

MOBILE FOOD VENDORS POLICY	
Type	Governance
Category	Development & Regulation
Responsible Officer	Manager Corporate & Community Services
First Issued / Adopted	27 November 2019
Review Period	5 years – or in response to legislative change
Last Reviewed	New policy
Minutes Reference	MB Page 805 Motion 016/1119
Next Review Date	June 2024
Applicable Legislation	<p>Australia New Zealand Food Safety Standards <i>South Australian Public Health Act 2011</i> <i>Environment Protection Act 1993</i> <i>Food Act 2001</i> <i>Motor Vehicles Act 1959</i> <i>Road Traffic Act 1961</i> <i>Local Government Act 1999 (Sections 222 & 226)</i></p> <ul style="list-style-type: none"> • <i>Local Government (Mobile Food Vendors) Amendment Act 2017</i> • <i>Local Government (General)(Mobile Food Vendors) Variation Regulations 2017</i> <p>By-Law No 2 – Movable Signs By-Law No 3 – Local Government Land</p> <ul style="list-style-type: none"> • <i>Any other legislative provision relating to electrical or gas installations or appliances.</i> • <i>Any other legislative provision relating to health, safety, food safety or the environment</i>
Related Documents	Fee & Charges Register Mobile Food Vendors Procedure Mobile Food Vendors Application Form Temporary Event Organiser Application Form Mobile Food Vendors Acceptance Areas - Maps Mobile Food Vendors Passport
Public Consultation Required	No

1. PURPOSE

In response to Legislative change, the purpose of this Policy is to standardise the information provided to potential Mobile Food Vendors operating within the District and to formalise the process by which the Council assess, grants and manages applications by Mobile Food Vendors to trade legally within the District.

2. SCOPE

District Council of Orroroo Carrieton has adopted this policy to establish the criteria that will be used in considering applications from Mobile Food Vendors to operate within the District.

This Policy will assist persons wishing to apply for approval to operate mobile food vending vehicles by setting out the information required by Council to assess applications.

This policy applies to footpaths, roads and public areas, which would ordinarily be used by vehicles, pedestrians or for recreational use across the Council District.

This Policy applies in the case of any and all applications for the provision of a permit to operate within the Council District as a Mobile Food Vendor.

3. DEFINITIONS

Terms used within this Policy, and its subsequent Procedures, for Mobile Food Vendors are defined by the Council or stated in the Food Act 2001, the Food Regulations 2017, the Food Safety Code and the Australia New Zealand Food Safety Standards.

These definitions are included to clarify the terms and conditions implied throughout this Policy and supporting Procedure.

Acceptance Area means a location which is proximate to existing food premises or nearby an area used for organised community or cultural events, which Council determines to be expressly appropriate for MFV operation.

Council means the District Council of Orroroo Carrieton.

Food Business means a business, enterprise or activity (excluding primary food production) that involves:

- (a) The handling of food intended for sale; or
- (b) The sale of food,

Regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.

Food Transport Vehicle means a vehicle used for the safe transportation/delivery of wholesale food to a storage facility or retail outlet only.

Handling of food includes the making, manufacturing, producing, collecting, extracting, processing, storing, transporting, delivering, preparing, treating, preserving, packing, cooking, thawing, serving or displaying of food.

Mobile Food Vendor (MFV) means a motorised, self-contained vehicle or an appropriately designed towed vehicle [trailer] used for the handling and retail sale of food.

Mobile Food Vendor (MFV) Permit means a permit issued by the Council pursuant to Section 222 of the Local Government Act 1999 and may be contingent on other certifications associated with food safety standards, to be displayed or carried by the mobile food vendor / operator. (ie: Mobile Food Vendors Food Safety Passport).

Premises includes –

- (a) Land (whether or not vacant); or
- (b) The whole or any part of a building, tent, stall or other structure (whether of a permanent or temporary nature); or
- (c) A pontoon; or
- (d) A vehicle (other than a food transport vehicle while it is engaged in the transport of food);

Proprietor of a food business means

- (a) The person carrying on the food business; or
- (b) The person in charge of the food business;

Risk includes

- a) High Risk MFV means a vehicle used for, but is not limited to, the preparation, manufacturing, storing and cooking of foods.
- b) Low Risk MFV means a vehicle used for the sale of pre-packaged foods and beverages and hot / cold beverages (i.e. tea, coffee, hot chocolate, soft drinks etc.)

as defined in the Mobile Food Vendors Procedure document.

