

Mobile Food Vending Vehicles Local Approvals Policy

Purpose

The purpose of this Policy is to provide the framework for the operation of Mobile Food Vending Vehicles within the City of Sydney's Local Government Area.

This Policy supplements provisions of the Local Government Act 1993, the Local Government (General) Regulation 2021, and the Food Act 2003.

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 this Policy
- Part 2 of the Policy specifies the criteria which Council must consider when determining whether or not to grant approval for a particular activity
- Part 3 of the Policy specifies other matters relating to approvals not dealt with by the Local Government Act 1993, the Local Government (General) Regulation 2021, the Food Act 2003 or the Food Regulation 2015.

Objectives

The Policy aims to:

- a. ensure the Mobile Food Vending Vehicles operate in accordance with the road rules and kerbside parking restrictions on Council-owned roads
- b. ensure that food sold through Mobile Food Vending Vehicles is safe and fit for human consumption
- c. provide guidance and assistance for people wanting to operate Mobile Food Vending Vehicles within the City of Sydney Local Government Area
- d. ensure the construction, fitting out and facilities for cleaning utensils, articles, fittings and appliances in the vehicles are appropriate for the preparation and storage of food for sale
- e. minimise any potential adverse impacts of Mobile Food Vending Vehicles
- f. ensure the safe operation of Mobile Food Vending Vehicles for staff, patrons, pedestrians and the general public
- g. ensure the operation of Mobile Food Vending Vehicles does not increase litter or waste around the trading location
- h. ensure the operation of the Mobile Food Vending Vehicles do not adversely impact on the environment or any of the surrounding sensitive land uses, and in particular residential amenity.

Commencement date

The Policy replaces the Food Trucks Local Approvals Policy 2014. It was initially adopted by Council on 7 August 2017, updated on 19 August 2019 and is effective from the date of adoption.

Local approvals policy

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

When will the Policy be revoked?

Under section 165(4) of the Local Government Act 1993, this policy is automatically revoked 12 months after the NSW local government elections, unless the Council resolves to do so sooner.

Scope

The Policy applies to Council-owned roads and other public places within the City of Sydney Local Government Area.

This Policy does not apply to Mobile Food Vending Vehicles:

- trading in accordance with a development consent or the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 on private land
- trading on public land in accordance with an approved event
- not operating as a food business.

Definitions

This section defines a Mobile Food Vending Vehicle and makes the distinction between a food truck and a food van. A more comprehensive list of definitions can be found in Appendix 4.

| Term | Meaning |
|-----------------------------|--|
| Mobile Food Vending Vehicle | <p>Any registered vehicle used on land that is either self-driven, or that can be towed down Council-owned roads and that is used in connection with the sale of food. They do not include push bikes, carts or any movable or fixed structure that cannot be registered for use on a road.</p> <p>Mobile food vending vehicles are used for on-site food preparation (e.g. hamburgers and tacos) and one-step food preparation (e.g. popcorn, fairy floss, coffee) and the sale of any type of food, including pre-packaged food.</p> <p>There are two categories of mobile food vending vehicles: Category 1 - Food Vans and Category 2 - Food Trucks.</p> |
| Category 1 – Food Vans | <p>Mobile food vending vehicles which serve foods that are not potentially hazardous. Food vans do not require a separate fixed food handling premises associated with the business but can use one if necessary.</p> |

| Term | Meaning |
|--------------------------|--|
| | Preparation may involve low risk practices such as frothing milk. An example would be an ice-cream vehicle or coffee van. |
| Category 2 – Food Trucks | Mobile food vending vehicles which serve foods that are potentially hazardous, with the exclusion of the above low risk practices. These vehicles can be a mobile kitchen and must have a separate fixed food handling premises that is approved for the handling and storage of food. An example would be a vehicle preparing hot food made to order such as burgers. |

PART 1: EXEMPTIONS FROM APPROVAL

Exemptions under the Policy

There are no exemptions from the necessity to obtain approval under this Policy for Mobile Food Vending that is used for the sale of food and drink in public places within the City of Sydney Local Government Area.

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 this Policy in relation to Mobile Food Vending.

PART 2: COUNCIL APPROVAL REQUIREMENTS

Council must consider the criteria as outlined in this Policy when determining applications for Mobile Food Vending approvals to operate within the City of Sydney'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 & 3 of this Policy, the Food Act 2003, and the Food Standards Codes.

Policy Statement

Section 68 approvals

- a. The Policy applies to applications for an approval to undertake an activity under s 68 F 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. For the purposes of this Policy a 'standing vehicle' includes any Mobile Food Vending vehicle that has stopped to make a sale.
- c. All Mobile Food Vending Vehicles require a Section 68 approval issued by City of Sydney prior to operating on Council-owned roads. The operation of a Mobile Food Vending Vehicle, or the selling of any food from a mobile vehicle in a public place within the City of Sydney's Local Government Area without prior approval is an offence under the Local Government Act 1993.
- d. Mobile Food Vending Vehicles will be issued an approval that will contain conditions of operation to be complied with at all times.
- e. Council will charge a fee** for the relevant category of Mobile Food Vending Vehicle approval as per the Schedule of Fees and Charges on Council's website cityofsydney.nsw.gov.au.
- f. Approvals shall take effect from the date stated thereon and shall expire 12 months after the date of the approval or any other time as stated on the approval no greater than 12 months.
- g. Information contained in an application made under this Policy will be used to register the business as a food business in accordance with the Food Act 2003.

Note: **The approval fee includes one inspection prior to the issue of the approval or renewal of approval. However additional inspections during the period of the approval are charged as outlined in the Schedule of Fees and Charges document Council's website cityofsydney.nsw.gov.au.

Approval categories

There are two categories of Mobile Food Vending Vehicle approvals issued by the City. The Mobile Food Vending Vehicle approval categories are based on the menu they serve.

Category 1 – Food Vans

- (i) **Menu items:** foods are not potentially hazardous with the exception of processes that have a minimal food safety risk such as the frothing of milk, or the serving of frozen dairy. Foods may be pre-packaged or served directly from its package/container and do not require heating or cooking. The vehicle must meet relevant design and layout standards to ensure food safety requirements are met. Examples food types include tea, coffee, drinks, cakes, sweets, frozen yoghurt, pre-packaged ice-cream, soft serve ice-cream or other similar foods.
- (ii) **Stopping time:** Each van is able to trade for a maximum period of 1 hour in one location at one time on Council-owned roads. At all times the vehicle must comply with the relevant kerbside parking restrictions and road rules. The maximum stopping time include set up and pack down times.

b. Category 2 – Food Trucks

- (i) **Menu items:** includes the service of any potentially hazardous food, *in addition to* low-risk processes included in Category 1. This vehicle is usually a mobile kitchen and must have access to a separate fixed food handling premises or commercial kitchen. Examples of the types of food this category of truck can serve include dumplings, pasta, tacos, flame-grilled meats, stir fry noodles, grilled skewers, fish & chips, or other similar foods.
- (ii) **Stopping time:** Each truck is able to trade for a maximum period of 5 hours in one location at one time on Council-owned roads. At all times vehicles must comply with the relevant kerbside parking restrictions and road rules. Operators must ensure their staff have access to toilet facilities when trading. The maximum stopping time include set up and pack down times.

