



Policies, Procedures and Guidelines

MOBILE FOOD AND DRINK VENDORS TRADING ON PUBLIC PARKS, PLACES, ROADS AND RESERVES POLICY

ENV019

BACKGROUND

The policy allows Council to better influence, guide and control the form and use of mobile food and drink vendors trading on public parks, places, roads and reserves.

A method to encourage people to meet and the community to prosper is to further activate the shire's many public open spaces with ample access mobile food and drink outlets. This policy has been developed to guide mobile food vendor activity. It seeks to be well balanced by facilitating mobile food vendor operations while protecting public health, safe-guarding local business proprietor interests and maintaining community welfare in public spaces.

The policy also supplements provisions of the Local Government Act 1993, the Roads Act 1993, the Food Act 2003 and associated regulations.

OBJECTIVES

- a) Ensure that mobile food vendors operate in accordance with the rules and restrictions of Council controlled land;
- b) Encourage the use of parks and reserves for mobile food vendors as a means of enhancing community experiences that flow from the activation of shared public spaces;
- c) Ensure that food sold through mobile food vending vehicles is safe and fit for human consumption;
- d) Enhance community wellbeing; economically, socially and environmentally. Through this policy, Council seeks to support business activities that do not have a detrimental impact on surrounding businesses, residences or public property;
- e) Ensure the operation of mobile food vending vehicles does not increase litter or waste in or from the trading location;
- f) Ensure the construction, fitting out and facilities for cleaning utensils, articles, fittings and appliances in vehicles are adequate;
- g) Minimise any potential adverse impacts of mobile food vending vehicles;
- h) Ensure there are damage mitigation measures to protect Council facilities;
- i) Ensure the safe operation of mobile food vending vehicles;

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SCOPE

The policy is a Local Approvals Policy prepared and adopted under Section 158 of the Local Government Act 1993.

This policy applies to all Council controlled land within Lachlan Shire Council.

The Policy does not apply to the use and operation of any food truck or food vendor that is used on private land. Such activities may be exempt from a requirement to obtain development consent, subject to the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

DICTIONARY

Council Controlled land includes all of the land used for vehicular traffic and parking, as well as any footway, shoulder, kerb, and gutter.

Development approval means an approval issued by Lachlan Shire Council or Certifying Authority.

Mobile food and drink vendor means a food and or drink truck, van, cart or other similar vehicle used for the on-site preparation and/or the sale of any type of food and or drink including pre-packaged.

POLICY

The Policy is made and will be enforced under the Local Government Act 1993 and applies to all Council controlled land within the Lachlan LGA.

The Policy was adopted by Council on 26/05/2021 and came into operation on 26/05/2021.

The Policy applies to the following activity, as specified in the Table under Section 68 of the Local Government Act:

7 Use a standing vehicle or any article for the purpose of selling any article in a public place

For the purposes of this policy a 'standing vehicle' includes any mobile food and drink vendor that has stopped to make a sale, or with intention to sell.

When will the policy be revoked?

In accordance with Section 165(4) of Local Government Act 1993:

(4) A local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

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RESPONSIBILITIES

1. Councils have general responsibilities for the stewardship and management of public roads and public places. Councils have specific powers and responsibilities under the Local Government Act 1993 to control street vending activity and the Roads Act 1993, gives Councils power to control footway restaurants and structures on public roads. Under the Local Government Act 1993, Councils may use local approval policies to establish formal criteria for street vending approvals.
2. Transport for NSW, in principle, does not favour street vending activities on classified roads for traffic flow and safety reasons.
3. NSW Police may undertake enforcement of the road transport legislation. In relation to street vending activities.
4. Mobile Food Vehicle operator:
 - a. In the first instance discuss your mobile food vendor proposal with Council by phoning 6895 1900. If the proposal is considered feasible, continue with the following steps.
 - (i) Register the Mobile Food Vehicle with Council using the relevant form. See www.lachlan.nsw.gov.au
 - (ii) Provide Council with written documentation outlining operator processes for ensuring the safety of users and the general public. This will include details regarding; vehicle, types of goods and services to be traded, a site risk assessment and safe operating procedures.
 - (iii) All mobile food vendors should be fully self-contained and not rely on Council to provide power, water or sewer services.

