

Street Traders and Mobile Food Vans Policy

Strategic Reference:	Objective 1; A caring, healthy and resilient community. Strategy 1.7; Achieve or implement the statutory and core responsibilities of Council.
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Responsibility:	Infrastructure & Assets Department
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Applicable Legislation:	Local Government Act 1999 Food Act 2001 South Australian Public Health Act 2011 Environment Protection Act 1993 Local Nuisance and Litter Control Act 2016 Motor Vehicle Act 1959 Road Traffic Act 1961 Work Health and Safety Act 2012
Related Policies:	Schedule of Fees & Charges
Related Procedures/Documents:	Applicant's Guide developed by Council (Not a statutory requirement but to assist applicants) Model Permit by Local Government Association

1. Purpose

Street Traders and Mobile Food Vending Businesses require a permit under section 222 of the *Local Government Act 1999* to operate a business on a public road in the Council area.

This Policy outlines the considerations to be taken into account by the Council in issuing a permit to allow a Street Trader or a Mobile food vending business to trade on a public road or on Local Government land.

In the case of a permit that is issued for a Mobile Food Vending Business to operate on a public road in the Council area, the Permit Holder must comply with the Location Rules adopted by the Council under section 225A of the *Act*, which are set out in Part Two (2) of this Policy. The Council has adopted the Location Rules set out in this document.

2. Scope

Street Traders applications and permits will be governed by the criteria in Part One (1).

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Mobile Food Vendor Business applications and permits will be governed by the criteria in Part Two (2).

Mobile and street trading cannot occur in any public place until the appropriate fee(s) have been paid and a permit issued by Council. The adopted application and permit fees are outlined in Part Three (3).

Please note that a permit will not be issued for a site under the control of another government agency unless Council Officers have sighted the written support documents, obtained by the applicant, of the affected agencies.

For the avoidance of doubt this Policy does not apply to the following:

- ice cream vans that are not stationary
- where a vendor is trading on Local Government land in accordance with a permit for an approved special event
- trading activities on private land.

3. Definitions

For interpretation of this Policy, the following definitions are applicable:

“Local Government land”: all land vested in or under the care, control and management of the Council (except a road).

“Fixed food business”: a business, the primary purpose of which is the retail sale of food or beverages that is carried on at fixed premises.

“Mobile”: working in one place for a short period of time and then moving on to operate in another place.

“Mobile Food Vending Business (MFVB)”: a business involving the sale of food or beverages from a vehicle (within the meaning of the *Road Traffic Act 1961*).

“Mobile Food Vending Business Permit (MFVB Permit)”: a permit issued for a Mobile Food Vending Business to trade on a road under section 222(1a) of the *Act*.

“Public Place”: includes a road or place which the public are allowed to use and have access to, whether or not the road or place is on private property.

“Road”: the same meaning as ‘public road’ under the *Act* and includes a footpath area.

“Street Trader Permit”: a permit issued to a stall holder that wishes to trade on Council land not in association with a special event or a Mobile Vendor, but **excludes** a Mobile Food Vending Business Permit

“Trading”: means to:

- carry on the business of selling or offering or exposing for sale any goods, merchandise, commodity, article or thing; or
- setting up a van or other vehicle or stall or other structure, for the purpose of buying or selling any goods, merchandise, commodity, article or thing.

“Vendor”: someone who promotes, exchanges, or hires goods or services for money.

“Footpath area”: that part of a street or road between the property boundaries of the street or road and the edge of the carriageway on the same side as that boundary.

PART ONE (1)

LOCATION REQUIREMENTS FOR STREET TRADER PERMITS

Part One (1) is applicable to all Street Trader Permits. This includes a permit issued to a Mobile Food Vending Business trading on Local Government land but does not include a MFVB Permit (related to trading on a public road).

Importantly, a person must not trade on Local Government land that is community land without the approval of the Council under section 200 of the Act. The Council cannot grant approval to trade on community land contrary to the provisions of the Community Land Management Plan adopted by Council for that land pursuant to Section 196 of the Act.

All Permit Holders must comply with the conditions that are attached to the Street Traders Permit.

Location Requirements

The Permit Holder may only trade in the locations specified in the Trader Permit. A location will only be approved for trading activities if it:

- a) is readily and safely accessible to customers;
- b) provides adequate parking for customers;
- c) does not present a traffic hazard or danger to the public;
- d) has adequate rubbish disposal facilities;
- e) does not breach any regulatory or signposted car parking restrictions;
- f) takes place where the goods displayed and the gathering of customers will not impede pedestrians or vehicle movements or cause conflict with other activities;
- g) will not interfere with access to other facilities and/or businesses (including occupying car parking areas to the detriment of the public);
- h) trading will generally be permitted on a Council footpath for non-profit organizations and local businesses where this occurs in connection with existing business premises. In this case, only the footpath area at the immediate frontage of or adjacent to the business premises may be used to ensure the permit holder does not interfere with neighbouring or adjoining properties; and
- i) clear access to all adjacent premises must be maintained, this includes providing a clear path of at least 1200mm from the business premises to facilitate wheelchair access.

PART TWO (2)

LOCATION RULES FOR MOBILE FOOD VENDING PERMITS

These Location Rules apply to all Mobile Food Vending Van Permits that are issued pursuant to section 222(1a) of the *Act*.

A copy of these Location Rules will be published on the Council's website.

4. Council determined mobile food vending business sites

The Council has determined that mobile food businesses may operate from the sites shown on the maps below (orange star).

Wellington East

One vehicle only at any one time.