Application for approval

The completed forms must be accompanied with supporting documentation required as outlined in the application form. Details are available on the City of Sydney website

<https://www.cityofsydney.nsw.gov.au/business-permits-approvals-tenders/apply-for-mobile-food-vending-business-permit>

Fees

- a. A fee applies for the assessment of an application and for the approval to operate a Mobile Food Vending Vehicle in accordance with Council's fees and charges. The fee covers the initial inspection of the vehicle, which is required prior to commencing trade and must be paid at the time the application is made.
- b. Incomplete applications may be rejected if additional information requested is not supplied within the time nominated by Council. The assessments component of the fee will not be refunded.

- c. Council will not issue a refund of any fees paid if the business is sold or transferred. A new owner of a mobile food vehicle must make a new application and pay the appropriate fees for approval.

Note: A separate application and separate assessment fee is required for each vehicle application. The fees are outlined in the Schedule of Fees and Charges on Council's website cityofsydney.nsw.gov.au

Vehicle inspections

- a. All Mobile Food Vending Vehicle operators must have their vehicle inspected for food safety requirements prior to issue of an approval, or from time to time as determined by Council or an authorised officer of Council. Officers from Council's Health and Building Unit will contact you to make arrangements for the inspection prior to approval being given.
- b. Random inspections of Mobile Food Vending Vehicles may be conducted by Council officers during trading locations and times, and any associated fees and charges will be charged to the business in accordance with Council's Schedule of Fees and Charges.
- c. A copy of all vehicle's Plan of Management (PoM) must be kept within the vehicle at all times and made available to an authorised Council officer on request.

Note: To ensure a satisfactory inspection of the vehicle by an officer authorised under the Food Act 2003, have all relevant forms filled in, copies of documentation available if necessary for Council prior to the inspection and the construction and fit out of the vehicle complies the Food Standards Code.

Issuing of approval

- a. Approvals issued by Council will be to a person or corporation on a per vehicle basis.
- b. An approval sticker will be provided to all Mobile Food Vending Vehicles when final approval has been issued. Approval stickers will be coloured according to category. The approval sticker must be attached and displayed on the approved vehicle in a location clearly visible to the customers at all times whilst in operation.
- c. Modifications to the internal layout of the vehicle or major changes to the cooking or food processing within the vehicle requires prior approval of Council's Health and Building Unit.
- d. Any change of address of the commercial kitchen or separate fixed food handling premises for Food Trucks, or modification to the approved Plan of Management must be applied for in writing to Council's Health and Building Unit and be accompanied by the appropriate paperwork. An additional assessment fee may be applicable.
- e. Approvals are specific to each Mobile Food Vending vehicle and they are not transferable between vehicles.
- f. No ownership transfer of Council approval section 68 Local Government Act 1993 is permitted. All applications 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/operator.
- g. Approvals will be issued subjects to conditions including, but not limited to, compliance with the policy.
- h. Applications for the renewal of approvals must be lodged with Council at least 3 weeks prior to the expiration of the current approvals.

- i. 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.

Revocation or modification of approvals and non-renewal of applications

The City of Sydney may revoke or modify a mobile food vending vehicle approval or refuse to renew an application as a result of non-compliance with the mobile food vending vehicle approval conditions and/or Local Government Act 1993. Examples of non-compliance may include:

- a. failure to comply with the approval conditions
- b. failure to comply with the policy
- c. failure to comply with the provisions of the Food Act 2003
- d. failure to comply with the Roads Act 1993 and the Roads Rules 2014

In accordance with section 110 of the Local Government Act 1993 before revoking or modifying and approval, the City will:

- a. give written notice to a food operator of its intention to revoke or modify the approval, and
- b. give the approval holder the opportunity to meet with Council officers to show cause why the approval should not be revoked.

The City of Sydney may refuse to renew or issue a new mobile food vending vehicle approval to an applicant with the previous history of non-compliance.

Locations

A mobile food vending vehicle approval entitles operators to trade in the following locations.

a. Street vending

All approved Mobile Food Vending Vehicles are permitted to operate on Council-owned roads within existing lawful car parking spaces, subject to the exclusions noted within this Policy. The operation of a Mobile Food Vending Vehicle must also comply with the local car parking restrictions of that parking space and all other applicable Road Rules. All Mobile Food Vending approval categories allow trucks to pull up to a kerb, into a lawful parking spot, and to trade onto the footpath. Vehicles must not park on the footpath or on driveways, and must not trade onto the street, bike lane or an adjacent car parking spot.

b. Off-street trading

Food trucks can trade on nominated Council-owned sites, such as parks, within the Local Government Area when they have obtained approval to do so, either through a development consent, conditions of an event approval, or in accordance with the exempt provisions.

Note: Because there is no fee that has been prescribed by the regulations or **relevant Department Secretary**, the Council then determines application fees for each year. The fees are outlined in the Schedule of Fees and Charges on Council's website cityofsydney.nsw.gov.au

Prohibited roads, streets and land

- a. Mobile Food Vending Vehicles must not trade on roads as listed in the 'Schedule of streets' within **APPENDIX 2**. The of streets may be updated from time to time. It is the responsibility of the operator to schedule ensure they keep up to date with the current schedule. A copy of the schedule is also located on the City's website to allow easy access for operators to monitor any changes made.
- b. Mobile Food Vending Vehicles are not permitted to trade on any land without prior consent from the landowner. This includes Council-**owned** land. Please refer to **APPENDIX 2** for the map highlighting SHFA-owned land within the City of Sydney Local Government Area.
- c. Mobile Food Vending Vehicle approvals do not authorise Mobile Food Vending Vehicles to trade within the Kings Cross Precinct Exclusion Zone as show within **APPENDIX 3**.

Truck Dimensions

The dimensions of a Mobile Food Vending Vehicle must not exceed the length of 11m and must be no wider than 2.5m.

Note: It is the responsibility of operators to check local restrictions on parking times based on truck length and weight prior to trading. Operators must comply with the Road Rules at all times.

Parking

- a. Mobile Food Vending Vehicles must operate in full compliance with existing road rules and parking restrictions when operating on Council-owned roads, including no parking on footpaths or across driveways.
- b. A maximum of three (3) Category 2 Food Truck Vehicles are permitted to trade on the same lawful car parking space at different times within the same 24-hour period.

Deliveries

Mobile Food Vending Vehicles must arrive fully equipped at all trading locations and are not permitted to receive any deliveries.

