

## 8.12 MOBILE AND ITINERANT VENDORS AND COMMERCIAL ACTIVITIES ON RESERVED LAND (INCLUDING FORESHORE)

### OBJECTIVE

- To allow for the operation of trading activities in such manner that they do not conflict with or prejudice the Shire's permanent retail and service base, or other normal functions of the Shire;
- To protect existing levels of public amenity and safety from the impact of trading activities by adequately addressing potential risk management issues;
- Set appropriate minimum standards in the interest of public safety, environmental protection and social amenity;
- Identify specific locations for particular activities and cap the number of activities weighted against the environment, conflict of use and broader public interest to accessibility;
- To ensure that commercial activities on reserves do not diminish the recreational amenity of residents or visitors who are attracted to the Shire for its natural wonders and environment.

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### POLICY STATEMENT

This Policy has been developed to provide clarity and guidance on the preparation and assessment of stallholder / mobile and itinerant vendor applications including commercial activities on foreshore land within Jurien Bay and Cervantes. Each application is assessed on its merits. The Shire encourages applications that are creative and innovative that would support the attraction of the Shire as a tourist destination.

*With the introduction of the Food Act 2008 and associated legislation, all regulation of Itinerant Vendors (e.g Food Vans) was repealed, necessitating these businesses being considered 'traders' and therefore captured by the Trading in Public Places Local Law*

#### 1.0 Definition

- 1.1 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 has to be stopped by customers (an ice cream van is an itinerant vendor whereas a vehicle parked selling fresh flowers or produce is a mobile vendor).

For the purposes of this Policy:

**"Mobile"** means working in one place for a short period of time and then moving on to operate in another place.

**"Itinerant"** 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 parked

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

**"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.

#### 2.0 Licensing

The following conditions apply to all **itinerant and mobile food vendors** operating or intending to operate within land under the management, care and control of Shire of Dandaragan'. Trading on land not vested with the Shire will require the applicant to seek the necessary statutory approvals from the managing authority.

- 2.1 All food vendors must have a health clearance certificate issued under the Food Act and Regulations.
- 2.2 Vendors must be present to receive the licence and vehicles must have received a health clearance certificate (see 6.2).
- 2.3 The approval period will be from 1<sup>st</sup> July each year to 30<sup>th</sup> June the following year.
- 2.4 Approvals are not transferable.
- 2.5 A separate approval must be obtained for each vehicle.
- 2.6 Employees of the applicant must be nominated on the licence application form.
- 2.7 An approval fee will exist as specified in Council's fees and charges policy.
- 2.8 All vendors shall be limited to the supply of products and services approved by the Shire.
- 2.9 In response to an issue of public safety (as determined by the Chief Executive Officer) all operations shall cease until the matter has been resolved to the satisfaction of the local government.

### **3.0 General**

- 3.1 The use of mechanical chimes or amplified music which could cause a noise nuisance is not permitted unless otherwise approved by the Shire..
- 3.2 Itinerant vendors are to move on when all customers at a particular location have been satisfied when operating within the Jurien Bay and Cervantes townsite (refer to Clause 1.1 for definitions).
- 3.3 Public liability insurance cover of \$20 million is required where an activity occurs on local government managed land.
- 3.4 The local government may seek contribution towards the upgrading and/or construction of a site.
- 3.5 An approval to operate may be cancelled by Council at its discretion due to non-compliance with any of the requirements outlined in this policy or if a reasonable complaint is received by Council.
- 3.6 A vehicle, cart, stall or the type of food sold etc., cannot be altered without consulting Councils Environmental Health or Planning Officers for approval.
- 3.7 No animal is to be used as part of the vehicle, cart or stall etc.without Shire approval.
- 3.8 No additional flashing or rotating lights, except that required under the Motor Traffic Act, are permitted.
- 3.9 All vehicles must be registered as per the requirements of the Motor Traffic Act.
- 3.10 Trading within a reserve controlled by Main Roads WA will not be permitted unless permission is received from Main Roads WA.
- 3.11 Vendors shall not obstruct traffic, pedestrians, entrance ways to shops and laneways.

