

## Mobile food vehicles, temporary food stalls and hawking

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## 1. Purpose

The purpose of this Policy is to provide criteria for the management of mobile food vehicles and temporary food stalls in regard to food vending at markets and community events; from specific sites; on public and private land; and from public streets (hawking). The Policy also addresses the hawking of non-food items from public land.

## 2. Definitions

**Mobile Food Vehicle** refers to a motor vehicle, caravan, trailer or other mobile units that are registered as per the requirements of the Motor Traffic Act and have been constructed in accordance with the NSW Food Authority's Guide for Mobile Vending Vehicles.

**Temporary Food Stall** refers to an enclosure that is usually made from strong light weight material housing cooking and other facilities, designed to serve food for one day.

**Carts and other devices** refers to an apparatus or small vehicle with or without wheels, usually not road registered, that can be but not limited to being, carried, pushed or pulled along. Carts and other devices do not usually meet the criteria of a mobile food vehicle or temporary food stall.

**Itinerant Food Vendor** means a person who has a mobile food vehicle, temporary food stall or cart used for the sale of food and travels from place to place.

**Hawker** means a person selling food, or any article or service, from public streets and lands, making brief and intermittent stops to serve customers.

**Approval** refers to an approval by Council of an application under Section 68 of the Local Government Act 1993.

**Council** refers to Clarence Valley Council.

**Authorised Officer** refers to a person who has been appropriately authorised by Clarence Valley Council under relevant legislation.

**Potentially Hazardous Food** refers to food that has to be kept at certain temperatures to minimise the growth of any pathogenic micro-organisms that may be present in the food or to prevent the formation of toxins in the food.

**Development Consent** means the consent of Clarence Valley Council under Part 4 of the *Environmental Planning and Assessment Act 1979* for an applicant to carry out development and includes, unless expressly excluded, a complying development certificate.

## 3. Background/legislative requirements

- To establish a governance process that Council will apply to trade or business of an itinerant and short term nature.

- To provide a framework for Council staff to assess applications from clients who wish to sell food on an itinerant basis in the Clarence Valley Council area.
- To help facilitate compliance of itinerant food vendors with relevant state food legislation.

Section 68 of the Local Government Act 1993 requires Council approval to be given prior to engaging in a trade or business on community land.

A food business is required to sell safe and suitable food in accordance with the provisions of the NSW Food Act 2003. Copies of the Act, in particular the Food Safety Standards, are available on the NSW Food Authority's website at [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au).

Certain activities require development consent under the Environmental Planning and Assessment Act 1979 (EP&A Act). A long term, site specific, operation of a mobile food vehicle is an example of such an activity requiring consent under the EP&A Act.

#### **4. Policy, protocol or procedure statement**

The Clarence Valley is home to many cultural, sporting and community events which help nurture and support our diverse and creative community. Council values the social and economic benefits that these events and other short term trade can generate and is, therefore, keen to facilitate these businesses in a manner that will promote sustainability, protect public health and conserve the local environment.

*"We plan to maintain and strengthen our social networks and support healthy economic activity that protects community and environmental values for our prosperity and well being (CV Sustainability Initiative)."*

This policy establishes the governance processes Council will apply to trade or business of an itinerant and short term nature, often on public land. The policy recognises the special nature of these activities and provides practical solutions to ensure an acceptable standard of public health and safety, particularly in relation to the preparation and sale of food.

This policy relates to:

- a) Itinerant vendors who wish to sell food from temporary food stalls or mobile food vehicles.
- b) Persons wishing to operate as a hawker.
- c) Mobile food vehicles operating from a permanent site, on a long term basis, either on public or private land.

#### **5. Approval to Operate as an Itinerant Food Vendor**

##### **Approvals and Inspections**

- a) Itinerant food vendors [except those in b) below] must be approved by Council before operating.
- b) No approval is required for itinerant food vendors who do not prepare food on-site and sell pre-wrapped and other non-potentially hazardous food stuffs. Examples of such may

be pre-bottled/sealed jams, pickles, honey, drinks, pre-wrapped/sealed cakes, toffees, biscuits etc and food products with natural protection such as fruit, vegetables and whole nuts. However, vendors must still be registered with the NSW Food Authority and products must be labelled in accordance with the requirements of the Food Standards Code. Registration can be completed on-line at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) and information in regard to labelling is available on the NSW Food Authority's website ([www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)).

