



Footpath Trading Policy

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1. Purpose

East Gippsland Shire Council has the responsibility to enforce the provisions of a wide range of legislation providing for the safety, health and amenity of the community.

This policy will provide a framework for the sustainable use and management of our roads, road related areas and public spaces (RRAPS). It will facilitate footpath trade which does not obstruct pedestrian access or create an unsafe or unsightly environment within the East Gippsland Shire. Compliance with this framework will contribute to the ambiance and vitality of public areas.

2. Policy Statement

Having regard to Council's responsibilities and feedback received from the community, the following principles apply: -

- (a) Council will ensure the provision of clear, safe and unobstructed access for all users along the Shire's RRAPS in accordance with Council's statutory responsibilities.
- (b) Educate traders regarding relevant legislation in order to ensure compliance.
- (c) Council will support the long-term viability and sustainability of retail business.

For the Policy to be effective, Council has a permit system in place to standardise the placement of items on RRAPS, for example, tables and chairs, "A" frame signs, product displays, clothing racks, etc.

Council's General Local Law 2017 section 45 prohibits the placement of items on RRAPS unless a permit has been issued. The permit allows for the placement of items on the area provided business operators supply evidence of current public liability insurance with their application and comply with the conditions of use.

An approved permit grants limited rights to business operators to place items on the road and to use public space for business and commercial purposes. The permit may specify conditions such as hours of use, period of permit and type of items to be placed.

Council reserves the right to withdraw the permit should the public space be required for any other purpose and/or if conditions of use are not being adhered to.

It is anticipated that in some circumstances, eg narrow footpaths, Council may not be in a position to issue a permit.

The permit period will normally be twelve months from 1 July and renewed annually. New applications will also expire on 30 June. Pro-rata payments may be considered.

3. Responsibility for implementation and compliance

These management positions are responsible for implementation and compliance monitoring of the policy in their work areas:

Party / Parties:	Roles and responsibilities:
General Manager	To oversee the implementation of this Policy and supporting Procedures
Manager	To ensure awareness of and adherence of staff to this Policy and relevant supporting Procedures

4. Scope of policy

This policy applies to all individuals or companies who wish to use Council roads, road related areas and public spaces for business and commercial purposes within the East Gippsland Shire.

5. References / associated documents

The Council Plan 2021-25 identifies that A thriving vibrant and live able East Gippsland as one of Council's key strategic objectives

To support this objective, strategic action 2: Our Place will be accessible, safe, connected and healthy

Relevant Legislation:

- Charter of Human Rights and Responsibilities Act 2006
- *Disability Discrimination Act 1992*
- *Environment Protection Act 1970*
- *Food Act 1984*
- General Local Law 2017
- *Information Privacy Act 2000*
- *Local Government Act 1989*
- *Local Government Act 2020*
- *Planning and Environment Act 1987* (and the East Gippsland Planning Scheme)
- *Summary Offences Act 1966*
- *Road Safety Road Rules 2017*

Refer to: <http://www.legislation.vic.gov.au/>

Related policy/procedure:

- *Council Compliance Policy and supporting procedures*
- *Footpath Trading Procedure*

Privacy and Human Rights consideration

The disclosure of information revealed by an investigation, action/enforcement proceedings taken, is regulated by the *Information Privacy Act 2000*. It is an offence to disclose such information to a third party unless exempted under the Act.

Council has a legal responsibility under the *Disability Discrimination Act 1992* section 23, Access to Premises, to ensure safe and equitable usage of RRAPS for people with a range of disabilities.

This policy allows recognition and equality before the law as outlined in the Charter of Human Rights and Responsibilities Act 2006.

The Footpath Trading Policy has been assessed as compliant with the obligations and objectives of the Victorian Charter of Human Rights Responsibilities Act 2006.

6. Definitions and Abbreviations

Term:	Meaning:
<i>Application</i>	Document submitted by applicant to Council seeking permission to place items on public footpaths/spaces.
<i>Authorised Officer</i>	Authorised Officer of Council appointed under section 224 of the Local Government Act 1989.
<i>Council</i>	East Gippsland Shire Council
<i>General Local Law 2017</i>	Local legislation, applicable within the East Gippsland Shire, adopted by Council under the authority of the Local Government Act 1989.
<i>Footpath</i>	An area open to the public that is designated for or has as one of its main uses, use by pedestrians.
<i>Permit</i>	Unless otherwise identified, "permit" means a permit issued by East Gippsland Shire Council under a Local Law which authorises a particular activity on council owned or Crown managed land. (Note: in certain areas, additional approvals may be required for any permanent alterations or additional works).
<i>Public Space</i>	Council owned and Crown managed land open to and used by the public.
<i>Road</i>	Has the same meaning as "Road" in the Local Government Act 1989.
<i>Road Related Area</i>	Has the same meaning as defined by the Victorian Road Safety Road Rules 2017 (s.13)
<i>RRAPS</i>	Roads, road related areas and public spaces.

7. Supporting procedures / guidelines

Footpath Trading Procedure

8. History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
Original	Approved	03/10/2006	Council	2677366	
2	Reviewed / Amended	10/11/2009	Council	3720929	
3	Approved	02/07/2013	Council	5266433	
4	Approved	04/07/2017	Council	7368510	
5	Approved	11/10/2022	Council	9682948	Migrated into new template with separate procedure document and updated relevant legislation.