

# Policy

## Mobile Food Vehicles, Temporary Food Stalls and Hawking

Responsible Manager (Title)	Coordinator, Environmental Services		
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Community Plan Linkage	<b>1 Society</b>		
	1.2 We will have a safe, active and healthy region		
	1.2.4 With our partners, promotes community safety		

### 1 Purpose

The purpose of this Policy is to provide criteria for the management of mobile food vehicles and temporary food stalls regarding 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 (MFV)** refers to a motor vehicle, vans, trucks, caravans and trailers as well as boats, fitted out for the handling and sale of food directly to consumers (e.g. coffee vans, ice cream vans, sandwich trucks and boats including ferries).and have been constructed in accordance with the Food Safety Standards 3.2.3 or the NSW Food Authority's *Guide for Mobile Vending Vehicles*.

**Temporary Food Stall (TFS)** refers to premises comprising a tent or stall or the like from which food is sold by retail on an occasional basis only, such as for a fete, fair, market or other event.

**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* (LG Act).

**Council** refers to Clarence Valley Council.

**Authorised Officer** refers to a person who has been appointed by the Council as an authorised person under the *Food Act 2003*.

**Potentially Hazardous Food** refers to food that is required to be kept at more than or less than a particular temperature 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.

### 3 Background / legislative requirements

Key requirements include:

- To establish a governance process that Council will apply to mobile food vehicle, temporary food stall businesses and hawking approvals.
- To provide a framework for Council to assess mobile food vehicle and temporary food stall application for approval within the Clarence Valley local government area.
- To facilitate compliance of mobile food vehicle and temporary food stall businesses with relevant state legislation and guidelines.

Section 68 of the LG Act 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 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, dedicated to facilitating these businesses in a manner that will promote sustainability, protect public health and conserve the local environment.

This policy establishes the governance processes Council will apply to mobile food vehicle, temporary food stall businesses, and hawking approvals. The policy recognises the unique 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) Operators undertaking mobile food vehicle and/or temporary food stall businesses.
- 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 Implementation

### 5.1 Food stall and inspections

- a) Mobile food vehicle and temporary food stall businesses [except those in i & ii below] must be approved by Council before operating. An approval must be obtained for each individual mobile food vehicle or temporary food stall. Those food businesses that do not require an approval to operate under section 68 (LG Act) must notify Council using the approved form available on Council's website. Notification is a compulsory requirement.
- i. No approval is required for MFV and TFS who do not prepare food on-site and sell pre-wrapped and other non-potentially hazardous food stuffs. Examples of such maybe 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.
  - ii. If operating upon private land, the food business must comply with any existing development approval and the requirements under Part 2 Division 1 Subdivision 27A Mobile food and drink outlet of the State Environment Planning Policy (Exempt and Complying Development Codes) 2008.
- b) Food businesses that trade at temporary events must notify their details to the local council prior to commencing trading for the first time. Businesses must notify their home jurisdiction council (i.e. location where food is prepared before sale at a temporary event), and the local councils where they intend to trade.
- c) Approvals are issued for the following time periods:
1. An annual approval valid from 1 July to 30 June the following year.
  2. Six-month approval is valid from the date of approval to the 30<sup>th</sup> of June, or for six (6) months, whichever comes first.
  3. A three (3) day approval which can be obtained for special local events.
  4. A one (1) day approval.
- Note:** Approvals must be on display and clearly visible in the temporary food stall or mobile food vehicle.
- d) An approved MFV 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. TFS businesses shall not, except under exceptional circumstances, exceed one consecutive day's operation at the same location/venue.
- e) An approval fee is payable as per Council's current Fees and Charges Schedule.
- f) The application must be accompanied by a copy of current Public Liability Insurance cover to the value of a minimum of \$20,000,000.00 which indemnifies Council and the applicant from claims for injuries to persons and damage to property.
- g) Prior to initial approval mobile food vehicles must be inspected by an Authorised Officer. A copy of a recent inspection (less than 12 months old) undertaken by another Council may be accepted if shows satisfactory compliance.
- h) TFS or MFV may be subject to inspection by an Authorised Officer.
- i) If the business is sold, the new operator must contact Council to arrange for a new approval prior to operation.
- j) TFS must be constructed and operate in accordance with the requirements set out in the NSW Food Authority's '*Food Handling Guidelines for Temporary Events*'.

- k) MFV 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*". Vehicle registration details must be included within approval application.
- l) **Unregistered vehicles** shall be assessed on their own merits at the time of application.

## 5.2 Hawkers Approval

- a) Vendors wishing to hawk goods, services or items of food from public streets and lands must first obtain a hawker's 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 hawker's 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 2010)
- 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.

## 5.3 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, but are not limited to, land zoning, hours of operation, public safety, customer parking, trade waste, visual amenity, and community comment.

## 5.4 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.