

ADOPTED BY COUNCIL: : [TO BE COMPLETED BY GOVERNANCE]

PURPOSE

Wollongong City Council supports the operation of mobile food vending vehicles to enliven the City of Wollongong Local Government Area and encourage both diversity in takeaway food options and activation of public spaces.

The purpose of the Policy is to provide the framework for the operation of mobile food vending vehicles in the City of Wollongong Local Government Area. The Policy sets out the relevant legislative requirements for safe food handling and preparation practices and establishes the trading parameters on public land.

The Policy also supplements provisions of the Local Government Act 1993, the Roads Act 1993, the Food Act 2003 and associated regulations.

The Policy is divided into three parts in accordance with the requirements of the Local Government Act 1993:

- Part 1 of the Policy specifies any exemptions from the Policy;
- Part 2 of the Policy specifies the approval requirements which Council must consider when determining whether to grant approval for a particular activity;
- Part 3 of the Policy specifies other matters relating to approvals.

POLICY INTENT

The main objectives of this policy are to:

- a) Set criteria for the operation of mobile food vending vehicles on Council-owned and managed land in the City of Wollongong Local Government Area;
- b) Encourage the activation of public spaces through a flexible food vending offer.
- c) Minimise any potential adverse impacts of mobile food vending vehicles on residential amenity and the environment.
- d) Ensure that mobile food vending vehicles operate safely and in accordance with the rules and restrictions on Council-owned and managed land.
- e) Ensure that food sold through mobile food vending vehicles is safe and fit for human consumption.
- f) Ensure that mobile food vending vehicles are adequately equipped and meet relevant standards.

WOLLONGONG 2028 OBJECTIVES

This policy supports our Community Goals outlined in Wollongong 2028, with interconnected objectives being:

- We have an innovative and sustainable economy
- Wollongong is a creative, vibrant City

PART 1: POLICY

Where the policy applies:

The Policy applies to all Council-owned and managed land within the City of Wollongong Local Government Area as defined in Appendix 1 of the Policy.

The Policy does not apply to any food truck or food van that is operating pursuant to a separate “events” authorisation and/or sporting ground licence issued by Council.

The Policy does not apply to the use and operation of any food truck or food van that is used on private land.

Approvals to which the policy relates:

The Policy applies to the following activity, as specified in the Table under Section 68 of the Local Government Act 1993:

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

For the purposes of the Policy a ‘standing vehicle’ includes any food truck or food van that has stopped to make a sale, prepare to make a sale, or with the intention to sell.

When will the policy be revoked?

In accordance with Section 165(4) of the Local Government Act 1993, the Policy is automatically revoked at the expiration of 12 months after the declaration of the poll for a general election of Council, unless Council revokes the Policy sooner.

DEFINITIONS:

For the purposes of the Policy:

- a) A **mobile food vending vehicle** is a vehicle located on Council-owned roads and public land used in connection with the preparation and/or sale of food.

It includes vehicles used for on-site food preparation (e.g. hamburgers, hot dogs and kebabs), one-step food preparation (e.g. popcorn, fairy floss, coffee) and the sale of any type of food, including pre-packaged food.

For the purposes of the Policy, the term “mobile food vending vehicle” refers to both food trucks and food vans, being vehicles that are registered within the meaning of the Road Transport Act 2013.

All mobile food vending vehicles require an approval issued by Council prior to operating.

- b) A **food truck** is a vehicle used for the purposes of on-site preparation and sale of hot and cold food (considered a medium to high risk food category). Food trucks routinely change location and must not remain in any one location for more than 4 hours at one time.
- c) A **food van** is a vehicle used for the purposes of selling tea, coffee, drinks, cakes, sweets or other similar food (low risk food category). Food vans routinely change location and

can make intermittent stops of up to 15 minutes at any one time.

- d) A **food cart** is a unit/vehicle which may or may not be powered, that is for the purpose of selling food or drink which operates within Council-owned roads and does not meet the definition of a food truck or food van (Note: food carts are not supported under the Policy).
- e) **Council-owned roads** includes all of the land used for vehicular traffic, plus any footway, shoulder, and gutter.
- f) **Operational Land** includes all council land classified as 'Operational Land' under the Local Government Act 1993.
- g) **Community Land** includes all council land classified as 'Community Land' under the Local Government Act 1993.
- h) **Crown Land** includes all council land classified as 'Crown Land' under the Local Government Act 1993.