Sell includes –

- (a) Barter, offer or attempt to sell; or
- (b) Receive for sale; or
- (c) Have in possession for sale; or
- (d) Display for sale; or
- (e) Cause or permit to be sold or offered for sale; or
- (f) Send, forward or deliver for sale; or
- (g) Dispose of by any method for valuable consideration; or
- (h) Dispose of to an agent for sale on consignment; or
- (i) Provide under a contract of service; or
- (j) Supply food as a meal or part of a meal to an employee, in accordance with a term of an award governing the employment of the employee or a term of the employee's contract of service, for consumption by the employee at the employee's place of work; or
- (k) Dispose of by way of raffle, lottery or other game of chance; or
- (l) Offer as a prize or reward; or
- (m) Give away for the purpose of advertisement or in furtherance of trade or business; or
- (n) Supply food under a contract (whether or not the contract is made with the consumer of the food). Together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment; or
- (o) Supply food in the course of providing service to patients or inmates in public institutions; or
- (p) Sell for the purpose of resale.

4. POLICY STATEMENT

4.1 Principles and Aims

This Policy aims to:

- a) Promote local economic development and commercial viability while ensuring that the operation of a Mobile Food Vendor does not compromise the operation of existing food businesses or relevant commercial operations within the District.
- b) To ensure that, in a public place, food sold to the public from a Mobile Food Vendor is safe for human consumption.
- c) To establish appropriate guidelines for the operation of Mobile Food Vendors and their vehicles, including;
 - Safety and Accessibility
 - Public Amenity
 - Hygiene and Sanitation
 - Trader Parameters
 - Appropriate Locations
 - Public Liability Insurance requirements
 - Indemnity Requirements
 - Construction, Equipment and Outfitting
 - The process and requirements for applying to operate a mobile food vehicle within the District.

This policy does not seek to limit the operations of Mobile food Vendors within the District beyond the parameters of Sections 225a and Regulations 25a – 25c of the Local Government Act 1999.

4.2 Administrative

A fee may be set by Council for the assessment of an Application for approval to operate as a Mobile Food Vendor (MFV) within the District. This fee (if applicable) is set principally in recognition of the necessary annual administration of the MFV to ensure the health compliance of the MFV. Unless otherwise determined, there is no initial, routine inspection fee, in keeping with Council Fees & Charges Policy – Inspection Fees for Food Premises. To operate within the District Council of Orroroo Carrieton area, a MFV must be approved and licensed by the Council and have proof of compliance with all statutory and operation requirements, as detailed below.

If the MFV is based outside of the District Council of Orroroo Carrieton area, proof of compliance (Food Safety Passport must be displayed and be visible to the public during all operational hours) is essential and an application must be submitted to the Council at least 30 days prior to commencement of operations within the Council district.

4.3 Mobile Food Vendor Application Requirements

A MFV operator MUST comply, and show proof of, compliance with:

- All requirements of the Food Act 2001, in particular Section 86(1), regarding the Notification of a Food Business.
- All requirements of the Department of Transport.
- All requirements of the Local Government Act (1999), with particular regard to “Location Rules” as detailed in Section 225A (2)(a) and in Regulation 25C.
- All relevant By-Laws, Policy and all other statutory requirements.
- Food Safety Standard 3.2.2, and 3.2.3 and any conditions or approval
- Australian Standard AS 2444-2001, requirements for fire extinguishers

4.4 MFV Location Rules and Proximity to Existing Premises

Areas throughout the District where MFVs are permitted to be located are highlighted on the Mobile Food Vendor Acceptance Areas Maps.

Furthermore, no MFV is permitted to trade within 100m* of an existing trading food or drink retail premise, unless special permission or conditions have been granted by Council.

* This minimum distance requirement is measured in a straight line from the closest point of the MFV (location) to the main entrance of the existing trading food/drink premise.

4.5 Liquor Licensing

The supply and sale of liquor is NOT permitted under a Mobile Food Vending License. Council may however facilitate or support a liquor license by other means under separate and unrelated permits, licenses or agreements.

