

### 1. BACKGROUND

Ensuring public health and safety is a function of local government. Council is required to administer requirements under the *Public Health Act 2010* and the *Food Act 2003*. Mobile food vending vehicles are a registered vehicle under the *Road Transport Act 2013* and can include trucks and vans and are used for the sale of food and drinks. The Mobile Food Vending Vehicles Policy is supported with the Procedure for Mobile Food Vending and the two should be read in conjunction with each other. Section 68, Part F (7) of the *Local Government Act 1993* applies to the use of a standing vehicle or any article for the purpose of selling any article in a public place.

### 2. PURPOSE

The Mobile Food Vending Vehicles Policy provides the Coonamble Shire Council's local approval requirements for the operation of mobile food vending vehicles within our local government area. The Policy sets out:

- a. The relevant legislative requirements for safe food handling and preparation practices including food vehicle compliance with the provisions of the *Food Act 2003, Food Regulation 2010, Food standards Code and NSW Food Authority's Guideline*.
- b. Provision for vending on public roads, parks, or other public spaces.
- c. Provision for vending at approved community events, sporting events or markets.
- d. Provision for vending on private land (e.g., commercial property).
- e. Fees and charges.

### 3. POLICY OBJECTIVE

The policy aims to:

- a. Ensure that food sold through mobile food vending vehicles are safe and fit for human consumption.
- b. Guide and assist people wanting to operate a mobile vending vehicle in the local government area.
- c. Minimise any potential adverse impacts of mobile food vending vehicles including surrounding sensitive land uses such as residential areas.
- d. Protect the safe operation of mobile food vending vehicles.

- e. Ensure that mobile food vending vehicles operate in accordance with the rules and regulations on lawful parking spaces on Council-owned roads.
- f. Protect the local environment by ensuring no increased litter or waste in or from the trading location and minimise pollution.

#### **4. LEGISLATION**

This policy relates to the *Food Act 2003* and *Food Regulation 2010*, the *Local Government Act 1993*, *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* and *Road Transport Act 2013* and *Roads Act 1993*.

#### **5. APPLICATION/SCOPE**

The Mobile Food Vending Vehicles Policy applies to the whole Coonamble Shire local government area (LGA). The focus of the policy is for mobile food vending vehicles operating on public land and provides some requirements for those operating on private land and community events, sporting events or markets.

##### **5.1 Exemptions under the Policy**

There are no exemptions under the Policy for mobile food vending vehicles.

**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 bring a particular approval to Council.

To ensure the safety of food for human consumption, no exemptions for compliance with the Policy in relation to mobile food vending vehicles applies.

##### **5.2 Relationship with this Policy**

The Mobile Food Vending Vehicles Policy is supported with the Procedure for Mobile Food Vending Vehicle. The Procedure for Mobile Food Vending Vehicle provides operating protocols and procedures to guide applicants in understanding this policy.

#### **6. POLICY**

##### **6.1 Establishing a mobile food vending vehicle**

- 6.1.1 Applicants must seek Council approval to establish a mobile food vending vehicle in which it wishes to establish the registered food business and have its home garaging address within the local government area.

- 6.1.2 Mobile food vending vehicles will be subject to vehicle inspections for food safety requirements prior to issue of an approval of establishing a mobile food vending vehicle that is to be a registered food business in the local government area.
- 6.1.3 Mobile food vending vehicles that require a mobile kitchen and have a separate fixed food handling premises will be subject to a separate application for the food handling premises, dependent on the land use zoning.

## **6.2 Council approval on public road network and Council owned land (public place)**

- 6.2.1 Approval under section 68, Part F (7) of the *Local Government Act 1993* is required for the use of a standing vehicle or any article for the purpose of selling any article in a public place.
- 6.2.2 The operation of any mobile food vending vehicle without the required approval is an offence.
- 6.2.3 Approvals under this policy does not exempt the mobile food vending vehicle from complying with other relevant approvals and provisions set out in other legislation such as those set out in section 4 and the Food Standards Code.
- 6.2.4 Approvals will be issued subject to conditions, including but not limited to compliance with the Policy.
- 6.2.5 Only the sale of foodstuffs and drinks will be allowed from mobile food vending vehicles. No sale cigarettes or other products from mobile food vending vehicle will be approved.

## **6.3 Council approval and/or notification for community events, sporting events or markets**

- 6.3.1 Where events or markets are organised by Council, the applicant will be required to obtain approval to operate the mobile food vending vehicle.
- 6.3.2 Where events or markets are organised by a third party, depending on the trading location, the applicant will be required to:
  - (i) Notify council as per section 6.4 of this policy if trading on private land.
  - (ii) Obtain approval as outlined in this policy if trading on public land or a public road.

## **6.4 Notification to Council on private land**

- 6.4.1 Mobile food vending vehicle trading in accordance with the provisions of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* on private land will need to notify Council at least 2 business days prior to their intended trading.

## 6.5 Approval categories

6.5.1 There are two categories of mobile food vending vehicle approvals issued by the Coonamble Shire Council.

### 6.5.1.1 Category 1 – Mobile Food Vending Vehicle

- (i) Menu items: Foods that are not potentially hazardous with the exception of processes that have a minimal food safety risk. The vehicle must meet relevant design and layout standards to ensure food safety requirements are met.
- (ii) Stopping time: Each food van can trade for a maximum period of 2 hours in one location at one time on Council owned road. For council owned land the stopping time is to occur in the approved hours of operation. At all times, the vehicle must comply with relevant kerbside parking restrictions and road rules. The maximum stopping time include set up and pack down times.

