

# MOBILE FOOD VEHICLES, TEMPORARY FOOD STALLS AND HAWKING POLICY

<b>QUALITY CONTROL</b>			
<b>EDRMS REFERENCES</b>	12/14 – D20/2706		
<b>RESPONSIBLE POSITION</b>	Environmental Health Officers		
<b>APPROVED BY</b>	Council Resolution		
<b>REVIEW DATE</b>	August 2024	<b>REVISION NUMBER</b>	1
<b>EFFECTIVE DATE</b>	<b>ACTION</b>	<b>MINUTE NUMBER</b>	
26 August 2020	<b>Public Exhibition</b>	46334	
28 October 2020	<b>Adoption</b>	46372	

## 1. INTRODUCTION

The purpose of this Policy is to provide criteria for the management of mobile food vehicles and temporary food stalls regarding food vending at markets and community events; from specific sites; on public and private land; and from public streets (hawking). Council aims to ensure that the activities of Food Hawkers and Vendors are controlled in such a manner that protects the public interest by the preservation of public health and safety.

## 2. POLICY OBJECTIVE

The Policy aims 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 customers who wish to sell food on an itinerant basis in the Broken Hill City Council area.
- To help facilitate the compliance of itinerant food vendors with relevant state legislation i.e. NSW Food Act 2003.

## 3. POLICY SCOPE

The Policy applies to all mobile food vehicles, food vendors and temporary food stallholders in the Broken Hill City Council area.

This Policy does not apply to temporary food stalls selling food for fundraising or not-for-profit stalls. In this case, Council should still be notified if a not-for-profit organisation wishes to sell food on community land and Public Liability Insurance cover will be required as well as basic food safety knowledge.

## 4. POLICY STATEMENT

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 and NSW Food Regulations 2015.

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.

### **What are other relevant documents?**

The following documents are related, either directly or indirectly, to the Policy:

- a) Food Act 2003
- b) Food Regulations 2015
- c) Local Government Act 1993 – particularly Chapter 7, Section 68
- d) NSW Food Authority - Guidelines for Food Businesses at Temporary Events
- e) NSW Food Authority - Guidelines for Mobile Food Vending Vehicles
- f) Application to Sell Food and/or Drink at Temporary Events
- g) Local Approvals Policy

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

#### **Approvals & Inspections**

1. Itinerant food vendors must be approved by Council before operating. Refer to Council's website to find an Application Form to Sell Food and/or Drink at Temporary Events.
2. Separate approval must be obtained for each mobile food vehicle, temporary food stall, cart or other device.
3. Types of approval:
  - a) Annual approval valid from 1 July to 30 June the following year.
  - b) An event approval which can be obtained for special local events.
4. 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 event or similar event, with permission of the event organiser.
5. The application must be accompanied by a copy of current Public Liability Insurance cover to the value of \$20,000,000 which indemnifies Council and the applicant from claims for injuries to persons and damage to property.
6. Mobile food vehicles must be inspected by Council's Environmental Health Officer prior to approval.
7. Temporary food stalls or mobile food vehicles may be subject to inspection by Council's Environmental Health Officer at any event or any time.
8. If the mobile food vehicle 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.
9. Any vendor may be required to cease trading should an authorized officer of Council consider the vendor is not complying with Council policy or relevant food legislation.
10. It is a requirement that all food businesses are registered with the NSW Food Authority. This registration can be completed online, free of charge at [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au).
11. Council reserves the right to refuse an application for approval.

12. Food vending shall be undertaken in compliance with the NSW Food Authority's Guidelines for Food Businesses at Temporary Events.

### **Construction Requirements**

- a) Temporary Food Stalls must be constructed in accordance with the requirements set out in the NSW Food Authority's Guidelines for Food Businesses at Temporary Events.
- b) Mobile Food Vehicles must be constructed in accordance with the requirements set out in the NSW Food Authority's Guidelines for Mobile Food Vending Vehicles.
- c) Carts and other devices shall be assessed on their own merits at the time of application.

