



GOVERNANCE POLICY

MOBILE FOOD AND MOBILE VENDOR

Policy Number	G1.45
Version Number	2
Issued	November 2017
Last Review	June 2021
Next Review	November 2023
GDS	9.63.1.1

MOBILE FOOD AND MOBILE VENDING BUSINESS POLICY and LOCATION RULES

1. BACKGROUND

- 1.1. A Mobile Vending Business ("MVB") must be operated in accordance with the requirements of the *Acts* that they operate under (where applicable).
- 1.2. A Mobile Food Vending Business ("MFVB") must be operated in accordance with the requirements of the *Food Act 2001*, *South Australian Public Health Act 2011* and *Safe Drinking Water Act 2011* (where applicable).
- 1.3. A MFVB/MVB requires a permit under Section 222 of the *Local Government Act 1999* ("the Act") to operate on a public road in the Council area. Pursuant to section 222(1a) of the Act, the Council is not required to grant a permit for a MFVB/MVB if the vehicle proposed to be used would unduly obstruct the use of public roads in a manner that cannot be adequately addressed by conditions under section 224 of the Act.
- 1.4. A condition of a permit authorising a MFVB/MVB 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 Act.
- 1.5. The Council has adopted the location rules set out in Part 7 of this Policy that apply to MFVB/MVB on public roads.
- 1.6. Pursuant to section 200 of the Act, a MFVB/MVB requires the approval of the Council to operate on community land. However, the Council cannot approve the operation of a MFVB on community land if this is contrary to the Community Land Management Plan adopted by Council for the land pursuant to Section 196 of the Act.
- 1.7. Any person wishing to operate a MFVB/MVB on community land must apply for a permit from the Council, which may be issued at the Council's discretion. The Council will have regard to the criteria set out in this Policy and the location rules (where applicable) in issuing a permit for the operation of a MFVB/MVB on community land.

2. DEFINITIONS

- 2.1. **Act** means the *Local Government Act 1999*;
- 2.2. **Community Land** means land that is owned by or under the Council's care, control and management but excludes public roads;
- 2.3. **Council** – The Flinders Ranges Council;
- 2.4. **Food Business** – a business, enterprise or activity (other than a primary food production business) that involves either the handling of food intended for sale or 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;
- 2.5. **MVB** – means a mobile vending business involved in the sale of goods from a vehicle;



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- 2.6. **MFVB** – means a mobile food vending business involving the sale of food or beverages from a vehicle;
- 2.7. **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. Fixed food businesses include cafes, restaurants, delicatessens, takeaway food businesses, bakeries, greengrocers, health food shops, butchers, supermarkets and, in some cases, service stations;
- 2.8. **Permit Holder** means the holder of a permit issued by the Council under section 222 of the Act to authorise the operation of a MFVB on a public road;
- 2.9. **Public Road** has the same meaning as in the Act and includes a road that is vested in or under the Council's care, control and management; and
- 2.10. **Vehicle** has the same meaning as in the *Road Traffic Act 1961* and includes (but is not limited to):
- 2.10.1. a motor vehicle, trailer and a tram; and
- 2.10.2. a bicycle; and
- 2.10.3. an animal-drawn vehicle, and an animal that is being ridden or drawing a vehicle

3. SCOPE


- 3.1. The Policy relates to matters in respect of MFVB/MVB and persons who wish to operate a MFVB/MVB on a public road or on community land.

4. LEGISLATIVE AND CORPORATE REQUIREMENTS

- 4.1. Persons operating a MFVB/MVB must comply with all relevant Federal and State Government Legislation including, but not limited to:
- 4.1.1. *Food Act 2001*;
- 4.1.2. *Safe Drinking Water Act 2011*;
- 4.1.3. *Work Health and Safety Act 2012*;
- 4.1.4. *Local Government Act 1999*;
- 4.1.5. *South Australian Public Health Act 2011*;
- 4.1.6. *Road Traffic Act 1961*;
- 4.1.7. *Motor Vehicle Act 1959*;
- 4.1.8. *Local Nuisance and Litter Control Act 2016*;
- 4.1.9. *Environment Protection Act 1993*;
- 4.1.10. *Liquor Licensing Act SA 1997*
- 4.2. This Policy is adopted pursuant to section 225A of the Act and is to be read and implemented in conjunction with Council's other relevant policies, strategies and documents.

5. POLICY STATEMENT

- 5.1. Council acknowledges that appropriately managed and operated mobile vending businesses contribute to vibrant and active towns.

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- 5.2. This Policy will provide direction to encourage the adoption of appropriate standards and practices to limit potential negative impacts.
- 5.3. This Policy includes a range of desired conditions, including location, Council will/may impose on a Mobile Food Vendor permit/ Mobile Vendor.

6. APPLICATION OF POLICY

- 6.1. The processes and guidelines of the Policy will be applied in response to Council receiving a request for a Mobile Food Vendor/Mobile Vendor permit for an approved Mobile Food Vending Business/Mobile Vendor Business.
- 6.2. This policy is to be applied in conjunction with the attached forms and Administration Procedure.

7. LOCATION RULES

These Location Rules apply to permits issued under Section 222 of the Act to authorise a MFVB/MVB to operate on a public road. The location of the Mobile Food Vendors/Mobile Vendors is issued under Location Rules – General section 225A of the Act.

