


STRATHFIELD COUNCIL

MOBILE FOOD VENDING VEHICLE POLICY

19 DECEMBER 2023

	<h2>Mobile Food Vending Vehicle Policy</h2>		
RESPONSIBILITY	Manager Environment, Sustainability & Compliance		
DATE ADOPTED	19 December 2023	MINUTE	280/23
CM10 No	23/82798		
ASSOCIATED POLICIES	Council Fees and Charges		
ASSOCIATED LEGISLATION	Local Government Act 1993 Local Government (General) Regulation 2021 Food Act 2003 Protection of the Environment Operations Act 1997 Roads Act 1993		

1. Introduction

1.1. Title and Commencement

Strathfield Council's Mobile Food Vending Vehicle Policy was prepared and placed on public exhibition from 15 November 2023 to 18 December 2023. It was adopted on 19 December 2023.

1.2. Purpose

The purpose of this Policy is to provide the framework for the operation of mobile food vending vehicles within the Strathfield Council Local Government Area.

1.3. Objectives

Mobile food vending vehicles can contribute to the wellbeing and livability of Strathfield. They can activate the area and draw people to Strathfield.

The objectives of this policy are to:

- Ensure that food sold through mobile food vending vehicles are safe and fit for human consumption;
- Ensure the safe operation of mobile food vending vehicles for staff, patrons, pedestrians and the general public;
- Ensure compliance with the *Food Act 2003* with regards to business registration and vehicle fit-out;
- Minimise any potential negative impacts such as waste, noise, or impact on other businesses and residents;
- Ensure mobile food vending vehicles operate in accordance with the road rules and kerbside parking restrictions on Council-owned roads.

1.4. Scope

This Policy is a local approvals policy. It applies to activities listed under **Section 68** of the **Local Government Act 1993**, with specific relevance to item 7 of Part F:

- “Use a standing vehicle or any article for the purpose of selling any article in a public place.”

This policy details the Section 68 approval process and conditions for the operation of mobile food vending vehicles on Council-owned roads, car parks and other public places within the Strathfield Council Local Government Area.

This Policy does not apply to mobile food vending vehicles:

- Trading in accordance with a development consent under the *Environmental Planning and Assessment Act 1979 (NSW)* or under the provisions of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* on private land;
- Trading on public land in accordance with an approved special temporary event;
- Not operating as a food business.

2. Terms and Definitions

In this Policy the terms below have the following meanings:

<u>Term</u>	<u>Definition</u>
Development Consent	Consent under Part 4 of the Environmental Planning and Assessment Act 1979 to carry out development and includes, unless expressly excluded, a complying development certificate.
Food Premises	A business, enterprise or activity that involves 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, and includes vehicles.
Potentially Hazardous Foods	Food Standards Code 3.2.2 defines as: Food that must be kept at certain temperatures, to minimise multiplication of any food poisoning bacteria that may be present in the food, or to prevent the formation of toxins in the food.
Mobile food vending vehicle	Any means of transport which is used for selling food. It includes vehicles used for one-step food preparation, and the sale of any type of food including pre-packaged food. There are two categories of mobile food vending vehicles: Category 1 – Food Vans and Category 2 – Food Trucks
Category 1 – Food Vans	Mobile food vending vehicles which serve foods that are not potentially hazardous, and involve single-step preparation food and drink Foods are low risk and processes have minimal food safety risk such as the frothing of milk, or the serving of frozen dairy. Foods may be pre-packaged or served directly from its package/ container and do not require heating or cooking. The vehicle must meet relevant design and layout standards to ensure food safety requirements are met. Examples of food types include tea, coffee, drinks, cakes, sweets, frozen yoghurt, pre-packaged ice-cream, soft serve ice-cream or other similar foods.

Category 2 – Food Trucks	<p>Mobile food vending vehicles which serve foods that are potentially hazardous.</p> <p>These vehicles are usually a mobile kitchen and have access to a separate fixed food handling premises or commercial kitchen. Examples of the types of food this category can serve include: dumplings, pasta, tacos, flame-grilled meats, pizza, stir fry noodles, grilled skewers, fish & chips, or other similar foods.</p>
Public Land	Includes operational land, community land, the road reserve and Crown land in the Strathfield Local Government Area.
Ready to Trade State	Means that the mobile food vending vehicle is set up to sell food. Criteria includes availability of warm running water or sinks and hand wash basins, power to food displays/fridges, lighting and cleanliness, availability of soap, paper towels, food grade sanitizer, and probe thermometer within the vehicle.
Standalone item	Standalone items include (but is not limited to) items such as advertising boards, stands, heaters, tables, chairs or other seating apparatus.
Standing Vehicle	Any mobile food vending vehicle that has stopped to make a sale. Includes all mobile food vending vehicles that require an approval issued by Strathfield Council prior to operating on Council-owned roads.