Notation:

- Daily permits for mobile food van businesses will only be issued in association with an approved community or special event.
- On days when an approved community event is being held in a Council reserve/park, then a maximum of two food vans can trade in non-disabled car spaces immediately adjacent to the reserve/park where the event is being held.
- Preference will be given to mobile food vending businesses or community organisations, which are based in the Coorong District Council area.

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5. Mobile food vending business determined sites

A mobile food vending business holding a monthly or annual permit issued by the Council may operate anywhere in the Council other than:

- An arterial road under the care, control and management of the Commissioner of Highways.
- Areas of non-arterial roads where the traffic speed exceeds 60km per hr.
- Within one (1) kilometre from a fixed food business that sells similar food products, measured with a straight line from the entrance of the existing food business to the counter/payment area of the mobile food vendor.
- Residential, Settlement, Township and Rural living zones as per Coorong District Council's Development Plan.

Subject to complying with these location rules and any other requirements of its permit.

Notation:

- Daily permits for mobile food van businesses will only be issued in association with an approved community or special event.
- On days when an approved community event is being held in a Council reserve/park then a maximum of two food vans can trade in non-disabled car spaces immediately adjacent to the reserve/park where the event is being held.
- Preference will be given to mobile food vending businesses or community organisations, which are based in the Coorong District Council area.

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

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 including operating hours so as not to impact on existing 'bricks and mortar' businesses.

Explanation

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.

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Examples

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
- if the mobile food vending business would obscure a pedestrian or driver's view of a road in an unsafe manner.

5.2. No undue interference with vehicles or road related infrastructure

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.

Explanation

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.

Examples

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 (eg a bus interchange located on a road).

A site which restricts or interferes with access to facilities for parking bicycles would also not be suitable.

5.3. Compliance with legislative requirements

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*;

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Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version

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- (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.

Explanation

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.

Examples

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.

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.

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 directed to do so by the Small Business Commissioner or to satisfy a requirement of the Minister for Local Government.

PART THREE (3) FEES & GENERAL CONDITIONS OF PERMITS

8. Fees

Fees shall be charged as per Council's Fees and Charges Policy (available on Council's website or upon request). The Council may waive or reduce a fee on application and will consider each such application on its merits.

Note: Fees and charges table will not be inserted into this Policy as they are only current for the 2018/2019 Financial Year and are subject to change in the 2019/2020, and 2020/2021 financial years during the current term of this Policy.

All Fees must be paid prior to the Street Trader or Mobile Food Vendor commencing trading.

9. General Conditions

The following conditions will be applied to an approved permit:

- A mobile food vendor can only trade at a designated location as identified in Part Two (2) of the *Street Traders and Mobile Food Vans Policy*. These locations may be reviewed and updated from time to time.
- Mobile food vendors are not allowed to operate from any other council owned road, reserve, footpath, public land or carpark.
- There may be exceptions to the Location Rules applied by Council for catering (by invitation) for a council operated or approved event or for a fundraising/service club purpose, on a case by case basis on prior written application or, where a permit or licence has already been issued to the Event Holder.
- Mobile food vendors are permitted to operate between the hours of sunrise and sunset only unless prior written approval has been provided by Council to operate at night or if the Permit is otherwise associated with an approved event.
- There is no minimum or maximum stay limit per mobile food vendor per location between the hours of sunrise and sunset.
- There are no restrictions on the number of designated locations that each Mobile Food Vendor can operate from, allowing Mobile Food Vendors to travel freely between designated Vendor locations.
- Occupation of a designated mobile food vendor location is on a 'first come first serve' basis.
- A Mobile Food Vendor must be open for trade at all times whilst positioned in a designated Mobile Food Vendor location.
- The use of amplified noise/music is prohibited.
- Council will not provide power.
- Permanent or temporary fixtures or structures, including tables, chairs and umbrellas are not permitted to be set up by the Mobile Food Vendor.

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- Customers of a Mobile Food Vendor are encouraged to use existing infrastructure installed by Council or open space located in close proximity to the Mobile Food Vendor location.
- The serving area should be from footpath-side of the vehicle only.
- One permit per vehicle is permitted. Mobile Food Vendors operating with multiple Food Vending Vehicles are required to obtain a permit for each vehicle.
- Mobile food vendors must provide bins for use by their customers and ensure the area around their site is kept clear of rubbish and refuse at all times. Refuse shall be removed by the operator at the completion of trading. Placement of commercial waste from the mobile food vendor in Public Litter Bins (PLB) is not permitted.
- The vehicle owner/operator must keep an Insurance Policy in respect to public and products liability of an amount of not less than \$20 million (for each accident or event). An Insurance Policy confirming compliance with this requirement must be submitted 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. The Insurance Policy must be retained for the period for which an approval to operate is applicable.
- The Applicant agrees to indemnify and to keep indemnified and to hold harmless the Council, it's servants and agents and each of them from and against all actions, costs, claims, charges, expenses and damages whatsoever which may be brought or made or claimed against them or any of them arising out of or in relation to the granting of such permit and the establishment and operation of the said Permit.

10. Further information & Policy Review

This Policy will be reviewed every two (2) years, or as required by legislation changes relevant to this Policy. The next date for review is March 2021.

This Policy will be available for inspection at the Council offices listed below during ordinary business hours and available to be downloaded, from Council's website: www.coorong.sa.gov.au

Coorong Civic Centre

95 - 101 Railway Terrace
PO Box 399
Taillem Bend
Phone: 1300 785 277
Fax: 8572 3822

Meningie Information Hub

49 Princes Highway
Meningie

Tintinara Customer Service Centre

37 Becker Terrace
Tintinara

Copies will be provided to interested parties upon request. Email council@coorong.sa.gov.au.

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.