



Mobile Food Vendor - Location Rules Policy

Reference Number:	Section 10 No. 5
Responsible Department:	Strategy & Development
Related Policy/Procedure:	
Date of Adoption:	27 February 2018
Current Review Date:	22 May 2018
Minute Reference:	2018/180
Version Number:	Amendment No. 2
Applicable Legislation:	Local Government Act, 1999, Section 225A
Next Review Date:	May 2021
Review Frequency:	Triennially

1. Purpose

This document sets out the location rules for Mobile Food Vendors with permits to operate within the Light Regional Council area.

2. Scope

A mobile food vending business requires a permit under section 222 of the *Local Government Act 1999* to operate a business on a public road in the Council area.

A condition of a permit authorising a mobile food vending business to operate on a public road in the Council area is that the permit holder complies with location rules adopted by the Council under Section 225A of the Local Government Act.

The Council has adopted the location rules set out in this document.

3. Definitions

Event Area: is a section of public road set aside by Council from time to time for an event, which may or may not be specifically closed for a duration for that purpose and may or may not include the full extent of the road carriageway.

Fixed food business: is 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 cafés, restaurants, delicatessens, takeaway food businesses, bakeries, greengrocers, health food shops, butchers, supermarkets and, in some cases, service stations.

Food business: means a business the primary purpose of which is the retail sale of food or beverages.

Mobile food vending business: means a business involving the sale of food or beverages from a vehicle.

Reasonable distance: is a minimum distance of not less than 200 metres.

Site: means the area of land (in this instance a part of a public road) on which a mobile food vending business is proposed to be located.

Vehicle: includes a motor vehicle and trailer as well as a tram, bicycle, animal being ridden or drawing a vehicle and motorised wheelchair that can travel at over 10 kilometres per hour, or as defined in the *Road Traffic Act 1961*.

4. Location Rules

1. Mobile food vending business determined sites

A mobile food vending business holding a permit issued by the Council may operate on a public road in the Council area other than on a road with a speed limit of greater than 50 km/h, subject to complying with these location rules and any other requirements of its permit.

2. Operate a reasonable distance from a fixed food business

A mobile food vending business will be located at a reasonable distance from a fixed food business during the opening hours of the fixed food business.

3. Take into account the effect of the operation of the mobile food vending business

A mobile food vending business must operate from a position 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.

For example, a site should not be selected:

- If the mobile food vending business would take up all, or a significant amount of, the parking available to other businesses;
- Where footpaths are narrow so that the mobile food vending business and its customers may cause an obstruction to other persons using the footpaths; or
- If the mobile food vending business would obscure a pedestrian or driver's view of a road in an unsafe manner.

Location rule

A mobile food vending business must select a site for operation which takes into account the effect of the operation of the mobile food vending business on:

- a) vehicles and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities;
- b) the requirements relating to, and availability of, parking spaces; and
- c) residents and businesses.

4. No undue interference with vehicles or road related infrastructure

A mobile food vending business must operate from a site which will not impinge on the use of roads by vehicles or interfere unduly with road related infrastructure. For example:

- A site should not be selected if the mobile food vending business would interfere with access by a disabled person to a parking area for persons with disabilities;
- Lengths of road with high public transport usage would not be suitable if the mobile food vending business was located so as to impede vehicle operations or passenger access (e.g. a bus interchange located on a road); or
- A site which restricts or interferes with access to facilities for parking bicycles would also not be suitable.

Location rule

A mobile food vending business must select a site for operation where the mobile food vending business will not unduly interfere with:

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

5. Compliance with legislative requirements

There are many legislative requirements which apply to the provision of food, the operation of a business and the use of a motor vehicle. A site must be selected by a mobile food vending business which does not breach any of these legislative requirements.

For example, a mobile food vending business must comply with the Work Health and Safety Act 2012 (WHS Act). Consideration should be given to the 'primary duty of care' under the WHS Act which is, so far as reasonably practicable, to ensure to health and safety of workers when selecting a site.

Also, a mobile food vending business must not commit a 'local nuisance' under the Local Nuisance and Litter Control Act. A local nuisance includes any adverse effect on the amenity value of an area that is caused by noise, odour, smoke, fumes, aerosols or dust which unreasonably interferes with, or is likely to interfere unreasonably with, the enjoyment of the area by persons occupying a place within, or lawfully resorting to, the area. A mobile food vending business which omits smoke or odours should consider these requirements when selecting a site.

Location rule

A mobile food vending business must select a site for operation which does not breach any relevant requirements under:

- (a) the Food Act 2001;
- (b) the South Australian Public Health Act 2011;
- (c) the Environment Protection Act 1993;
- (d) the Local Nuisance and Litter Control Act 2016;
- (e) the Motor Vehicle Act 1959 and the Road Traffic Act 1961;
- (f) legislation relating to electrical or gas installations or appliances; and
- (g) relevant legislation relating to health, safety or the environment.

5. Special Circumstances for Events

In the circumstances of an event affecting a public road, the following is provided for a mobile food vending business that wishes to locate within the designated Event Area:

- a) A mobile food vending business that has an existing and valid permit is required to seek separate approval from the recognised event organiser for the duration of the event; or
- b) A mobile food vending business with no existing permit that wishes to trade within a designated Event Area must seek an approval from the event organiser prior to seeking a permit from Council for the full extent or part of the duration of the event.

6. Disputes may be referred to the Small Business Commissioner

If an operator of a food business in the Council area is directly adversely affected by these location rules then the operator may apply to the Small Business Commissioner for a review of the location rules.

7. Amendment of these location rules

The location rules may be amended from time to time by the Council. The location rules must be amended by the Council if this is directed by the Small Business Commissioner or to satisfy a requirement of the Minister for Local Government.

8. History

- 1. Interim Policy adopted by Council on 27 February 2018, Minute Reference 2018/559 (Item 13.3.1)
- 2. Final Policy adopted by Council on 22 May 2018, Minute Reference 2018/180 (item 13.3.2).