



GOLDEN PLAINS SHIRE

ATTACHMENTS

**Under Separate Cover
Council Meeting**

6.00pm Tuesday 25 May 2021

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MOBILE TRADERS POLICY



Mobile Traders Policy

DRAFT

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MOBILE TRADERS POLICY

1. PURPOSE

- 1.1 Golden Plains Shire Council is committed to supporting and enhancing the local business and unique experiences available in the municipality.

This policy has been developed to allow the Council to manage the requests for the operation of mobile traders on Council owned or managed land.

The aim is to ensure that the policy supports and reflects the fluid nature of such businesses whilst ensuring the amenity of the municipality's roads, streets, parks and public spaces.

The policy recognises the need for a permit to conduct such activities under Council's Local Law.

Council recognises that mobile traders can:

- Contribute to the vitality of the municipality,
- Provide a safe, efficient and accessible food service at times of reduced operation of permanent food outlets and support entertainment precincts,
- Provide a short-term market for a particular product,
- Provide attractively priced products,
- Diversity and access to emerging trends in food styles,
- Provide an opportunity for seasonal products to be provided in residential areas (ice cream vans)

2. SCOPE

- 2.1 The Mobile Traders Policy is required in instances where businesses and/or individuals seek to use public land to operate a business for financial gain where land is owned or controlled by Council.

- 2.2 This Policy does not apply to the following:

- A 'produce stall' within private property,
- Selling of newspapers,
- Where a vendor is part of an event, carnival, market, fete or the like (this would require an event permit),
- Where the activity is a one-off occurrence such as an opening or open day for a business/premises (this would require an event permit),
- Trading from private property strictly under consent of the landowner; and
- Community health mobile clinics and other government/community like uses.

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3. POLICY STATEMENT

- 3.1 It is Council's intention that the adopted policy will minimise community conflict resulting from temporary business operations and provide a framework for assessing temporary business operations that is open and transparent.

The objectives of the Mobile Traders Policy are:

- 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,
- To ensure existing local businesses are not significantly disadvantaged through the granting of a Mobile Traders permit,
- To regulate the level and intensity of vendor activities on road reserves and other public places necessary to ensure that the site is retained primarily for its purpose (like community/traffic use and not commercial),
- To accommodate appropriate vendor activities in order to provide services that enhance the visitor/resident experience,
- 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, and
- To provide a simple, consistent and coordinated process for the assessment of applications for itinerant traders within the municipality.

- 3.2 The Mobile Traders Policy has been developed to facilitate the management of requests from mobile traders wishing to operate on Council owned or managed land.

- 3.3 Through this policy Council will assist temporary business operations that provide an enhanced use and enjoyment of public and municipal places within the Golden Plains Shire. Any person operating without a permit under this policy is in breach of Council's Local Law.

- 3.4 This policy has been developed to support the existing and future operations of Mobile Traders within the community and to provide a framework for their management which reflects the fluid and often short-term nature of such businesses.

4. PROCEDURES

- 4.1 Council will apply the following fundamental principles in facilitating and supporting mobile traders;

- Council's principal concern with mobile trading is to protect the public and the amenity of the municipality including its roads, streets and public places. Council will not grant permits where there is sufficient evidence to the Council or any of its officers that granting the permit would have detrimental effects on an area or is not in accordance with a surrounding public area, its general amenity, Council heritage listed areas, or other Council codes,
- In addition to requiring a permit fee for all mobile trading applications, Council

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officers may impose any condition, separate to planning conditions which Council believes is necessary or which will increase the likelihood of the mobile trading activity being compatible with an area and municipal amenity,

- In considering any application, Council will make reasonable assessments of the type of mobile trading, proposed hours of operation and season of operation. Consideration will also be given to the number of operators currently providing similar product or service,
- Council may consider waiving a fee for a charitable or not for profit organisation. These circumstances would be assessed by the Coordinator Community Safety and approved by the Manager Development and Regulatory Services,
- Permits will only be granted to operators who comply with the standards and conditions in this policy,
- Council will take into consideration the type of mobile trading and the nearby businesses and ensure that they are not in direct competition selling the same multiple items or types of food.

4.2 To ensure a mobile trader does not compromise the operation of existing businesses or future businesses within commercial premises in the area, the following standards are to be met:

- The operational hours of a mobile trader may be limited to those outside of the existing business hours for surrounding food or retail premises,
- Food or products offered for sale from the mobile trader may be restricted and specifically described within the permit conditions,
- Trading permits shall be reviewed annually (October) to ensure existing businesses withing proximity of the site are not compromised.

4.3 Consideration will be given to mobile traders residing in the Golden Plains Shire

Safety

4.4 Council aims to ensure as far as practicable, the safety of all members of the community, at all times, on or nearby mobile trading locations.