4.6 Public Liability Insurance Requirements

MFV permit holders must purchase, maintain and show proof of a current public and product liability insurance policy. The policy must insure for the amount of a minimum twenty million dollars (\$20,000,000) and must cover injury, loss or damage to persons or property arising out of the activity carried out under this permit or the granting of this permit by the Council. A copy of the policy must be lodged as part of the application with the Council prior to commencing operations, and all renewal of policy documents provided at the time of licence renewal.

4.7 Road and Road Reserve Rules

Operation of the Mobile Food Vendor shall not unduly interfere with:

- Vehicles driven on roads; or
- Vehicles lawfully 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 or bike lanes); or
- Other road related infrastructure; or
- Infrastructure designed to give access to roads, footpaths and buildings;

4.8 Customer Seating

The placement of tables, chairs or other seating apparatus, is restricted to 2 tables and 6 chairs per table only within the defined acceptance areas not within the road or road reserve area and must be no more than 15 metres from the Mobile Food Vending vehicle.

Additional tables and chairs in other public open space areas will only be permitted with the formal consent of Council with appropriate permit fees applicable.

4.9 Signage

Signage shall be in strict accordance with Council By-law 2 (Movable Signs). Signage for the purpose of a MFV shall be sited no more than 500 metres from the MFV and not less than 25 metres in a straight line (including across roads, reserves or the like) from any other trading food/drink premise.

Signage shall not be placed on roadsides within any traffic speed zone above 60km/h for road user safety.

4.10 Special Events

During annual festivals, parades or special events, unless incorporated as part of the event by the event organiser, a MFV is not permitted to be situated within 100 metres of the organised event area regardless of whether the area is defined as an 'Acceptance Area' under this policy.

4.11 Hours of Operation

All MFVs shall operate only within the following times:

- Monday – Thursday : 8:00am – 8:00pm
- Friday – Sunday : 8:00am – 10:00pm

During these hours of operation the MFV operator MUST allow for time to:

- thorough clean of the food preparation area(s) and equipment,
- dispose of unused, prepared food products, and to allow for replenishment of fresh food products, (either freshly prepared or from other temperature controlled storage),
- replenish fresh water reserves, washing up & cleaning supplies,

at least once, for every 6 hours of operation.

There shall be no permitted extension of hours to accommodate re-stocking, replenishing or cleaning.

Non-compliance with this Policy, particularly arising from complaints regarding 'out of hours' activity, or the insanitary condition or operation of the MFV's vehicle, may result in the revocation of their License, a prohibition order and prescribed Penalties pursuant to the Food Act 2001.

An Authorised Officer may require the operator to cease an action or activity in breach or remedy a breach of this policy / procedure including requiring the vehicle to move if necessary. An Authorised Officer also has the authority to request that the MFV leave the area.

Authorised Officers are empowered to take such reasonable actions, and to exercise orders to ensure compliance, which may include any or all of the following:

- Authority over Food Act 2001 matters – Council's Environmental Health Officer.
- Authority over parking, signage, public order / nuisance matters, currency of permits – Council General Inspectors or Environmental Health Officer.
- Public health & safety matters – Council's Risk Coordinator.
- Authority over matters under the Road Traffic Act 1961 or Motor Vehicles Act 1959 – South Australian Police.
- Liquor, noise, public order or other offences – SAPOL, Officers authorised under the Liquor Licensing Act 1997.

4.12 Breach of Conditions or Rules

A breach of any Legislation, Location Rule, License Condition or By-law may be subject to expiation pursuant to the Expiation of Offences Act 1996.

A breach of Legislation, Location Rule, License Condition or By-Law considered by Council to be of a serious or serial nature may result in the revocation of any permit granted under Section 225A, pursuant to Regulation 25B.

Cancellation may be of immediate effect if Council determines the cancellation is due to breach which affects the health or safety of the public, or otherwise to protect the public interest

4.13 Dispute

Any Dispute regarding the Location Rules, Conditions, Breach or Enforcement must be made to the office of the Small Business Commissioner of South Australia.

4.14 Availability of the Policy

This policy will be available for inspection at the Council Office, 17 Second Street, Orroroo during ordinary business hours and available to be downloaded, free of charge, from Council's internet site: www.orraroo.sa.gov.au

Copies will be provided to interested parties upon request, and upon payment of a fee in accordance with Council's Schedule of Fees and Charges.