

ACTIVATION OF PUBLIC OPEN SPACE COUNCIL POLICY

POLICY STATEMENT

To effectively manage activities in Public Open Space in a way that encourages and provides opportunities for businesses and groups to activate areas in the City of Bunbury.

POLICY SCOPE

This policy applies to:

1. Street Trading Licences;
2. Permits issued for the temporary use of Public Open Space; and
3. Leases required within Designated Trading Areas.

POLICY DETAILS

This policy aims to manage the use of Public Open Space in a manner that encourages character and vibrancy to the recreational, tourist and prominent waterfront areas throughout Bunbury.

The Policy is not intended to guide the operation of trading activities such as markets, fairs, functions, organised sporting events or public events, but rather that is encourage businesses and activities of a complimentary nature to activate public space.

The prosperity achieved by the operators contributes to the overall economic success of the region and provides a source of income for the City.

The City receives numerous applications for various types of approval to conduct activities and operate commercial businesses from Public Open Space throughout the year. The City will consider these applications against the parameters of the procedures, with a view to activating designated public open space areas within the City.

PROCEDURE

Definitions:

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| <i>Application Period</i> | Applications are accepted all year, however different processing periods will apply dependent upon the application type. |
| <i>Assessment Period</i> | The period of time the City will assess the applications made prior to the Issue Date. |

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| City | Means the City of Bunbury. |
| Commercial Operation | Where there is a fee charged or compensation received by a Lessee, Street Trader or Permit Holder in the use of the Public Open Space and/or Designated Trading Area. |
| Designated Trading Area | A location or locations approved by the City on which holders of a Lease, Fixed Street Trading Licence, Roaming Street Trading Licence or a Permit may operate or conduct their activities and identified in this guideline. |
| Fixed Street Trading Licence | A Fixed Street Trading Licence allows the licence holder the ability to operate within an area for a fixed period of time on set days. The area is to be set up and packed down every day including the removal of any waste. |
| Issue Date | The issue date is the date all Leases, Street Trading Licences and Permits will be issued being 1 st September. |
| Lease | A lease provides a fixed term of three (3) years and exclusive use of a designated area. Fixtures and improvements required by the Lease holder can remain on site during the term of the Lease. |
| Permit | Means a Permit issued for the temporary use of Public Open Space. For the purpose of this Guideline, “ <i>Temporary Use</i> ” indicates a one-off booking or event and is not considered suitable for an ongoing event or booking. |
| Public Open Space | Public open space refers to land that may be owned or managed by a national or local government body and is held in trust for the ‘public’. This includes land reserved for the purposes of formal and informal sport and recreation, preservation of natural environments, provision of green space in an urban environment or can be used or set aside for the purpose of storm water management. Public Open Space is not limited to parks and sporting ovals, but can include beaches and public squares. |
| Roaming Street Trading Licence | A Roaming Street Trading Licence allows the licence holder to trade whilst moving around i.e. similar to an ice-cream van. The licence holder is permitted to stop in one place for a period of no more than fifteen (15) minutes at any one time. |
| Seasonal | The word ‘seasonal’ for the purpose of this policy shall mean the seasons of summer and winter. For the purposes of defining seasonal hire, the summer season shall be regarded as the period between 1 October and 31 March, and the winter season the period between 1 April and 30 September, all days inclusive. |
| Street Trader(s) | Proponents who have been issued with and hold a valid Roaming Street Trading Licence or a Fixed Street Trading Licence. |

1. Application

Applications will be publicly called for on an annual basis in line with the adoption of Council's Fees and Charges and the Application Period. Applications will request respondents to apply for the type of approval most appropriate for their activity or type of operation, being a Lease, Fixed Street Trading Licence, Roaming Street Trading Licence or Permit and their preferred Designated Trading Area.

The application must include information such as hours of operation, type of activity, and identification of equipment used.