To ensure safety and accessibility is achieved mobile traders must:

- Provide clear, continuous access for all pedestrians along nearby footpaths and ensure no obstruction occurs to nearby road users at all times,
- Not cause an obstruction to existing traffic conditions and sightlines,
- Ensure access to a mobile trader must be via adjacent pedestrian walkway and not via nearby roadway,
- Comply with existing parking locations, unless stated on the relevant permit, and
- Monitor the site and general area should be able to be monitored at all times and provide an inviting, clean and safe place for people to use.

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Amenity

- 4.5 To ensure the amenity of the area surrounding a mobile trader site is protected and enhanced, the following standards must be met:
- Compliance with Environment Protection Authority requirements, particularly with respect to noise,
 - Avoid obstructive furniture, excessive signage or lighting displays which may create unnecessary clutter that detracts from the image of a particular street or shopping precinct and/or create a hazard to members of the public,
 - Mobile trader vehicle must be neat and tidy in appearance,
 - Residential amenity must not be unreasonably compromised by the operation of a mobile trader.

Cleanliness and Hygiene

- 4.6 To ensure the hygiene and cleanliness of an itinerant trading site is maintained, the following standards must be met:
- Litter must be cleared at all times from in and around the site. The site must be left in a clean and tidy manner,
 - Appropriate rubbish bins must be provided in numbers adequate to service the needs of patrons and the operation,
 - Litter generated by the operation must not be swept into the street gutter and must be picked up and deposited within the operator's own bins,
 - Trade waste must not be placed in public street bins,
 - The preparation, handling and serving of food and drinks to patrons must be conducted in accordance with the requirements of the Food Act 1984 and Council's Environmental Health Department,
 - Wastewater must be collected and removed from the site.

Without limiting the requirements of the Food Act 1984, the following standards must be met:

- Food vehicles must be registered with the local Victorian Council that is the primary place of storage of the vehicle,
- A copy of a current Food Act Registration Certificate from the relevant Council must be submitted with each application for a mobile food vehicle permit,
- The mobile/temporary food premise must comply with the National Food Safety Standards, including Standard 3.2.2 Food Safety Practices and Standard 3.2.3 Food Premises and Equipment.

Sites and Locations

- 4.7 In considering the options that are available for potential mobile trading sites, it is important to acknowledge that any commercial use of public space is a privilege, not a right. The location of an itinerant trader must always comply with Council standards in relation to safety and accessibility, community amenity, hygiene and cleanliness.

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To ensure appropriate locations are determined, the following criteria should be met:

- Sites must not be located less than 50 metres from an existing and operating business, unless the proposed hours of operation are outside those of the existing trading hours of the affected businesses,
- A minimum clearance of 2 metres must be maintained from fire hydrants, litter bins, public seats, payphones and other public infrastructure,
- Clearance of 20 metres is required for bus stop zones to ensure safety and access,
- A site must comply with the requirements of the Road Safety Act with respect but limited to the obstruction of sight lines, traffic signals and road signage,
- Residential areas are restricted to applications for mobile/temporary food vans, eg; ice-cream vans,
- Mobile/temporary food premise sites cannot be located on footpath areas with the exception of areas nominated by council for fundraising activities where food is sold,
- Mobile/temporary food premise sites cannot be located within Council parks or open space with the exception of areas nominated by Council. (Appendix 1)

Permit applications must be specific in naming and identifying the locations to be used and where there are multiple locations associated with a mobile trader, these must also be nominated.

Private Property

- 4.8 While no Council permit is required if the mobile trader is operating from private land, the operator is still subject to all relevant state legislation, including the Golden Plains Planning Scheme. Amenity impacts may also be considered under Council's Local Law.

Insurance Requirements

- 4.9 The permit holder must ensure they are adequately covered by public liability insurance. To meet council requirements, the policy must note the Council's interest and be for the amount not less than \$10,000,000 in respect of any single occurrence and must be up to date at all times.

Fees and Charges

- 4.10 Fees and charges will be determined by Council each year, commencing from 1 July.

Decision Making

- 4.11 Where applications meet all the standards, the Council will normally grant a permit. In cases where an application does not clearly meet the standards or where there are special circumstances, the application may be referred to the Director Infrastructure and Development if the authorised officer supports a variation to the standards.

The Director will provide their recommendation to the authorised officer who will approve or refuse the permit application.

If a permit applicant is dissatisfied with the decision of the Council Officer, this

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decision may be reviewed. A written request must be made to the Chief Executive Officer for consideration.

5. RESPONSIBILITIES

Compliance, monitoring and review

It is the responsibility of the Coordinator Community Safety to maintain the Mobile Traders Policy and to establish a procedure for the management of processes which are covered by this policy.

This policy will be reviewed every five years or when requested by Council or Council staff.

Reporting

- 5.1 No additional reporting is required. If requested by Council, Development and Regulatory Services staff may supply details of current permit holders.

Records Management

- 5.2 Council must maintain all records relevant to administering this policy in accordance with the Public Records Act 1973.