### **Hawkers Approval**

1. Vendors wishing to hawk foods or drinks from public streets and lands must obtain approval from Council.
2. 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.
3. Vendors are not permitted to operate within 100 metres of a permanent retail outlet selling a similar product if that outlet is open.
4. Vendors shall comply with the provisions of any Crown Lands regulations. This may restrict access to some sites.
5. Vendors shall not 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. After serving the customer, the vendor must move on and shall not return soliciting customers or selling over the same ground within one hour.
6. As per Roads and Maritime Services, street vending vehicles, such as ice cream vans or other food vending vehicles must 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, RMS, 2009).
7. Vendors shall not park any vehicle on any footway or road so as to restrict the public use or, obstruct such footway or road, or interfere with public convenience.
8. No food hawker or vendor shall set up a stall or any stand or trade in established shopping areas including:
  - Argent Street – Full length
  - Bagot Street – Full length
  - Beryl Street – Bromide Street to Bagot Street
  - Blende Street – Gossan Street to Bromide Street
  - Bonanza Street – Full length
  - Bromide Street – Crystal Street to Thomas Street
  - Brookfield Avenue – Full length
  - Chloride Street – Crystal Street to Beryl Street
  - Crystal Street – Full length
  - Garnet Street – Crystal Street to Beryl Street
  - Gypsum Street – Full length

Iodide Street – Crystal Street to Williams Street  
Kaolin Street – Crystal Street to Wolfram Street  
Lane Street – Bagot Street to Buck Street  
Menindee Rd – Argent Street to Holten Drive  
Oxide Street – Crystal Street to Thomas Street  
Patton Street – Queen Street to Central Street  
Rakow Street – Full length  
Sulphide Street – Crystal Street to Beryl Street  
Thomas Street – Bromide Street to Oxide Street  
Wentworth Road – Queen Street to Kanandah Road  
Williams Street – Full length  
Wills Street – Gypsum Street to Gossan Street

9. No food hawker or vendor shall set up a stall or any stand or trade in any street, road or lane fronting or within 100 metres of any of the following properties or locations:

Any Primary, Secondary or Private School

Broken Hill Regional Aquatic Centre

Busy Kids Child Care Centre

Duff Street Shopping Centre

Gymnastics & Kindergym Club

Happy Day Preschool & Long Day Care

Jubilee Oval

McCulloch Street Shopping Centre

Playtime Preschool

Rainbow Preschool

Sanderson Basketball Stadium

Village Shopping Centre

Westside Plaza Shopping Centre

YMCA Broken Hill Integrated Wellness Centre

10. No food hawker or vendor shall sell food on any park, reserve, recreation area or land owned or controlled by Broken Hill City Council.

## **5. IMPLEMENTATION**

### **5.1 Roles and Responsibilities**

The following Council officers are responsible for the implementation and the adherence to this policy:

- General Manager
- Manager City Development & Planning
- Environmental Health Officer
- Compliance Officer

### **5.2 Communication**

This Policy will be communicated to the community and staff in accordance with Council's Policy, Procedure and Process Framework and Council's Business Paper process. Following adoption by Council the Policy will be made available on Council's website.

### 5.3 Associated Documents

The following documentation is to be read in conjunction with this policy:

- Compliance and Enforcement Policy
- Local Approvals Policy
- Local Orders Policy

## 6. REVIEW

Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines.

The standard review period will be every two years from the effective date, or when amendments have been made to relevant legislation. The responsible Council officer will be notified of the review requirements three months prior to the expiry of this policy.

The Manager City Development & Planning is responsible for the review of this policy.

## 7. LEGISLATIVE AND LEGAL FRAMEWORK

This policy is to be read in conjunction with the following:

- Food Act 2003
- Food Regulations 2015
- Local Government Act 1993
- Environment Planning & Assessment Act 1979

Council employees shall refrain from personal activities that would conflict with proper execution and management of Council's Mobile Food Vehicles, Temporary Food Stalls and Hawking Policy. Council's Code of Conduct provides guidance for recognising and disclosing any conflicts of interest.

## 8. 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 Food 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** refer 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.

**Food Hawker** means a person selling food 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 Broken Hill City Council.

**Authorised Officer** means a person appointed by Broken Hill City Council under relevant legislation such as the Food Act 2003.

**Potentially Hazardous Food** is defined by Food Standard 3.2.2 defined as “food that has to be kept at certain temperatures to minimise the growth of any pathogenic microorganism that might be present in the food or to prevent the formation of toxins in the food”. Clause 8 of that Standard requires that a food business, when displaying potentially hazardous food, display it under temperature control.

**Development Consent** means the consent of Broken Hill City 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.