



PORT STEPHENS
C O U N C I L

PORT STEPHENS COUNCIL
MOBILE FOOD VEHICLE GUIDELINES

1 PURPOSE

The Mobile Food Vehicle Guidelines is to be used in conjunction with Council's Commercial Operators Policy adopted 11 June 2019, Min No. 120

The Guideline provides Council and Mobile Food Vehicle operators with guidance to effectively and consistently control and operate mobile food operations in all locations and situations.

The Guidelines identify the responsibilities and requirements for Mobile Food Vehicle operators. The Guidelines also establish criteria for the construction of vehicles, vessels so that appropriate standards associated with street vending and food sales are regulated.

The Guidelines are mandatory for all mobile food operating activities carried out within the Port Stephens Local Government Area (LGA).



2 APPLICATION PROCESS

2.1 General

Applications to operate a mobile food vehicle shall be made to Council on the prescribed application form. Not-for-profit and charitable organisations are **not** exempt from this policy.

2.2 Application Assessment

Following receipt of a complete application Council will undertake an assessment against relevant legislation and guidelines. If approved and on payment of applicable fees an approval will be granted allowing operation of the mobile food vehicle.

2.3 Review

Once approval to operate mobile food vehicle has been granted the permit if relating to council's owned and managed land will then be forwarded to the Contracts and Services team to complete the commercial operator's application process.

Based on the sites requested the application will be assessed and determined by councils internal review panel.

[Refer to commercial operators guidelines](#)

3 OPERATIONAL LOCATIONS

Mobile food vehicles are able to operate at different locations and under a number of situations including:

- Council owned and managed land;
- Public roads;
- Private land; and
- Roads and Maritime Service rest areas.

While all locations will have a common application, common construction requirements and standard operating conditions there may be locations requiring specific requirements or operating standards. Each situation is described in Section 4 (Common Standards) and Section 5 (Specific Standards).

4 COMMON STANDARDS

The standards specified below shall apply to the operation of all mobile food vehicles.

- 4.1 Operators of food vehicles must register with Council.
- 4.2 Operators must comply with all applicable legislation and standards including:
 - 4.2.1 *Local Government Act 1993*
 - 4.2.2 *Food Act 2003 and Food Regulation 2015*
 - 4.2.3 *Roads Act 1993 and Roads Regulation 2008*
 - 4.2.4 *Environmental Planning and Assessment Act 1979*
 - 4.2.5 *Crown Lands Management Act 2016*
 - 4.2.6 *FASANZ Food Standards Codes*
- 4.3 Operators must ensure that the design, construction and operation of their mobile food vehicle meets the NSW Food Authority *Guidelines for Mobile Food Vending Vehicles* (NSW/FA/FI055/1302). Vehicles must be of a size, design and construction appropriate for the type and scale of food being prepared and sold.
- 4.4 Operators must carry valid insurance policies including compulsory Third Party Insurance, Public Liability insurance to value of \$20,000,000 (noting Port Stephens Councils as an interested party) and motor vehicle insurance and CTP Gap Coverage Endorsement. Copies of the insurances must be made available to Council as part of the application process.
- 4.5 Operators must not sell or hawk alcohol, cigarettes or other non-food related items.
- 4.6 The location and operation of mobile food vehicles must not have a detrimental impact on the safety of pedestrians and other road users.
- 4.7 Mobile food vehicles must comply with parking restrictions and applicable road and traffic rules.
- 4.8 Operators must not place out tables, chairs or other seating apparatus at any time unless approved by Council.
- 4.9 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 vending vehicle. **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 vending vehicle.

- 4.10 Operators must ensure compliance with *Protection of the Environment and Operations Act, 1997* having regard to noise, litter and other potential environmental impacts.
- 4.11 Operators must outline a clear waste management plan ensuring the litter created from the operations of the mobile food vehicle do not adversely impact on the surrounding environment or Council's existing waste management service in the surrounding area.

5 LOCATION SPECIFIC STANDARDS

The following standards, in conjunction with those detailed in section 4, apply according to the location.

5.1 Council owned and managed Land

- 5.1.1 Council owned and managed land is defined as Community land that is owned and /or managed by Port Stephens Council. Examples include reserves, sporting fields and carparks,
- 5.1.2 The prior approval of Council is required to operate on Council land.
- 5.1.3 Mobile food vehicles will have requested locations assessed by council's Commercial Operators review panel upon application. Approval may be granted to activate a specific location based on factors such as the economic and social benefit to the area or event and with regard to potential environmental and amenity impacts.
- 5.1.4 Mobile food vehicles are not to trade within 50m of another operating food vehicle unless otherwise approved by the review panel through the application process.
- 5.1.5 Operators must only occupy a Council approved selling location as per licence agreement. Operators are permitted to occupy the approved site on a static basis in accordance with the terms and conditions included in their approval.
- 5.1.6 Mobile food vehicles are permitted to trade between 5am and 10pm unless otherwise stated in the approval. Council may also limit operating hours to particular days or dates or shorter trading times if determined as appropriate.