2. Approval

All applications made will be assessed during the Assessment Period by the City's Development Coordination Unit ("DCU"), to determine appropriate conditions and to ensure the applications made are in keeping with the objectives of Council and those activities at each Designated Trading Area are complimentary to the location and other operators.

Leases will be referred to Council for formal endorsement. Street Trading Licences and Permits will be approved and conditioned by the relevant City departments.

All applications will be assessed for suitability to the Designated Trading Area(s) and consideration will be given to:

- i. The type and regularity of the activity that is to operate from the location/s;
- ii. The impact the operation will have on the surrounding amenity;
- iii. The strategic implications and impact the location may have on the local economy.

Applications for permits to sell food and/or beverages must also comply with conditions imposed, either regulatory or discretionary, by the City's Environmental Health Department.

3. Location

The [Designated Trading Areas](#) are those outlined in in this guideline. Where an applicant seeks approval for a location that has not been approved as a Designated Trading Area, the Chief Executive Officer ("CEO") may authorise such approval other than that of a Lease.

The Designated Trading Areas will be reviewed annually prior to the Application Period commencing.

Other activities such as markets, fairs, functions, organised sporting events or public events are not affected by this Policy.

Applicants will have the ability to apply to operate from one or more of the Designated Trading Areas.

Trading is not permitted by a Fixed Street Trading Licence holder or a Roaming Street Trading Licence holder within 300m of an established business selling similar goods or providing a similar service. This does not apply to a Lease holder and it is at the sole discretion of the City.

Trading is not permitted on footpaths or driveways.

Businesses requiring a structure to be placed on the land for storage or other operational purposes for in excess of 72 hours will most likely require Planning Approval and /or a Building Permit for that structure and this may also invoke other legislative processes.

The City may refuse an application on any one or more of the following grounds:

- i. the applicant is an undischarged bankrupt or is in liquidation;
- ii. the applicant has entered into any composition or arrangement with creditors; or
- iii. a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property;
- iv. such other grounds the City may consider to be relevant in the circumstances of the case.

4. Trading Period

The trading period approved for each applicant will be determined by the type of approval sought. These are identified below:

| Type: | Period: |
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| Lease | Up to three (3) years except for where the Commercial Tenancy (Retail Shops) Agreement Act 1986 is applicable. |
| Fixed Street Trading Licence | Annual Approval (1 st September to 31 st August) |
| Roaming Street Trading Licence | Annual Approval (1 st September to 31 st August) |
| Permit | Annual or Seasonal as required |

5. Permitted Activities

| Activity Type | Description | Application Type |
|------------------|--|---|
| Fitness | Comprises all forms of exercise classes including but not limited to personal training, group fitness, boot camps, yoga, dog obedience training and <u>has a Commercial Operation component.</u> | Street Trading Licence (Fixed or Roaming), where temporary set up of equipment applies. Lease where long-term equipment is installed or constructed. |
| Food Vans | Encompasses all forms of food that is sold other than from an established building and typically is sold from mobile vans, vehicles, trailers or converted caravans but does not exclude any other form. | Street Trading Licence (Fixed or Roaming), where temporary set up of equipment applies. Lease where long-term equipment is installed or constructed. |
| Hire | Hiring of equipment to undertake activities including but not limited to the hire of bicycles, scooters, surf boards, beach umbrellas and <u>has a Commercial Operation component.</u> | Street Trading Licence (Fixed or Roaming), where temporary set up of equipment applies. Lease where long-term equipment is installed or |

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| | | constructed. |
| Passive Recreation | Consists of organised uses of the Public Open Space that are generally non-consumptive in their operation and consist of <u>no Commercial Operation component</u> . | Permit |
| Stalls | Includes those selling all manner of items including food and any other object or service and typically consists of a temporary marquee set up. | Permit |

6. Establishment of Fees

The fees applicable for each approval type, whether Lessee, Street Trader or Permit Holder, will be set annually in consideration of market demand and as part of the City's review of Fees and Charges schedule.