- 3.12 Illegal, dangerous or offensive goods are not to be sold by the vendor.
- 3.13 No direct soliciting or collecting of donations will be permitted without approval by the Shire.
- 3.14 Banners, signs, bunting and the like are not permitted to be erected without approval.
- 3.15 The vendor's operation must not unduly disrupt normal business activities nor unduly disturb the ambience of both residents and passers-by.
- 3.16 Persons granted approval shall comply with the requirements of this code and such licences must be available to be shown on demand by an authorised officer.
- 3.17 All elements of the stall / vehicle will need to be of a high standard and maintained as to not detract, damage, or lead to the degradation of the natural coastal environment or Townsites. In the case of such an event occurring, The Shire is to be notified immediately.
- 3.18 Approval for Trading in Public Places Licence is strictly limited to one-year. Inspections and reviews of the service may be conducted by the Shire of Dandaragan. The Shire of Dandaragan reserves the right to decline the renewal of, or amend the conditions of all Trading in Public Places Licence in the future.

#### **4.0 Application of Policy**

- 4.1 Vendors are not permitted to operate within 100m of an outlet selling a similar product if that outlet is open.
- 4.2 Vendors are required to obtain permission from event organisers when attending events (For example festivals, charity markets and sporting events).
- 4.3 Trading on Bashford Street, Jurien Bay and Aragon Street, Cervantes is prohibited.
- 4.4 Any rubbish or waste associated with the business is the responsibility of the Vendor. If not complied to, Council may revoke the licence to operate or an infringement will be issued.

#### **5.0 Legislative Requirements**

- 5.1 A vendor's operation, including the vehicle, cart or stall, must be in accordance with the requirements of the Food Act 2008.
- 5.2 A vendor's operation must be in accordance with the Environmental Protection Noise Regulations.

#### **6.0 Inspections**

- 6.1 Regular Food Inspections will be carried out by Council's Manager of Environmental Health at random. A fee will be charged if the vendor's operation is unsatisfactory in accordance with the Shire's schedule of fees and charges.
- 6.2 A vendor's vehicles, carts, stalls, etc., must be made available for inspection by the Manager of Environmental Health for a health clearance certificate which is required to obtain approval. A fee for the inspection, as set out in Council's fees and charges policy, will exist.

## **7.0 COMMERCIAL RECREATIONAL TOURISM ACTIVITY ON CROWN LAND**

- 7.1 If local government roads, car parks or dual use paths are to be used, then the activity will be assessed in terms of whether it will create a danger or obstruct other uses, or result in a major loss of car parking spaces.
- 7.2 Activities are to be ancillary and beneficial to the designated purpose of the reserve and do not damage, or lead to the degradation of the coastal and marine environment or local government property. In the event of damage to infrastructure or the environment the Shire may seek costs for repair and restoration works.
- 7.3 All activities are to demonstrate that they will not create a public nuisance to adjacent residential areas in context of noise, traffic, etc and not create a conflict with the informal users of the reserves and marine park.
- 7.4 Where appropriate, activities should be located adjacent to constructed public car parking areas and public conveniences (within 100 metres). The applicant may be required to contribute towards the construction of the public facilities. Approved applications may be required to contribute towards the upkeep of the local public infrastructure and facilities if considered necessary as a consequence of that activity.
- 7.5 If the beach is to be used then the activity must be determined as compatible with the beach environment.
- 7.6 Water-based activities will be given permission to use the beach area for guided tours/hiring of water based equipment, provided the applicant is prepared to comply with the terms of any licence of the relevant authority of the water body.
- 7.7 In the case of jet ski hire activity and other motorised craft, signage shall give adequate notice of warning that the particular area is not suitable for informal recreation use.
- 7.8 All activities are to comply with the Department of Transport Restricted Areas of Navigable Waters
- 7.9 All activities are to comply with the Department of Fisheries and Department of Parks and Wildlife commercial operator licencing requirements, the Jurien Bay Marine Park Management Plans, the Zoning Scheme and relevant legislation.
- 7.10 In response to an issue of public safety (as determined by the Chief Executive Officer) all operations shall cease until the matter has been resolved to the satisfaction of the local government.

## **8. Specific Restrictions**

- 8.1 Based on the experience of the impacts of previous/similar activities (within or outside the Shire), the fragile nature of coastal areas, and/or the dominant public use of these areas, the Shire is of the view that a restriction on the number and type of certain activities in these areas should be prescribed.
- 8.2 These restrictions (if any) are attached to this policy and are based on the 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.