POLICY DETAILS

Part 1 –

Exemptions from the necessity to obtain Approval

There are no exemptions under the Policy for mobile food vehicles on Council controlled land such as parks, places, roads and reserves.

Note: Section 158(3) of the Local Government Act 1993 requires a Local Approvals Policy to specify the circumstances (if any) in which a person would be exempt from the necessity to obtain a particular approval from Council. To ensure the safety of food for human consumption, there will be no exemptions for compliance with the Policy in relation to mobile food vehicles.

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Part 2 –

2.1 - Criteria Council must consider when determining applications for Mobile Food and Drink Vendors

2.1.1 General Requirements of mobile food and drink vendors:

- a) Approval under Section 68 of the Local Government Act 1993 is required prior to commencement of operation of a mobile food and drink vehicle on Council controlled land. A mobile food and drink vendor operating without the required approval is an offence.
- b) An application for approval to use a mobile food and drink vehicle is to be made on the approved form. The prescribed fee is also to be paid before the application is assessed.
- c) Prior to the issue of an approval under this Policy, the mobile food and drink vehicle is to be made available for inspection by Council's officers as required. Council will charge a fee for inspecting the mobile food and drink vehicle as per Council's adopted Fees and Charges Schedule.
- d) All Approvals will be issued with an end date of 30 June each year, to enable an annual review and re-issue of approvals.
- e) Operators are to notify the food business to Council.
- f) Applications to renew approvals are to be lodged with Council a minimum of 14 days prior to the expiration of current approvals.
- g) The criteria to be used in the assessment of a mobile food vendor for approval will include all the relevant provisions contained in the standards as set out in Part 2 of the Policy, the Food Act 2003, Food Regulation 2015 and the Food Standards Codes.
- h) Approvals will be issued subject to conditions, including but not limited to compliance with the Policy.
- i) Only the sale of foodstuffs and drinks will be allowed by mobile food and drink vendors. No sale of alcohol, cigarettes or other products from mobile food vehicles will be approved.
- j) The applicant is to submit a copy of a broad form public liability insurance indemnifying the applicant against any actions, suits, claims, demands or proceedings for death or injury to any third party or parties or loss of, or damage to, any property, with an indemnity amount of not less than \$20,000,000 per occurrence and noting Council as an interested party. The Insurance is to be valid at all times from the date of approval through to the date the approval lapses.
- k) The applicant is to submit copies of valid insurance policies that protect the applicant:
 - (i) Against any injury to any third party or parties under Compulsory Third Party Insurance as required by the NSW Motor Accidents Act 1988; and
 - (ii) Against loss of, or damage to, any property whatsoever caused by the use of the vehicle when being driven by the Licensee, an employee of the Licensee, an independent contractor or any other person (including a person not employed by the Licensee). The policy is to have a limit of indemnity of not less than \$20,000,000 and shall be extended to include "CTP Gap Coverage Endorsement" cover. The policy shall note the interest of the Council as an insured.
 - (iii) The Insurance is to be valid at all times from the date of approval through to the date the approval lapses.

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- (iv) This is also to include the Products Disclosure Statement and/or Policy Wording.

2.2 - Criteria Council must consider when determining an application to operate a Mobile Food and Drink Vehicle on Council owned and controlled roads

2.2.1 Location

Mobile food and drink vendors permitted to operate on Council owned and controlled roads are to:

- a) Be located within existing lawful parking spaces.
- b) Comply with the local parking restrictions.
- c) Comply with relevant road rules.
- d) Not 'set up stand' nor remain at any one selling point for more than 15 minutes without a customer. The vehicle must move a minimum of 250 metres between each selling point.
- e) Not trade on main roads and through streets with a speed limit of greater than 50km/h, or 80km/h where the carriageway has wide shoulders.

