



Policy 4.3.2 – Trading in Public Places for Food Vendors

1. Policy purpose

This policy provides a framework and guidance for the assessment of and issuing of permits for traders and stallholders offering food for sale in accordance with the Shire of Harvey “Activities in Thoroughfares and Public Places and Trading Local Law 2017”.

2. Policy scope

This policy applies to:

- Provide the Council with a consistent framework to regulate the location of stallholders and traders offering food or food related goods and services for sale in public places within the Shire of Harvey
- Encourage a high standard of service delivery to the local community and visitors whilst supporting local economic development, commercial viability, public safety and taking account of existing permanent businesses.

3. Policy

This policy applies to all applications for a Stallholder’s Permit and Trader’s Permit offering food for sale in a public place pursuant to the Shire’s “Activities in Thoroughfares and Public Places and Trading Local Law 2017”.

This policy is not applicable and exempts the following:

- An event or trading authorised by the local government under another written law or agreement
- A person (or a charitable organisation) trading in a market or event authorised by the local government.

3.1.2 Traders and Stallholder Permits

The following types of permits are available for food vendors seeking to trade in a public place:

<ul style="list-style-type: none"> Traders and Stallholders Permit (up to 12 months) 	A permit for a location that may be determined by Council or by CEO, Director Sustainable Development or Manager Environmental Health for up to 12 months.
<ul style="list-style-type: none"> Mobile Trader's Permit 	A permit for up to 12 months determined by Council or by CEO, Director Sustainable Development or Manager Environmental Health for itinerant food vendors at locations that may be predetermined or may change (be mobile).
<ul style="list-style-type: none"> Traders Permits via Expression of Interest (12 to 24 months) – five site locations specified 	A permit for up to 24 months for locations as specified in this Policy or by Council, where the permit fee is based on an appraisal determined according to an independent valuation process. Expressions of Interest to be called for the occupation of sites by means of advertising in local newspapers. A permit for more than 12 months up to 24 months determined by Council, CEO, Director Sustainable Development or Manager Environmental Health.

The following conditions are applicable to all Traders and Stallholder Permits and EOI Trader Permit sites:

- Trading time and duration

Trading times and duration in any approved location will be set by the Council.

- Trading on Main Roads

Application to trade on the road reserve of any Main Road requires the prior written approval of Main Roads WA.

- Public Liability Insurance

An application for a food vendor permit must include evidence of having a Public Liability Insurance for a minimum of \$20 million before an application may be considered. The insurance must be able to meet any possible claim which may be sustained against the licensee in relation to the death or injury to any person, or damage to any property arising from the proposed trading activity. The Shire of Harvey is to be fully indemnified against any claim as a result of the operation of any Trader or Stallholder.

- EOI Traders Permit Sites**

Allows an operator to 'occupy' a site by a food vendor at various foreshore locations in Australind, or other sites following a best value to the community process and permit fee established according to a commercial dollar rate per square metre, determined by an independent valuation.

Designated locations for food trading, have been identified by Council as follows:

No	Area	Designated location	Number (s) of site(s) permitted	Size
1	Australind	Eco-Museum (Reserve 25203)	1site	30m ²
2	Australind	Christina Street (Lot 31) (Plan D027242)	1site	30m ²
3	Australind	Ridley Place (Crown Reserve 25441)	2 sites	30m ² per site
4	Binningup	Beach Carpark (Reserve 48823)	1 site	30m ²

3.1.3 Assessment and selection considerations for determining food vendor applications

- A written application is required to be submitted addressing the evaluation criteria set by Council, which may be amended from time to time and is based on the following criteria:
 - Benefit of the business to the community
 - The manner by which the business complements the public area
 - Proposed hours of operation
 - Suitability of the trading vehicle for the intended trading activity and location (appearance, size, quality of the vehicle/stall, equipment and type of goods on offer)
 - Experience of the trader
 - Demonstrated ability to the satisfaction of the Shire that the location of the vehicle will not compromise safety at the site, cause damage or adversely impact the traffic management environment in the area.
- Public Liability Insurance for a minimum of \$20 million.
- Proof of registration pursuant to the requirements of the *Food Act 2008*.
- Applicable standard terms and conditions based on the following parameters:
 - Only one licensed site can be awarded per trader/business and is not transferable
 - The permit is forfeited if there is an absence for trading exceeding a consecutive period of six weeks

- The permit is granted for a two year (24 month) term.
- Any other matters as considered relevant to a particular location.
- Council is not obliged to issue a permit for all or any of the five identified sites and need not provide any reason for any refusal to do so.

