

General Local Law 2018 – Incorporated Document
ITINERANT TRADING POLICY: 2018-2028
Document Version No: 2018.01



COUNCIL POLICY

TITLE:	ITINERANT TRADING
DOCUMENT NUMBER:	CPO-CORPS-LL-002
DEPARTMENT:	Corporate Services
UNIT:	Local Laws
RESPONSIBLE OFFICER:	Scott Millard, Manager Compliance and Corporate Services <i>Checked</i> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

APPROVED BY:	Council
APPROVAL DATE:	Adoption Date 12 December 2017 Commencement Dates 1 February 2018 <i>(Current policy adopted 24/3/2015)</i> Policy to commence on the same day as the commencement of the General Local Law 2018
EXPIRY DATE:	Not applicable
REVIEW DATE:	By March 2028 This Policy is an incorporated document under the Glenelg Shire Council General Local Law 2018. And amendments to this Policy will require notice in the Victoria Government Gazette prior to it taking effect. <i>This policy will be reviewed in accordance with any legislative or council changes and or requirements.</i>

AVAILABILITY:	Staff – Unit only	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	Staff – Department only	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	Staff – Organisation wide	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Public	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Internet	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
ADVISE AVAILABILITY:	Media Release	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	Sou Wester (Author to prepare article)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	Email designated Groups & Staff	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

REFERENCES: (If applicable)	<i>Local Government Act 1989</i> Glenelg Shire Council General Local Law 2018 Glenelg Shire Council Planning Scheme <i>Planning and Environment Act 1987</i> <i>Building Act 1993</i> <i>Road Safety Road Rules 2017</i> <i>Disability Act 2006</i> <i>Country Fire Authority Act 1958</i> <i>Control of Weapons Act 1990</i>
---------------------------------------	---

1. Purpose

The purpose of this policy is to provide Council with a framework for the operation and management of itinerant trading within the municipality.

2. Scope

The policy applies to the operation of itinerant trading on all Council owned or managed land throughout the municipality and has been developed in accordance with the provisions of clause 4.22 Sale of Goods from Roads and Public Places within the Glenelg Shire Council General Local Law 2018.

3. Aim

Council supports the operation of trading from private commercial premises.

The aim of this policy is to ensure that temporary business opportunities are facilitated and managed in a consistent way. It seeks to balance the interest of itinerant traders with the interests of persons who may be affected by them. Glenelg Shire Council is committed to supporting and enhancing local business and active street life.

Council recognises that itinerant trading can add to the vitality of the municipality and fulfil a need by providing an accessible service. Council recognises that there are business opportunities that can occur on a temporary basis.

Glenelg Shire Council is forward thinking and inclusive. We will continue to innovate and develop our diverse economy to deliver services that meet the needs of our community by connecting people, places and spaces.

4. Objectives

- 4.1 To facilitate the opportunities for itinerant trading that adds to the community's enjoyment and use of the municipality, while not reducing safety or access to public land;
- 4.2 To regulate the level and intensity of itinerant trading to protect the amenity of the municipality including its roads, streets and public places and to ensure these areas are retained primarily for their main purpose.
- 4.3 To ensure that the parking of vehicles and/or erection of other equipment will not adversely affect the public amenity and the character of the area and/or street.
- 4.4 To provide a consistent and coordinated process for the assessment of applications for itinerant traders within the municipality.

5. Definitions

Itinerant Trader: a person or persons engaged in providing goods and/or services in a public place on a temporary basis. This includes but is not limited to mobile food vans, ice cream vendors and flower sellers. Itinerant trading does not extend to include stalls, markets and raffle ticket selling where written permission has otherwise been obtained from Council to conduct these activities.

Municipal Place: 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 or reserve.

Public Place: includes a reserve, public highway, mall, road, street, bridge, footway, footpath, court, alley, passage or thoroughfare, notwithstanding that it may be formed on private property and any other place which the public are allowed to traverse.

Moveable Advertising Sign: any moveable board, notice, structure, banner or similar device used for the purposes of notifying the sale of goods. This includes A-Frame signs and excludes commercial signage mounted on vehicles and/or trailers.

Road: highway, street, lane, bridge, thoroughfare or other place that is open to or used by the public for passage with vehicles. It includes a 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*.

Sell: as per the definition with the Food Act 1984 it includes – offer or attempt to sell, receive for sale, display for sale or have in possession for sale.

6. Policy

Itinerant traders may only operate at a market, event or festival when they have received prior consent from the organiser of the market, event or festival. Where there is an event approved by Council, the approval of the event to use a specific area over-rides the permission for the itinerant trader to use the same area.

6.1 Itinerant Trading Permits

In addition to the requirement to obtain a permit under the Glenelg Shire Council General Local Law 2018, an itinerant trader must also comply with the requirements of this policy and all applicable legislation.

Applicants are advised to read and familiarise themselves with this policy prior to any formal application being made to the Council.

