

MOBILE FOOD VENDING VEHICLES

PURPOSE

Cumberland Council encourages the operation of Mobile Food Vending Vehicles to activate sites within the Cumberland Council local government area and to provide food in areas with little to no food options available.

The purpose of this guideline is to provide the framework for the operation of Mobile Food Vending Vehicles within the LGA. The guideline sets out the relevant regulatory requirements for the vending of food (including where trade can and can't occur) as well as requirements for the sale of safe food.

DEFINITIONS

Food Vans (Category 1) – Serve food that is either; i) not potentially hazardous, or; ii) are potentially hazardous and pre-wrapped (frothing milk associated with a coffee van is exempt). Category 1 food vans (or coffee vans) do not have a kitchen and can operate on Council owned roads and parks (except for the excluded areas – refer to Cumberland Council Mobile Food Vending Vehicles Guidelines).

LGA – Cumberland Council Local Government Area

Location - a place or situation occupied.

Mobile - Capable of being moved without any alterations or mechanical intervention with the vehicle / van.

Mobile Food Trucks (Category 2) – There are no restrictions to the menu and includes the service of “open” potentially hazardous foods. A kitchen fit-out in accordance with AS4674 – 2000: *Design, construction and fitout of food premises* and Food Standards Code 3.2.3 is required within these vehicles.

Mobile Food Vending Vehicles – Term used to encapsulate both, Food Vans (Category 1) and Mobile Food Trucks (Category 2).

Potentially Hazardous Foods - are defined by Food Standards Code 3.2.2 as:

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Food that has to be kept at certain temperatures, to minimise multiplication of any food-poisoning bacteria that may be present in the food, or to prevent the formation of toxins in the food.

Public place - is defined by the *Local Government Act 1993* as:

- a) a public reserve, public bathing reserve, public baths or public swimming pool; or
- b) a public road, public bridge, public wharf or public road-ferry; or
- c) a Crown reserve comprising land reserved for future public requirements; or
- d) public land or Crown land that is not:
 - i. a Crown reserve (other than a Crown reserve that is a public place because of paragraph (a), (b) or (c)); or
 - ii. a common; or
 - iii. land subject to the *Trustees of Schools of Arts Enabling Act 1902*; or
 - iv. land that has been sold or leased or lawfully contracted to be sold or leased; or
 - v. land that is declared by the regulations to be a public place for the purposes of this definition.

Road - is defined by the *Local Government Act 1993* as:

- a) a highway, street, lane, pathway, footpath, cycleway, thoroughfare, bridge, culvert, causeway, road-ferry, ford, crossing, by-pass and trackway, whether temporary or permanent; and
- b) any part of a road and any part of anything referred to in paragraph (a); and
- c) anything forming part of a road or anything forming part of anything referred to in paragraph (a).

Seating / Seated area - any seating and / or tables used in conjunction with a Mobile Food Vending Vehicle.

Signage – applies to any signage associated with the Mobile Food Vending Vehicle and is provided by the operator of the vehicle.

Standing Vehicle - any Mobile Food Vending Vehicle that has stopped to make a sale.

Temporary Food Premises – Ground based four (4) sided temporary structures that sell food for a limited duration (not a Mobile Food Vending Vehicle).

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SCOPE

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- This guideline applies to Council owned/controlled roads and car parks.
- Mobile food vending is not permitted on NSW State controlled roads.
- This guideline will be on trial for 12 months from the commencement date. The guideline will be reviewed after this 12 month period. The review will take up to 6 months, during which, this guideline will continue to operate.
- Application for trading at proposed sites must satisfy the following:
 - Does not restrict any vehicular or pedestrian access to or from the land or entry to any building on the land;
 - Does not obstruct the operation of, or access to, any utility services on the land or on adjacent land;
 - Does not result in any damage to public property on the land or on adjacent land;
 - The site is not within 50m of a fixed food premises;
 - The site does not have an existing food retail facility (e.g. canteen); and
 - Complies with the other requirements of this document.
- Parks and sportsgrounds will be considered subject to the relevant approval from Council.
- This guideline does not circumvent the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* and amendments.

