

15.4 Review of Policy 210 Free Trade Area

Location	Town-wide
Reporting officer	Frank Squadrito
Responsible officer	John Wong
Voting requirement	Simple majority
Attachments	1. Policy 210 Free trade area tracked changes [15.4.1 - 2 pages] 2. Policy 210 Free trade area Attachment 2 [15.4.2 - 2 pages]

Recommendation from the Policy Committee

That Council adopts the amendments to Policy 210 Free Trade Area as in attachment 2.

Purpose

To review the content of Policy 210 – Free Trade Area and ensure it provides appropriate high-level information and strategic direction to applicants wishing to apply for approval.

In brief

- This policy applies to occupiers of premises within the Town who are eligible to undertake activity within the Free Trade Area, in accordance with the *Town of Victoria Park Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000* (the Local Law).
- The Free Trade Policy supports the activation of place making initiatives within the Town.
- The current policy provides high level objectives and strategic intent without going into details of compliance matters. Furthermore, guiding information is provided on the Towns website when applicants are applying for approval to use footpaths and other designated areas directly in front of the business for free trade purposes.

Background

1. The adoption of the free trade policy was first endorsed by Council on the 9 May 2017 and was later amended in August 2019. The changes in 2019 were implemented across all policies to better reflect governance practices and ensure policies provided high level objectives rather than operational guidelines.
2. At its meeting on 21 April 2020 Council adopted a work plan to complete the review of a number of policies. Policy 210 - Free Trade Area was one of the policies identified for review.
3. The free trade area was previously administered by the Town's Health Department through Outdoor Eating Licensing fees (Alfresco Dining) which were abolished given that free trade also covered the display of goods within a designated area of the thoroughfare.
4. The Town's Activities on Thoroughfares and Trading in Throughfares and Public Places Local law 2000, Part 5 Division 1 applies to stallholders. In effect, by providing consent to stallholders to trade within the public thoroughfare, they are required to comply with the terms & conditions set by the Local Government and obligations in the Local Law.

Strategic alignment

Economic	
Strategic outcome	Intended public value outcome or impact
EC01 - A desirable place for commerce and tourism that supports equity, diverse local employment and entrepreneurship.	Greater activation and vibrancy of local centres ultimately supports a variety of economic outcomes for the business and the Town.

Social	
Strategic outcome	Intended public value outcome or impact
S03 - An empowered community with a sense of pride, safety and belonging.	Providing legible and clear policy objectives empowers local businesses to take advantage of free trade opportunities and promotes local business

Engagement

Internal engagement	
Stakeholder	Comments
Place Planning	Involved in policy review and supportive of amendments.
Operations	Supports the minor changes and would like to see random audits undertaken by the compliance team.

Legal compliance

[Section 2.7 of the Local Government Act 1995](#)

Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Non compliance to the Towns terms and conditions by business owners can leave the Town vulnerable in terms of insurance claims	Minor	Possible	Medium	Low	Treat – through regular onsite inspections high risk issues can be mitigated
Environmental	Not applicable.				Medium	

Health and safety	Fixtures and furniture within the public thoroughfare maybe a hazard to pedestrians if free trade areas are not maintained	Moderate	Possible	Medium	Low	Transfer – Business owners are responsible for the upkeep and maintenance of Free Trade Area. Complaints by the general public will be responded to by the Town in consultation with the business owner
Infrastructure/ ICT systems/ utilities	Not applicable.				Medium	
Legislative compliance	Policy must align with the Town's Activities on Thoroughfares and Trading in Thoroughfares Local Law.	Minor	Unlikely	Low	Low	Accept – Guidelines need to be updated regularly to reflect changing needs of stakeholders
Reputation	Not applicable.				Low	
Service delivery	Delays in processing applications for businesses can lead to frustration if complex issues arise	Minor	Possible	Medium	Medium	Accept – In some circumstances delays cannot be avoided

Financial implications

Current budget impact	Not applicable
Future budget impact	Not applicable.

Analysis

- The Town has reviewed Policy 210 – Free Trade Area and have included two new clauses as detailed in the table below. Additionally, minor changes to define the spatial requirements of the free trade area are included.

Clause	Proposed	Reason
Policy objective	Wording such as “designated areas” or “other appropriate locations” needs to be included.	Free trade areas can extend out beyond the footpath or pedestrian thoroughfare zone. A good example is the use of parklets in car parking bays as a dining area. Definition of “designated area” also included.
New clause 4 added	Applicants are required to agree to the terms and conditions associated with the Free Trade Area permit application process.	This clause strengthens the policy by ensuring applicants are informed of their responsibilities and duty of care as a stallholder in the Town.
New clause 5 added	Any proposals by Business owners/proprietors to extend the footprint of the free trade area or alter levels within the public thoroughfare directly in front of the business shall be assessed on a case by case basis. If approved, costs for modifications shall be borne by the applicant.	Even though requests to alter levels of pathways or increase the footprint of free trade areas by installing additional hardstand or paving extensions is not common, the costs and resource implications can be significant for Council. The policy needs to raise awareness of this issue and ensure expectations are managed

6. Since 2017, records show the Town has issued 48 free trade permits. It’s likely that the number of Businesses participating in the Free Trade initiative is significantly higher than what’s been recorded. An explanation for this is that some businesses may still be operating under the previous Alfresco licensing and not aware of the changeover to Free Trade. An audit will need to be undertaken over the next 3-6 months to target those businesses that do not have the appropriate permits.
7. The Town of Victoria Park is committed to supporting businesses, with ‘free trade areas’ outside commercial shop fronts within the Town. Previously an installation fee mainly to cover the administrative and installation costs related to setting up a free trade area but as part of the Restart Vic Park COVID-19 Response Strategy, this fee for a free trade area has been abolished. Applications for a free trade area permit do not attract a fee now.

Relevant documents

[Policy 210 – Free trade area](#)

[Policy 211 - Parklets and alfresclets](#)