3. Approval Application Process

3.1 Application Form

Approval must be sought from Strathfield Council (Council) prior to operating a mobile food vending vehicle on Council-owned roads or public land. It is an offence to trade without Council approval.

- Applications must be made on the approved *Mobile Food Vending Vehicle (Section 68) Approval* form, available on Council’s website and must be accompanied by the appropriate application fee.
- All supporting documentation must be provided with the application.
 - Service NSW Vehicle Registration (as proof of registration);
 - Certificate of Currency for Third Party Property Damage Insurance to the minimum value of \$20,000,000; and
 - Certificate of Currency for Public and Product Liability Insurance to the minimum value of \$20,000,000.

Insurances must be valid from the date of approval through to the date the approval lapses.

3.2. Inspection

Following submission of the completed application form, applicants must make arrangements with Council’s Environmental Services team to inspect the proposed mobile food vending vehicle, prior to approval being given.

The purpose of the inspection is to ensure that the vehicle complies with the NSW Food Authority's '*Guidelines for Mobile Food Vending Vehicles*' and Food Standards Code 3.2.3 *Food Premises and Equipment*.

At the time of inspection, the vehicle needs to be set up in a '*ready to trade*' state.

3.3 Issuing of Approval

Following confirmation of payment and a successful inspection, an annual approval letter will be issued. This approval will contain conditions of operation and an approval sticker. The approval sticker must be attached and displayed on the approved vehicle in a location clearly visible to the customers at all times whilst in operation.

Approvals will take effect from the date stated thereon and expire **twelve (12) months** after the date of the approval or any other time as stated on the approval, although no greater than 12 months.

An application to renew approval is to be lodged with Council **at least four (4) weeks prior to the expiration of the current approval**.

3.4 Food Safety Requirements

All mobile food vending vehicles must operate in accordance with the following:

- *Food Act 2003*
- *Food Standards Code 3.2.2 and 3.2.3*
- NSW Food Authority's '*Guidelines for Mobile Food Vending Vehicles*'
- Section 68 of the *Local Government Act 1993*
- The requirements set out in this Policy.

All food is to be stored and prepared in the mobile food vehicle during the period of operation. No food is to be stored or prepared at an unapproved food premises.

3.5 Mobile Food Vending Vehicle Construction Requirements

Mobile food vending vehicles must be designed and constructed in accordance with the NSW Food Authority's '*Guidelines for Mobile Food Vending Vehicles*' and Food Standards Code 3.2.3.

The dimensions of a mobile food vending vehicle must not exceed the length of 7.5m and must be no wider than 2.5m.

3.5.1 Water Supply

The vehicle must be provided with an adequate supply of potable water (the capacity of the tanks must be appropriate for the intended use) stored in food grade water storage containers, and suitably protected against contamination for hand washing, cleaning equipment, and use for food production. This includes an adequate supply of hot water.

The vehicle must be equipped with a wastewater tank of sufficient capacity to contain all stored potable water with extra capacity for the containment of other discarded liquid waste, with an outlet of sufficient diameter to facilitate easy flushing and cleaning.

3.6 Mobile Food Vending Vehicle Categories

There are two categories of mobile food vending vehicles based on the menu they serve. For the purpose of this Policy, **Strathfield Council only permits category 1 food vans.**

4. Operation of Mobile Food Vending Vehicles

4.1 Permitted Trading Locations

Approved mobile food vending vehicles allow them to pull up to a kerb, into a lawful parking spot, and to trade onto the footpath. Vehicles must not park on the footpath or on driveways, and must not trade onto the street, bike lane or an adjacent car parking spot.

Operators are responsible for checking local restrictions on parking times based on vehicle length and weight prior to trading. Operators must always comply with the road rules.

All approved mobile food vending vehicles are permitted to operate on Council-owned roads within existing lawful car parking spaces, except those listed in **Appendix 2 - Excluded Locations** noted in this Policy.