Serving

- a. Mobile Food Vending Vehicle operators must ensure the location they are serving from will not create potential hazards to customers and staff.
- b. Mobile Food Vending Vehicles must not sell with their serving window opening onto any part of a roadway, including an adjoining car parking space to ensure the safety of pedestrians.
- c. Mobile Food Vending Vehicles must not vend with their serving window opening onto a cycleway, to ensure the safety of pedestrians and to minimise pedestrian traffic across the cycleway.

Note: This applies regardless of whether there is a barrier that separates the cycleway and roadway.

Hours of operation

- a. The use of Council-owned roads for the purpose of operating Mobile Food Vending Vehicle is restricted to the following times:

- (i) Central Sydney:
8am – 3am, Monday to Sunday
- (ii) Remainder of the Local Government Area:
9am – 12 midnight, Monday to Sunday

The above hours are inclusive of set up and set down times and the areas are defined by the map in **APPENDIX 1**.

- b. An authorised officer may require the vehicle to move if necessary. An authorised officer also has the authority to request that the Mobile Food Vending Vehicles leave the area.

Proximity to existing premises

- a. No Mobile Food Vending Vehicle is to trade within 50m of an existing trading takeaway food or drink premises open for business that is serving the same or similar food types. This minimum distance requirement is measured in a straight line from the closest point of the Mobile Food Vending Vehicle (location) to the main entrance of the takeaway food and drink premises.

Note: Existing takeaway food or drinks premises of the “same or similar food type” is defined as having very similar or the same primary products of sale. For example, a Taco truck and a Mexican takeaway shop, or an ice-cream van and an ice-cream parlor.

- b. For the purposes of this Policy, existing take away food and drink premises includes only the types of take away food and drink premises that are used predominantly for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

Proximity to residential buildings

Mobile Food Vending Vehicles cannot trade directly in front of any residential building (house or apartment) or buildings that contain residential premises (mixed use sites) on the same side of the road as the building frontage.

Liquor licencing

No Mobile Food Vending Vehicle operator is to obtain a liquor licence or sell alcohol to the public.

PART 3: OTHER CRITERIA REQUIREMENTS

Food handling, premises and equipment

Without limiting the requirements of the Food Safety Standard 3.2.2, 3.2.3, and AS4674 and any conditions of approval, the general requirements for the design, fit out, and operation of the mobile food vehicle, are outlined as follows:

a. Required outcomes

The layout design and construction of a Mobile Food Vending Vehicle must:

- be appropriate for the types of food produced and activities conducted
- provide adequate space for all activities and for all equipment to be used or stored
- allow easy cleaning or sanitising procedures of all structures and equipment
- prevent entry of pests, dust, fumes, smoke and other contaminants
- exclude favourable sites for pests to harbour (live and breed).

b. Minimum requirements

The layout design of a Mobile Food Vending Vehicle should be well planned and should consider a range of important elements to ensure effective and acceptable operation. The construction and layout design principles for Mobile Food Vending Vehicles should accommodate a safe flow of product and waste to minimise risks of food and equipment contamination. Separating particular processes must be considered including:

- hand washing facilities
- wash-up area (with double sinks)
- raw and cooked foods
- food preparation areas, accommodating a sink if required
- cooking facilities
- food assembling area
- adequate food storage and refrigeration facilities
- waste disposal areas.

The separation of the driving compartment from food storage, handling and serving sections should be considered.

The construction standards required can vary widely depending on the type of food and the complexity of the process, therefore it is recommended that before fitting out a vehicle Council should be consulted, and a clear agreement reached. Detailed plans and specifications are required to be submitted as part of the application process.

c. Obligations on people selling food

All food businesses are required to sell safe and suitable food in accordance with the provisions of the NSW Food Act 2003. Copies of the Act are available at NSW legislation website www.legislation.nsw.gov.au and the Food Standards (particularly Food Standards 3.1.1, Chapter 2 - Part 1.2, Chapter 3 – standard 3.2.2 and 3.2.3) are available on the Food Standards Australia New Zealand website www.foodstandards.gov.au.

Failure to comply with the requirements of the Act (including the standards) may result in prosecution, penalty infringement notices, product being seized, improvement notices or warning letters being issued, or prohibition orders (eg: prohibiting the sale of food or the use of certain equipment) being served. Fines, and in some cases imprisonment, apply to some offences.

All Mobile Food Vending Vehicle operators must carry adequate public and product liability indemnity insurance.

Maintenance of the vehicle

The vehicle must be kept clean and in a good state of repair and working order, ensuring road worthiness and that noise, fumes, smoke, foul odours and other contaminants are not generated.

Standalone items not permitted

The placement of any standalone items such as advertising boards, stands, heaters, tables, chairs or other seating apparatus, is not permitted at any time.

Garbage and recyclable materials

- a. Suitable garbage receptacles with close fitting lids are to be provided in the vehicle.
- b. When directed, a suitable receptacle shall be provided outside the vehicle for depositing of take away food containers and other litter.
- c. Garbage generated within the vehicle is not to be disposed of at public garbage bins but is to be collected and contained until disposal at the nominated commercial kitchen can occur. A waste contractor is to be nominated in the PoM.
- d. Operators are encouraged to recycle.

Waste Management and recycling

- a. Mobile Food Vending Vehicle operators 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, stored within the vehicle and disposed at the cost of the operator.
- b. Any waste produced by the Mobile Food Vending Vehicles must be removed from the site by the Mobile Food Vending Vehicle operators at the end of the trading period.
- c. The trading area must be left in a clean and tidy condition at the end of each trading interval.
- d. Under no circumstances is liquid waste (including wastewater) to be discharged to the ground or in the stormwater drain.
- e. Details of liquid waste and garbage disposal arrangements must be supplied with the application for the Mobile Food Vending Vehicles within the PoM.

Note: The City has prepared a Local Approvals Policy for Managing Waste in Public Places which addresses the management of commercial waste in a public place.

- f. Where feasible, the packaging used for the sale of food should be selected for its suitability for recycling in the City of Sydney Local Government Area. Details are available on the City of Sydney website on www.cityofsydney.nsw.gov.au.

Signage

- a. An approval under this 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.

Animals and pests

- a. Operators must take all practicable measures to prevent pests (including birds, spiders and flying insects) from entering or remaining in the vehicle.
- b. No animal is permitted to enter any vehicle, whether the vehicle is in operation or not.