3.1.4 Standard Terms and Conditions

The standard terms and conditions for the issuing of permits include, but are not limited to the following:

- A Traders and Stallholders Permit, including any Mobile Traders Permit, is granted for a period of up to 24 months from the approval date
- For Mobile Traders only, Permits issued will be conditional on the Permit Holder not operating within 400 metres of any permanent or established business offering food for sale, except where approved at specific events; and
- Any signage must be in accordance with Shire of Harvey “Local Law Relating to Signs and other Advertising Devices 2007”, and be placed a maximum distance of 500m from the site.

3.1.5 Safety and Other Considerations

Safety and other considerations to be included in the assessment of the proposed food vendor trading activities include the following:

- The trader or stallholder and associated activities must not interfere or obstruct Council’s infrastructure or maintenance activities
- The storage of any container, vehicle or structure containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles is not permitted
- Display stands or any equipment related to the permit are to be maintained to a high standard as assessed by local government
- All Traders and Stallholders must ensure that approved area is free of debris or litter
- Mobile food vehicles must be self-contained with an independent provision of electricity, potable water, and waste water collection
- A food vendor will be required to offer a high standard of service delivery and must not create an unacceptable risk to public health or safety, property or infrastructure or the environment and will not be permitted to park in a public area, reserve, facility or space if the above requirements are not complied with to the satisfaction of the Shire, regardless of whether a permit has been issued.