- c) Separate approval must be obtained for each mobile food vehicle, temporary food stall, cart or other device.
- d) There are three types of approval:
  - 1. An annual approval valid from 1 July to 30 June the following year.
  - 2. An event approval which can be obtained for special local events.
  - 3. A one (1) day approval.
- e) Itinerant food vendors operating an approved mobile food vehicle shall be permitted to operate at, and for the duration of, any fete, fair, festival, carnival, community market, sporting or similar event, with permission of the event organiser.

Vendors with a temporary food stall, cart or other device, shall not, except under exceptional circumstances, exceed one consecutive day's operation at the same location/venue.

Itinerant food vendors utilising a cart or other device shall only be permitted to sell pre-packaged, non-potentially hazardous food.

- f) An approval fee is payable as per Council's current Fees and Charges Schedule.
- g) The application must be accompanied by a copy of current Public Liability Insurance cover to the value of \$20,000,000.00 which indemnifies Council and the applicant from claims for injuries to persons and damage to property.
- h) Mobile food vehicles must be inspected by Council's Environmental Health Officer prior to approval.
- i) Temporary food stalls or mobile food vehicles may be subject to inspection by Council's Environmental Health Officer at any event or any time.
- j) Approvals must be on display and clearly visible in the temporary food stall or mobile food vehicle.
- k) If the business is sold, the new operator must contact Council to arrange for a transfer of the approval and submit to Council a copy of current Public Liability Insurance cover as stated above.
- l) Any vendor may be required to cease trading should an authorised officer of Council consider the vendor is not complying with Council policy or relevant food legislation.

- m) It is a requirement that all food businesses are registered with the NSW Food Authority. This registration can be completed on-line, free of charge, at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au).
- n) Council reserves the right to refuse an application for an approval.
- o) Food vending shall be undertaken in compliance with the NSW Food Authority's "Food Handling Guidelines for Temporary Events".

#### **Construction Requirements**

- a) Temporary Food Stalls must be constructed in accordance with the requirements set out in the NSW Food Authority's "Food Handling Guidelines for Temporary Events", a copy of which can be obtained from Council from either its customer service counters or its website [www.clarence.nsw.gov.au](http://www.clarence.nsw.gov.au) under the Regulation and permits icon.
- b) Mobile Food Vehicles must be constructed in accordance with the requirements set out in the NSW Food Authority's "Mobile Food Vending Vehicles: Operation, Construction and Food Handling Guidelines", a copy of which can be obtained from Council from either its customer service counters or its website [www.clarence.nsw.gov.au](http://www.clarence.nsw.gov.au) under the Sustainable Environment/Public Health icon.
- c) Carts and other devices shall be assessed on their own merits at the time of application.

## **6. Hawkers Approval**

- a) Vendors wishing to hawk goods, services or items of food from public streets and lands must first obtain a hawkers approval from Council. This is in addition to any approval for a mobile food vehicle or cart.
- b) Separate approval must be obtained for each individual unit even if operated by the same business.
- c) An annual hawkers approval fee is payable as per Council's current Fees and Charges Schedule.
- d) Hawker approvals will only be issued to itinerant vendors that can demonstrate their ability to:
  - i) safely and legally park the vehicle at the point of sale;
  - ii) operate immediately with little or no set-up;
  - iii) prepare and serve with a quick turn-around and move on.
- e) Vendors are not permitted to operate within 100 metres of a permanent retail outlet selling a similar product if that outlet is open.
- f) Vendors shall comply with the provisions of any Plans of Management for Parks and Reserves as well as Crown Lands and National Parks regulations. This may restrict access to some sites.

- g) Vendors shall not (for the purpose of selling) occupy any one position on public land including a public road or carpark, except for such period of time as the vendor may be engaged in the actual serving of customers (generally max 15 mins). After serving the customer, the vendor must move on and shall not return soliciting customers or selling over the same ground within one hour.
- h) Street vending vehicles, such as ice cream vans or other food vending vehicles, are required to display a flashing amber light while stopped for the purpose of serving customers. Indicators must be fitted which will inform the driver, by visible and audible means, that the light is flashing. The light must begin to flash within one second of being switched on and continue to flash at a rate of not less than 60 times per minute. (Vehicles Standards Information No 8, RTA 2007)
- i) For safety reasons, high traffic areas and 100 km per hour zones should be avoided.
- j) The hawker shall not cause an obstruction or nuisance to users of the area.

## **7. Permanent Vending Sites**

Vendors wishing to establish a permanent site for vending must obtain development consent from Council. The type of issues that will be considered include, land zoning, hours of operation, public safety, customer parking, trade waste, visual amenity and community comment.

## **8. Buskers, Street Stalls and Coin Tables**

For information in this regard, please refer to Council's Mobile signs, articles, merchandise and entertainment on public land Policy.