EXPLANATIONS OF NOTES IN THE TEXT

The notes in text boxes are explanatory notes and do not form part of the Policy. The notes are provided to assist with the understanding of the Policy.

EXEMPTIONS UNDER THE POLICY

There are no exemptions under the Policy for mobile food vending vehicles.

Note: Section 158(3) of the *Local Government Act 1993* requires a Local Approvals Policy to specify the circumstances (if any) in which a person would be exempt from the necessity to obtain a particular approval from Council.

To ensure the safety of food for human consumption, there will be no exemptions for compliance with the Policy in relation to mobile food vending vehicles.

PART 2: COUNCIL APPROVAL + ASSESSMENT REQUIREMENTS:

General criteria for all mobile food vending vehicles:

Council will consider the criteria as outlined in this Policy when determining applications for mobile food vending vehicle approvals to operate within the City of Wollongong's Local Government Area. The criteria for approval to be used in the assessment of a mobile food vending vehicle will include all the relevant provisions contained in the approved standards as set out in Part 2 and 3 of this Policy, the Food Act 2003, and the Food Standards Codes.

Section 68 Approval requirements

- a) The policy applies to application for an approval to undertake an activity under a Section 68F item 7 of the Local Government Act 1993, namely:

- 7 Use a standing vehicle or any article for the purpose of selling any article in a public place.
- b) Only the sale of foodstuffs and drinks will be allowed from mobile food vending vehicles. No sale of alcohol, cigarettes or other products from mobile food vending vehicles will be approved

All mobile food vending vehicles subject to this Policy require a Section 68 approval issued by Wollongong City Council prior to operating on Council owned roads or on Council-owned and managed land. The operation of a mobile food vending vehicle, or the selling of any food from a mobile vehicle in a public place within the Wollongong Local Government Area without prior approval is an offence under the *Local Government Act 1993*.

- c) Prior to the issue of an approval under this Policy, the mobile food vending vehicle's business details must be notified to Council in accordance with the Food Act. This can be done by completing the Food Business Notification Form on Council's website. The vehicle is to be made available for inspection by Council's Environmental Health Officer. Council will charge a fee for inspecting the mobile food vending vehicle as per Council's adopted Fees and Charges Schedule. Based on The Food Regulation Partnership adopted in July 2018, Council may choose to not inspect the vehicle, if the applicant is able to produce a satisfactory operational inspection report from their home jurisdiction council.
- d) Where applicable under the Food Act, Mobile Food Vending Vehicle Vendor (Vendor) must appoint a Food Safety Supervisor (FSS). The Vendor must ensure that the appointed FSS maintains a current FSS certificate.
- e) Mobile food vending vehicles approvals will contain conditions of operation to be complied with at all times, including but not limited to compliance with the Policy.
- f) An application for approval to use a mobile food vending vehicle is to be made on the approved form. The prescribed fee is also to be paid before the application is assessed. Council will charge a fee (see 'Fees and Charges' section) for the mobile food vending vehicle approval as per the Fees and Charges on Councils website.
- g) Approvals will take effect from the date stated thereon and shall expire 12 months after the date of approval or any other period of time as stated in the approval, up to a maximum approval period of 12 months
- h) The applicant is to submit evidence of public liability insurance indemnifying the council against any actions, suits, claims, demands or proceedings for death or injury to any third party or parties or loss of, or damage to, any property, with an indemnity amount of not less than \$20,000,000 per occurrence and noting Council as an interested party. The insurance is to be valid at all times from the date of approval through to the date the approval lapses.
- i) The applicant is to submit copies of valid insurance policies that protect the applicant:
- Against any injury to any third party or parties under Compulsory Third Party Insurance as required by the Motor Accidents Compensation Act 1999; and
 - Against loss of, or damage to, any property whatsoever caused by the use of the vehicle when being driven by the Licensee, an employee of the Licensee, an

independent contractor or any other person (including a person not employed by the Licensee). The policy is to have a limit of indemnity of not less than \$20,000,000 and shall be extended to include “CTP Gap Coverage Endorsement” cover. The policy shall note the interest of the Council as an insured.

The Insurance is to be valid at all times from the date of approval through to the date the approval lapses.

- j) [and] any other insurance required by law or as reasonably required by Council.

General requirements in accordance with Food Safety Standard 3.2.3

All mobile food vending vehicles approved by Council are required to comply with the requirements of Food Safety Standard. Further details on these requirements are contained within Mobile Food Vending Vehicles – Operation, construction and food handling guidelines, prepared by the NSW Food Authority.

