

2.56 Local Approvals Policy for Mobile Food Vans

POLICY TITLE: LOCAL APPROVALS POLICY FOR MOBILE FOOD VANS

FILE REFERENCE: SC67

EXPIRY DATE: AUGUST 2025

PURPOSE

Lockhart Shire Council supports the operation of mobile food vans to encourage diversity in takeaway food options. The purpose of the Policy is to provide the framework for the operation of mobile food vans in the Lockhart Local Government Area. The Policy sets out the relevant legislative requirements for safe food handling and preparation, safe operation of food vans and trucks within Council's road reserves, car parks, parks and public land.

POLICY STATEMENT

1. Objectives

The Policy aims to:

- a) Ensure the Mobile Food Vans operate in accordance with the rules and restrictions within lawful car parking spaces on Council owned roads and public reserves;
- b) Ensure the operation of the Mobile Food Vans are located within appropriate locations within Council's parks and public reserves;
- c) Ensure that food sold through Mobile Food Vans is safe and fit for human consumption;
- d) Provide guidance and assistance for people wanting to operate Mobile Food Vans within the Lockhart Local Government Area;
- e) Ensure the construction, fitting out and facilities for cleaning utensils, articles, fitting and appliances in the Vans are adequate;
- f) Minimise any potential adverse impacts of the operation of Mobile Food Vans;
- g) Ensure the safe operation of the Mobile Food Vans for staff and patrons;
- h) Ensure the operation of the Mobile Food Vans considers and minimises adverse impacts on the surrounding amenity, and
- i) Ensure that trading improves the mix and diversity of takeaway food available, and has regard to existing comparable trading takeaway food and drink premises.

2. Scope

2.1 The Policy applies to Council-owned or managed roads, parks and public reserves within the Lockhart Local Government Area where the development is exempt development in accordance with Subdivision 27A Mobile food and drink outlets of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or where development consent has been granted specifically for Mobile Food Vending.

2.2 This Policy does not apply to Mobile Food Vans:

- Trading in accordance with a development consent on private land;
- Trading on public land in accordance with an approved event;
- Providing catering services to private events;
- Non-stationary mobile food vans, and
- Not operating a food business.

2.3 Exemptions from approval

There are no exemptions from the necessity to obtain approval under this Policy for Mobile Food Vending that is used for the sale of food and drink in public places within the Lockhart Local Government Area.

2.4 Council Approval Requirements

Council must consider the criteria in this Policy when determining Section 68 Approvals under the Local Government Act 1993 for:

“use of a standing Vans or any article for the purpose of selling any article in a public place”

For the purpose of this Policy a ‘standing Vans’ include any food van that has stopped to make a sale, or with the intention to sell.

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3. Criteria council must consider when determining applications for mobile food vans

Council must consider the following when determining applications for Mobile Food Vans:

3.1 General Requirements of Mobile Food Vans:

- a) Approval under the Local Government Act 1993 is required prior to commencement of operation of a mobile food van on Council-owned or managed roads or parks.
- b) An application for approval to use a mobile food van is to be made on the approval 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 van is to be made available for inspection by Council's Environmental Health Officer. Council will charge a fee for inspecting the mobile food vans as per Council's adopted fees and charges schedule.
- d) An applicant will need to provide a plan detailing the layout for outdoor dining associated with the operation of the food van.
- e) All approvals will be for one year with an end date of 30 June each year.
- f) Operators are to notify the food business to Council.
- g) Applications to renew approvals are to be lodged with Council prior to the expiration of current approvals.
- h) The criteria to be used in the assessment of a mobile food van for approval will include all the relevant provisions contained in the standards as set out in this Policy, the Food Act 2003, Food Regulation 2010 and the Food Standards Codes.
- i) Approvals may be issued subject to conditions, including but not limited to compliance with this Policy.
- j) Only the sale of foodstuffs and drinks will be allowed from mobile food vans. No sale of alcohol, cigarettes or other products from mobile food vans will be approved.
- k) The applicant is to submit a copy of a broad form public liability 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.
- l) 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 vans 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 insurance is to be valid at all times from the date of approval through to the date the approval lapses.
- m) The applicant is to provide a copy of their Food Safety Supervisors Certificate.