Water supply

- a. The vehicle must be provided with an adequate supply of potable water (the capacity of the tanks must be appropriate for the intended use) stored in food grade water storage 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. Details of the supply of potable water and the cleaning process used for the storage tanks must be included in the PoM.
- b. The vehicle must be equipped with a waste water tank of sufficient capacity to contain all stored potable water with extra capacity for the containment of other discarded liquid waste, with an outlet of sufficient diameter to facilitate easy flushing and cleaning. Details of the disposal and cleaning process used for the waste water storage tanks must be included in the PoM.
- c. Disposal of all liquid wastes generated within the food van must be through the sewer (and grease trap where necessary – contact Sydney Water for additional advice) The disposal method and location is to be included in the PoM. Under no circumstances is liquid waste to be discharged upon the ground or to a stormwater drainage system.
- d. All hot water for washing purposes should be supplied from a suitable hot water system and should be piped so it can be mixed with cold water through a common spout. Hot water must be available at all times during the preparation and sale of food.

Control of pollution

Operators must also comply with the Protection of the Environment Operations Act 1997, which contains provisions relating to pollution, including prevention of offensive noise, smoke and odour and controls illegal wastewater discharges. Contact Council for more information. Noise and odour controls for the vehicle and any associated operational equipment must be listed in the PoM.

Electricity, gas supply, fire extinguisher

- a. Operators must ensure there is sufficient supply of electricity, gas or power for food handling operations, particularly for hot and cold holding and water heating. A strategy to manage power failure must be outlined in the PoM.

- b. A fire extinguisher and fire blanket must be supplied in every vehicle where cooking or heating processes are undertaken. Portable fire extinguishers and fire blankets should be selected, installed and maintained to the applicable requirements of AS 2444 – 2001.
- c. Fire safety equipment must be easily accessible in the event of a fire. The extinguisher should be suitable for dealing with the type of combustible material present.
- d. Fire safety equipment must be tested annually and have current tagging in accordance with Australian Standards. Contact Fire and Rescue NSW for more information.
- e. Requirements of Workcover NSW and other industry regulators such as Fire and Rescue NSW must be complied with regarding electrical work and fitting of appliances, gas supply, ventilation and other fire safety and workplace health and safety issues. All measures should be taken to protect the health, safety and welfare of employees and patrons.

CONSTRUCTION

Floor finishes

Floors must be constructed of materials which are impervious, non-slip and non-abrasive, having an unbroken surface and capable of withstanding heavy-duty operation. Coving of the floor and wall join is required.

Plinths

- a. Plinths can be used to hold heavy equipment that is unable or difficult to move for cleaning.
- b. Plinths should be constructed to meet the same specifications as floors being solid, without voids and be integral part of the floor. Plinths must have the same surface finish as the floor, be rounded at all exposed edges, be coved, and approximately 100mm high.
- c. The base of the equipment is to be sealed to the plinth and overhang to prevent liquid, food or floor washing to access underneath the equipment.
- d. Alternatives to the use of plinths include metal legs, castors and brackets.

Wall finishes for food premises

- a. Walls must not provide for the entry of pests, or as far as practical be constructed so as not to provide a space for them to live and breed.
- b. Walls must be finished with materials suitable for activities conducted in the vehicle and be easy to clean. Light coloured, high gloss, impervious surfaces are recommended.
- c. Walls in food preparation areas must be finished with an approved material such as:
 - I. stainless steel or aluminium sheeting
 - II. acrylic or laminated plastic sheeting
 - III. polyvinyl sheeting with welded seams
 - IV. Other approved material.
- d. Architraves, skirting boards, picture rails or similar protrusions are not permitted on the walls.
- e. Walls at the rear of cooking appliances should be surfaced with a material, such as stainless steel which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin-proof seal. Cooking appliances should only be sealed to walls made of non-combustible material.

- f. Walls at the rear of benches, sinks and hand basins should be surfaced with an impervious waterproof material to a height of approximately 300mm.

Ceilings

- a. Where applicable, the ceiling height in a Mobile Food Vending Vehicle should be adequate to effectively conduct food activities.
- b. Ceilings must be provided where food is handled and prepared and are necessary to protect food from contamination.
- c. Ceilings must be finished with impervious materials suitable for activities conducted in the vehicle and be easy to clean. A light colour is recommended.
- d. Ceilings should be free of open joints, cracks and crevices.
- e. The intersection of walls and ceilings should be tight jointed, sealed and dust proof.

Door and serving openings

- a. All openings are to be fitted with close fitting doors and shutters where practicable to exclude dust, pests and other contaminants. These must be vermin proof and should be closed during transport.
- b. Door and serving hatches should be finished internally with the same standard of material as the walls.

Pipes, conduits and wiring

- a. Pipes, conduits and wiring should be concealed in floors, plinth, walls and ceilings, or fixed on brackets providing at least 25mm clearance between the pipe and adjacent surfaces and 150mm between the pipe or conduit and adjacent horizontal surfaces.
- b. Service pipes, conduits and wiring are not to be placed in the recessed toe space of plinths or equipment.

Fixing of equipment

The fixing of equipment to wall, floor, bench or other surfaces must be done in such a way that it doesn't compromise the finish of the surface, and that the area is able to be easily cleaned.

EQUIPMENT REQUIREMENTS

Temperature gauges

Probe-type thermometer/s must be accurate to plus or minus 1°C available for the monitoring of potentially hazardous foods. They must be readily accessible, and cleaned before and after use so as not to create contamination issues.

Equipment and appliances

- a. Equipment and appliances must be kept clean at all times and positioned so that cleaning can easily occur around the items.
- b. All equipment and appliances must be maintained in good working order.
- c. Equipment used for the temperature control of food must hold cold food at a temperature of 5°C or less, and hot food must be held at a temperature of 60°C or greater.

Sinks, wash areas and hand washing facilities

- a. Provision is to be made within the vehicle to enable equipment, work surfaces and any food service items to be washed and sanitised. Typically, this will require a double bowl wash up sink or mechanical dish washer. Alternatively, the washing of removable equipment can be carried out at the separate fixed food handling premises or commercial kitchen and this must be detailed in the PoM. Provisions must still be made to clean and sanitise all food contact surfaces within the truck, and clean other surfaces.
- b. The design of the vehicle must provide:
 - i. sufficient potable water storage to ensure a constant water supply to all sinks,
 - ii. tanks to collect all wastewater, and
 - iii. suitable power supplies to enable a constant hot water supply to all sinks and basins.
- c. All sinks and hand wash basins must be provided with sanitary traps.
- d. A separate dedicated hand wash basin (for washing hands) is to be supplied in all cases. A single spout mixer tap should be provided to enable water to be easily mixed to an appropriate temperature.
- e. Hand basins are to be of a suitable size to allow cleaning of hands and arms. Basins are to be installed at bench height and appropriately fixed to the wall. They should not be obstructed by other equipment and are not to be located under benches.
- f. A separate food preparation sink may also be required where foods, such as salad items require washing as part of the preparation processes. If preparation of food that requires washing is to occur at the nominated commercial kitchen, this must be identified in the PoM, and no preparation of food requiring washing is to occur within the vehicle.

