



Mobile Food Vending Policy

Policy identification:	
Policy type:	Council
Summary:	To provide guidance for the approval and operation of mobile food vendors in the Council area
Record number:	
Date of adoption or approval:	February 2019
Next review date:	February 2020
Authorised by:	Council
Responsible department:	Corporate and Community Services
Responsible officer:	Manager Environmental Services Community Development Officer Environmental Health Officer
Review officer	Director Corporate and Community Services
Consultation required:	Chief Executive Officer, Senior Management Team
Relevant references:	
Delegations:	Chief Executive Officer
Legislation	<i>Local Government Act 1999</i> <i>Local Government (General) Regulations 2013</i>
Related policies	Fees and Charges Register
Related procedures	Not applicable

Policy statement

The aim of this policy is to provide a framework against which permits can be assessed for mobile vending on public roads within our district. The *Local Government Act 1999 s222*, prescribes that a permit is required from Council for the operation of a business on a public road. Section 222(1a) provides that Council must issue a permit for mobile food vending, subject to the Regulations.

This policy applies only to stand alone activities. Permits for mobile vending as part of a festival, event or celebration are issued to the main permit holder and the responsibility for the conduct of the mobile traders during these events is the responsibility of the festival/event/celebration co-ordinator or promoter.

Strategic reference

Our Economy 2.1: To have a strong and prosperous economy built on diversifying our established industries, businesses and enterprises and attracting new industries and investors.

Tourism 2.3: To have a vibrant and growing tourism industry.

Definitions

The following definitions are contained within the *Local Government Act 1999*:

Mobile food vending means the preparation, packaging, serving and sale of items from a food vending vehicle or cart. Items may include food, drink products etc.

Fixed food business means a business the primary purpose of which is the retail sale of food or beverages that is carried on at fixed premises. Fixed food businesses include cafes, restaurants, delicatessens, takeaway food businesses, bakeries, greengrocers, health food shops, butchers and supermarkets.

Public road has the same definition as that described under the *Local Government Act 1999 s208*.

Policy objectives

Council recognises that the mobile and temporary vending, whether of food, or other types of business trading, contributes to economic vitality and encourages use of outdoor space in the Council area. The policy seeks to encourage mobile food vending to operate in our Council area to complement our existing bricks and mortar premises that sell food and beverages and offer diversity within the community. This policy seeks to provide guidelines for the operation of mobile food vending, that will provide a balance for mobile food vendors and fixed food businesses.

Principles

Council's principal concern with mobile and temporary trading is the protection of the safety of the community. Council also considers important the amenity of the area, particularly in the use of public spaces and proximity to fixed food businesses.

Policy

Siting rules:

Mobile vending is generally permitted on public roads where there is adequate footpath space to accommodate the mobile vendor. A mobile vending area must not compromise safety for patrons, pedestrians or vehicular traffic. In order to accommodate this, the vending area is broken down into three zones:

- safety zone
- pedestrian zone and
- mobile vending zone.

A mobile food vending business must operate from a site where it will not cause an obstruction to persons using the public road or interfere with residents living, or businesses operating, in the vicinity of the site. A site cannot be selected which would breach parking requirements applying to the site. This includes locating the mobile food vending business within spaces reserved for people with disabilities.

The safety zone is to ensure suitable clearance from vehicular traffic and will extend for an area 900mm from the back of kerb. No advertising, crowd control devices or tables and chairs may be placed within this area. Greater setbacks may be required if the vending area is to be adjacent to parallel on street car parks.

In order to ensure that suitable pedestrian access is available along the footpath, a minimum aisle width of 1.5 metres must be maintained (the pedestrian zone). No structures can be erected within

the pedestrian zone at any time. The location of outdoor vending areas must not compromise disabled access from the road or footpath.

The serving area must be on the footpath-side only.

Vans and trucks must be of dimensions which enable them to easily park in a standard parking space of 2.3 metres wide and 6.0 metres long. If the van or truck is longer than a standard carpark vendors are only permitted in non-delineated car parks.

In addition, the operator must ensure that the business does not unduly interfere with:

- vehicles driven on roads or
- vehicles parking or standing on roads or
- a parking area for people with disabilities (within the meaning of rule 203(2) of the Australian Road Rules) or
- public transport or cycling infrastructure (such as bus zones, taxi zones and bike lanes) or
- other road related infrastructure or
- infrastructure designed to give access to roads, footpaths and buildings.