ROLES & RESPONSIBILITIES

The objectives of the Mobile Food Vending Guideline are to:

- Ensure the operation of Mobile Food Vending Vehicles is in accordance with the Australian Road Rules.
- Ensure Mobile Food Vending Vehicles operate within approved off-street trading sites in public places.
- Ensure that all food sold through a Mobile Food Vending Vehicle is safe and fit for human consumption.
- Ensure that the Mobile Food Vending Vehicle is fitted out in accordance with the NSW Food Authorities "*Guideline for Mobile Food Vending Vehicles*"
- Provides guidance for people wishing to operate a Mobile Food Vending Vehicle within the LGA.
- Ensure the safe operation of Mobile Food Vending Vehicles for staff, patrons and the public.
- Ensure that all wastes are disposed of appropriately.
- Ensure that the operation of Mobile Food Vending Vehicles does not negatively impact surrounding areas and sensitive land uses.
- Actively encourage food trucks to trade within the LGA.

PROCEDURE STEPS / GUIDING PRINCIPLES

The following refers to the operational requirements for mobile food vending vehicles seeking to trade within the LGA.

1. Mobile Food Vending categories

Category 1 – Food Vans

- a) Menu Items – Food and drinks that do not require a kitchen or further preparation, the exception being the frothing of milk for coffee, the preparation of a milkshake or the serving of frozen dairy products. Food may be pre-packaged, or served directly from its package/container and do not require re-heating (that is, potentially hazardous food that is already hot). The vehicle must meet the required design standards to ensure food safety requirements are met. Examples of food types include tea, coffee, milkshakes, pre-packaged ice cream, soft serve ice cream, pre-heated and pre-packaged pies and sausage rolls, pre-made and pre-packaged sandwiches.
- b) Stopping time – On street sites: Each Mobile Food Van is able to trade for a maximum of 60 minutes (1 hour) in any one location within a 24 hour period on Council owned roads (see Appendix 1 for a list of excluded roads / areas) and as per the regulatory street sign posting. Parking requirements must be adhered to at all times.
Off street sites: Category 1 vehicles can park and trade in specifically marked areas within nominated parks and reserves for up to 5 hours within any 24 hour period.
- c) Trading conditions – Food vans are permitted to undertake street trading in all areas apart from the excluded zones outlined in Appendix 1. No items are permitted to be placed outside of the vehicles, this includes seating and signage.

Category 2 – Mobile Food Trucks

- a) Menu Items – There are no restrictions to the menu for an approved Category 2 vehicle. Potentially hazardous foods may be prepared, cooked and sold from the vehicle. The vehicle can be a mobile kitchen; however, the operator must have access to an approved fixed premises or commercial kitchen (for large scale food preparation and storage). Food types can include pasta, stir fries, sandwiches, burgers, fries, deserts, etc.
- b) Stopping time: For more information regarding stopping times at specific locations, please refer to Section 9.
- c) Trading conditions: Food trucks can trade in locations with the exception of those outlined in Appendix 1 of this Guideline. Items such as seating, waste bins, signage, and menus can be placed outside of the food truck within a 5m radius.
- d) Management Plans – Management Plans are to be submitted with any application. The minimum points that the Management Plans should consider are:
 - i) Food processes and/or preparation
 - ii) Noise
 - iii) Waste

- iv) Ventilation and odour
- v) Water (both potable for use and disposal of waste water)
- vi) Cleaning of vehicle both inside and out
- vii) Pest control

f) Vehicle Dimensions: The vehicle shall be no larger than 11m long and / or 2.5m wide.

2. Exemptions under the guideline

- If you are wishing to trade on land that is privately owned, please contact Council to discuss any specific requirements.
- Exemptions to the guideline for the Christmas lights period in December are stipulated in Section 18.
- Exemptions to the guideline for Council approved or operated events are stipulated in Section 19.

3. Approvals

- The guideline applies to approvals for an activity as per Section 68 of *the Local Government Act 1993*. Provided within the table associated with Section 68, it states:
Use a standing vehicle or any article for the purpose of selling any article in a public place.
- It is an offence under the *Local Government Act 1993* to operate a Mobile Food Vending Vehicle or sell food from a mobile food vehicle in a public area without prior approval from Cumberland Council.
- Mobile Food Vending Vehicles will be issued with an approval that includes conditions of operation which are to be complied with at all times.
- Approvals will take effect from the date stated on the approval and shall remain current for a period of 12 months, or any other time as stated on the approval not greater than 12 months.
- Prior to expiration of the approval period, the applicant may apply for an extension to the approval for an additional 12 month period. Such extensions to an approval can only be granted once. At the conclusion of a second 12 month period, a new application is required to be submitted to Council for consideration.
- Applicants may withdraw an application as per Section 88 of *the Local Government Act 1993* at any time prior to its determination, by giving the Council notice to that effect signed by the applicant.
- Applicants may apply to have an approval amended as per Section 106 of the *Local Government Act 1993*.
- Council reserves the right to revoke any approval as per Section 109 of the *Local Government Act 1993*. In particular, an approval may be revoked if there is failure to comply with a requirement made by, or under the *Local Government Act 1993*, or for any failure to comply with a condition of the approval.