Ventilation

- a. Exhaust/ventilation must effectively remove fumes, smoke, steam, heat and vapours. Exhausts must discharge vertically and above the Mobile Food Vending Vehicle.
- b. Filters should be installed to prevent grease accumulations in ducting. Additional filtration may be required to minimise smoke and odour.
- c. Cleaning of the hood, filters and ducting must occur on a regular basis to ensure all components are kept clean and in good working order and do not create a fire risk.

Lighting

- a. Lighting from Mobile Food Vending Vehicles shall not interrupt or distract traffic flows or be unreasonably observable from surrounding residential areas.
- b. At no time is the intensity, period of intermittency and hours of illumination to cause objectionable glare or injury to the amenity of the neighbourhood. If, in the opinion of an authorised Council officer, objectionable glare or injury is likely to be caused, the intensity, period of intermittency and hours of illumination must be varied to the approval of Council.
- c. The design and placement must be so that lighting does not create a nuisance or negatively affect the amenity of the surrounding neighbourhood.
- d. The use of flashing lights or signs is only permitted in accordance with the road regulations.

GENERAL LEGISLATIVE REQUIREMENTS

Food Handling Requirements

- a. The requirements for the handling of food for sale and human consumption are outlined in the Food Act 2003 and the Food Standards Code which can be found on the NSW Food Authority's website foodauthority.nsw.gov.au or Food Standards Australia New Zealand website at foodstandards.gov.au.
- b. The requirements apply to all food, including pre-packaged food and low-risk food. Fact Sheets and user guides are available on the NSW Food Authority's website foodauthority.nsw.gov.au or Food Standards Australia New Zealand website at foodstandards.gov.au.
- c. Any person who sells food for sale must comply with the relevant legislation including the Food Act and Food Standards Code.

Use of separate fixed food handling premises

- a. The separate fixed food handling premises for the storage and/or preparation of food in conjunction with a Mobile Food Vending Vehicle must have the appropriate development approvals to use the premises for that purpose. A copy of the approval may be requested by Council as part of the application process.
- b. Any separate fixed food handling premises must also comply with the Food Act, the Food Standards Code, and AS4674 – design, construction and fit-out of food premises. An inspection report from the local Council or a suitably qualified person (such as an Environmental Health Officer (EHO) or Food Safety Auditor) or organisation (such as the NSW Food Authority) must be provided with each application that certifies the premises meets these requirements.
- c. Any change in the separate fixed food handling premises used by the Mobile Food Vending Vehicle such as location must be notified in writing to Council at least 14 days prior to the intended use. Any notification must include a food hygiene inspection report for the premises from the local Council or from a suitably qualified person or organisation. Approval must be given in writing by Council prior to commencing operations.

Labelling

- a. The Australia and New Zealand Food Standards Code includes requirements for the labelling of food.
- b. The labelling requirements differ depending on the food, ingredients, and whether or not it is packaged. Labelling requirements cover information such as food name, business details, batch identification, allergen and warning information and date marking.
- c. The Food Standards Code outlines the requirements in more detail and available on the NSW Food Authority's website foodauthority.nsw.gov.au or on the Food Standards Australian New Zealand website foodstandards.gov.au.

AMENITY REQUIREMENTS

Noise pollution

- a. The emission of noise associated with the use of the vehicle, including the operation of any mechanical plant and equipment, must comply with the following criteria:

- i. The use of the vehicle and any associated equipment 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* (POEO) to any affected receiver.
 - ii. All Mobile Food Vending Vehicle technical operations, including ancillary exhaust, discharge fans, cooking facilities or generator noise shall be minimised.
 - iii. If any noise complaints are received and substantiated by an authorised Council officer, the Council officer may direct that the use of the Mobile Food Vending Vehicle must be suspended or moderated to prevent nuisance until attenuation measures are completed and the Council has confirmed in writing that the use may resume.
- b. The use of amplified music, bells or a public address system is prohibited for all Category 2 Mobile Food Vending Vehicles.
 - c. Category 1 Mobile Food Vending Vehicles are prohibited from using a public address system and can only use amplified music or bells:
 - i. When the vehicle is outside the area defined by the Central Sydney Operation Map (appendix 1); and
 - ii. whilst the vehicle is moving and
 - iii. only between the hours of 9am – 7pm.
 - d. Any noise emission from the vehicle (including music or amplified noise from a Category 1 vehicle) must not affect the amenity of the surrounding area or adjacent noise sensitive receivers by creating noise that is considered 'offensive' by an Authorised Council Officer or Police Officer, in accordance with the POEO definition.
 - e. A Mobile Food Vending Vehicle must not emit any noise that an authorised Council Officer believes to be unreasonable in a public place or impact upon a noise sensitive receiver.
 - f. An authorised officer may require the vehicle to move if necessary. An authorised officer also has the authority to request that the Mobile Food Vending Vehicles leave the area.

Air pollution - Smoke and odour

- a. If any odour or smoke complaints are received and substantiated by an authorised Council officer, or if the vehicle or ancillary equipment is producing smoke and/or odour that is considered to be "air pollution" as defined in the POEO Act by an authorised officer then the authorised officer may direct that the use of the Mobile Food Vending Vehicle or specific equipment must be suspended or moderated to prevent the nuisance or pollution from occurring until attenuation measures are completed and the Council has confirmed in writing that the use may resume.
- b. Enhanced filtration may be necessary to manage smoke and odour from cooking processes within the vehicle.
- c. No charcoal cooking is to occur within the Mobile Food Vending Vehicle. Solid fuel cooking is only permitted when an appropriate smoke and odour control system is installed. A "qualified engineer" (as defined in the Building Code of Australia) trained in the appropriate field of expertise will need to design and certify such a system. The design, specifications and certification of any such system will need to be submitted with the application. Certification is required to state that the design of the system will control smoke, odour and other air impurities so as not to adversely impact the surrounding environment, and will not permit "air

pollution”. A cleaning and maintenance plan may also be required, and may form part of the certification when required.

Waste

Waste water, grease or any other pollutant including solid waste or litter must not be allowed to enter the stormwater. All waste items must be contained within the vehicle until it can be appropriately disposed of at a facility nominated in the PoM.

PENALTIES

Penalties applicable to approvals

- a. The penalties for failure to obtain an approval or failure to comply with an approval for a Mobile Food Vending Vehicle are set out in the Local Government Act 1993 and the Local Government (General) Regulation 2021. Council reserves the right to decide the legal remedy for breaches of this Policy.
- b. City Rangers or other Authorised Officers may take enforcement action for non-compliance with this Policy and all related legislation. Should actions by the operator cause a safety issue, authorised officers can direct the operator to cease trading, as well as move on from the area.

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.

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

Consultation

In accordance with section 160 of the Local Government Act 1993 this Policy has undergone a public consultation process and formal consideration of comments prior to adoption.

