

## **1. PURPOSE**

This policy has been developed to provide a framework for consideration of applications for permits under Council's Community Local Law 2021 to operate mobile food and beverage trading vehicles (MFBTVs), and for the management of MFBTVs in the municipality.

## **2. INTRODUCTION**

Council's primary support is for traders in retail premises. As a consequence, MFBTVs are broadly only seen as appropriate where normal retail facilities are either not in close proximity or at a time when other food and beverage premises are closed.

## **3. SCOPE**

This policy applies to the operation of MFBTVs on roads under Council control and land managed by Council, including public open space areas. It does not apply to MFBTVs associated with an event.

## **4. PRINCIPLES**

### **4.1 Trading Activities**

#### ***Community Local Laws Part 3 - 2021***

Clause 48 of Council's Community Local Law Part 3 states:

#### ***Council Controlled or Managed Places***

48. Without an approval or other authority under an Act or permit a person must not on a road, road related area or Council land—

f. sell or offer for sale or hire any goods or services carried about or placed on the person or any other moveable thing;

### **4.2 Council Standards**

#### **4.2.1 Safety and Accessibility**

The safety of all members of the community including pedestrians, motorists, cyclists and other footpath or road users must be protected at all times on or nearby the MFBTV site.

#### **4.2.2 Community Amenity**

To ensure the amenity of the area surrounding a MFBTV site is protected and enhanced, the standards outlined in the Mobile Food and Beverage Trading Procedure document must be met.

Compliance with Environment Protection Authority requirements, particularly with respect to noise must also be met.

#### **4.2.3 Hygiene and Cleanliness**

The hygiene and cleanliness of a MFBTV site must be maintained and the standards outlined in the Mobile Food and Beverage Trading Procedure document must be met.

The preparation, handling and serving of food and drinks to patrons must be conducted in accordance with the requirements of the *Food Act 1984* and Council's Environmental Health Officer.

- Without limiting the requirements of the *Food Act 1984*, the following standards must be met:
  - (i) The MFBTV must be registered with the local Council where the primary place of storage of the vehicle is located. A copy of a current Food Act Registration Certificate from the relevant Council must be submitted with each application for a permit.
  - (ii) The MFBTV must comply with the National Food Safety Standards, including Standard 3.2.2 Food Safety Practices and Standard 3.2.3 Food Premises & Equipment.

#### **4.2.4 Trader Restrictions**

Council's priority is to support food and beverage traders currently operating or wishing to operate from commercial premises within the municipality. To ensure a MFBTV does not compromise the operation of existing or future food and beverage businesses within commercial premises in the area:

- The operational hours of a MFBTV may be limited to those outside existing business hours for surrounding food and beverage premises.
- The location of a MFBTV may be restricted so as to not impact on existing food and beverage premises.

MFBTV trading permits will be reviewed annually with no guarantees that a permit will be granted for the following year. Renewal of a permit will be based on matters such as cleanliness, conduct, past performance and customer service.

#### **4.2.5 Appropriate Locations**

In considering the options available for potential MFBTV sites, it is important to acknowledge that **any commercial use of public space is a privilege, not a right.**

The location of a MFBTV must always comply with Council standards in relation to safety and accessibility, community amenity and hygiene and cleanliness.

To ensure appropriate locations are determined, the criteria outlined in the Mobile Food and Beverage Trading Procedure document should be met.

### **4.3 Operator's Responsibilities**

#### **4.3.1 Daily Management**

To ensure appropriate management, permit holders are required to:

- Operate in accordance with the permit, endorsed plans and the standards and objectives as outlined within these guidelines
- Monitor the surrounding area i.e. observe patrons at all times to promote orderly patron behaviour.
- Uphold the cleanliness of the area surrounding the MFBTV

- Maintain access for all users in and around the footpath at all times
- Provide rubbish bins for patron use
- Remove all rubbish from site once trading has ceased
- Recycle waste material removed from the site.

### 4.3.2 Insurance Requirements

The permit holder **must** ensure they are adequately covered by public liability insurance. To meet Council requirements, the policy must note the Council's interest and be for the amount not less than \$20,000,000 in respect of any single occurrence.

### 4.3.3 Indemnity Requirements

The permit holder **must** complete a "Form of Indemnity" to indemnify the Council against all claims of any kind arising from any negligent act either by the permit holder or the permit holder's agents and users.

### 4.3.4 Display of Permit Registration

Permit holders must display a current permit registration clearly and legibly on the MFBTV. Failing to display the current permit registration is a breach of the permit conditions.

## 4.4 Council Responsibilities

### 4.4.1 Trading on Public Space

The Council will continue to manage the use of all public land at all times and reserves the right to reclaim access to and remove all MFBTV trading at any time for any purposes deemed suitable by the Council.

### 4.4.2 Compensation and Loss of Trade

Where service authorities and others are required to carry out works within the road reserve which require removal and/or alteration to the MFBTV trading arrangements, **no compensation** is payable for any loss of trade experienced due to these works.

Any inconvenience or loss of trade, which may result from activities or works, carried out by the Council or its contractors, at or adjacent to a permit holder's MFBTV trading area will not be considered for payment of compensation.

### 4.4.3 Monitor Compliance with Approved Permit

The Council's officers will monitor the operation of MFBTV trading permits and ensure and these Guidelines are consistently being met.

## 5. COMMUNICATION

This policy will be promoted on the Horsham Rural City Council website and intranet.

## 6. RESPONSIBILITY

**Policy Owner:** Coordinator Investment and Business Development

## 7. DEFINITIONS

Term	Meaning
<b>Mobile Food and Beverage Trading Vehicle (MFBTV)</b>	Any vehicle, caravan, trailer or any other method of transport from which food and/or beverages are sold.
<b>Sell</b>	Offer or attempt to sell; or receive for sale; or display for sale; or have in possession for sale.

## 8. SUPPORTING DOCUMENTS

Document	Location
Community Local Law Part 3 – 2021, Clause 48	HRCC website/Intranet
Mobile Food and Beverage Trading Procedure	Intranet

## 9. DOCUMENT CONTROL

Version Number	Approval Date	Approval By	Amendment	Review Date
01	19 August 2013	Council via Planning Committee	New policy	
02	30 October 2017		Reviewed – no changes required	30 October 2021
03	22 November 2021	Council	Reviewed and amended	30 June 2022
04	28 November 2022	Council	Reviewed and amended to include Local laws	28 November 2026
4.1	March 2023	n/a	New logo	28 November 2026