Further details on these requirements are contained within the [Guidelines for Mobile Food Vending Vehicles](#) prepared by the NSW Food Authority.

MOBILE FOOD VENDING VEHICLE APPROVAL

General criteria for Food Vans and Food Trucks

Locations:

Vendors may only operate in the areas specified as approved locations which are available on Council's website and may change from time to time.

Maps: The permitted trading locations for Vendors are shown in a map linked to the Council's website: www.wollongong.nsw.gov.au and search for “Mobile Food Vending”. Locations are also listed in Appendix 1.

Vendors permitted to operate on Council-owned roads and public land are to:

- Be located within existing lawful parking spaces within the Road Reserve of existing carpark infrastructure; and
- Comply with the local parking restrictions; and
- Not operate directly in front of a residential building (house or apartment) on the same side of the road as the frontage of the residential building; and
- Comply with the relevant road rules; and
- Comply with the relevant rules associated with the public land parcel.

Note: Council will use the following principles in determining the suitability of any additional mobile food vending locations to those specified in Appendix 1:

- Permissible uses within that zone (compatibility considerations e.g. land use zone and plan of management perspective)
- Proximity to residential properties (potential residential amenity impacts)
- Proximity to existing food and beverage businesses
- Access to public open spaces and facilities
- Opportunity to activate public spaces
- Proposed hours of operation and length of trade (consideration of other food and drink premises near proposed location)
- Road, road-user and pedestrian safety

Stopping time:

- A vendor may stand in any one location for a maximum period of five (5) hours at any one time, inclusive of set-up and pack-up times; and
- A vendor can only trade at each location once per day; and
- A vendor can trade across multiple locations within a day.

An authorised officer has the authority to require the vehicle to move on from the area within the prescribed period if necessary.

Permitted days and hours of operation:

- Standard operating hours are 7am to 7pm* each day, inclusive of set up and pack-up times.
- Extended hours of 7am to 9pm will be considered on a location by location basis
- Each permitted location has defined hours of operation. See Appendix 1
- Mobile food vending vehicles are not to remain in any permitted location overnight.

Parking:

Mobile food vending vehicles are to operate so as to:

- a) Not impact on or conflict with any marked bicycle lanes; and
- b) Ensure access to pedestrian ramps and footpaths are not compromised; and
- c) Ensure that access or egress from any building is not restricted by the operation of the food truck; and
- d) Ensure access to public street furniture such as seats, bicycle parking, drinking fountains, rubbish bins, fire hydrants, telephone booths and post boxes or the like; and

- e) Ensure that trade does not occur into the road reserve; and
- f) Vendors must not stop on a hill or bend where sight distance is limited nor located in front of driveways or entrances to properties.

Vehicle Specifications:

Mobile food vending vehicles must be no wider than 2.5m.

Additionally, vehicles 7.5m or greater in length require separate Road Occupancy Permits.

Deliveries:

Mobile food vending vehicles are to arrive at a location fully equipped. Deliveries are not to be made to a food truck while it is in operation on public land.

Food Carts *Not* supported under the Policy

Applications for approval to operate a food cart on Council-owned roads pursuant to Section 68 of the Local Government Act 1993, for the purpose of selling any article in a public place, are not supported under the Policy

APPLICATIONS FOR APPROVAL

The completed forms must be accompanied with all supporting documentation required as outlined in the application form otherwise the application will not be assessed. Fees must be paid in full prior to an approval being issued.

ISSUING OF APPROVALS

- Approvals issued by Council will be to a person or corporation on a per vehicle basis. Approvals are specific to each mobile food vending vehicle and they are not transferable between vehicles.
- An approval will be provided to all mobile food vending vehicles when final approval has been issued. The approval must be attached and displayed on the approved vehicle in a location clearly visible to the customers at all times whilst in operation.
- No ownership transfer of Council approval (section 68) is permitted. All applicants will be required to pay the appropriate fee, and lodge all new application paperwork specific to their business prior to any approvals being issued to the new owner/vendor.
- Approvals will be issued subject to conditions including, but not limited to, compliance with this Policy.

PART 3: OTHER MATTERS RELATING TO APPROVALS FOR ALL MOBILE FOOD VENDING VEHICLES:

Serving:

Mobile food vending vehicles are not to operate with their serving window opening onto any part of a vehicular carriageway (road or carpark) or a cycleway.

