

## ***Mobile Food Vendor Location Rules Policy***

<b>Policy Reference Number:</b>	Policy No 2.34
<b>Classification:</b>	Legislative
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<b>Review Frequency:</b>	Every 4 years and within 6 months following Council elections.
<b>Last Reviewed:</b>	12 February 2019 (Res 318/2019)
<b>Next Review Date:</b>	February 2020
<b>Responsible Officer:</b>	Chief Executive Officer
<b>Applicable Legislation:</b>	<i>Local Government Act 1999 Section 225A</i>
<b>Relevant Policies:</b>	
<b>Related Procedures:</b>	
<b>Compliance Standard:</b>	

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

The 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 other than:

- In Main Road from Harold Street to Robe Street.
- In Victoria Street.
- In Mundy Terrace.
- In Bagot Street.
- In the Lake Butler Marina carpark.
- In the town beach foreshore carpark before 9.00pm each evening.

subject to complying with these location rules and any other requirements of its permit.

#### **2.1. Operate a reasonable distance from a fixed food business**

##### **Location rule**

A mobile food vending business must select a site for operation which allows for a reasonable distance between the mobile food vending business and fixed food businesses during the operating hours of the fixed food businesses and in accordance with Clause 2.

## Explanation

A 'fixed food business' is '*a business the primary purpose of which is the retail sale of food or beverages that is carried on at fixed premises*'. Fixed food businesses include cafes, restaurants, delicatessens, takeaway food businesses, bakeries, greengrocers, health food shops, butchers, supermarkets and, in some cases, service stations.

A 'reasonable distance' will depend on the circumstances and may vary from location to location.

A mobile food business must consider the location, number and operating hours of fixed food businesses in the Council area when determining if the location in which the mobile food vending business wants to trade is a reasonable distance from fixed food businesses. Determining a reasonable distance from fixed food businesses requires a balancing of these factors. **Council has determined sites under Clause 2 where mobile food businesses can not operate.**

A mobile food vending business should have an objective basis for determining that in the circumstances of the location, and considering the location, number and operating hours of fixed food businesses in the Council area, the distance between the fixed food business and the mobile food vending business will be reasonable. Be aware that you may be required to provide an explanation of your reasoning to the Council or the Small Business Commissioner (see 3 below).

## 2.2. Take into account the effect of the operation of the mobile food vending business

### Location rule

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

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

### Explanation

A mobile food vending business must operate from a site where it will not cause an obstruction to persons using the public road or interfere with residents living, or businesses operating, in the vicinity of the site.

A site cannot be selected which would breach parking requirements applying to the site. This includes locating the mobile food vending business within spaces reserved for people with disabilities.

### Location rule

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

#### **Explanation**

A mobile food vending business must operate from a site which will not impinge on the use of roads by vehicles or interfere unduly with road related infrastructure.

### **2.3. Compliance with legislative requirements**

#### **Location rule**

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

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

#### **Explanation**

There are many legislative requirements which apply to the provision of food, the operation of a business and the use of a motor vehicle. A site must be selected by a mobile food vending business which does not breach any of these legislative requirements.

### **3. 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 Commissioner for a review of the location rules.

### **4. 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 by to so by the Small Business Commissioner or to satisfy a requirement of the Minister for Local Government.

#### **Further information**

This policy will be available for inspection at the Council offices listed below during ordinary business hours and available to be downloaded, free of charge, from Council's internet site: [www.robe.sa.gov.au](http://www.robe.sa.gov.au)

Royal Circus, Robe SA 5276

Copies will be provided to interested parties upon request. Email [council@robe.sa.gov.au](mailto:council@robe.sa.gov.au)

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.

### **Policy Review**

This policy may be amended at any time and must be reviewed at least every four years since its adoption (or latest amendment) and within six months of Council elections.