7. Maintenance, Events and Unscheduled Closures

At times Public Open Space will be closed for use by public events, maintenance or emergency repairs. The City will endeavour to minimise impacts to all Lessee's, Street Traders or Permit Holders where possible and will consider all existing approvals when assessing applications for other events and maintenance.

Abnormal wear and tear to Public Open Space can occur for various reasons such as seasonal weather conditions and vandalism. Should the City deem a Designated Trading Area unsuitable for its intended purpose, at its sole discretion, the City reserves the right to suspend activities in the area without notice. The City will endeavour to ensure minimal impact to any Lessee, Street Trader and/or Permit Holder and their operation.

8. Additional Approvals

From time to time, additional approvals may be required due to the City of Bunbury Local Laws, and State and Federal Legislation.

Additional approval may be required for the selling of food governed by the *Food Act 2008* and the Australian Food Safety Standards. All operators selling food must have a valid Food Business Certificate of Registration.

The *Environmental Protection (Noise) Regulations 1997* set noise limits and cater to events and social activity. Monitoring of noise is a state requirement that the City is required to regulate.

Signage may require approval from the City of Bunbury or other Government agencies depending on the location and structure, such as Main Roads Western Australia and the Department of Planning.

All Lessee's, Street Traders and Permit Holders will have appropriate insurance required for their type of operation and as a minimum will require Public Liability cover of \$10 Million Dollars. Proof of these policies must be provided to the City upon request and prior to trading commencing.

9. Designated Trading Areas

The following locations have been identified for the purpose of designating trading areas within Public Open Space.

| Location No. | Location Description | Activity |
|--------------|--|--|
| 1 | Estuary Drive | Street Traders only: Food/Stalls (max. 3 vans) |
| 2 | Koolambidi Woola | Hire, Food Vans, Markets, Fitness/Passive Recreation and Events Leases and events only for food vans (300m rules do not apply under Lease) |
| 3 | Back Beach | Hire, Fitness/Passive Recreation |
| 4 | Queens Gardens | Hire, Fitness/Passive Recreation, Markets, Events, Food Vans. |
| 5 | Ocean Drive: 5.1 At Hayward Street 5.2 At Mangles Street 5.3 Adjacent to Ramillies Street | Street traders, Food trucks and stalls, Hire |
| 6 | Hay Park | Hire, Food Vans, Markets, Fitness/Passive Recreation and Events (Hay Park needs Council exclusion) |
| 7 | Koombana Beach, Anchorage Cove | Hire, Events, Passive Recreation, Fitness |
| 8 | Maidens Reserve | Hire, Events, Fitness, Passive Recreation, Street Traders (Food/Stalls). Consultation required with DBCA prior to approval. |
| 9 | Forrest Park | Hire, Fitness, Passive Recreation, Markets and Events |
| 10 | Market Square/Marlston | Traders that compliment area, no food (300m rule), Markets, Events |
| 11 | Bicentennial Square | Traders that compliment area, no food (300m rule), Markets, Events |
| 12 | Bunbury Wildlife Park & surrounding Big Swamp | Passive Recreation, Hire |
| 13 | Recreation Ground | Events, Fitness, Passive Recreation, Hire |
| 14 | Jaycee Park | Events, Fitness, Passive Recreation, Food Vans and Stalls, Hire |



