

<b>Policy Name</b>	<b>Mobile Food Vendors</b>
<b>Policy Number</b>	CD34
<b>Responsible Section</b>	Community and Environmental Health
<b>Responsible Department</b>	Community Development
<b>Date Last Adopted</b>	12 October 2021
<b>Date of Next Review</b>	October 2023
<b>Applicable Legislation</b>	Local Government Act 1999 Food Act 2001 Motor Vehicles Act 1959 Road Traffic Act 1961 South Australian Public Health Act 2011 Environment Protection Act 1993 Local Nuisance and Litter Control Act 2016
<b>Related Governance Documents</b>	Council Policy – CD10 Food Safety and Inspection Fees – Food Act 2001 Council Policy – CA07 Sale of Goods on Council Land
<b>City Plan Theme</b>	Community Placemaking Economy

## 1. PURPOSE/OBJECTIVE

The City of Port Adelaide Enfield supports activities which improve tourism, visitation and business opportunities. Mobile Food Vendors can provide a mix of food and cultural experiences in an outdoor setting that activates streets and public places and brings vitality to the area.

This policy is provided to give clarity and support to Mobile Food Vendors and the community about the locations in which Mobile Food Vendors may trade. It also supports the responsibilities of Council to ensure food, road and pedestrian safety and to consider the impacts for fixed food businesses.

## 2. SCOPE

This Policy applies to Mobile Food Vendors wishing to trade on public roads within the City of Port Adelaide Enfield.

### **3. POLICY**

#### **3.1 Introduction**

A mobile food vending business requires a permit under section 222 of the Local Government Act 1999 to operate a business on a public road in the Council area.

A condition of a permit authorising a mobile food vending business to operate on a public road in the Council area is that the permit holder only operates in approved locations.

The Council has adopted the location rules set out in this document that assists in determining the approved locations.

Note that under Section 224 of the Local Government Act, the location rules do not apply to mobile food businesses primarily engaged in the sale of ice cream.

#### **3.2 Council Determined Mobile Food Vending Business Sites**

The Council has determined that mobile food businesses, which have been granted the required permits, may operate from pre-approved sites which are published on Council's website.

Council has identified and assessed sites in which Mobile Food Vendors may trade, according to the location rules outlined in this policy.

#### **3.3 Mobile Food Vending Business Determined Sites**

A mobile food vendor who identifies a site on a public road where they would like to trade, may request that site to be assessed and added to the list of approved sites.

Approved sites will be identified on the location map as published on Council's website.

The following conditions will be addressed in the assessment of sites.

#### **Location Rules**

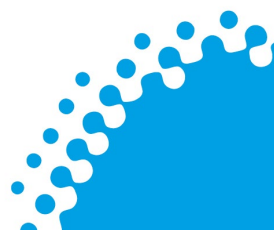
##### ***Location rule – Impact on Fixed Food Businesses***

A mobile food vending site must be a reasonable distance between the mobile food vending business and fixed food businesses during the operating hours of the fixed food businesses.

##### ***Explanation***

A 'reasonable distance' will depend on the circumstances and may vary from location to location.

Consideration must be given to the location, number and operating hours of fixed food businesses in the Council area when determining if the location in which the mobile food vending business wants to trade is a reasonable distance from fixed food businesses. Determining a reasonable distance from fixed food businesses requires a balancing of these factors.



### **Examples**

- *where there is a large number of fixed food businesses in a small geographic area then the reasonable distance from these fixed food businesses may be less than in other circumstances on the basis that there is already active competition between multiple food businesses in the location;*
- *where a mobile food vending business wants to trade outside of the central operating hours of a fixed food business then the reasonable distance may be less (eg. a mobile food vending business trading from late afternoon in the vicinity of a bakery).*

### **Location Rule – Impact on local residents, businesses and road users**

Site selection will take 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;
- c) residents and 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.

### **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.*

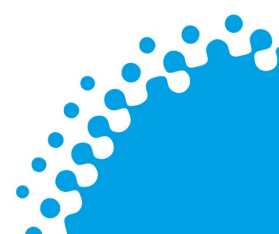
### **Location rule – impact on vehicles or road related infrastructure**

A mobile food vending business sites 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.*

### **Location rule – compliance with legislative requirements**

Mobile food vending businesses must not breach any relevant requirements under:

- a) the Food Act 2001;
- b) the South Australian Public Health Act 2011;
- 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

### **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.*

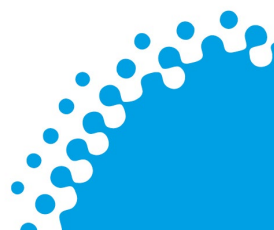
### **Amendment of These Location Rules**

The location rules may be amended from time to time. Depending on the nature of any changes to the rules, approval of the changes will be made under delegated authority or referred to Council for decision.

## **4. ROLES AND RESPONSIBILITIES**

The Manager Community & Environmental Health is responsible for the implementation and management of the policy.

The Community Safety Team are responsible for issuing mobile food vendor permits and the day to day management of mobile food vendors.



## 5. DEFINITIONS

**Mobile Food Vendor or Mobile Food Vending Business** – a mobile food vending business means a business involving the sale of food or beverages from a vehicle (within the meaning of the Road Traffic Act 1961), excluding a mobile food vending business primarily engaged in the sale of ice cream.

**Fixed Food Business** – a ‘fixed food business’ is ‘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.