6. DEFINITIONS OF TERMS OR ABBREVIATIONS USED

Terms and definitions

Term	Definition
<i>Approved Locations</i>	<i>An approved location will be determined for each applicant through the application process, consistent with the Mobile Traders Policy. Golden Plains Shire Council has identified an indicative list of locations within the Municipality from which Mobile Traders may trade with a Local Law Permit. Once approved, trading from these locations may occur independently of a Council approved market, festival or event.</i>
<i>Crown Land</i>	<i>Crown land broadly refers to all land that has not been 'alienated' from the Crown (typically by way of a land title). Victorian Crown land can be either unreserved or reserved and is managed to provide environmental, social, cultural and economic benefits to the people of Victoria.</i>
<i>Complaint</i>	<i>An expression of dissatisfaction with:</i> <ul style="list-style-type: none"> • <i>the quality of a service provided, an action taken, or decision made by Council or its contractor</i> • <i>a delay or failure in providing service, taking</i>

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	<i>an action, or making a decision by Council or its contractor</i>
<i>Council</i>	<i>Golden Plains Shire Council</i>
<i>Council Land</i>	<i>All land owned, leased, managed, vested in or occupied by Council to which the public has access and includes buildings and other structures affixed to such land and includes a road, watercourse, reserve and reservation.</i>
<i>Mobile Trader</i>	<i>A person or persons, engaged in providing goods and/or services on a temporary basis.</i>
<i>Mobile Trading Premises</i>	<i>Includes any vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling or offering for sale any food and or drink (excluding alcoholic beverages).</i>
<i>Roads/Roadsides</i>	<i>Highway, street, lane, bridge, thoroughfare or other place that is open to or used by the public for passage with vehicles. It includes a public highway, carriageway, footpath, traffic island, nature strip and any other area that is provided to separate vehicle traffic on a highway, street, lane, bridge, thoroughfare or other place. It also means any place that is declared to be a highway under section 3(1) of the Road Safety Act 1986.</i>

7. RELATED LEGISLATION AND DOCUMENTS

7.1 Strategic Documents, Policies or Procedures

- Mobile Trading Internal Procedure

7.2 Legislation

- Planning and Environment Act 1987
- Golden Plains Planning Scheme
- Golden Plains Shire Local Law
- Road Safety Act 1986
- Road Safety Regulations 1999
- Food Act 1984
- Public Health and Wellbeing Act 2008
- Crown Land (Reserves) Act 1978

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8. APPENDIX

- 8.1 Appendix 1: Map of Townships within Golden Plains Shire Council where Mobile Trading may be permitted upon application. **TO BE CREATED**

9. HUMAN RIGHTS STATEMENT OF COMPATABILITY

- 9.1 As a public authority, Council has a duty to act compatibly with human rights and to give human rights proper consideration in decision making. See the guidelines for policy makers available at: [https://www.justice.vic.gov.au/justice-system/laws-and-regulation/human-rights-legislation/charter-of-human-rights-guidelines-for-.](https://www.justice.vic.gov.au/justice-system/laws-and-regulation/human-rights-legislation/charter-of-human-rights-guidelines-for-)
- 9.2 It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights and Responsibilities Act 2006 (Vic)

10. POLICY OWNER

- 10.1 The Coordinator Community Safety is the policy owner.
- 10.2 The policy owner is the individual who is given the responsibility to review, edit and maintain this policy and associated procedure. The policy owner is also the point of contact for any questions regarding this policy.

11. FEEDBACK

- 11.1 You may provide feedback about this document by emailing enquiries@gplains.vic.gov.au

12. DOCUMENT INFORMATION

DOCUMENT TYPE:	Council Policy document
DOCUMENT STATUS:	Approved/Not Approved
DOCUMENT OWNER POSITION:	[For example: Director Corporate Services]
APPROVED BY:	[For example: Senior Management Team/Director/Manager]
DATE ADOPTED:	[Insert Date/Month/Year]
VERSION NUMBER:	[Insert version number]
REVIEW DATE:	[Insert review date – this should coincide with the policy review date. Best practice would be no longer than five years between reviews]
DATE RESCINDED:	[Include if relevant]
EVIDENCE OF APPROVAL:	
FILE LOCATION:	Signed by Chief Executive Officer [Include a file location (AltusECM Ref) so that it

Mobile Traders Policy
Reference Number:
[IN19/XXX]

Effective Date: [Day/Month/Year]
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	<p>may be accessed in future and amended - Word and PDF – insert file path] INT[XX/XXXX]</p>
<p>NOTES:</p>	<p>Policy documents are amended from time to time, therefore you should not rely on a printed copy being the current version. Please consult Council's Policy page on the Golden Plains Shire Council website to ensure that the version you are using is up to date. Available at: [Select one URL below and delete the other] [for Council policy] https://www.goldenplains.vic.gov.au/residents/my-council/about-council/council-policies [for organisational policy] https://intranet.goldenplains.vic.gov.au/the-hub</p>