Customer Seating:

The placement of tables, chairs or other seating apparatus is not permitted at any time.

Signage:

An Approval under the Policy does not infer any approval for the erection or display of any sign or sign structure not directly attached to the mobile food vending vehicles.

The Policy does not allow the use of any temporary signage (e.g. A-frame boards) in association with the operation of any mobile food vending vehicle.

Waste management and Recycling:

Provisions for waste management are to include the following:

- Vendors are responsible for the waste materials generated during the trading period. Waste materials such as food packaging should be collected in bins or suitable receptacles, bagged or contained, and stored and disposed of at the cost of the vendor.
- Any waste produced by the operation of the mobile food vending vehicle is to be removed from the site via the mobile food vending vehicle at the end of the trading period.
- The trading area is to be left in a clean and tidy condition at the end of each trading interval.
- The trading approval holder is liable to reimburse Council for any cleaning cost incurred by Council during the duration of the trading period as a result of the operation of the mobile food vending vehicle.
- Disposal of all liquid wastes generated within the food van is to be discharged to the sewer or as approved by an authorised Council Officer. Under no circumstances is liquid waste to be discharged to the ground or in the stormwater drain.
- Details of liquid waste and garbage disposal arrangements must be supplied with the application for the mobile food vending vehicle.
- Packaging used for the sale of food and drinks should be selected for its suitability for recycling in the Wollongong Local Government Area.

Control of Pollution:

Vendors are to comply with the Protection of the Environment Operations Act 1997, which contains provisions relating to pollution, including prevention of offensive noise, smoke, odour and waste water discharges.

Water supply:

The vehicle must be provided with an adequate supply of potable water stored in approved containers and suitably protected against contamination, for hand washing, cleaning equipment and for use of food preparation. There must also be an adequate supply of hot water for these purposes.

The vehicle is to be equipped with a waste water tank external to the vehicle, of at least 50 litre capacity with an outlet of sufficient diameter to facilitate easy flushing and cleaning.

All hot water for washing purposes is to be supplied from a suitable hot water system and should be piped so it can be mixed with cold water.

Noise:

The emission of noise associated with the use of the vehicle, including the operation of any mechanical plant and equipment, is to comply with the following:

- The use of the vehicle 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.
- If any noise complaints are received and substantiated by an authorised Council officer, the officer may direct that the use of the food truck/business is to be suspended or moderated to prevent nuisance until attenuation measures are completed and Council has confirmed in writing that the use may resume.
- The operation of a mobile food vending vehicle is not to involve the use of any bell, music or other sound device to attract customers, nor while the vehicle is stationary.

Odour:

If any odour or smoke complaints are received and substantiated by an authorised Council officer, then the use of the vehicle or apparatus is to be moderated as directed by an authorised Council officer as deemed necessary to prevent nuisance.

Food Handling:

The requirements for the handling of food for sale and human consumption are outlined in the standards set by the NSW Food Authority's website (www.foodauthority.nsw.gov.au). The requirements apply to all food handling including pre-packaged food and low-risk food. Fact Sheets and user guides are available on the Food Standards Australia New Zealand website (www.foodstandards.gov.au).

Preparing food at home:

Restrictions apply to the preparation of food as part of a home business. Please contact Council's Duty Planner for further information regarding restrictions in your residential zone.

Use of a separate premises:

Where the operation of the mobile food vending vehicle involves the use of a premises within the City of Wollongong Local Government Area, for the storage or preparation of food in conjunction with a mobile food vending vehicle, a Development Consent for such a use may be required under the Environmental Planning and Assessment Act 1979. Any change in permanent facilities must be notified to Council. The business details must also be notified to Council under the provisions of the Food Act prior to commencement of operation. This can be done by completing the [Food Business Notification Form on Council's website](#).

Maintenance:

The vehicle and its associated fixtures, fittings and equipment must be kept clean, presentable and in a good state of repair and working order, free from dirt, fumes, smoke, foul odours and other contaminants.

Non-Compliance:

Council's Authorised Officers may issue improvement notices, penalty infringement notices, orders, clean up notices, prevention notices or court attendance notices for non-compliance with the Policy and all related offences. Serious pollution incidences can also be prosecuted by state agencies such as the NSW Environment Protection Authority. Failure to adhere to any condition of approval and/or legislative requirement may result in modification, suspension or revocation of the approval, in addition to prosecution or the issue of fines.