Mobile food vending vehicles are only permitted to operate on Council-owned sites, such as parks, within the Strathfield Local Government Area when they have obtained site-specific approval to do so, such as an approved Council event.

4.2 Excluded Locations

Operation of mobile food vending vehicles is strictly prohibited on the locations listed in **Appendix 2 – Excluded Locations.**

The list of excluded locations may be updated from time to time. It is the responsibility of the operator to ensure they keep up to date with the current excluded locations.

Mobile food vending vehicles cannot trade directly in front of any residential building (house or apartment) or buildings that contain residential premises (mixed use sites) on the same side of the road as the building frontage.

4.3 Proximity to Existing Food Premises

Mobile food vending vehicles must not trade within 100m of an existing trading food or drink premises open for business. This includes restaurants, cafes, food takeaway premises and sporting club canteens. This 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 the food and drink premises.

For the purposes of this Policy, existing food and drink premises includes only the types of food and drink premises that are used predominantly for the preparation and retail sale of food or drink (or both) for immediate consumption.

4.4 Hours of Operation

The hours of operation for mobile food vending vehicles are restricted to 8:00am – 7:00pm Monday to Sunday in residential areas, 7:00am – 7:00pm Monday to Sunday in commercial areas. There are no time restrictions in industrial areas.

4.5 Stopping Time

Each mobile food vending vehicle can trade for a maximum period of 1 hour in one location or until customers in the immediate vicinity are served. At all times the vehicle must comply with relevant parking restrictions and road rules and must be operated itinerantly.

4.6 Deliveries

Mobile food vending vehicles must arrive fully equipped at all trading locations and are not permitted to receive any deliveries.

4.7 Serving

Mobile food vending vehicles operators must ensure the location they are serving from will not create potential hazards to customers and staff.

Mobile food vending vehicles must not sell with their serving window opening onto any part of a roadway, including an adjoining car parking space or cycleway to ensure the safety of pedestrians and cyclists.

4.8 Standalone Items

The placement of any standalone items such as advertising boards, stands, heaters, tables, chairs or other seating apparatus, is not permitted at any time.

No advertising signs are permitted unless directly attached to the mobile food vending vehicle.

4.9 Noise

The use of the mobile food vending vehicle and any associated equipment 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* to any affected receiver.

All noise from technical operations including ancillary exhaust, generator noise, discharge fans, refrigeration units etc must be minimised.

Mobile food vending vehicles are prohibited from using a public address system and can only use amplified music or bells whilst the vehicle is moving and only between the approved hours of operation.

If any noise complaints are received and substantiated by an Authorised Council Officer, the Council officer may direct that the use of the mobile food vending vehicle be suspended or modified to prevent a nuisance until attenuation measures are completed and the Council has confirmed in writing that the use of the mobile food vending vehicle may resume.

4.10 Waste Management and Recycling

Mobile food vending vehicle operators are responsible for the management of waste throughout operation. Waste materials such as packaging and wastewater must be collected in garbage bins with lids or similar suitable receptacles, bagged or contained, stored within the vehicle and disposed at the cost of the operator.

The trading area must be left in a clean and tidy condition at the end of each trading interval.

Under no circumstances is liquid waste (including wastewater or oil) to be discharged to the ground or in the stormwater drain.

The disposal of liquid wastes generated within the vehicle must be through the sewer (and grease trap where necessary – contact Sydney Water for additional advice).

Operators are encouraged to recycle.

4.11 Liquor Licencing

Mobile food vending vehicle operators must not sell alcohol to the public.

5. Fees

Council will charge a fee for the relevant category of mobile food vending vehicle approval as per the Schedule of Fees and Charges on Council's website. Council will not issue a refund of any fees paid.

5.1. Inspections

Random inspections of mobile food vending vehicles may be conducted by Council officers during trading locations and times, and any reasonable associated fees and charges will be charged to the business in accordance with Council's Schedule of Fees and Charges.

5.2 Penalties, Revocation or Modification

An Authorised Council Officer has the authority to instruct a mobile food vending vehicles to leave the area if it is creating a nuisance. They may take enforcement action for non-compliance with this Policy and related legislation, including directing the operator to cease trading.

At its absolute discretion, Council may revoke, modify or refuse to renew a mobile food vending vehicle approval. This will generally only be where there has been non-compliance with the *Local Government Act 1993*, *Food Act 2003* or this Policy.