Location rules:

Section 225A of the Act requires that Council must prepare and adopt rules (location rules) that set out locations within the council area in which mobile food vending businesses may operate. Mobile vending must be placed on a public road, and the final location is subject to approval from Council.

A mobile food vending business should have an objective basis for determining that in the circumstances of the location, and considering the location, number and operating hours of fixed food businesses in the Council area, the distance between the fixed food business and the mobile food vending business will be reasonable.

Loxton and Waikerie

Outside of organised events, mobile food vending businesses must be located at least 150 metres from a fixed food business.

Kingston on Murray, Moorook and other towns

Each application will be considered on a case by case basis, with regard to existing businesses operating in these townships.

Note that the *Local Government Act 1999 ss222, (2a) and (4)* provide that the location rules do not apply to a mobile food vending business primarily engaged in the sale of ice cream.

Council also recognises that private landowners may wish to encourage the use of their land for this purpose, to provide services to their employees, or in association with the existing activities on the site. This policy does not apply to those activities.

Management

There are many legislative requirements which apply to the provision of food, the operation of a business and the use of a motor vehicle. The Permit Holder must comply with requirements of the:

- *Local Government Act 1999 and the Local Government (General) Regulations 2013*
- *Food Act 2001*
- *South Australian Public Health Act 2011*
- *Environment Protection Act 1993*

- *Local Nuisance and Litter Control Act 2016*
- *Motor Vehicles Act 1959 and Road Traffic Act 1961*
- any legislative provision relating to electrical or gas installations or appliances, and health, safety or the environment, when operating the Mobile Food Vending Business.

Council also encourages mobile food vendors to adopt the *SA Food Safety Passport System: A Guideline to help Mobile Food Vendors comply with Food Safety Requirements*.

The operator must maintain the site in a clean manner at all times to the satisfaction of Council.

Any vehicle used for vending purposes must be maintained in a clean and roadworthy condition. Persons selling in a public place must provide a litter bin, and must not erect an advertising signage further than 20 metres from the site, unless approved by Council.

Amplified music or any noise device for the purposes of informing the public of items for sale must not be used before 8.00am or after 8.00pm, or as required by other relevant legislation.

A mobile food vending area must be vacated of all mobile food vending equipment daily when food vending operation ceases. Removal of mobile food vending items is at the permit holder's expense.

Food Act 2001

Council is the relevant authority for administration of the *Food Act 2001* which sets out the standards for safe food handling, including for mobile vendors, where appropriate. Prior to operation, a business must ensure it is compliant with the relevant standards. Information about this can be obtained from Council's website.

Council will not issue permits to operators who are not registered as a food business. If the business is based outside of the Council area, evidence of recent inspections of the vehicle must be provided to Council.

Public Liability

Business operators must hold appropriate levels of public liability insurance that notes Council as a specific entity. This value shall be a minimum of \$10,000,000. If vendors have similar requests from other councils, the following wording may be used 'all Councils and Shires across Australia'. The permit holder assumes responsibility for any liability issues which arise and that are associated with the mobile food vending area.

Monitoring

Council may vary the terms of the permit at any time, particularly in respect of approved locations for operation.

Enforcement

Authorised Officers from Council can enter a business at any time. Operators must adhere to all directions given by Authorised Officers. Failure to adhere to the relevant conditions of the permit and directions of Authorised Officers will result in the following course of action:

- First breach - verbal warning issued (with note on operators file). Compliance to be achieved within 28 days.
- Second breach - written notice compliance to be achieved within 28 days.

- Third breach - cancellation of the permit and/or authorisation in accordance with permit and/or authorisation.

Roles and responsibilities

Delegation to issue permits in accordance with this policy is provided to the Chief Executive Officer, who may in turn sub-delegate to staff.

Availability

This Policy will be available for inspection at the Council Offices at Loxton or Waikerie during ordinary business hours, or may be viewed at Council's website www.loxtonwaikerie.sa.gov.au.

Document history and version control

Date	Version	Authorisation - Council/ Committee/ Senior Management Team	Amendment Details
5/2/2019	0.1	SMT	Original
6/2/2019	0.2	DCCS	Edits
15/2/2019	0.3	Council	Adopted