

# FACT SHEET: OPERATING MOBILE FOOD TRUCKS IN THE CITY OF PARRAMATTA

The City of Parramatta is proud of its diverse food scene and encourages activities which add to our lively street culture like food trucks. Council is committed to supporting local business with mobile food trucks (also referred to as mobile food vehicles) to operate safely and lawfully in our Local Government Area.

This fact sheet is designed to help mobile food operators understand what approvals are required and where to get more information. Before you start operating a mobile food vehicle, you must:

1. Establish whether the use is considered exempt development or whether development consent from Council is possible. Please refer to the information below to understand what you need to do.
2. Register with Council to operate a food business.

This information cannot be solely relied upon when making business decisions – its purpose is to provide guidance only. It is the responsibility of the business owner to ensure they can legally operate their business prior to commencing operation by demonstrating compliance with relevant government legislation, regulations, codes and guidelines. Failure to ensure this will result in compliance activities by Council.

## > WHAT IS A MOBILE FOOD VEHICLE?

A mobile food vehicle is any means of transport, whether self-propelled or not or designed to be moved from place to place, and which is used for selling food. It includes vehicles used for on-site food preparation (e.g. hamburgers, hot dogs and kebabs), one-step food preparation (e.g. popcorn, fairy floss, coffee and squeezing juices), and the sale of any type of food including pre-packaged food. It does not include food vending machines or food transport vehicles (NSW Food Authority – *Guidelines for Mobile Food Vending Vehicles*: [https://www.foodauthority.nsw.gov.au/sites/default/files/2021-02/mobile\\_food\\_vending\\_guidelines.pdf](https://www.foodauthority.nsw.gov.au/sites/default/files/2021-02/mobile_food_vending_guidelines.pdf)).

## > IS A MOBILE FOOD VEHICLE CONSIDERED A “FOOD BUSINESS”?

Yes. The NSW *Food Act 2003* (the Food Act) defines a food business as any business or activity that involves the sale of food or the handling of any type of food for sale, with the exception of some primary food production activities.

Consequently, a person using a mobile food vehicle to store, prepare or sell food for human consumption, is deemed to be operating a ‘food business’. This includes not-for-profit operations. It also includes all types of vehicles whether registrable (vehicles with a Service NSW Registration plate) or not (cart, bicycle cart or the like).

# GETTING STARTED

## Step 1: Development approvals

### > IS DEVELOPMENT CONSENT REQUIRED TO OPERATE A MOBILE FOOD VEHICLE?

This will depend. There are two avenues to lawfully operate a food business within the Parramatta Local Government Area.

1. Operate in accordance with the requirements of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (SEPP Exempt), in which case you will not be required to obtain development consent from Council,  
Or
2. Apply for and obtain Development Consent from City of Parramatta Council (the Council) prior to commencing the use of the mobile food vehicle wherever the use is permissible with consent under *Parramatta Local Environmental Plan 2023* (mixed use/business zones).

#### Notes:

1. Each of the two avenues has its own specific and separate requirements that need to be met to be able to operate lawfully. For any Development Application to be considered, it must first be a permissible use within the planning zone the land is located in. The zones and permissible uses are set out in *Parramatta Local Environmental Plan 2023*. The associated zoning maps are available on the NSW Planning Portal at the NSW Planning Portal Spatial Viewer. Please be aware that there are sites in the Harris Park area which are zoned R2 Residential, where food trucks are not a permitted activity. This means a development consent is not possible on these sites for food trucks/mobile food vehicles.
2. A separate registration as a food business with Council is also required prior to commencing operation.
3. A separate approval under the *Local Government Act* is also required if the intended operating location is on public land.

### > WHAT IS NEEDED TO OPERATE A MOBILE FOOD VEHICLE UNDER THE PROVISIONS OF SEPP EXEMPT?

To operate under SEPP Exempt, the mobile food vehicle must satisfy all of the development standards in Subdivision 27A – Mobile food and drink outlets of SEPP Exempt. These include that the mobile food vehicle:

- has the consent of the owner of the land on which it is on if the land is held by a private landowner or, if the land is under control and management of a council or public authority, that consent is given in writing;
- does not restrict vehicle or pedestrian access to or from the land or entry to any building on the land;

It also must satisfy all of the general requirements for exempt development in clause 1.16 of Division 2 of SEPP Exempt.

