

Footpath Trading Policy

Operational Policy	Policy No:	
	Adopted by FMT:	
	Review Date:	<i>July 2023</i>
	Version No:	001
Policy/Procedure Owner:	Environment & Regulatory Services	
Related Policies:	Footpath Trading Guidelines Footpath Trading Permit Council Plan 2021-25 Councils Road Management Plan 2021 Road Management Act 2004 Subdivisions Act 1988 Planning & Environment Act 1987 Local Government Act 2020 Tobacco Act 1987 Occupational Health and Safety Act 2004 Disability Discrimination Act 1992 Building Act 1993 Liquor licensing 1998 EPA Act 1970 Australian Human Rights Commission 2007 Food Act 1984	
External References:	Moyne Shire Council Local Laws - General Local Law No. 2015 Part 8. Cause 43	

1. PURPOSE

The Moyne Shire retail and business precinct offers the community and visitors to the region a variety of consumer goods and services. Moyne Shire Council (MSC) is committed to supporting local business through enacting the Footpath Trading Policy (Policy) to ensure a safe, accessible and vibrant retail experience.

This Policy provides a framework for footpath trading to ensure traders and Council meet their legal responsibilities in relation to footpath use and accessibility. Legislation allows council officers to monitor compliance and is designed to ensure the visual amenity of MSC's streetscapes are consistent in providing a safe and accessible environment.

This Policy establishes clear obligations and requirements to support Council's Footpath Trading Guidelines and Footpath Trading Permit application process.

The Policy is implemented through the Footpath Trading Guidelines available on Council's website www.moyne.vic.gov.au

2. INTRODUCTION

The MSC Footpath Trading Policy outlines the basis for traders in the commercial precinct to engage in commercial activities outside the business premises. It allows traders to utilise the area adjoining the curb, to increase the visibility of their commercial offerings to customers and extend patron capacity.

Effective regulation of footpath trading ensures unrestricted accessibility is maintained. The Disability Discrimination Act 1992 legislates the requirements for access and forms MSC approach to footpath trading regulations. In addition to the Occupational Health and Safety Act 2004, which legislates the health and safety requirements to support safe trading practices.

MSC is responsible for the overall management, ongoing monitoring and compliance of footpath trading to regulate a variety of competing interests. This policy seeks to balance these interests and ensures that footpath trading is compliant, meets DDA and other key legislation, and can be monitored for non-compliance and enforced where applicable.

3. SCOPE

The Footpath Trading Policy applies to all public footpaths within the Moyne Shire. The Policy extends to retailers' furnishings, merchandising, promotional activities, busking and street art.

This Policy is not enforceable on private land, and does not apply to Council road closures and or events managed or supported by Council. However relevant legislation requirements, OHS and DDA Acts must be met by Council.

4. DEFINITIONS

- **MSC** – Moyne Shire Council
- **Traders** – all parties related to business leased or privately owned commercial precinct, a business registered for GST, trading under ABN, offering goods and or services. To include retailers.
- **ABN** – Australian Business Number
- **GST** – Goods and Services Tax
- **Footpath** – Council owned path, for the primary purpose of providing accessibility to pedestrian traffic
- **Footpath Trading** – an offer of goods and services, sold, traded and or issued for no-fee, to the public adjacent the business premises

- **Footpath Trading Guidelines** – Council guidelines for retailers / traders and businesses seeking to offer goods and services from the footpath of the adjacent the business premises
- **Footpath Trading Permit** – official application for retailer / trader and business seeking approval from Council to trade from the footpath, adjacent the business premises
- **DDA** – Disability Discrimination Act 2004
- **Local Law 2015 Part 8. Clause 43** – enforceable bylaw on non-compliance of trading outside the conditions of the Footpath Trading Permit
- **Australian Human Rights Commission 2007** – the body commissioning unrestricted accessibility in the DDA Act 2004
- **Compliance** – retailer/ trader and business meeting Council requirements under footpath trading permit
- **Non-compliance** – retailer/ trader and business breaching Council requirements under footpath trading permit
- **Permit Fee** – the fee/s applicable for processing the footpath trading permit, application process
- **Permit Holder** – the retailer/ trader and business accepting permit approval to trade on the footpath adjacent the business premises
- **Regulation** – the rule for trading under permit on the footpath
- **Trading Zone** – the area within the footpath in which the trader and or business must trade from.

5. TRAINING REQUIREMENTS

Relevant MSC employees will be required to undertake routine training to effectively monitor, manage and enforce compliance within this Policy and Footpath Trading Guidelines.

6. QUALITY RECORDS

(List the documentation and records to be completed to ensure compliance with this policy)

Record	Retention/Disposal Responsibility	Location

7. POLICY OBJECTIVES

This Policy aims to ensure traders are trading on Council owned footpaths in compliance to the Footpath Trading Guidelines, and that the permit holder is meeting the agreed trading terms and conditions outlined within the Trading Permit terms and conditions.

8. POLICY

To enact, monitor and manage compliance for traders trading under Councils Footpath Trading Permit terms and conditions.

To ensure the permit holder is meeting the trading requirements, for Council to issue a notice of fees payable upon processing the permit, for Council to ensure fees are paid in full at the time of official permit approval and to communicate the outcome of the permit to the applicant.

The Policy is to ensure the permit holder understands and acknowledges the conditional approval for trading on Council footpaths.

Version Number	Details of change
OD001 version 2	
OD001 version 3	