The penalties for failure to obtain an approval or failure to comply with an approval are set out in the *Local Government (General) Regulation 2021*. Council reserves the right to decide enforcement action for breaches of this Policy.

Strathfield Council will give written notice to the mobile food vending vehicles operator of its intention to revoke or modify the approval and give the operator the opportunity to show cause as to why the approval should not be revoked.

6. Version Control

Date	Type	Minute
14 November 2023	Version 1 - Draft for Public Exhibition	280/23
19 December 2023	Adopted Version	280/23

APPENDIX 1 - CONDITIONS OF APPROVAL

Mobile Food Vending Vehicles must comply with the following conditions of approval:

- A written approval will be provided. This must be attached and displayed on the approved vehicle in a location clearly visible to the customers at all times whilst in operation.
- Approvals are specific to each mobile food vending vehicle, and they are not transferable between vehicles.
- Modifications to the internal layout of the vehicle or major changes to the cooking or food processing within the vehicle require approval prior approval of Council's Environmental Services team.
- A Section 68 Approval may not be transferred to another owner. A new owner requires lodgement of a new application.
- A Certificate of Currency for public liability insurance of a minimum of \$20 million must be submitted to Strathfield Council. The policy must indicate that Strathfield Council is noted as an Interested Party (Principal Indemnity Endorsement), and that the Business Activity shown on the Certificate of Currency must be for a relevant purpose such as running a mobile food vending vehicle.
- The mobile food vending vehicle must be kept clean and in a good state of repair and working order, ensuring road worthiness and that noise, fumes, smoke, foul odours and other contaminants are not generated.
- Operators must comply with the Protection of the Environment Operations Act 1997 and any other relevant laws.
- Mobile food vending vehicle operators are responsible for the waste materials generated during the trading period. Waste materials such as food packaging are to be collected in bins or suitable receptacles, bagged, or contained, stored within the vehicle, and disposed at the cost of the operator.
- Garbage generated by the mobile food vending vehicle must not be disposed of in public garbage bins.
- Liquid waste (including wastewater) must not be discharged to the ground or in the stormwater drain.
- The location where the mobile food vending vehicle stands must be left in a clean and tidy condition at the end of each trading interval.
- Where feasible, the packaging used for the sale of food should be selected for its suitability for recycling.
- Operators must take all practicable measures to prevent pests (including birds, spiders and flying insects) from entering or remaining in the vehicle.
- A fire extinguisher and fire blanket must be supplied in every vehicle where cooking or heating processes are undertaken. Portable fire extinguishers and fire blankets should be selected, installed, and maintained to the applicable requirements of AS 2444 – 2001.
- Fire safety equipment must be tested annually and have current tagging in accordance with Australian Standards.
- Lighting from mobile food vending vehicle must not interrupt or distract traffic flows, create a nuisance, or negatively affect the amenity of the surrounding neighbourhood.
- In consideration of the mobile food vending vehicle details, Council at its sole discretion may apply additional conditions of approval, as deemed necessary.
- Council reserves the right to refuse any application at its sole discretion.

APPENDIX 2 – EXCLUDED LOCATIONS

Excluded Locations – Schedule of Streets (Mobile Food Vending Vehicles are NOT permitted in these streets)

- Albert Road, Strathfield
- Burlington Road, Homebush
- Cave Road, Strathfield
- Centenary Drive, Strathfield
- Churchill Avenue, Strathfield
- Coronation Parade, Strathfield South
- Henley Road, Homebush West
- Homebush Bay Drive
- Homebush Road, Strathfield, Dean Street to High Street
- Juno Parade, Greenacre
- Liverpool Road
- Orrs Lane, Strathfield
- Parramatta Road
- Raw Square, Strathfield
- Redmyre Road, Strathfield, The Boulevarde to Raw Square
- Roberts Road, Greenacre
- Rochester Street, Homebush
- The Crescent, Homebush, Homebush Road to Meredith Street
- The Crescent, Homebush West, Hampstead Road to Hornsey Road
- The Boulevarde

Excluded Locations – Council Owned Land (Mobile Food Vending Vehicles are NOT permitted in these locations)

- Bressington Park car park
- Homebush West car park
- Hudson Park car park
- Mason Park car park
- Strathfield Library car park
- Strathfield Square
- Strathfield Town Centre car park
- The Crossways car park