REVIEW

The Policy is a Local Approvals Policy prepared and adopted under Section 158 of the Local Government Act 1993.

1. Council is to have opportunity to review and adopt, at least once during its Term, each Council policy.
2. A resolution of Council is required to adopt any variations to this policy, with the exception of minor administrative changes, such as updates to legislative references, which may be endorsed by the Executive Management Committee (EMC). Endorsement of administrative changes made to this policy by EMC does not alter the requirement for it to be reviewed and adopted by each Term of Council.

ROLES AND RESPONSIBILITIES

Council is responsible for developing this Policy in accordance with the provisions of the Local Government Act 1993, and ensuring good governance, including open and transparent consultation

during its development and review. Authorised officers of Council will issue approvals to operate a mobile food vending vehicle, enforce conditions of approval, and monitor and regulate non compliances with this Policy and relevant legislation.

Vendors of mobile food vending vehicles are responsible for ensuring they have approval to operate on Council owned roads prior to trading at those locations. Vendors must comply with the requirements of this Policy and relevant legislation while trading on Council owned land.

RELATED PROCEDURES

The following documents and Acts are relevant to this policy:

- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*
- *Food Act 2003*
- *Roads Act 1993*
- *Australia New Zealand Food Standards Code Food Safety Standards – Standard 3.1.1, Standard 3.2.2 and Standard 3.2.3*
- *Environmental Planning and Assessment Act 1979*
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*
- *Road Rules 2014*
- *Councils Fees and charges*
- [Guidelines for Mobile Food Vending Vehicles](http://www.foodauthority.nsw.gov.au/) – July 2020 (available on the NSW Food Authority website <http://www.foodauthority.nsw.gov.au/>)
- *Department of Local Government Street Vending Control Guidelines 2017*
- *Leases and Licences of Council owned and managed land, buildings and public roads Council Policy*
- *Occupation of Council owned and managed land, buildings and public roads Management Policy*
- *Legal Costs payable by Lessees and Licensee of Council premises other than retail premises Council Policy*
- *Compliance and Enforcement Council Policy*

APPROVAL AND REVIEW		
Responsible Division	Property + Recreation	
Date/s adopted	<i>Executive Management Committee</i> [updated by policy owner]	<i>Council</i> [DD Mmmm YYYY]
Date/s of previous adoptions		
Date of next review	[Two years from last adoption]	

APPENDIX 1: PERMITTED TRADING LOCATIONS FOR MOBILE FOOD VENDING VEHICLES WITHIN WOLLONGONG LOCAL GOVERNMENT AREA

Trading locations for mobile food vending vehicles have been assessed based on permissibility of this use under the relevant Environmental Planning Instruments that apply to the Wollongong City Council Local Government Area, amenity, access and safety.

Maps: The Permitted Trading Locations for mobile food vending are specifically shown in a map linked to the Council's website: www.wollongong.nsw.gov.au and search for "Mobile Food Vending".

It is noted that the list of locations is likely to change from time to time.

Suburb	Location Name	Street Address	Council Land Classification
Stanwell Park	Stanwell Park Beach Carpark	Off Beach Drive	Crown Land + Community Land
Coalcliff	Coalcliff Beach Carpark	Off Bombora Way (ROW)	Community Land
Coledale	Sharkies Beach Carpark	Off Lawrence Hargrave Drive	Crown Land
Bellambi	Bellambi Harbour	Off Robert Cram Drive	Community Land
Towradgi	Towradgi Park	Towradgi Road	Road Reserve
Fairy Meadow	Thomas Dalton Park Carparks	Off Elliotts Road and Pioneer Road	Community Land
West Wollongong	Roy Johansson Park	Euroka Street	Road Reserve
Wollongong	Neville McKinnon Park	Strathearn Avenue and South Street	Road Reserve
Farmborough Heights	Millingaa Park	Waples Road	Road Reserve
Port Kembla	Gallipolli Park	Quarry Street	Road Reserve
Dapto	Dapto Skatepark	Off Bong Bong Road	Community Land
Kanahooka	Kanahooka Park	Kanahooka Road	Road Reserve
Berkeley	Holborn Park	Holborn Road	Road Reserve
Windang	Windang Boat Ramp	Off Fern Street	Crown Land
Primbee	Purry Burry Park	Purry Burry Avenue and Bundah Place	Road Reserve + Community Land