Public Roads

- 5.1.7 Public roads are those roads that are owned and managed by Council however **excludes** State managed roads and Council owned and managed land (examples where mobile food operators are not permitted to operate includes but is not limited to Council reserves, sporting areas and carparks).
- 5.1.8 The prior approval of Council is required to operate on public roads.
- 5.1.9 Mobile food vehicles must not trade within a 350 metre radius of an existing trading land-based food business or within 50m of another operating food vehicle unless otherwise approved by the review panel through the application process. This minimum distance requirement is measured in a straight line from the closest point of the food vehicle (location) to the main entrance of a food and drink premises, kiosk or other food vehicle.
- 5.1.10 Mobile food vehicles must not trade on any street deemed by Council as being unsuitable by virtue of its location, traffic condition or other safety issue.
- 5.1.11 Operators must only occupy a permitted selling location for such a period of time whilst engaged in the actual setting up and serving of a customer and shall after serving all customers move on.
- 5.1.12 Mobile food vehicles must not trade as a static operation or as a roadside stall or as a stall to sell food to the public on any site that first requires development consent or different approval for that use. This means that operators must not set up and operate as a static site.
- 5.1.13 Mobile food vehicles are permitted to trade between 5am and 10pm unless otherwise stated in the approval. Council may also limit operating hours to particular days or dates or shorter trading times if determined as appropriate.

5.2 Private Land

- 5.2.1 Private land is defined as land owned by non-government entities.
- 5.2.2 The *State Environmental Planning Policy (Exempt and Complying Code) 2008* (Code SEPP), Subdivision 27A permits mobile food and drink outlets (as defined in the Code SEPP) to trade from private and public land without the consent of Council subject to meeting specific development standards.

5.2.3 It is important to note that the consent of the owner of the land is required and that the registration of the food vehicle with Council is still required.

5.2.4 Food outlets not meeting the definition of a mobile food and drink outlet under the Code SEPP may require development consent.

5.3 Roads and Maritime Services rest areas

5.3.1 The operation of food vehicles at RMS rest areas is permitted with the consent of Council and with the concurrence of the RMS.

5.3.2 Operators must comply with RMS Policy Number PN 271 - Mobile vending in rest areas.

6 INSPECTIONS

6.1 Mobile food vehicles may be subject to an annual inspection by Councils Environmental Health Officers for which an inspection fee may be charged except as determined in section 6.2

6.2 PSC operates under a **home Council jurisdiction rule** intended to minimise the cost and time burden for operators intending to operate within multiple Local Government Areas (LGA).

If the food vehicle is garaged (and operated) at a property in Port Stephens then Port Stephens is the 'home Council'. If the food vehicle is garaged in another Council area then that Council may be the 'home Council'.

Generally the home Council is responsible for inspection of food vehicles. Port Stephens accepts inspection reports (from other home Councils) as detailed in section 6.4 below. An inspection fee will not be charged.

All new and existing mobile food vehicles must be registered with council regardless of their home Council.

6.3 All vehicles subject to an inspection shall be presented at a designated location convenient to both the Environmental Health Officer and the operator on a mutually acceptable date and time.

6.4 Operators of approved vehicles accessing the home jurisdiction rule must, on an annual basis, provide a copy of an inspection report relating to the nominated vehicle that has been undertaken by the home Council. The inspection report submitted must have been performed within the

previous 12-months and must indicate a satisfactory result with no critical non-compliances. The provided report must be on the letterhead of the issuing Council.

- 6.5 It is recommended that operators carry, at all times, a copy of the most recent inspection report.

7 APPROVALS

- 7.1 Approvals shall take effect from the date stated thereon and shall expire 5 years after the date of the approval or any other time as stated on the licence approval. Continuation of the operation of the mobile food vehicle is only permitted after re-inspection and payment of fees or after the provision of a recent satisfactory inspection report from another Council if accessing under the home Council jurisdiction rule.
- 7.2 To continue to operate operators must maintain a current registration of their business with Council.
- 7.3 The operation of a mobile food vehicle approved under this policy does not extinguish other legislative responsibilities that may be applicable such as approvals required under the *Environmental Planning and Assessment Act*, *Local Government Act* or *Food Act*.
- 7.4 Any licence issued on Crown land will be subject to native title assessment, and will be determinable at will by the Council or the Minister in the event a claim is made under either the Native Title Act 1994 or the Aboriginal Land Rights Act 1983
- 7.5 Operators must carry a copy of the approval within the vehicle at all times.

8 FEES AND CHARGES

- 8.1 Fees applicable to mobile food vending vehicles are presented in Council's Schedule of Fees and Charges.
- 8.2 Mobile food vending vehicles owned or operated by not-for-profit, charitable or community organisations should refer to Council's Schedule of Fees and Charges.

OTHER MATTERS

- 8.3 **Preparing Food At Home:** A separate approval will be required for the preparation of food as part of a home business.
- 8.4 **Use of Separate Premises:** Where the operation of the food vehicle involves the use of premises that is separate to the vehicle then a Development Consent for such use may be required under the *Environmental Planning and Assessment Act 1979*. An example may be the use of a separate premise for the storage or preparation of food. Any change in the permanent facilities is to be notified to Council.