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

A permit must be issued prior to the commencement of trading. Permits are not transferable between persons, companies or organisations and will be valid for a maximum period of three (3) months.

Any application for a permit extending greater than 14 days will be placed on Public Notice for a period of not less than 7 days.

The issuing of a permit will be considered within 14 days after the end of the public notice period.

A permit is required for itinerant trading in a Municipal place where it is to be conducted from:

- a) a vehicle;
- b) any other temporary method of transport (including a caravan, trailer, table, stall or other similar structure);
- c) a road related area; or
- d) a municipal place adjacent to a road.

All applications for an itinerant trading permit should be submitted to Council's Local Laws Unit and must include the following:

- a) a completed application for itinerant trading form in accordance with Schedule 1 of the General Local Law 2008;
- b) payment of the scheduled fee;
- c) an accurate plan, photograph and/or description of the proposed structure/vehicle to be used for the proposed trading;
- d) site plan or photographs of proposed site;
- e) certificate of currency of public liability insurance in respect of the activities being undertaken with an indemnity of at least \$10 million;
- f) risk management plan; and
- g) a copy of the registration certificate issued under the Food Act 1984 (where applicable).

Council may request additional information to be supplied to enable the permit application to be considered. Applicants should make themselves aware of all the required details of this policy as any incomplete

application will be returned to the applicant for completion; thereby delaying the permit assessment.

Council may refuse or approve the application and may impose any permit condition separate to planning conditions, including limitation on hours and days of operation. Applications not approved will have the application fee refunded.

Community groups conducting activities for the purpose of community benefit may be eligible for a waiver of the application fee. Permit exemptions may be considered for bona fide charities, service clubs and not-for-profit organisations.

All itinerant traders must comply with the Glenelg Shire Planning Scheme and Council's General Local Law 2018. Applications involving food handling will be referred to the Council's Environmental Health Officer for approval pursuant with the relevant provisions of the *Food Act 1984*. Any food prepared for sale to the public must be prepared in a food premises or vehicle registered under the *Food Act 1984* and Streatrader website. The supply of alcoholic beverages from a food van is not permitted.

Applications for trading involving roads which are not listed as municipal roads will be referred to the appropriate road authority for consideration. Itinerant traders will not be permitted on roads with speed limits greater than 60km per hour.

7. General Requirements

Itinerant traders should demonstrate that their proposal will positively contribute to the community, tourist or visitor experience.

Trading must not occur within 100 metres of any existing shops or licence holders which offer for sale the same commodities (other than another itinerant trader), unless written permission has been obtained from the shop or licence holder, or unless hours of operation are outside those offered by the existing business.

The following considerations must also be taken into account by Council or an Authorised Officer prior to issuing an itinerant trading permit:

- a) What value the proposed activity adds to the area;
- b) Whether the activity will be detrimental to the amenity of the area;
- c) Will it be likely to disturb, annoy or disrupt adjacent property owners or occupiers;
- d) Whether the location is readily and safely accessible to customers;

- e) Whether the activity, goods displayed and gathering of customers will impede pedestrians or vehicle movements.
- f) Whether there will be any obstruction to existing traffic conditions and sightlines;
- g) Whether there is sufficient off road parking available to prevent a traffic hazard or danger to the public;
- h) Whether the required clearance of 1.8 metres from fire hydrants, waste bins, public seats, bicycle stands, parking meters and other public infrastructure is provided;
- i) Whether the zoning is appropriate. (Itinerant trading cannot be conducted within areas zoned as residential under the Glenelg Shire Council Planning Scheme);
- j) The effect on other traders;
- k) What arrangements the applicant is making for:
 - waste water disposal;
 - litter and garbage disposal; and
 - recycling facilities.
- l) Whether the applicant or business has received any complaints, an official warning, infringement notice or had a permit cancelled in the past;
- m) Any other matters relevant to the circumstances of the application.

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 considered not in accord with a surrounding public area, its general amenity, heritage listing, or other Council codes.

The permit will be subject to the applicant obtaining appropriate planning approvals under the *Planning & Environment Act 1987* and building approvals under the *Building Act 1993* and the *Regulations* made under those Acts.

A permit is issued at the discretion of Council. Refused permits will have the permit fee fully refunded.

8. Permit Fees

Fees for itinerant trading shall be charged in accordance with this policy and as per Glenelg Shire Council's adopted fees and charges schedule.

9. Safety and Accessibility

The location of the site must provide clear, continuous access for all pedestrians along nearby footpaths.

The activity must not cause an obstruction to existing traffic conditions and sightlines. Access must be via adjacent pedestrian space and not via nearby roadway. The site and general area should be monitored at all times by the operator to provide an inviting, clean and safe place for people to use.

10. Signage

No permanent signage may be erected. A temporary advertising sign may only be displayed during the operating times of the business and must be located directly adjacent to the vehicle, caravan, trailer or other structure from which the business is conducted.