4. Applications for approval

- An application for approval to operate a mobile food vending vehicle under Section 68 of *the Local Government Act 1993* must be made to Council prior to being allowed to operate in the LGA.
- The application must be made by completing the Mobile Food Vending Application Form, which can be found on Council's website (<http://www.cumberland.nsw.gov.au>).
- Each mobile food vending vehicle is required to have a separate application and approval.
- The application must be accompanied by the latest inspection report from their home jurisdiction for the mobile food vending vehicle (should the home Council not be Cumberland Council).
- For Category 1 vehicles, a copy of the latest inspection report for their preparation kitchen and/or food storage area is to be provided. If all food is purchased pre-made/wrapped then a list of suppliers is to be provided.
- For a Category 2 vehicle, the latest inspection report for the commercial kitchen is to be supplied with the application.
- The application is to be accompanied by a Plan of Management that is specific to that vehicle.

Note: The applicant shall allow at least 4 weeks for Council to process an application.

5. Fees

- Any application to operate a mobile food vending vehicle within the LGA shall be accompanied by the prescribed fee, which can be found in Council's Fees and Charges Schedule on Council's website.
- Any application for extension or amendment to an approval shall be accompanied by the prescribed fee, which can be found in Council's Fees and Charges Schedule on Council's website.
- The fee is payable to Council at the time the application is made. Applications not accompanied by the prescribed fee will not be processed and may be refused after five working days should payment not be made.
- Incomplete applications may also be rejected if additional information is not supplied within the timeframe specified by Council. The assessment component of the fee will not be refunded.

6. Fitout

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- The fitout of the Mobile Food Vending Vehicle is required to satisfy the requirements of the NSW Food Authority “*Guidelines for Mobile Food Vending Vehicles*” and Food Standards Australia and New Zealand “*3.2.3 Food Premises and Equipment*”.

7. Inspections of Vehicles

- The operation of any Mobile Food Vending Vehicle is subject to a satisfactory food hygiene and safety inspection from their home jurisdiction, which has been conducted within the 12 months prior to the application being made.
- If a food hygiene inspection has not been undertaken within the 12 months prior to the application being made or if the home jurisdiction is Cumberland Council, an appointment must be made with Cumberland Council for an inspection.
- Random inspections of Mobile Food Vending Vehicles may be conducted by Council Officers during trading times. Any fees associated with these inspections will be charged to the business in accordance with Council’s Schedule of Fees and Charges.
- Failure to facilitate an inspection or pay the associated fees within the specified time will result in immediate revocation of any approval.

8. Approvals

- Approvals will be issued by Council on a per vehicle basis and are not transferrable between vehicles. Furthermore, the ownership of an approval (section 68) is also not transferrable. In this regard, any new owner of a mobile food vending vehicle must lodge a new application with associated paperwork specific to their business and pay the appropriate fee, prior to any approval being issued to the new owner. Trade from the vehicle is prohibited until this process has been completed.
- A certificate of approval will be provided to all approved mobile food vending vehicles once the application is finalised. The approval certificate will include the category type as well as conditions of approval.
- The approval certificate, as well as the conditions, must be kept within the mobile food vending vehicle and be made available to Council Officers on request.
- Any change of address of the commercial kitchen or modification made to the truck, must be notified to Council in writing.
- Applications for the renewal of approvals must be lodged with Council at least 4 weeks prior to the expiration of the current approval.
- 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.
- If an operator has ceased trading, or does not trade for a period of longer than 6 months, Council will reserve the right to revoke their approval.