Notes

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

References

| Laws and Standards |
|--|
| • Local Government Act 1993 |
| • Local Government (General) Regulation 2021 |
| • Food Act 2003 |

Laws and Standards

- Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- Road Rules 2014
- Food Standards Code
- Roads Act 1993

Policies and Procedures

- NSW Food Authority – Guidelines for Mobile Food Vending Vehicles
- Mobile Food Vending Practice Note

Review period

This policy will be reviewed every 4 years.

Approval Status

Council approved this policy on 21 November 2022

Approval History

| Stage | Date | Comment | TRIM Reference |
|-----------------|----------------|---|----------------|
| Original Policy | 1 April 2014 | Approved by Council 17 March 2014 | 2014/128559 |
| Reviewed | 7 August 2017 | Three key changes: a) Increase cap from 50 to 100 allowable food trucks operating at any one time. b) Removal off-street parking Changes to food truck permit structure, food vans and other minor amendments | 2017/505522 |
| Reviewed | 19 August 2019 | Two paragraphs within policy were removed due to handover of food truck app and website to ‘We Make Apps:’ section 30 – all food trucks must use the app Section 31 – all food trucks will have their business contact details displayed on the website | 2019/445649 |

| Stage | Date | Comment | TRIM Reference |
|----------------------|------------------|---|----------------|
| Reviewed | 21 November 2022 | Clear procedure for the revocation of permit and process to consider refusal to grant new licences for applicants with a history of non-compliance in relation to MFV infringements such as parking PINs have been added. Approved by Council | 2019/445649 |
| Commence Review Date | 1 December 2024 | | |
| Approval Due Date | 1 September 2025 | | |

Ownership and approval

| Responsibility | Role |
|----------------|--|
| Author | Public Health Specialist |
| Owner | Standards and Policy Manager Health & Building |
| Endorser | City of Sydney Executive |
| Approver | City of Sydney Council |

CONTACT INFORMATION

Please feel free to contact the City of Sydney for further information relating to any information contained within this Policy.

City of Sydney Council

P: (02) 9265 9333

E: council@cityofsydney.nsw.gov.au

W: cityofsydney.nsw.gov.au

NSW Food Authority

P: 1300 552 406

E: contact@foodauthority.nsw.gov.au

W: foodauthority.nsw.gov.au

Food Standards Australia New Zealand

P: (02) 6271 2222

E: info@foodstandards.gov.au

W: foodstandards.gov.au

SafeWork – NSW

P: 13 10 50

E: contact@safework.nsw.gov.au

W: safework.nsw.gov.au

Fire & Rescue - NSW

P: (02) 2965 2999

E: info@fire.nsw.gov.au

W: fire.nsw.gov.au

APPENDIX 1: Central Sydney Operation Map



APPENDIX 2: Schedule of streets listing and map

The following is the schedule of streets listed within the City of Sydney Local Government Area where Mobile Food Vending Vehicles are **not** permitted to operate.

This schedule of streets includes Roads and Maritime Services Legal Classified Roads under the *Roads Act 1993*.

Note: This schedule of streets is to be read in conjunction with the map at **APPENDIX 3** - The Kings Cross Precinct exclusion zone

State owned roads – controlled by RMS

| | |
|---|---|
| Abercrombie Street | Cleveland Street to Broadway, Chippendale |
| Alfred Street | Loftus Street to George Street |
| Allen Street | Bulwara Road to Harris Street, Ultimo |
| Anzac Parade | Moore Park Road, to Dacey Avenue, Moore Park |
| Bank Street | Pymont Bridge Road to Miller Street, Pymont |
| Botany Road | Boundary Road, Redfern to Gardeners Road, Mascot |
| Bourke Street | Lachlan Street to McEvoy Street, Waterloo |
| Bradfield Highway | Leading to Sydney Harbour Bridge, Dawes and Millers Points |
| Bridge Road | Lyndhurst Street, Glebe to Wattle Street, Ultimo |
| Broadway <i>Parramatta Road</i> | Harris Street, Chippendale to Mallett Street, Camperdown |
| Cahill Expressway | Over Circular Quay to Woolloomooloo |
| Chalmers Street | Elizabeth Street, Surry Hills to Devonshire Street, Surry Hills |
| City Road | Carillon Avenue, Newtown to Broadway, Chippendale |
| Cleveland Street | City Road, Chippendale to Anzac Parade, Moore Park |
| Copeland Street | Mitchell Road to Newton Street, Erskineville |
| Cross City Tunnel | Under William and Druitt Streets |
| Dacey Avenue | South Dowling Street, Waterloo to Anzac Parade, Moore Park |
| Devonshire Street | Chalmers Street, Surry Hills to Bourke Street, Surry Hills |
| Eastern Distributor | Woolloomooloo to Moore Park |
| Eddy Avenue | Pitt Street, Haymarket to Elizabeth Street, Surry Hills |
| Elizabeth Street | From Eddy Avenue, Haymarket to Chalmers Street, Surry Hills |
| Erskineville Road | Charles Street, Erskineville to King Street, Newtown |
| Euston Road | Sydney Park Road to Harley Street, Alexandria |
| Flinders Street | Oxford Street, Taylor Square to Moore Park Road, Moore Park |
| Fountain Street | McEvoy Street to Mitchell Road, Alexandria |

State owned roads – controlled by RMS

| | |
|-----------------------------|---|
| Gardeners Road | Kent Road, Mascot to Dalmeny Avenue, Rosebery |
| George Street | Alfred Street to Railway Square |
| Gibbons Street | Boundary Street to Regent Street, Redfern |
| Harris Street | Allen Street, Ultimo to Broadway, Chippendale |
| Henderson Road | Wyndham Street to Botany Road, Alexandria |
| King Street | Barwon Park Road, St Peters to Carillon Avenue, Newtown |
| Lachlan Street | South Dowling Street to Bourke Street, Waterloo |
| Lee Street | George Street, Railway Square to Regent Street, Chippendale |
| McEvoy Street | Harley Street, Alexandria to Bourke Street, Waterloo |
| Minogue Crescent | Hereford Street to The Crescent, Forest Lodge |
| Mitchell Road | Fountain Street to Copeland Street, Alexandria |
| O’Riordan Street | Gardeners Road, Mascot to Botany Road, Alexandria |
| Oxford Street | Crown Street, Darlinghurst to Lang Road, Centennial Park |
| Palmer Street | William Street to Sir John Young Crescent, Woolloomooloo |
| Pymont Bridge Road | Wattle Street, Ultimo to Harris Street, Pymont and Lyndhurst Street, Glebe to Parramatta Road, Camperdown |
| Rawson Place | George Street, Haymarket to Pitt Street, Haymarket |
| Regent Street | Broadway, Chippendale to Boundary Street, Redfern |
| Ross Street | Parramatta Road, Camperdown to Hereford Street, Forest Lodge |
| South Dowling Street | Oxford Street, Darlinghurst to O’Dea Avenue, Zetland |
| Swanson Street | Newton Street to Charles Street, Erskineville |
| Sydney Park Road | King Street, St Peters to Euston Road, Alexandria |
| The Crescent | Minogue Crescent, Forest Lodge to Chapman Road, Annandale |
| Wattle Street | Broadway, Chippendale to Pymont Bridge Road, Pymont |
| Western Distributor | West side of the CBD over and around Darling Harbour |
| William Street | Kings Cross Tunnel to Crown Street, Woolloomooloo |
| Wilson Street | Erskineville Road to King Street, Newtown |
| Wyndham Street | Henderson Road to Boundary Street, Redfern |