Signage must not exceed the dimensions of 1000mm high and 800mm wide. Signage must not impede footpath traffic and must be situated at least 700mm from the edge of any road.

11. Lighting

The itinerant trader is to provide all necessary additional lighting for the purpose of conducting the business and provide a safe environment for customers.

Any additional lighting must be approved by the Council prior to installation. The positioning must not adversely impact on the vision of drivers.

12. Public Liability Insurance & Indemnity

The permit holder shall, at all times during the Agreement Term, be the holder of a current Public Liability Policy of Insurance ("The Public Liability Policy") to cover legal liability to third parties for personal injury or property damage as a result of an occurrence in connection with the business of the insured, as specified in the public liability policy in the name of the permit holder providing coverage for an amount of at least \$10 million.

The permit holder agrees to indemnify and to keep indemnified the Glenelg Shire Council, its servants and agents, and each of them from and against all actions, costs, claims, charges, expenses, penalties, demands and damages whatsoever which may be brought or made or claimed against them, or any of them, in connection with the permit holder's performance or purported performance of its obligations under the permit and be directly related to the negligent acts, errors or omission of the permit holder.

The permit holder's liability to indemnify the Glenelg Shire Council shall be reduced proportionally to the extent that any act or omission of the Glenelg Shire Council contributed to the loss or liability.

13. Waste

The trader shall make suitable arrangements for the collections and disposal of waste water, litter and garbage where applicable. Adequate numbers of covered receptacles must be provided for the temporary storage of refuse and shall be maintained in a clean condition and free from vermin and insects. The number of bins will be determined by the service needs of the customer base.

Waste generated by the itinerant trader's business must not be swept into the street gutter and must be picked up and deposited into the trader's own bins. Trade waste must not be placed in public street bins or Council managed bulk waste bins. The cleanliness of the area surrounding the activity must be upheld at all times.

14. Prohibited Items

The following items are either prohibited from sale by law or are heavily regulated under various legislation. Accordingly, Council will not allow Itinerant traders to sell, trade or display for sale the following:

- a) Animals and animal carcases;
- b) Firearms, explosives or explosive devices;
- c) Alcoholic beverages;
- d) Tobacco or tobacco related products;
- e) Prescription drugs or other controlled substances;
- f) Any dangerous chemicals or substances;
- g) Prostitution;
- h) Prohibited weapons as defined in Section 3(1) *Control of Weapons Act 1990*; or
- i) Items which Council considers to be demeaning or offensive in nature.

Council reserves the right to use its discretion in regard to allowable items for sale, trade or display for sale.

15. Exemptions

The following traders are exempt from requiring an itinerant trader's permit:

- a) Newspapers and magazines being home delivered;
- b) Milk, milk products, fruit juices and soft drinks being home delivered;

- c) Goods and/or services sold in a legally established market or fair where written permission has been obtained from Council;
- d) Goods and services sold from any house or shop occupied by the person offering the goods and/or services for sale;
- e) Goods and/or services sold directly to the occupiers of premises.

16. Non compliance

Where an itinerant trader does not comply with this policy or act in accordance with the conditions of their permit to operate, their permit may be rescinded and enforcement proceedings may occur in accordance with Glenelg Shire Council's General Local Law 2018. Council will consider all complaints and breaches of this policy in determining whether to issue further permits or renewals.

The permit must be displayed where possible and must be produced on demand to any Authorised Officer of the Glenelg Shire Council. Failure to do so is a breach of the permit conditions.

It is the responsibility of the permit holder during the currency of the permit to ensure all renewal details including public liability are promptly forwarded to Council.

17. Spot, Pop up or Bulk Sales in a Municipal or Public Place

Any business, organisation or individual seeking to undertake spot, pop up or bulk sales in a municipal or public place must:

- a) Have prior written consent of the Committee of Management and the Glenelg Shire Council to hold a sale on the premises;
- b) Ensure the activity complies with the Glenelg Shire Council Planning Scheme;
- c) Either pay any relevant building hire fees and complete Council's hire agreement (if applicable) or apply for an itinerant trading permit and pay the scheduled fee; and
- d) Comply with all relevant requirements for the hiring of a Council facility (if applicable).

18. Trading from private premises

Council has no objection to private commercial premises being sub-leased to itinerant traders subject to the premises being in an appropriate zone and compliance with relevant legislation such as the *Food Act 1984*. Amenity impacts may be followed up under Council's General Local Law 2018.

19. Reference to Legislation

Any reference to legislation within this policy must be read as any amendments of that legislation from time to time or its successor.

20. Records Management

All Council records created and managed as a result of implementing this policy will be managed in accordance with the Council's Records Management Policy.

The Records Management Policy assigns responsibilities for records management to employees, supervisors, volunteers and other specific positions.

No Council records are to be destroyed without consideration of the requirements of the Act(s) that govern the functions relevant to this policy. Prior to destruction, advice must be sought from the Records Management Unit, with consideration to the requirements of the appropriate Retention and Disposal Authority (RDA).