

POLICY		Responsible Department	Essential Services & Assets
		Original Adoption Date	24.02.12
		Current Adoption Date	26.07.2023
		Date of Next Review	26.07.2026

MOBILE FOOD VENDORS	
Latest Review Changes	Updated to new template, minor formatting & editorial changes.
Previous Council Reviews	19.05.15, 18.04.20

Applicable Legislation

<p><i>Local Government Act 1999</i></p> <p><i>Local Government (Mobile Food Vendors) Amendment Act 2017</i></p> <p><i>Local Government (General) (Mobile Food Vendors) Variation Regulations 2017</i></p> <p><i>Planning, Development and Infrastructure Act 2017</i></p>

Related Policies

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Related Procedures

<p>Event Management Guidelines</p>

Reference Documents

<p>LGA Model Location Rules for Food Trucks</p> <p>Permit Applications</p>
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1. PRINCIPLES

The Municipal Council of Roxby Downs (“Council”) goal is to promote local economic growth. To achieve this aim, the Council is committed to balancing a desire to attract new businesses to town with the need to support existing traders. Mobile food vending represents an opportunity to diversify food business offerings.

2. POLICY OBJECTIVES

This policy allows for the operation of mobile food vending businesses within the legislative requirements of the *Local Government Act 1999* in a manner that does not interfere or conflict with the permanent local business operators and service traders. The policy will ensure that these activities are appropriate for the area and do not cause any public safety issues or nuisance to the surrounding residents or businesses and that the amenity of the area is protected.

3. SCOPE

Permission

Prior permission from Council is required in order to operate a Mobile Food Vending business within any area of municipality, other than privately owned land.

Permission is not required if:

- The catering is for an event on community land or road related area where a permit or licence has already been issued to the Event Holder in accordance with Event Management Plan Guidelines.
- A Mobile Food Vendor permit is not required for trading on privately owned land in accordance with 5(2)(ab) in schedule 3 of the *Planning, Development and Infrastructure Act 2017*. On privately owned land development approval is not required if the mobile food vendor can satisfy that the use of any land or building for the display and sale of food produce if:
 - the total floor area of the display does not exceed 30 square metres; and
 - the use of the land for the display and sale of food produce does not have a significant detrimental effect on the amenity of the locality or any part of the locality.

4. DEFINITIONS

Mobile Food Vending	is defined as a business involving the sale of food or beverages from a vehicle (within the meaning of the <i>Road Traffic Act 1961</i>) either free of charge or at a cost.
Community Land	is all local government land (except roads) that is owned or under the care and control of the Council unless excluded for operational purposes by a resolution of Council.
Road	is a private or public street, road or thoroughfare to which public access is available.
Road Related Area	is a footpath or nature strip adjacent to a road, an area that is not a road and is open to the public and designated for use by cyclists or animals, an area that is not a road and this open to the public for driving, riding or parking vehicles (including road verges and footpaths).

5. LEGISLATIVE PRINCIPLES

Community Land – Section 200 and 202 of the Local Government Act 1999 specifies that a person must not use community land for a business purpose unless the use is approved by the council.

Road/Road Related Area – Section 222 of the Local Government Act 1999 specifies that a person must not use a public road, including any part of the road reserve such as the footpath area, for business purposes unless authorised to do so by a permit from the council.

6. POLICY STATEMENT

Mobile food vendors should enhance the vibrancy of the Council area and have an offering that encourages visitors and residents.

Council will adopt location rules as where mobile food vendors may operate from with a permit (Appendix A). Council will take into consideration the following whilst setting permitted location rules:

- Location
- Permanent retail and service traders
- Benefit to the community
- Ambience created by the trader

Mobile trading must comply with the Local Government Act 1999 and relevant Council by-laws. The Permit holder must agree to comply with all the conditions which Council may impose. Council can modify or revoke a mobile trading permit if does not comply with the conditions.

The permit is to be carried at all times while trading and produced upon request by an authorised Council representative or SA Police.

Permanent retail and service traders and the amenity of the Council area must not be adversely affected by mobile trading.