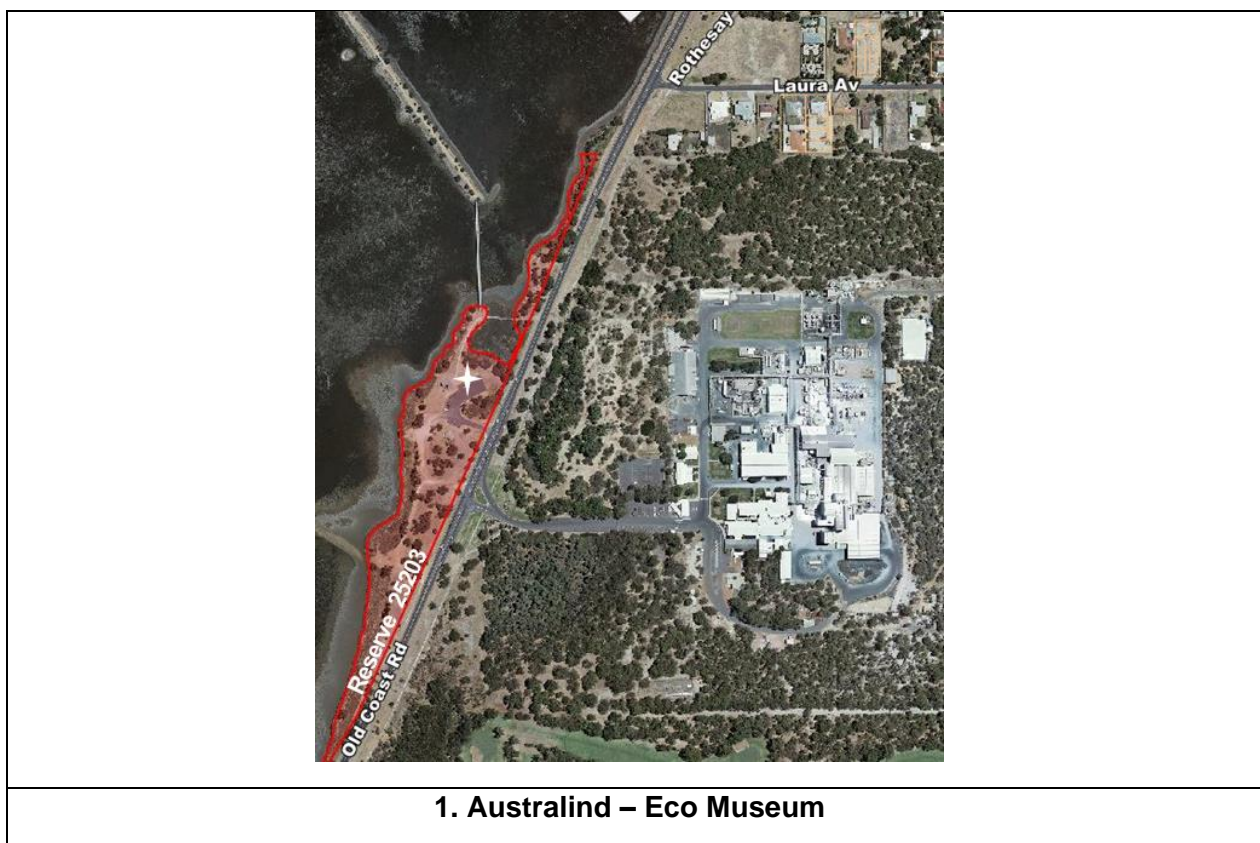
Revocation of Permits and Enforcement

As per Council's "Activities in Thoroughfares and Public Places and Trading Local Law 2017" permits may be revoked on grounds that the permit holder:

- Has committed a breach of the terms and conditions of the permit
- Is conducting the business in an offensive manner
- Has assigned the permit or the business is not operated by the permit holder
- Is not carrying on the business for which the permit was granted
- Has breached any of the provisions of the "Activities in Thoroughfares and Public Places and Trading Local Law 2017".

In the event that any permit conditions or the "Activities in Thoroughfares and Public Places and Trading Local Law 2017" is breached, compliance action may be taken in accordance with the relevant conditions or provisions.

Maps identifying the five designated areas for food vendors with a Expression of Interest are as follows:





2. Australind – Christina Street (Lot 31)



3. Australind – Ridley Place (Crown Reserve 25441) – Position 1







3. Australind – Ridley Place (Crown Reserve 25441) – Position 2



4. Binningup (Reserve 48823)

4. Strategic objective

The policy aligns to the following strategic objective:

	Diversified economy A diversified economy creates a sustainable cycle of economic activity and leads to economic resilience in the face of external pressures.
	Connected communities A connected community is resilient. People have opportunities to come together and celebrate success and to support one another in creating a sense of safety, well-being and belonging.
	Sustainable built environment Encompassing everything human-made, a sustainable built environment is one that will meet current needs while considering the needs of future generations.
	Effective civic leadership Effective civic leadership is visionary and influential. It means listening to the community, balancing competing demands, making fair decisions and acting with integrity.

5. Definitions

Definitions relevant to this policy are in accordance with the applicable legislation:

Charitable Organisation means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium.

Stall means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;

Stallholder means a person in charge of a stall;

Stallholder's Permit means a permit issued to a stallholder;

Trader means a person who carries on trading;

Traders Permit means a permit issued to a trader; and

Trading includes –

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place
- (b) displaying goods in any public place for the purpose of –
 - (i) offering them for sale or hire
 - (ii) inviting offers for their sale or hire
 - (iii) soliciting orders for them

- (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and –
 - (i) offering goods or services for sale or hire
 - (ii) inviting offers or soliciting orders for the sale or the hire of goods or Services”

6. Legislation

- *Local Government Act 1995*
- *Food Act 2008.*
- Food Regulations 2009.
- Shire of Harvey Local Laws:
 - Activities in Thoroughfares and Public Places and Trading Local Law 2017.
 - Local Law Relating to Signs and Other Advertising Devices 2007.

7. Related documents

Responsible officer	Director Sustainable Development		
Responsible team	Health		
Responsible area	Health Services		
Version control	Date	Resolution	Number
Version 1	09.10.2018	Resolution	18/310
Version 2	24.05.2022	Resolution	22/060