3.2 General Requirements in Accordance with Food Safety Standard 3.2.3

The design and construction of a mobile food vans 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 live and breed.

Further details on these requirements are contained within Mobile Food Vans – Operation, construction and food handling guidelines, prepared by the NSW Food Authority. All mobile food vans approved by Council are required to comply with these guidelines.

3.3 Location

Council will use the following principles in determining the suitability of locations:

- Land use zoning and permissible uses within that zone (compatibility considerations);
- Proximity to residential properties (potential residential amenity impacts);
- Proposed hours of operation (consideration of other food and drink premises in proposed location);

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- Road, road-user and pedestrian safety;
- Availability of alternate locations.

Mobile food vans are to arrive at a location fully equipped. Deliveries are not to be made to a mobile food van while it is in operation.

3.4 Proximity to an Operating mobile food van

Mobile food vans are not to trade within a 50m radius of another mobile food van.

3.5 Proximity to Existing Comparable Premises

Mobile Food Vans are to be located 50m away from any operating food and drink premises or kiosk or a special event selling food. This minimum distance requirement is measured in a straight line from the closest point of the mobile food van (location) to the main entrance of a food and drink premises or kiosk or boundary of a licensed event area.

3.6 Parking

Mobile food vans are to operate so as to:

- Ensure access to pedestrian ramps and footpaths are not compromised; and
- Ensure that access or egress from any building is not restricted by the operation of the mobile food van; and
- 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 are not impacted upon.

4. Other matters relating to approvals for mobile food vans

4.1 Permitted Days and Hours of Operation

The use of Council owned roads for the purpose of operating a mobile food van is restricted to between 7:00 am and 7:30 pm each day, inclusive of set up and set down times.

4.2 Bookings

The booking of a park or public space where the food van is approved to operate are required to be provided to Council one month in advance.

Council reserves the right to request the removal of the van where there is a booking conflict.

Council-run events will take precedent over prior food van bookings.

4.3 Noise

The LA 10 noise level emitted from the van shall not exceed the background noise level by more than 5dB(A). No correction for tonality is applied. Measurement is taken at the worst affected residence.

4.4 Serving

Mobile food vans are not to operate with their serving window opening onto any part of a vehicular carriageway.

4.5 Sale of Alcohol

Proposals for food vans to serve alcohol will require development consent and a liquor licence.

4.6 Waste Management and Recycling

Provisions for waste management are to include the following:

- Mobile food van operators 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.
- Any waste produced by the operation of the mobile food van is to be removed from the site via the mobile food van at the end of the trading period.
- The trading area is to be left in a clean and tidy condition at the end of each trading interval.
- 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 van.
- Disposal of all liquid wastes generated within the food van is to be discharged to the sewer or as approved by an authorised Council Officer. Under no circumstances is liquid waste to be discharged on the ground or in the stormwater drain.
- Details of liquid waste and garbage disposal arrangements must be supplied with the application for the mobile food van.

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4.7 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 vans.

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 van unless specifically identified in the application.

4.8 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 van.

No animal is permitted to enter any van, whether the van is in operation or not.

4.9 Water Supply

The van must be provided with an adequate supply of potable water stores 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 van is to be equipped with a wastewater tank external to the vans, of at least 50 litre capacity with an outlet of sufficient diameter to facilitate easy flushing and cleaning.

4.10 Electricity Supply

The food van is required to be operated via a generator for electricity supply or may be connected to Council's electricity supply subject to approval and charges for the electricity where this is available.

4.11 Noise

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

- a) The use of the van 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 mobile food van/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.

4.12 Odour

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

4.13 Maintenance

The van 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.

4.14 Non-compliance

Council's Authorised Officers may issue penalty infringement notices, orders, clean up notices, prevention notices or court attendance notices for non-compliance with the Policy and all related offences.

REFERENCES, ASSOCIATED DOCUMENTS AND RELEVANT LEGISLATION

This Policy supplements the provisions set out for food vans and trucks within:

- Local Government Act 1993;
- Local Government (General) Regulations 2005;
- Roads Act 1993;
- Roads Regulation 2008;
- Food Act 2003;
- Food Regulation 2010, and
- Subdivision 27A Mobile food and drink outlets of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Adopted by Council 15 August 2022
Refer Minute 170/22

Adopted by Council 20 May 2019
Refer Minute 125/19