9. Locations and trading conditions

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Mobile Food Vending Vehicles can operate in either of the following locations:

Street vending

a) Category 1 – Food Vans

- i. Mobile food vans can operate on streets throughout the LGA except for the exclusion zones outlined in Appendix 1.
- ii. The hours between which a Category 1 vehicle may operate (street vending) is 7:00am to 7:00pm daily.
- iii. Vans must be parked legally and can trade for no more than 60 minutes in any one location per 24 hour period.
- iv. Vans may trade onto the footpath area adjoining where they are parked.
- v. Vans must not park on the actual footpath or across driveways.
- vi. Food vans are not permitted to trade within 50m of a fixed and permanent food outlet.

b) Category 2 – Mobile Food Trucks

- i. The proprietor of a food truck must nominate a space within the LGA that they propose to trade and this will be considered on its merits (ie. on a case by case basis). The proposed area must comply with the relevant regulatory standards.
- ii. The hours between which a Category 2 vehicle may operate (street vending) is 7:00am to 7:00pm daily (if carried out on land within or immediately adjacent to a residential zone)*. Any proposed trade past 7.00pm may require approval from the Council.
- iii. Trucks may only park in designated spots that are identified with corresponding signage.
- iv. Trucks may trade onto the footpath area adjoining where they are parked.
- v. Trucks must not park on the actual footpath or across driveways.
- vi. Food trucks are not permitted to trade within 50m of a fixed and permanent food outlet.

* cl. 2.54B - State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Off-street vending

- a) Food trucks and food vans may trade on Council owned sites, subject to application and consideration by Council.
- b) When entering and exiting a site, the operator of the vehicle must ensure that there is at least one person guiding outside of the vehicle, to ensure a safe passage by warning pedestrians that the vehicle is moving in addition to warning the driver of any dangers.
- c) Mobile Food Vending Vehicles must only park within the confines of the markers on the ground in the nominated areas.

10. Prohibited roads and precincts

Mobile food vending vehicles are not permitted to trade on roads outlined in Appendix 1.

11. Parking

Mobile food vending vehicles must comply with the Australian Road Rules and all parking restrictions. This includes not parking on a footpath area or across driveways.

12. Deliveries

Deliveries are not permitted to be made to the mobile food vending vehicle whilst in position at a trading location. In this regard, any vehicle must arrive at the trading location fully equipped to start service.

13. Serving

In order to ensure the safety of patrons, mobile food vending vehicles are not permitted to operate with the serving window opening onto any part of a roadway.

14. Liquor licensing

No mobile food vending vehicle is permitted to utilise a liquor license or sell alcohol to the public within the LGA.

15. Public Liability

Each application for approval to operate a mobile food vending vehicle within the LGA shall be accompanied by a copy of a current public liability statement with a minimum coverage of \$20,000,000.

16. Smoke Free Dining

- In the event that a seated area is provided, the provisions of the *Smoke Free Environment Act 2000* shall be enacted. This means that smoking is not permitted within 10 metres of the mobile food vending vehicle or within 4 metres of any seated dining area associated with vehicle.

17. Penalties

- The penalties for not obtaining an approval or for failing to comply with an approval relating to Mobile Food Vending are set out in the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*.
- Council's Authorised Officers may take enforcement action for non-compliance with this guideline and related legislation.

18. Christmas Light Period Exemptions

- The Christmas light period runs from 1st December to 31st December each year.

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- The Christmas light period exemptions only apply to Category 1 vehicles.
- Vehicles are permitted to operate up until 10:00pm each night during this period.
- Vehicles must have a current Section 68 approval from Council.
- The operator of a Mobile Food Vending Vehicle shall seek agreement from the occupier of the residence immediately adjoining their proposed location, prior to commencing trade. Under these circumstances, the time limit of 60 minutes per location does not apply during this period.
- The exclusion of Cumberland Road Greystanes from allowable trading roads, does not apply during this period.
- The use of amplified music or flashing lights of any kind is strictly prohibited.
- Vehicles must be parked in a manner so as not to cause a hazard to pedestrians or vehicles. Council officers reserve the right to require operators to change location to ensure public safety.
- Bins are encouraged to be placed outside of the vehicle for rubbish collection. The bin must be placed within close proximity of the vehicle and remain the responsibility of the Mobile Food Vending Vehicle operator at all times.
- Rubbish disposal is the responsibility of the Mobile Food Vending Vehicle operator and must be disposed of appropriately.

19. Council Approved or Operated Events

- Stopping times for Mobile Food Vending Vehicles stipulated in Section 9 of this Guideline do not apply to these events.
- Vehicles must have a current Section 68 approval from Council.
- The use of amplified music or flashing lights of any kind is strictly prohibited.
- Vehicles must be parked in a manner so as not to cause a hazard to pedestrians or vehicles. Council officers reserve the right to require operators to change location to ensure public safety.
- Bins are encouraged to be placed outside of the vehicle for rubbish collection. The bin must be placed within close proximity of the vehicle and remain the responsibility of the Mobile Food Vending Vehicle operator at all times.
- Rubbish disposal is the responsibility of the Mobile Food Vending Vehicle operator and must be disposed of appropriately.