Mobile food and drink vendors permitted to operate on Council owned and controlled roads must not:

- a) Operate within 150 metres of a food and drink premises or boundary of an event licensed or approved to occur on Council land.
- b) Sell to any person that is standing on a within an active vehicle pathway of a road (restriction includes carparks and other areas where customers could be standing in the way of an active vehicle path).
- c) Be within five (5) metres of an intersection when making a sale, or attempting to make a sale.
- d) Impact on bicycle paths, pedestrian ramps, footpaths, public street furniture, fire hydrants, telephone booths and post boxes, or the like.
- e) Be longer than 7.5m unless a separate Road Occupancy Permit is sought.
- f) Remain in any public, on-road location overnight.
- g) Provide tables or chairs, or other seating or furniture.
- h) Be on classified roads until the concurrence of the RMS has been provided. This restriction applies to any advertising that maybe planned to be installed on the classified road.
- i) Stop on a hill or bend where sight distance is limited nor located in front of driveways or entrances to properties unless the permission of the property owner has been obtained.
- j) Use additional flashing or rotating lights, except those required under Motor Traffic legislation.

2.2.2 Proximity to existing comparable premises

No operating mobile food and drink vendor is to be positioned within 150m of an operating food and drink service premises. This minimum distance requirement is measured in a straight line from the closest point of the food vehicle (location) to the main entrance of a food and drink premises, or boundary of a licensed event area.

2.2.3 Parked mobile food and drink vendors are to operate so as to:

- a) Not impact on or conflict with any marked bicycle paths;
- b) Ensure access to pedestrian ramps and footpaths are not compromised;
- c) Ensure that access or egress from any building is not restricted by the operation of the food vehicle; and
- d) Ensure access to public street furniture such as seats, bicycle parking, drinking fountains, rubbish bins, fire hydrants, telephone booths and post boxes or the like.

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Council will use the following principles in determining the suitability of any mobile food and drink vendor locations:

- Proximity to residential properties (potential residential amenity impacts).
- Proposed hours of operation (consideration of other food and drink premises in proposed location).
- Road, road-user and pedestrian safety.
- Availability of alternate locations.

2.2.4 Vehicle Specifications

- Food and drink vehicles must be no wider than 2.5m.
- Additionally, vehicles 7.5m or greater in length may require separate Road Occupancy Permits. 3.3.5

2.2.5 Registration Requirements

- The mobile food and drink vendor will need to be a registered food business. Upon proof of being registered, the mobile food and drink vendor will be inspected in accordance with their risk category.

2.2.6 General Requirements in Accordance with Food Safety Standard 3.2.3

The design and construction of a mobile food vehicle is to:

- a) Be appropriate for the types of food produced and activities conducted;
- b) Provide adequate space for all activities and for all equipment to be used or stored;
- c) Allow easy cleaning/sanitising procedures of all structures and equipment;
- d) Prevent entry of pests, dust, fumes, smoke and other contaminants; and
- e) Exclude favourable sites for pests to harbour (live and breed).

Further details on these requirements are contained within the Guidelines for Mobile Food Vending Vehicles, prepared by the NSW Food Authority. All mobile food vendors approved by Council are required to comply with these guidelines.

2.3 - Criteria Council must consider when determining an application to operate a Mobile Food and Drink Vehicle on Council controlled Parks, Place and Reserves

2.3.1 Location

Mobile food and drink vendors permitted to operate on Council parks, places and reserves must not:

- a) Operate within 150 metres of a food and drink premises or boundary of an event licensed or approved to occur on Council land.
- b) Sell to any person that is standing on a within an active vehicle pathway of a road (restriction includes carparks and other areas where customers could be standing in the way of an active vehicle path).
- c) Impact on bicycle paths, pedestrian ramps, footpaths, play equipment, public furniture, fire hydrants, telephone booths and post boxes, or the like.
- d) Remain in the public park, place and reserve location overnight.
- e) Tables or chairs, or other seating or furniture will be considered only where appropriately located without any unreasonable impacts.

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2.3.2 Proximity to existing comparable premises

No operating mobile food and drink vendor is to be positioned within 150m of an operating food and drink service premises. This minimum distance requirement is measured in a straight line from the closest point of the food vehicle (location) to the main entrance of a food and drink premises, or boundary of a licensed event area.