1. Estuary Drive



2. Koolambidi Woola



3. Back Beach



4 Queens Gardens



5. Ocean Drive (3 Car Park Sites)



5.1 Ocean Drive at Hayward Street



5.2 Ocean Drive at Mangles Street



5.3 Ocean Drive – adjacent to Ramillies Street



6. Hay Park



7. Koombana Beach, Anchorage Cove



8. Maidens Reserve



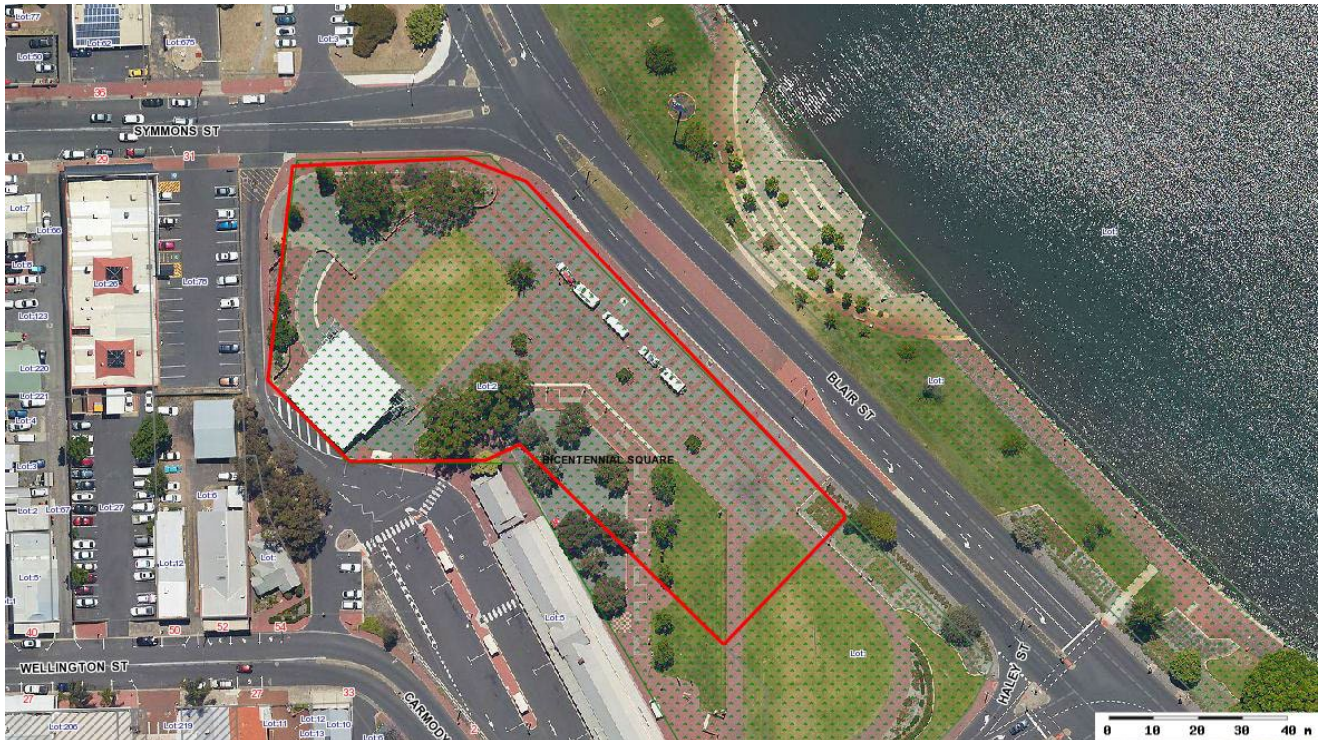
9. Forrest Park



10. Market Square, Marlston



11. Bicentennial Square



12. Bunbury Wildlife Park



13. Recreation Ground (building excluded)



14 Jaycee Park



COMPLIANCE REQUIREMENTS

LEGISLATION

- *Local Government Act 1995*
- *City of Bunbury Public Places and Local Government Property Local Law*

INDUSTRY

ORGANISATIONAL

- *Commercial Lease Council Policy*
- *Sporting and Community Leases and Licences Council Policy*

| Document Control | | | | | |
|--------------------------------|--|--|---|---------------------|----------------|
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| DOC/455497[v3] | Council Decision 115/21 29 June 2021 | | Policy revised with minor amendments. | | |
| DOC/455497[v2] | Council Decision 049/20 17 March 2020 | | Consolidate policies and corporate guidelines in accordance with revised Policy Framework | | |
| CP-035752 [v1] | | | | | |
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