendor to operate within Derby (irrespective whether the application is to operate within a Declared Trading Location or outside a Declared Trading Location), the application will first be referred to all Councillors inviting comment within 72 hours on the application.

A Councillor may request the CEO that the matter not be determined under delegation but rather be determined by Council. In this regard, the application will be referred to the Council at the earliest opportunity.

Should no such request be received from a Councillor, the application may be determined by the Shire under relevant delegation. It is still available to the CEO to refer any application by a Mobile Vendor (irrespective whether it is to operate within a Declared Trading Location) to Council for decision.

3. ENFORCEMENT PROCEDURES

The following procedure will be followed in dealing with breaches of the Local Law on Trading in Public Places 2011, or non-compliance with the provisions of licences issued under that Local Law:

- a) A verbal warning will be issued, indicating the nature of the infringement. The date, time and nature of the warning and reasons given should be documented.



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- b) A written warning will be issued, setting out the reasons for the warning being issued, and the actions required to comply.
- c) The licence will be revoked, or proceedings initiated, in accordance with Part 10 of the Local Law.

Reasonable opportunities should be provided between each step in the process, to permit the person(s) to either comply or otherwise explain the reason for their non-compliance.

The CEO (or their delegate) may approve non-trading activities considered suitable for each area and may place restrictions or conditions on activities when considered necessary.

Schedule of Declared Trading Locations (defined in red below)

Figure 1: Schedule of declared trading location map - Jetty Car Park, Derby





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Figure 2: Schedule of declared trading location map – Villiers Street (opposite Wharfinger House), Derby



Figure 3: Schedule of declared trading location map – Loch Street (Civic Centre parking area), Derby





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Figure 5 : Schedule of declared trading location map – Loch Street (Old Basketball Courts), Derby



Figure 6: Schedule of declared trading location map – Loch Street (Lytton Park), Derby





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Figure 7: Schedule of declared trading location map – Derby Highway/Guildford Street/Wells Street, Derby



Figure 8: Schedule of declared trading location map – Derby Airport





Policy Details			
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Related Documents (other Policies, Operational Procedures, Delegations, etc.):	Delegation 1.3.1 Infrastructure Control - Template Activities in Thoroughfares and Public Places and Trading Law Delegation 1.3.2 Trading, Stallholders, Performing and Outdoor Dining - Activities in Thoroughfares and Public Places and Trading Local Law		
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