**You must also abide by the operating hours set by the State Government under the SEPP for commercial and residential areas.**

**Note:** Non-compliance with any of the standards means you must obtain development consent from Council (if the use is permissible under the *Parramatta Local Environmental Plan 2023*) before operating your business.

Read the latest version of SEPP Exempt on the NSW Government legislation web page at:

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572>.

If you believe your business may be exempt development under the SEPP, the obligation is on you to ensure compliance with all relevant clauses and controls including the operating hours under the SEPP. If you are unsure on how to apply the legislation, it is strongly recommended you engage a planning consultant to assist you. Council has no role in the administration of the exempt development provisions under SEPP Exempt and Complying Codes.

**> WHAT IF COMPLIANCE WITH THE DEVELOPMENT STANDARDS OF SEPP EXEMPT IS NOT POSSIBLE?**

When the development standards of SEPP Exempt cannot be satisfied (even if it is only one of the listed standards and/or criteria), you must lodge a development application with Council if the use is permissible with consent in the zone. You cannot commence operating your business until you receive a development consent.

**> WHAT IS NEEDED TO LODGE AN APPLICATION FOR DEVELOPMENT CONSENT?**

The requirements for lodging an application for development consent can be found on the NSW Planning Portal website at: <https://www.planningportal.nsw.gov.au/>.

For more information, visit <https://www.cityofparramatta.nsw.gov.au/development/development-application-information-da-tracker>.

Still have questions? Contact Council's Duty Planner on **02 9806 5050**.

**Note:** The Duty Planner can only provide general information about the planning process and legislation. The Duty Planner cannot provide site/business/case-specific advice. To request a pre-lodgement meeting on your specific application, visit: <https://www.cityofparramatta.nsw.gov.au/development/development-application-da/pre-lodgement-meetings>

## Step 2: Registering to operate a food business

**> WHAT OTHER APPROVALS OR REGISTRATIONS ARE REQUIRED?**

You must register with Council to lawfully operate a food business. More information can be found on Council's website. <https://www.cityofparramatta.nsw.gov.au/business/business-services/regulations-for-food-businesses>.

**> WHAT HAPPENS IF I OPERATE WITHOUT THE REQUIRED APPROVALS AND/OR REGISTRATION?**

Council is responsible for regulating compliance with the legislation that governs the use of mobile food vehicles. Council may investigate and take action against any breaches of the legislation whether reported by a member of the public or identified by a Council officer.

On-the-spot fines for minor breaches start at \$1500 and can be as high as \$6000. For more serious or repeated breaches, Council may also choose to prosecute the offenders in either the Local Court or the Land and Environment Court. Fines issued by the Local Court can reach \$110,000 while fines issued by the Land and Environment Court can reach \$1,200,000. On-the-spot fines have fixed amounts depending on the type of offence.

**> IS THERE A FEE TO REGISTER MY MOBILE FOOD VEHICLE WITH THE COUNCIL?**

There is an annual fee for the registration of a mobile food vehicle. The fee varies depending on the type and risk of the food that is sold. Current fees and charges can be accessed at: [https://www.cityofparramatta.nsw.gov.au/sites/council/files/2024-07/18.07.24\\_Fees\\_And\\_Charges\\_Report.pdf](https://www.cityofparramatta.nsw.gov.au/sites/council/files/2024-07/18.07.24_Fees_And_Charges_Report.pdf)

**> DO I STILL NEED TO REGISTER MY MOBILE FOOD VEHICLE WITH COUNCIL IF I LIVE IN ANOTHER COUNCIL AREA?**

Mobile food vendors must register with their local council. Where trading might occur across a number of Local Government Areas, the mobile food vendor must register with their local Council where the vehicle is garaged and each council they will be operating in.



## Check requirements for development consent:

**Register your food business with:**

**PARRAMATTA**

September 2024

## FREQUENTLY ASKED QUESTIONS

### > IS A FOOD CART SUBJECT TO THE SAME RULES AS A MOBILE FOOD VEHICLE?

Yes, a food cart is considered to be a mobile food vehicle and therefore the same rules apply.

### > CAN I PREPARE AND/OR STORE FOOD AT MY HOME AND SELL FOOD FROM MY MOBILE FOOD VEHICLE/ TEMPORARY FOOD CART?

Development consent from the Council is required to use a home for food business purposes. A development application will need to be submitted to Council.

### > CAN I PREPARE AND/OR STORE FOOD AT MY RESTAURANT OR COMMERCIAL PREMISES AND SELL FOOD FROM MY MOBILE FOOD VEHICLE/ TEMPORARY FOOD CART?