Council-owned roads

| | |
|--------------------------|--|
| Victoria Street | William Street to Liverpool Street, Darlinghurst |
| Darlinghurst Road | William Street to Liverpool Street, Darlinghurst |

Council-owned roads – controlled by Barangaroo Delivery Authority

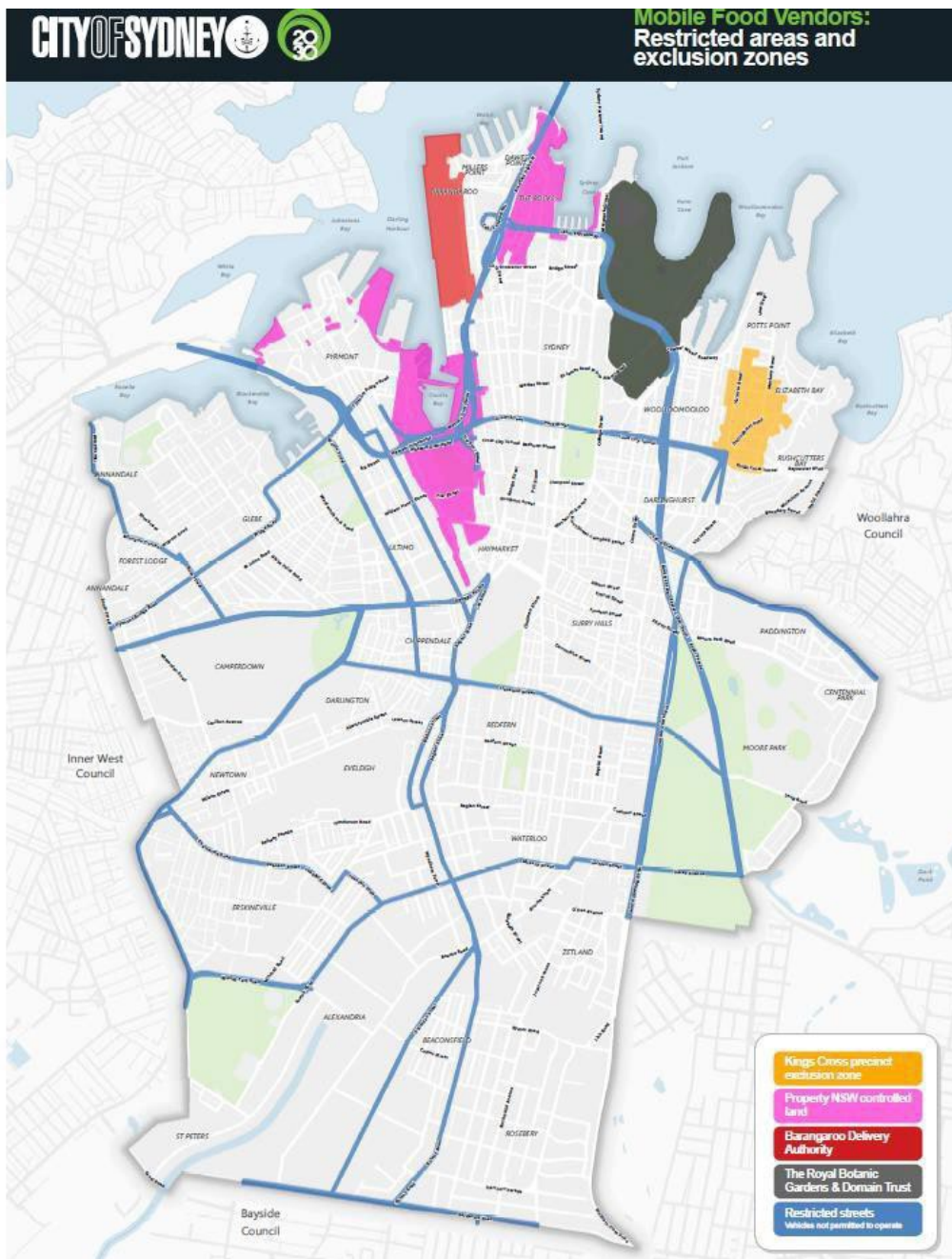
| | |
|------------------------|--|
| Hickson Road | from the northern side of the intersection with Napoleon Street and Sussex Street to the southern side of the Windmill Street overpass |
| Napoleon Street | from the intersection with Hickson Road and Sussex Street to the intersection with Kent Street |
| Sussex Street | from and including the intersection with Napoleon Street and Hickson Road to (and including) the intersection with Shelley Street |

Other areas

| | |
|---|---|
| Any land not owned or controlled by the City of Sydney | Without prior permission from the owners of that land |
| Kings Cross Precinct exclusion zone | See APPENDIX 3 |

Schedule of streets map

- (a) Map shows restricted areas and exclusion zones. These include Kings Cross precinct exclusion zone, Property NSW controlled land, Barangaroo Delivery Authority, The Royal Botanic Gardens and Domain Trust and restricted streets where vehicles are not permitted to operate



APPENDIX 4: Definitions

The terms used within this Local Approvals Policy for Mobile Food Vending Vehicles are defined in the Dictionary in the Local Government Act 1993, the Dictionary in the Protection of the Environment Operations Act 1997, Section 4 Definitions of the Food Act 2003 and Section 3 of the Food Regulation 2015.

The purpose of this Dictionary is to assist with the understanding of terms used throughout this Policy and to assist with the preparation of an application for approval.

Air impurity includes:

Smoke, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, mists, odours and radioactive substances.

Air pollution means:

The emission into the air of any air impurity.

Approval means:

An approval that is issued under the *Local Government Act 1993*.

Authorised person means:

- (a) An employee of a council generally or specially authorised by the council in respect of or whose duty it is to deal with, or to act in regard to, any acts, matters or things in relation to which the expression is used, or
- (b) A police officer.

Coving means:

A curved junction between the floor and the wall.

Equipment means:

A machine, instrument, apparatus, utensil or appliance – other than a single use item – used or intended to be used or in connection with food handling and includes an equipment used or intended to be used to clean the Mobile Food Vending Vehicles or equipment.