## **9.0 Application for Approval**

- 9.1 Applicants should address the criteria as outlined in Clause 9.3 and provide the local government with the following information:

- a) Full details of type of service to be operated;
  - b) Previous relevant experience of the applicant(s);
  - c) Appropriate level of knowledge and understanding of local conditions, natural and cultural history, ecological process and possible constraints;
  - d) capability to promote interpretive and educational information that ensures clients are receiving instructions in minimal impact techniques, environmental protection and ethics of appropriate behaviour;
  - e) Preferred location of operation;
  - f) Hours and dates of operation;
  - g) Method of operation, e.g. hourly hire, 15 minute rides, day trips;
  - h) Type and numbers of equipment to be hired/used including details of make, age, special features;
  - i) Ability to provide appropriate safety requirements and duty of care responsibilities, all of the intended safety measures – i.e. marker buoys, rescue boats, signs;
  - j) A cover note or similar statement from an insurance company indicating a willingness to promote insurance coverage (minimum \$20 million public liability coverage required and must be held in Australia);
  - k) Any additional information specific to the individual service to be provided.
- 9.3 Applicants are to provide a Plan/Diagram of layout of operation upon the Reserve showing location of equipment, trailers, signs, operators table, what areas are to be used and the like. This needs to be of a scale that demonstrates the location clearly and should not be indicated as being for the entire reserve.

## **10 General Agreement Terms**

- 10.1 The local government will prepare all agreements.
- 10.2 For land not under the care, control and management of the local government, a draft agreement will be forwarded to the relevant statutory authority for consent prior to execution.
- 10.3 Copies of the agreement will be prepared and stamped with one (1) copy to be forwarded to the applicant, one (1) copy to be forwarded to the Department of Lands to be endorsed and one (1) copy to be retained by the local government.
- 10.4 The agreement should be signed prior to the commencement of the permitted period to which the agreement relates.
- 10.5 The agreement will include an automatic termination clause, if the activity is found to breach any of the conditions of the agreement.
- 10.6 The agreement is with the individual parties and is non-transferable.
- 10.7 All agreements and Permits are non-exclusive and do not grant the proponent the right to a particular portion of the reserve. The proponent will need to renegotiate access with the Shire and/or event organisers when events are scheduled on Shire Reserves.
- 10.8 All agreements are for one year and subject to review after the first year. The Shire reserves the right to decline the renewal of, or amend the conditions of the agreement in the future.

## **11. Fees**

- 11.1 The Chief Executive Officer can grant exemption to charges if in their opinion the charges should be waived.
- 11.2 Not-for-profit community groups and charities are exempt from fees and charges.

Planning Approval by way of an agreement	\$175
Planning Approval by way of a Traders Permit	\$147
Agreement preparation fees	\$150
Reserve User fee	\$500 *
Itinerant Food Vendors Permit / Trading in Public Places Permit	
1 month	\$100 *
12 month	\$600 *

\* for the first two years the fee is set at 50% of the stated amount as an encouragement to establish new businesses in the Shire.

### 11.3 Agreement Preparation Fees and other costs

11.3.1 \$150 (GST inclusive)

11.3.2 Standard 'template' Agreement should cover most 'simple' applications however, should the local government consider that an application is 'complex' and warrants legal preparation of the Agreement then these additional legal costs will be charged to the applicant.

### 11.4 Reserve User Fee

11.4.1 \$500 (per year, GST inclusive)

11.5 As commercial activity will increase the number of visitors on reserves, and as these commercial operators will benefit by commercial gain from the use of the reserve or UCL, it is considered appropriate to charge a fee for the use of the land.

11.6 Revenue collected from these fees will be used for management, including the improvement of visitor services and facilities and the protection of the natural environment.

## **Attachment 1 Specific Location and Activity Restrictions**

<b>Location</b>	<b>Restriction</b>
Reserve 28541 Jurien Bay Foreshore	
Reserve 19206 Sandy Cape	
Reserve 19206 North Head to Pumpkin Hollow	
Reserve 19206 North of the Marina	
Reserve 19206 Beachridge to Cervantes	
Cervantes Township	
Cervantes (south)	