Operation of a mobile food vehicle or food cart on a commercial premises is subject to the same requirement as operating from a residential premises. It must have either prior development consent for the mobile food vehicle (which is separate from any other consent for the use of the premises) or comply with all applicable development standards in SEPP Exempt.

### > CAN I TRADE ON COUNCIL RESERVES OR SPORTING FIELDS OR FROM A PUBLIC ROAD OR OTHER PUBLIC PLACES?

Approval from Council is required to trade from these places. For approval you must submit a Section 68 application (*Local Government Act 1993*), which is available on Council's website.

### > CAN I TRADE ON PRIVATE LAND (E.G. COMMERCIAL PROPERTY)?

Yes. However, you must have permission from the property owner and have registered your mobile food vehicle with Council. The operation must comply with the SEPP Exempt unless development consent has been obtained.

### > CAN I HAVE SIGNAGE TO ADVERTISE MY BUSINESS?

Yes, however the signage must also comply with the SEPP Exempt unless development consent has been obtained. For details, refer to Division 2 of SEPP Exempt at:

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572#pt.2-div.2>

A Building Identification Sign is a sign on the facade of a building for the purpose of identifying or naming a building, while Business Identification Signs are those that identify the business.

### > CAN I HAVE SEATING?

No. Seating is not allowed for Mobile food vehicles.

### > DOES MY MOBILE FOOD VEHICLE COMPLY WITH FOOD SAFETY STANDARDS?

A mobile food vehicle must be constructed and maintained in accordance with the Food Standards Code 3.2.2 and 3.2.3. and the NSW Food Authority's Guideline for *Mobile Food Vending Vehicles*. The obligation is on the business owner to ensure compliance with relevant codes and guidelines.

### > WILL MY MOBILE FOOD VEHICLE BE INSPECTED BY COUNCIL?

Your mobile food vehicle will be inspected by Council's Environmental Health Officers as part of Council's pro-active inspection program similar to other food premises within the Local Government Area.

### > I DO NOT INTEND TO OPERATE MY BUSINESS PERMANENTLY SO WHY DO I NEED APPROVAL BEFORE OPERATING?

Unless you comply with every provision in SEPP Exempt, you will need development consent from Council (subject to permissibility of use in the zone) whether or not you intend to operate permanently or temporarily. A development consent can be time limited by request or if Council imposes it.

**> I WANT TO USE A SHIPPING CONTAINER AS A MOBILE FOOD VEHICLE – DO I NEED COUNCIL APPROVAL?**

Yes. You would need to lodge a development application for assessment by Council. Converted shipping containers or similar pre-fabricated structures do not meet the definition of mobile food vehicles and are not exempt development regardless of how long they remain on a property.

**> CAN I ERECT AN AWNING, FENCE OR OTHER STRUCTURES TO SUPPORT THE OPERATION OF MY MOBILE FOOD VEHICLE?**

Erection of structures in connection with the use of a mobile food vehicle may result in a change in use. Council strongly recommends that you obtain independent planning advice prior to any of these structures being constructed. This is because the nature, location, size and material of these structures may require development consent from Council.

**> CAN I CONNECT MY MOBILE FOOD VEHICLE TO UTILITIES AND SERVICES SUCH AS WATER, SEWER AND POWER?**

Yes, provided it is done appropriately and where fixed installations are involved, the installation is done by an appropriately licensed person in accordance with the relevant Australian Standard. Council recommends operators to check the mobile food vehicle guidelines on the NSW Food Authority website at: [https://www.foodauthority.nsw.gov.au/sites/default/files/2021-02/mobile\\_food\\_vending\\_guidelines.pdf](https://www.foodauthority.nsw.gov.au/sites/default/files/2021-02/mobile_food_vending_guidelines.pdf).

**> CAN I LOCATE A MOBILE FOOD VEHICLE ON A PROPERTY THAT IS LISTED AS A LOCAL HERITAGE ITEM OR IN A HERITAGE CONSERVATION AREA?**

It is possible to operate from a property listed as a locally listed heritage item or in a heritage conservation area under SEPP Exempt.

**> WHAT DAYS/HOURS CAN I OPERATE MY MOBILE FOOD VEHICLE?**

This will depend on whether the operation of the mobile food vehicle is taking place under a development consent from Council or under SEPP Exempt. A development consent will have hours of operations specified within the approval. If operating under SEPP Exempt then the days/hours must comply with SEPP Exempt.