Food means:

- a. Any substance or thing of a kind used, or represented as being for use, for human consumption (whether it is live, raw, prepared or partly prepared), or
- b. Any substance or thing of a kind used, or represented as being for use, as an ingredient or additive in a substance or thing referred to in paragraph (a), or
- c. Any substance used in preparing a substance or thing referred to in paragraph (a) (other than a substance used in preparing a living thing) if it comes into direct contact with the substance or thing referred to in that paragraph, such as a processing aid, or
- d. Chewing gum or an ingredient or additive in chewing gum, or any substance used in preparing chewing gum, or

- e. Any substance or thing declared to be a food under a declaration in force under section 6 of the Food Standards Australia New Zealand Act 1991 of the Commonwealth, whether or not the substance, thing or chewing gum is in a condition fit for human consumption.
- f. However, **food** does not include a therapeutic good within the meaning of the Therapeutic Goods Act 1989 of the Commonwealth.
- g. To avoid doubt, **food** may include live animals and plants.

Food business means:

A business, enterprise or activity (other than primary food production) that involves:

- a. handling of food intended for sale; or
- b. sale of food regardless of whether the business enterprise or activity concerned is of a commercial, charitable or community nature or whether is involved the handling or sale of food on one occasion only.

Food for sale means:

- a. barter, offer or attempt to sell, or
- b. receive for sale, or
- c. have in possession for sale, or
- d. display for sale, or
- e. cause or permit to be sold or offered for sale, or
- f. send, forward or deliver for sale, or
- g. dispose of by any method for valuable consideration, or
- h. dispose of to an agent for sale on consignment, or
- i. provide under a contract of service, or
- j. supply food as a meal or part of a meal to an employee, in accordance with a term of an award governing the employment of the employee or a term of the employee's contract of service, for consumption by the employee at the employee's place of work, or
- k. dispose of by way of raffle, lottery or other game of chance, or
- l. offer as a prize or reward, or
- m. give away for the purpose of advertisement or in furtherance of trade or business, or
- n. supply food under a contract (whether or not the contract is made with the consumer of the food), together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment, or
- o. supply food (whether or not for consideration) in the course of providing services to patients in public hospitals (within the meaning of the Health Services Act 1997) or inmates in correctional centres (within the meaning of the Crimes (Administration of Sentences) Act 1999), or
- p. sell for the purpose of resale.

Food handler means:

Any person who directly engages in the handling of food, or who handles surfaces likely to come into contact with food for a food business.

Handling of food includes:

The making, manufacturing, producing, collecting, extracting, processing, storing, transporting, delivering, preparing, treating, preserving, packing, cooking, thawing, serving or displaying of food.

Kings Cross Precinct exclusion zone means:

The area excluded from this Policy as shown at **APPENDIX 3**.

Plan of Management (PoM) is:

A detailed document that outlines specific controls and management of amenity, food safety and operational issues created by the operator for their Category 2 Mobile Food Vending business. This PoM must be submitted to Council in conjunction with a Mobile Food Vending Vehicles approval application and other supporting documents. Guidelines and templates for writing a plan of management can be found on Council's website cityofsydney.nsw.gov.au.

Potable water means:

Water suitable (safe) for drinking.

Potentially Hazardous Food is:

A common term used in food legislation. It is defined in Standard 3.2.2 – Food Safety Practices and General Requirements of the Food Standards, which all food businesses must comply with. The Food Standard defines a Potentially Hazardous Food (PHF) as,

“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.” Further to this definition, the NSW Food Authority has produced a guide on Potentially Hazardous Foods.

Separate fixed food handling premises means: _

A premises that is in a fixed location, and has development approval for the storage, handling and preparation of food for sale. It must have the capacity and facilities to allow all activities required to store, prepare and handle food associated with the Mobile Food Vending Vehicle. It can be an existing food retail premises, commissary or similar. It may also require NSW Food Authority approval if it is not a retail space. If this is a shared space with another food business, then this must be identified and the name and contact details of the other business/businesses advised in the PoM.

Temperature control means:

Maintaining food at a temperature of:

- a. 5°C or below if this is necessary to minimise the growth of infectious or toxigenic micro-organisms in the food so that the microbiological safety of the food will not be adversely affected for the time the food is at that temperature, or
- b. 60°C or above, or
- c. Another temperature – of the business demonstrates that maintenance of the food at this temperature for the period of time for which it is maintained will not adversely affect the microbiological safety of the food.

Unsafe food means:

1. Food is **unsafe** at a particular time if it would be likely to cause physical harm to a person who might later consume it, assuming:
 - a. it was, after that particular time and before being consumed by the person, properly subjected to all processes (if any) that are relevant to its reasonable intended use, and
 - b. nothing happened to it after that particular time and before being consumed by the person that would prevent its being used for its reasonable intended use, and
 - c. it was consumed by the person according to its reasonable intended use.
2. However, food is not **unsafe** for the purposes of this Act merely because its inherent nutritional or chemical properties cause, or its inherent nature causes, adverse reactions only in persons with allergies or sensitivities that are not common to the majority of persons.
3. In subsection (1), **processes** include processes involving storage and preparation.

Unsuitable food means:

1. Food is **unsuitable** if it:
 - a. is damaged, deteriorated or perished to an extent that affects its reasonable intended use, or
 - b. contains any damaged, deteriorated or perished substance that affects its reasonable intended use, or
 - c. is the product of a diseased animal, or an animal that has died otherwise than by slaughter, and has not been declared by or under another Act to be safe for human consumption, or
 - d. contains a biological or chemical agent, or other matter or substance, that is foreign to the nature of the food.
2. However, food is not **unsuitable** for the purposes of this Act merely because:
 - a. at any particular time before it is sold for human consumption it contains an agricultural or veterinary chemical, or
 - b. when it is sold for human consumption it contains an agricultural or veterinary chemical, so long as it does not contain the chemical in an amount that contravenes the Food Standards Code, or
 - c. it contains a metal or non-metal contaminant (within the meaning of the Food Standards Code) in an amount that does not contravene the permitted level for the contaminant as specified in the Food Standards Code, or
 - d. it contains any matter or substance that is permitted by the Food Standards Code.
3. In this section, **slaughter** of an animal includes the killing of an animal in the process of capturing, taking or harvesting it for the purposes of preparing it for use as food.

Waste means:

- a. Effluent, being any matter or thing, whether solid or liquid or a combination of solids and liquids, which is of a kind that may be removed from a human waste storage facility, sullage pit or grease trap, or from any holding tank or other container forming part of or used in connection with a human waste storage facility, sullage pit or grease trap, or
- b. Trade waste, being any matter or thing, whether solid, gaseous or liquid or a combination of solids, gases and liquids (or any of them), which is of a kind that comprises refuse from any

industrial, chemical, trade or business process or operation, including any building or demolition work, or

- c. Garbage, being all refuse other than trade waste and effluent, and
- d. Includes any other substance defined as waste for the purposes of the Protection of the Environment Operations Act 1997, and a substance is not precluded from being waste merely because it is capable of being refined or recycled.