### 6.5.1.2 Category 2 – Mobile Food Vending Vehicle

- (i) Menu items: Includes the service of any potentially hazardous food, excluding those low-risk processes that have a minimal food safety risk. The vehicle includes, but not limited to, mobile kitchen and have access to a separate fixed food handling premises or commercial kitchen.
- (ii) Stopping time: Each vehicle can trade for a maximum period of 5 hours in one location at one time on Council owned roads. For council owned land the stopping time is to occur in the approved hours of operation. At all times, the vehicle must comply with relevant kerbside parking restrictions and road rules. The maximum stopping time include set up and pack down times.

## 6.6 Applications for approval

6.6.1 Applicants are required to complete forms and provide any supporting documentation required as outlined in the application form or requested by Council Officers.

## 6.7 Mandated requirements

### 6.7.1 Proximity to existing comparable premises

- (i) Mobile food vending vehicles cannot be positioned or trade within 200m radius of an operating food and drink premises or kiosk or special event selling food, unless it is in conjunction with an event, market, or sporting event. The minimum distance requirement is measured in a straight line

from the closest point of the mobile food vending vehicle (location) to the main entrance of a food and drink premises or kiosk or boundary of a licensed event area.

#### **6.7.2 Vehicle inspections**

- (i) As outlined at 6.1.2, mobile food vending vehicles will be subject to vehicle inspections for food safety requirements prior to issue of an approval before its establishment as a food registered business in the local government area.
- (ii) Mobile food vending vehicles that are not registered in the local government area maybe subject to random inspections which will be charged back to the business owner.

#### **6.7.3 Furniture**

- (i) No tables or chairs or other seating or furniture is permissible with the mobile food vending vehicle operation.

#### **6.7.4 Signage or standalone items**

- (i) An approval under the Policy does not refer any approval for the erection or display of any sign or sign structure not directly attached to the mobile food vehicle. The Policy does not allow the use of any temporary signage (e.g., in association with the operation of any mobile food vehicle) or standalone items.

#### **6.7.5 Other matters relating to approvals for mobile vending vehicles**

- (i) This policy is supported by the Procedure for Mobile Food Vending Vehicle and provides a list of operating protocols that must be considered.

### **6.8 Submission of Applications**

6.8.1 Under S. 68, Part F (7) approval, applications must be submitted 10 business days prior to trading.

### **6.9 Fees and charges**

6.9.1 A fee applies for the assessment of an application and for the approval to operate a mobile food vending vehicle in accordance with Council's fees and charges.

6.9.2 Other charges may be applicable and will be outlined in accordance with Council's fees and charges. This may include inspection fees.

6.9.3 Under s. 610D (3) of the Local Government Act, an additional fee will be charged for an expedited service provide, for example, in a case of urgency. This is outlined in the Council's fees and charges.

## 7. DEFINITIONS

The following table includes the definitions associated with this Policy. The Procedure for Mobile Food Vending Vehicle provides further definitions.

Term	Definition
Category 1 – Mobile Food Vending Vehicle	<p>Mobile food vending vehicles which serve foods that are not potentially hazardous. Food vans do not require a separate fixed food handling premises associated with the business.</p> <p>Preparation may involve low risk practices such as frothing milk. Refer to the Procedure for Mobile Food Vending Vehicle for further information.</p>
Category 2 – Mobile Food Vending Vehicle	<p>Mobile food vending vehicles which serve foods that are potentially hazardous, with the exclusion of the low-risk practices. These vehicles can be a mobile kitchen and have a separate fixed food handling premises that is approved for the food handling premises.</p> <p>This may include vehicle preparing hot food made to order. Refer to the Refer to the Procedure for Mobile Food Vending Vehicle for further information.</p>
Council	Coonamble Shire Council
Council owned road or public road or land	Council owned road or public road or land includes all the land used for vehicle traffic and parking, as well as any footway, shoulder, kerb, and gutter.
Procedure for Mobile Food Vending Vehicle	Supporting document to this Policy which provides guidance material for mobile food vending vehicles wishing to establish and/or operate and trade in the local government area.
Mobile Food Vending Vehicle	<p>Mobile food vending vehicles are a registered vehicle under the <i>Road Transport Act 2013</i>. Any registered vehicle used on land that is either self-drive or that can be towed down Council-owned or public roads and that is used in connection with the sale of food. They do not include push bikes, carts or any moveable or fixed structure that cannot be registered for use on a road.</p> <p>Mobile food vending vehicles are used for onsite food preparation and one step food preparation and the sale of any type of food which includes pre-packaged food. There are two categories of mobile food vending vehicles:</p> <ul style="list-style-type: none"> <li>• Category 1 – Mobile Food Vending Vehicle</li> <li>• Category 2 – Mobile Food Vending Vehicle.</li> </ul>

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0.1	5 March 2021	Executive Leader Environment, Strategic Planning and Community
1.0	9 April 2021	General Manager
<p>This policy may be amended or revoked at any time and must be reviewed at least three (3) years since its adoption (or latest amendment). The Executive Leader of "[Click here and add text]" will be responsible for the review of this policy. Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines.</p> <p><b>Review Date:</b></p>		
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