Mobile Food Businesses

Local Planning Policy 10

1.0 Citation

This is a Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015.* This policy may be cited as Local Planning Policy (LPP) – 10 Mobile Food Businesses.

2.0 Introduction

The purpose of this policy is to provide guidance for the location and operation of mobile food businesses across the Shire of Augusta Margaret River (Shire).

This policy further aims to encourage and support mobile food businesses and enhance community experience in key public places across the Shire while ensuring these do not detract from the established centres.

3.0 Objectives

(a) The location and operation of mobile food businesses across the Shire occurs in a consistent and appropriate manner.
(b) Mobile food businesses enhance the experience of the Shire's key public places in a manner consistent with the purpose and value of those public places.
(c) Mobile food businesses activate places within the Shire where there is an identified need or gap, such as in locations with a lack of night time dining options.

4.0 Application of this Policy

This policy applies to:

- mobile food businesses operating on private property within the Shire.
- mobile food businesses operating on public places, reserves and land owned or managed by the Shire.

The policy excludes mobile food businesses operating at Shire approved events and markets, where that approval expressly allows for Mobile Food Businesses and/or Temporary Food Stalls.

Relation to legislation and council local laws

Planning approval is required under the *Shire's Local Planning Scheme No. 2* and therefore, the *Planning and Development Act 2005,* for mobile food businesses to operate on private properties.

A trading permit is required under the Shire of Augusta Margaret River *Activities in Thoroughfares and Public Places and Trading Local Law 2010* and Shire of Augusta Margaret River *Local Government Property Local Law 2013* for selling goods or services in public places or on Local Government Property. General standard permit conditions are set in accordance with the Local Laws. The local laws are made under the provisions of Part 5 of the Local Government Act 1995.

Under Part 2 of the *Local Planning Scheme No. 2* (LPS2) planning consent is generally required for the repetitive and consistent use of reserved land. In the instance where a local law permit is required the Shire will exercise its discretion under the clause 61(2)(f) of the (LPS2), not to require planning approval. In this instance the merits or otherwise will be considered through the Local Law process.

Definitions

'Itinerant Mobile Food Business' is any means of transport designed to be moveable and used for the preparation or sale of food and beverages. The itinerant mobile food business will routinely change location making intermittent stops of up to 15 minutes at any one time (or until customer activity ceases).

'Local Government Property' means anything except a thoroughfare –

a) which belongs to the local government;
b) of which the local government is the management body under the *Land Administration Act 1997*; or
c) which is an "otherwise unvested facility" within section 3.53 of the *Local Government Act 1995.*

'Mobile Food Business' is any means of transport designed to be moveable and used for the preparation or sale of food and beverages fit for human consumption, but does not include a temporary food stall.

'Public Place' includes -

a) any thoroughfare or place which the public are allowed to use which whether or not the thoroughfare or place is on private property; and
b) local government property;

but does not include premises on private property from which trading is lawfully conducted under a written law.

'Temporary Food Stall' includes a stall, tent or barbecue stand that is used to sell food at an occasional event and is usually dismantled after an event.

'Shire' is Shire of Augusta Margaret River.

5.0 Policy Provisions

5.1 Approval to operate on Private Property

(a) Mobile food business operating on properties in the Priority Agricultural zones, Local/Neighbourhood Centre zones or within approved caravan parks will be exempt from the need for planning approval where:

- They operate incidentally to an approved small bar, brewery, tavern, winery, cellar door, café, restaurant, lunch bar, fast food outlet, service station or caravan park
- Limited to one per property

(b) All mobile food businesses operating in the Shire must hold a current *Food Act 2008* Certificate of Registration from a Western Australian Local Government.

5.2 Permit to operate on Shire Reserve

(a) Mobile food businesses will only be granted approval to operate at approved Shire Reserve locations. See *Section 6.0 Approved Locations*.

(b) Permits will be granted via an expression of interest process. The expression of interest will be run anually in the winter period.

(c) The maximum term for a mobile food business permit is 2 years.

(d) Generally, a maximum of one permit shall be granted to operate at an approved trading location at any one time, however, trading locations for mobile food businesses may be individually assessed to determine if the location is suitable for more than one mobile food vehicle to operate at certain times throughout the year.

(e) The approved locations shall have permit days and times restricted through the expression of interest process to reduce conflict with existing food and beverage businesses and use by community groups.

(f) A maximum of two permits shall be granted to mobile food businesses to operate at any one time for the Surfers Point approved location.

(g) The division of trading times between permit holders at a single location will be considered by the Shire through the expression of interest process.

(h) The Shire may reallocate a permit in situations where a vacancy arises, at any time throughout the year.

(i) Permits holders are required to adhere to a schedule of operating conditions (See **Schedule 1**).

(j) Operating times for mobile food businesses will be limited by permit conditions but are to fall within the hours of 6am and 9pm (inclusive of set up and set down times).

(k) Permit holders must hold a current *Food Act 2008* Certificate of Registration from a Western Australian Local Government.

(l) A mobile food business permit may be cancelled, amended or renewed at the discretion of the Shire. Where a permit holder seeks to renew or amend a permit, an application should be submitted at least 15 working days prior to expiry of existing permit.

(m) Upon cancellation of a permit, the permit holder will be charged a cancellation fee as per the Shire's Schedule of Fees and Charges and entitled to a 50% refund of the fees paid for the unused duration of the permit.

5.3 Approved locations

(a) Mobile food businesses on Shire reserves are to be located in designated policy locations.

(b) The Shire has approved the following locations for mobile food businesses to operate:

- Rotary Park, Margaret River, Reserve 18451;
- Surfers Point, Reserve 41545
- Rivermouth, Reserve 41545; and
- Flinders Bay, Reserve 24653.
- Duggan Pavilion, Cowaramup, Reserve 22636
- Main Beach, Gracetown, Reserve 27618
- Ellis Street Jetty, Augusta, Reserve 27643

5.4 Permit for Itinerant mobile food businesses

(a) A permit is required to operate an itinerant mobile food business in the Shire.

(b) There are restricted trading locations in the Shire for itinerant mobile food businesses.

These are referred to in the Shire's Itinerant Mobile Food Business Guidelines – **Schedule 2**

5.5 Sustainability

(a) Mobile food businesses are required to connect to power where possible to avoid the use of generators.

(b) Mobile food businesses are to use locally sourced or produced goods where possible.

(c) Conditions will be applied to permits in order to ensure waste minimisation, opportunities to recycle and a prohibition on `single use plastics.

Document and version control table			
Responsible Directorate	Development & Infrastructure Services		
Contact officer	Planning Department		
Adopted / approved by:	Council		
Date of adoption / approval:	22 June 2016	**Decision Ref**: OM2016/119	
Date of next review	2030		
Document No.	N287344	**File No.**	**GOV/38**

Version	Date	Decision Ref.	Brief description
1.0	22 June2016	OM2016/119	Initial Adoption
2.0	24 July 2024	OM2024/109	Adopted
3.0	29 July 2026	OM2026/89	Adopted