Mobile Trading Operations

- No fixed infrastructure, tables, chairs or signage or amplified sound are permitted
- All advertising must be fixed to the food vehicles and not encroach on the public realm
- Exclusive use of an area is not permitted and areas are not able to be reserved
- The mobile vending area must be maintained at a high level of cleanliness. All waste and litter from the vendors operation must be disposed of. All wastewater associated with the activities of the food vendor must be contained within the vendor's vehicle. All refuse generated as part of the operation must be continuously removed by the mobile vendor
- Where Council has to undertake any cleaning or tidying of the area, the mobile vendor will be liable to reimburse the Council for costs incurred.

Provision of permits

- The permit holder takes full responsibility for the care, appearance, maintenance and operation of their activity area and is responsible for abiding by all legislative requirements relating to the activity
- Applicants will need to demonstrate an appropriate level of public liability insurance as per the conditions.

Safety

- Safety measures required by mobile vendors will be assessed on a case-by-case basis
- Mobile vendors must comply with all legislative requirements relating to business operations, work health and safety and any other relevant requirements
- All mobile food vendors must comply with all health and food safety aspects as contained within the Food Act 2011 and food safety standards. All mobile food vendors will be subject to an inspection from the Environmental Health Officer
- Safety of the public must be a primary consideration. Mobile food vendors must not compromise the safety of pedestrians, any road users or another users of the space

Fees

A fee in accordance with the Council's Fees and Charges Register will apply. Permits are either issued annually or monthly.

7. COMPLAINTS

Complaints relating to mobile vendors can be made in writing to Council's Group Manager Essential Services and Assets. All complaints will be investigated in accordance with Council's Complaints policies.

8. REVIEW

This policy will be reviewed every 3 (three) years and also in response to any changes to legislation and relevant standards, codes and guidelines.

9. AVAILABILITY OF POLICY

This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website www.roxbydowns.sa.gov.au. Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

Mobile Food Vendors Policy Location Rules – Appendix A

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 mobile food vending business to operate on a public road in the Council area is that the permit holder complies with the location rules adopted by the Council under section 225A of the *Local Government Act 1999*.

Council has adopted the location rules set out in this document.

2. MOBILE FOOD VENDING BUSINESS DETERMINED SITES

A mobile food vending business holding a permit issued by the Council may operate anywhere in the Council area subject to complying with these location rules and any other requirements of its permit.

3. OPERATE A REASONABLE DISTANCE FROM A FIXED FOOD BUSINESS

A mobile food vending business holding a permit issued by the Council must select a site for operation which allows for a reasonable distance between the mobile food vending business and fixed food businesses.

A permit holder may operate the Mobile Food Vending Business from a location which is consistent with the following location rules:

- (a) A 100-metre clearance from neighbouring related businesses unless trading of the neighbouring related businesses has ceased for the day
- (b) When trading from a private or commercial property consent must be obtained from the leaseholder and owner.

A fixed food business is defined as a business where the primary purpose is retail sale of food or beverages that is carried on at fixed premises. Fixed food businesses include cafes, restaurants, takeaway food businesses, bakeries, supermarkets and service stations.

4. TAKE INTO ACCOUNT THE EFFECT OF THE OPERATION OF THE MOBILE FOOD VENDING BUSINESS

A mobile food vending business must select a site for operation which takes into account the effect of its operation on:

- (a) Vehicles and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities;
- (b) Requirements relating to, and availability of, parking spaces; and
- (c) Residents and businesses.

5. NO UNDUE INTERFERENCE WITH VEHICLES OR ROAD RELATED INFRASTRUCTURE

A mobile food vending business must select a site for operation where it 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.

6. COMPLIANCE WITH LEGISLATIVE REQUIREMENTS

A mobile food vending business must select a site for operation which does not breach any relevant requirements under the following legislation:

- (a) *Food Act 2001*;
- (b) *South Australian Public Health Act 2011*;
- (c) *Environment Protection Act 1993*;
- (d) *Local Nuisance and Litter Control Act 2016*;
- (e) *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.

7. DISPUTES MAY BE REFERRED TO THE SMALL BUSINESS COMMISSIONER

If an operator of a food business in the Council area is directly adversely affected by these location rules, then the operator may apply to the Small Business Commission for a review of location rules.

8. AMENDMENT OF THESE LOCATION RULES

The location rules may be amended from time to time by the Council. The location rules must be amended by the Council if directed to by the Small Business Commissioner or to satisfy a requirement of the Minister for Local Government.