2.3.3 Mobile food and drink vendors are to operate so as to:

- a) Ensure access to pedestrian ramps and footpaths are not compromised;
- b) Ensure that access or egress from any building or pathway is not restricted by the operation of the food and drink vehicle; and
- c) Ensure access to public furniture such as seats, play equipment, bicycle parking, drinking fountains, rubbish bins, fire hydrants, telephone booths and post boxes or the like.

Council will use the following principles in determining the suitability of any mobile food and drink vendor locations:

- Proximity to residential properties (potential residential amenity impacts).
- Proposed hours of operation (consideration of other food and drink premises in proposed location).
- Public park, reserve and place user safety.
- Availability of alternate locations.

2.3.4 Registration Requirements

- The mobile food and drink vendor will need to be a registered food business. Upon proof of being registered, the mobile food and drink vendor will be inspected in accordance with their risk category.

2.3.5 General Requirements in Accordance with Food Safety Standard 3.2.3

The design and construction of a mobile food vehicle is to:

- a) Be appropriate for the types of food produced and activities conducted;
- b) Provide adequate space for all activities and for all equipment to be used or stored;
- c) Allow easy cleaning/sanitising procedures of all structures and equipment;
- d) Prevent entry of pests, dust, fumes, smoke and other contaminants; and
- e) Exclude favourable sites for pests to harbour (live and breed).

Further details on these requirements are contained within the Guidelines for Mobile Food Vending Vehicles, prepared by the NSW Food Authority. All mobile food vendors approved by Council are required to comply with these guidelines.

2.3.6 Associated Vehicles

The parking of any vehicles associated with the Mobile Food and Drink vendors in parks, is prohibited at all times, except for any positioning of the Mobile Food and Drink Vendor.

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Part 3 -

Other matters relating to approvals for all Mobile Food and Drink Vendors

3.1 Permitted days and hours of operation

The use of Council controlled land for the purpose of operating a mobile food and drink vehicle is restricted to 8:00am to 9:00pm each day, but only for a maximum period of 8 hours inclusive of set up and pack up times. Mobile food and drink vehicles are not to remain in any on-road location overnight.

3.2 Serving

Mobile food and drink vendors are not to operate with their serving window opening onto any part of an active vehicle pathway or a cycleway.

3.3 Customer seating

The placement of tables, chairs or other seating apparatus is only permitted per 2.3.1 (e).

3.4 Waste Management and Recycling

Provisions for waste management are to include the following:

- a) Mobile food and drink vendors are responsible for the waste materials generated during the trading period. Waste materials such as food packaging should be collected in bins or suitable receptacles, bagged or contained, and stored and disposed of at the cost of the operator.
- b) Any waste produced by the operation of the mobile food and drink vendor is to be removed from the site via the mobile food vehicle at the end of the trading period.
- c) The trading area is to be left in a clean and tidy condition at the end of each trading interval.
- d) The trading approval holder is liable to reimburse Council for any cleaning cost incurred by Council during the duration of the trading period as a result of the operation of the mobile food and drink vehicle.
- e) Disposal of all liquid wastes generated within the mobile food vehicle is to be discharged to the sewer or as approved by an authorised Council Officer. Under no circumstances is liquid waste to be discharged to the ground or in the stormwater drain.
- f) Details of liquid waste and garbage disposal arrangements must be supplied with the application for the mobile food vehicle.
- g) Where feasible the packaging used for the sale of food should be selected for its suitability for recycling in the Lachlan Shire Council area. Details are available on <http://www.lachlan.nsw.gov.au>

Note: Approval of a mobile food vehicle is subject to compliance with the requirements of the Food Act 2003, Food Standard Code and all other conditions of approval.

The mobile food vendor approval issued by Council is to be displayed in a location that is clearly visible to customers at all times during operation. A copy of the full approval document is to be kept within the vehicle at all times and made available to an authorised Council officer upon request.