RELATED LEGISLATION

Environmental Planning and Assessment Act 1979 and associated Regulations;
Food Act 2003 and associated Regulation;
Local Government Act 1993 and associated Regulation;
Protection of the Environment Operations Act 1997 and associated Regulations;
Roads Act 1993 and Australian Road Rules;
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
AS4674-2004 - Design, construction and fitout of food premises;
AS1668 Part 2 – The use of Ventilation and Air-conditioning in buildings;
Australian & New Zealand Food Standards Codes;
NSW Food Authority – Guidelines for Mobile Food Vending Vehicles

RELATED DOCUMENTS AND COUNCIL POLICY

Cumberland Council Mobile Food Vending Vehicles Policy

AUTHORISATION & VERSION CONTROL

Procedure Owner	<i>Manager Health and Environmental Protection</i>
Date Adopted / By Whom	<i>23 March 2018/Leadership Team</i>
Version No / Date last Reviewed	<i>Revision No.1</i>
TRIM Number	<i>HC-11-16-9</i>
Next Review Date	<i>March 2019</i>

APPENDIX 1 – Excluded Roads

Mobile Food Vending Vehicles are not permitted to trade on roads outlined in Table 1 below. These roads are referred to as ‘classified’ or ‘heavy collector’ roads within the former Holroyd City Council, Parramatta City Council and Auburn City Council Development Control Plans.

Table 1: Prohibited Roads

Road Name	Suburb	Road Name	Suburb
Cumberland Hwy	All LGA	Vaughan Street	Berala
Great Western Hwy	All LGA	Woodburn Road	Berala
M4	All LGA	Campbell Hill Road	Chester Hill
Parramatta Road	All LGA	Ferndell Street	Chester Hill
Woodville Road	All LGA	Toongabbie Road	Girraween
Alice Street	Auburn	Blaxcell Street	Granville
Chisholm Road	Auburn	Clyde Street	Granville
Civic Road	Auburn	Louis Street	Granville
Cumberland Road	Auburn	South Street	Granville
Harrow Road	Auburn	Cumberland Road	Greystanes
Manchester Road	Auburn	Ettalong Road	Greystanes
Mary Street	Auburn	Gipps Road	Greystanes
Park Road	Auburn	Greystanes Road	Greystanes
Queen Street	Auburn	Merrylands Road	Greystanes
Railway Street	Auburn	Guildford Road	Guildford
Rawson Road	Auburn	Railway Terrace	Guildford
Silverwater Road	Auburn	Fairfield Road	Guildford West
South Parade	Auburn	Fowler Road	Guildford West
St Hilliers Road	Auburn	McCredie Road	Guildford West
Wellington Road	Berala	Bachell Avenue	Lidcombe
Park Road	Berala	Boorea Road	Lidcombe

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Road Name	Suburb	Road Name	Suburb
Church Street	Lidcombe	Targo Road	Pendle Hill
East Street	Lidcombe	Amy Street	Regents Park
John Street	Lidcombe	Park Road	Regents Park
Joseph Street	Lidcombe	Weeroona Road	Regents Park
Olympic Drive	Lidcombe	Herbert Place	Smithfield
Burnett Street	Merrylands	Long Street	Smithfield
Fowler Road	Merrylands	Sturt Street	Smithfield
Hawksview Street	Merrylands	Clyde Street	South Granville
Hilltop Road	Merrylands	Mona Street	South Granville
Memorial Avenue	Merrylands	Centenary Road	South Wentworthville
Merrylands Road	Merrylands	Cornelia Lane	Toongabbie
Neil Street	Merrylands	Dunmore Street	Wentworthville
Pitt Street	Merrylands	Station Street	Wentworthville
Sherwood Road	Merrylands	Bridge Road	Westmead
Soudan Street	Merrylands	Woodpark Road	Woodpark
Treves Street	Merrylands	Dursley Road	Yennora
Centenary Road	Merrylands West	Fairfield Road	Yennora
Merrylands Road	Merrylands West	Loftus Road	Yennora
Woodpark Road	Merrylands West	Pine Road	Yennora