7.1. Council Determined MFVB/MVB Sites

Council has determined that a MFVB/MVB may operate at:

- 7.1.1. the townships of Quorn, Hawker and Cradock; and
- 7.1.2. those streets and footpaths where there is an adequate footpath space to accommodate it, while not compromising pedestrian access, safety or other street activities, and
- 7.1.3. a location, as long as they, maintain a 100-metre distance from all fixed businesses that trade in the same or similar items (a business located in bricks and mortar venue). Mobile Food Vendors/Mobile Vendors may trade within 100 metres of a fixed business trading in the same or similar items if they have written permission from the business owner. This distance is only applicable when the fixed food business/ businesses is in operation, and
- 7.1.4. Same or similar items would be broadly interpreted, i.e. a mobile food vendor selling ready to eat food would compete with businesses that sell all types of food that are served ready for immediate consumption, but it would exclude those foods which are not intended for immediate consumption, i.e. vegetables, bottled liquor etc.
- 7.1.5. a location within 100m of a fixed business that trade in the same or similar items if it is out of the hours of trade of the fixed food business.
- 7.1.6. any other locations in connection with sporting or community events, which hold the approved special events permit issued by Council.



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7.2. MFVB/MVB Determined Sites

7.2.1. In addition to the sites determined by the Council that are specified in paragraph 7.1, a MFVB/MVB for which a permit has been issued may be operated at other locations determined by the permit holder subject to the permit holder complying with the conditions attaching to the permit and the following rules:

7.2.1.1. **Operate at a reasonable distance from a fixed food business**

–The permit holder must select a site for operating the MFVB/MVB which allows for a reasonable distance of at least 100 metres between the MFVB/MVB and fixed food businesses/similar trading businesses during the operating hours of the fixed food businesses.

7.2.1.2. **Take into account the effect of the operation of the Mobile Food Vending Business/Mobile Vendor** - The permit holder must select a site for operation which takes into account the effect of the operation of the MFVB/MVB on:

- vehicles and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities;
- the requirements relating to, and availability of, parking spaces at the locations where the MFVB is operating; and
- residents and businesses.

7.2.1.3. **No undue interference with vehicles or road related infrastructure** - The permit holder must select a site for operation where the MFVB/MVB will not unduly interfere with:

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

7.2.1.4. The Permit Holder must comply with all conditions noted on the permit which may change from time to time and will vary according to the MFVB/MVB to which it relates.

7.2.2. The Council may resolve to change the locations where a MFVB/MVB can operate from time to time, including in connection with community and



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sporting “events”. Permit Holders will be notified of any changes that directly affect them in writing.

- 7.2.3. The Council may otherwise amend the location rules from time to time and must amend them if directed to so do by the Small Business Commission or to satisfy a requirement of the Minister for Local Government.

7.3. Signage / Furniture.


- 7.3.1. Unless a Permit provides otherwise, the permit holder will need to apply separately for a signage / street furniture permit if the permit holder wishes to erect signage or furniture near the MFVB/MVB.
- 7.3.2. Where a permit is granted to erect signage or furniture on the road, the appropriate signage / street furniture fee (as set out in the Council's Schedule of Fees and Charges) is payable in addition to the mobile vending business permit fee.

7.4. Food Act 2001 & South Australian Public Health Act 2012

- 7.4.1. All MFVBs will be subject to regular inspections by Council's Environmental Health Officer to assess the MFVB's compliance with applicable legislation.
- 7.4.2. The permit holder must complete and lodge with the Council a Food Business Notification Form for the MFVB in accordance with the *Food Act 2001*;
- 7.4.3. Note that statutory fees that are payable by a permit holder under the Food Act 2001 and/or other legislation are in addition to the mobile food vending business permit fee.

8. COMPLAINT HANDLING

- 8.1. In the event that a complaint against a MFVB/MVB or a decision in relation to a MFVB/MVB permit is received, the decision will be managed by the Council's Chief Executive Officer in accordance with the Council's Complaint Handling Policy and taking into account the provisions of this Policy and the requirements of the Act.
- 8.2. Where appropriate, upon receipt of a complaint regarding a MFVB/MVB permit, the Council will consider whether there has been a breach of a condition of the permit and if so, whether it is sufficiently serious to justify cancellation of the permit under section 225 of the Act taking into account (where relevant):
- 8.2.1. the history of the MFVB/MVB;
- 8.2.2. the likely external impacts of the MFVB/MVB;
- 8.2.3. the matters raised in the complaint and/or information obtained as part of the complaint handling process
- 8.3. If an operator of a food business in the Council area is directly adversely affected by the location rules set out above then the operator may apply to the Small Business Commissioner for a review of the location rules.

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8.4. Criteria to be considered when assessing an application:

- 8.4.1. The applicant has been informed of, and accepted in writing, the fees and charges relating to the Mobile Food Vendor/ Mobile Vendor permit;
- 8.4.2. The applicant is aware of additional fees that may be payable to the Council in relation to other legislation;
- 8.4.3. The applicant is responsible for compliance with all relevant legislation;
- 8.4.4. The applicant completed a Mobile Food Vendor/ Mobile Vendor permit; and
- 8.4.5. The applicant has acknowledged the requirements of the various acts that may be applicable to the Mobile Food Vendor/ Mobile Vendor permit.

9. RESPONSIBILITIES

The Chief Executive Officer will be responsible for this policy.

10. AVAILABILITY OF POLICY

- 10.1. This Policy will be available for inspection at the Council Offices during ordinary business hours at no charge and a copy may be purchased for a fee as set annually by the Council.
- 10.2. Copies of this policy will also be available from the Council's website www.frc.sa.gov.au

11. REVIEW

To be reviewed within 12 months after a General Election, in line with legislation and any legislative changes or by resolution of Council.

Adopted by Council 12 February 2018
Resolution 020/2018

Review Date	Version Number	Change	Resolution
21 November 2017	Draft 1	Released for Public Consultation	222/2017
13 February 2018	v1	Adopted by Council	020/2018
15 June 2021	2	Distance reduction from 500m to 100m and change to include Mobile Vending Businesses. Change to definitions to ensure that the location rules apply to businesses that compete only.	132/2021