Failure to adhere to any condition of approval and/or legislative requirement may result in modification, suspension or revocation of an approval, in addition to the potential issuing of fines

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3.5 Signage

An approval under the Policy does not infer any approval for the erection or display of any sign or sign structure not directly attached to the mobile food and drink vehicles. The Policy does not allow the use of any temporary signage (e.g. A-frame boards) in association with the operation of any mobile food vehicle.

3.6 Animals and Pests

All practicable measures are to be taken to prevent pests (including birds, spiders and flying insects) from entering or remaining in the vehicle. No animal is permitted to enter any vehicle, whether the vehicle is in operation or not.

3.7 Water supply

The vehicle must be provided with an adequate supply of potable water stored in approved containers and suitably protected against contamination, for hand washing, cleaning equipment and for use of food preparation. There must also be an adequate supply of hot water for these purposes. The vehicle is to be equipped with a waste water tank external to the vehicle, of at least 50 litre capacity with an outlet of sufficient diameter to facilitate easy flushing and cleaning. All hot water for washing purposes is to be supplied from a suitable hot water system and should be piped so it can be mixed with cold water.

3.8 Control of pollution

Operators are to comply with the Protection of the Environment Operations Act 1997, which contains provisions relating to pollution, including prevention of offensive noise, smoke, odour and waste water discharges.

Wastewater is to be contained within the vehicle for later disposal to the sewerage system.

Noise: the emission of noise associated with the use of the vehicle, including the operation of any mechanical plant and equipment including generators, is to comply with the following:

- a) The use of the vehicle must be controlled so that any emitted noise is at a level so as not to create an "offensive noise" as defined in the Protection of the Environment Operations Act 1997.
- b) If any noise complaints are received and substantiated by an authorised Council officer, the officer may direct that the use of the food vehicle/business is to be suspended or moderated to prevent nuisance until attenuation measures are completed and Council has confirmed in writing that the use may resume.
- c) The operation of a mobile food vehicle is not to involve the use of any bell, music or other sound device to attract customers, nor while the vehicle is stationary.

3.9 Odour

If any odour or smoke complaints are received and substantiated by an authorised Council officer, then the use of the vehicle or apparatus is to be moderated as directed by an authorised Council officer as deemed necessary to prevent nuisance.

3.10 Food handling

The requirements for the handling of food for sale and human consumption are outlined in the Food Standards Code. The requirements also apply to pre-packaged food and low-risk food. Fact Sheets

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and user guides are available on the Food Standards Australia New Zealand website (www.foodstandards.gov.au).

3.11 Preparing food at home

A separate application and approval may be required for the preparation of food as part of a home business.

3.12 Use of separate premises

Where the operation of the mobile food vehicle involves the use of premises within the Lachlan Shire Council area, for the storage or preparation of food in conjunction with a mobile food vehicle, a Development Consent for such use may be required under the Environmental Planning and Assessment Act 1979. Any change in the permanent facilities is to be notified to Council.

3.13 Maintenance

The vehicle and its associated fixtures, fittings and equipment must be kept clean and in a good state of repair and working order, free from dirt, fumes, smoke, foul odours and other contaminants.

3.14 Non-compliance

Council's Authorised Officers may issue penalty infringement notices, orders, clean up notices, prevention notices or court attendance notices for noncompliance with the Policy and all related offences. Serious pollution incidences can also be prosecuted by state agencies such as the NSW Environment Protection Authority.

3.15 Fees and charges

The mobile food vendor will be required to pay the following charges with an application:

- a) A fee for inspecting the mobile food vehicle as per Council's adopted Fees and Charges Schedule.
- b) A Section 68 Part F (7) Approval Fee as per Council's adopted Fees and Charges Schedule.
- c) A daily usage fee for the use of the park or public reserve as per Council's adopted Fees and Charges Schedule. Additional fees for the use of Council electricity and water apply.

3.16 Damage Bonds

The mobile food vendor will be required to pay a bond as per Council's adopted Fees and Charges Schedule for the use of the area to cover damage to Council infrastructure and facilities.

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LEGISLATION

Local Government Act 1993

Local Government Regulation 2005

Food Act 2003

Roads Act 1993

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Greg Tory

GENERAL MANAGER

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