Notice is hereby given that a Special Meeting of the District Council of Streaky Bay will be held at the Visitor Information Centre, 21 Bay Road, Streaky Bay on Thursday 9 November 2017 commencing at 12.00 noon.

Joy Hentschke
CHIEF EXECUTIVE OFFICER

AGENDA

1.0 ROLL CALL & WELCOME

1.1 Present
1.2 Apologies
1.3 In Attendance

2.0 REPORTS OF OFFICERS

2.1 Mobile Food Van Location Rules

Recommendation

That Council, having considered Report No 2.1, Mobile Food Van Location Rules, 9 November 2017 Release the following location rules for public consultation:

1. Mobile food vending permit holder shall take out and keep current a public risk insurance policy in the name of the mobile food vending permit holder insuring the mobile food vending permit holder for the minimum sum of twenty million dollars ($20,000,000) against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against the mobile food vending permit holder in relation to the activity. A Certificate of Currency for the policy must accompany the application and any renewal of a mobile food vending permit.

2. The permit holder assumes responsibility for any liability issues which arise and that are associated with the mobile food vending area.

3. The food truck or caravan must only be parked in one legitimate parallel parking space.

4. The food truck or caravan must not be parked within any 15 or 30 minute parking space, loading zones, disabled parks, or no stopping zones/areas. vehicular traffic, driveways (including line of site for motorists), bicycle lanes, queuing and other waiting areas.

5. Serving shall only occur from the footpath-side of the vehicle only.

6. Vans and trucks must be of dimensions which enable them to easily park in a standard parking space of 2.3 metres wide and 6.0 metres long (as per the Local Government (Parking) Regulations 1991)

7. If the van or truck is longer than a standard carpark vendors are only permitted in non-delineated car parks.

8. Food vendors on the footpath must be setback 1.8 metres from building fronts, allowing clear pathways and not interfering with pedestrian movement.
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<td>Ensure the safety of adjoining buildings is not compromised by restricting access or adding unreasonably to fire potential.</td>
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<td>The mobile food vending set up should be sturdy and windproof, made of quality materials and be well designed and constructed to be safe to use, without sharp edges or other features likely to cause injury.</td>
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<td>Food Vans are only to operate within the allocated areas as depicted in the below map.</td>
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27. All items positioned within the permitted boundaries for mobile food vending are the permit holder’s responsibility.

28. A food van can only remain operating in one location for a maximum of 36 hrs. The food van must be relocated to a different location for 24 after the 36 hr period has expired.

29. A mobile food vending area must be vacated of all mobile food vending equipment daily when food vending operation ceases. Removal of mobile food vending items is at the permit holder’s expense. If mobile food vending items are not removed, Council can remove the items under Section 144 of the Local Government Act, and issue an invoice to the permit holder for the works.

30. Mobile food vending area remains public space.

31. Fees: $xxx per month / $xxx per annum

3.0 CLOSURE
A report was provided to Council at its September 2017 meeting explaining the legislation amendments relating to food vans.

The Manager, Regulatory Services held a meeting with Fixed Food business owners on 10 October 2017 to provide their views on what they consider to be fair and reasonable requirements for food vans. A copy of the outcomes from that meeting is attached.

A food van operator provided a deputation to Council at its 19 October meeting.

The Manager, Regulatory Services meet with a mobile food van operator concerning location rules on 25 October 2017. Comments from this meeting is within attachment two.

The next step for Council is to consider all information and determine proposed location rules and to release for public comment.

At the September meeting when this item was brought to Council's attention information indicated that the legislation changes would come into being early in the New Year however the State Government has recently agreed to post pone the legislations introduction until March/April. Council is unable to bring the location rules in before the legislation comes into effect.

As it is now entering the busiest season for food businesses it is recommended that Council place these location rules out for public comment for a longer period than the statutory 21 day time frame. It is recommended that Council accept comments from the resolution until 30 January 2018. Fixed food businesses and food vans will be informed of the proposed location rules out for public comment and invited to make comment. All comments will then be brought to the February 2018 Council meeting for consideration and adoption of location rules.
Based on the commercial nature of the decision there will likely be contention surrounding the location rules when placed out for public comment.

Additional Information
There is significant volumes of information available on the web concerning the impacts of food vans and alternative rules. Enquiries on the YourSAy website indicated that a large portion of the research previously undertaken by the Adelaide City Council was used for the formation of the legislation changes.

A report was tabled to the Adelaide City Council Economic and Community Development Committee Meeting in April 2015 which provides a review of the economic impact of food vans on fixed businesses. Further reports to the Adelaide City Council Economic and Community Development Committee provide background information. A copy of these items can be provided to Councillors upon request.


A large portion of the suggested conditions are based on the information from these reports.

LOCATION RULES CONDITIONS

The legislation sets out what Council can set location rules on. It should be noted that some of the wording within the proposed regulations includes the word “must”. So while Council may not agree with a proposed condition, alternative wording will need to be provided to meet legislation requirements.

INSURANCE
Section 24A (c)
A Council must ensure that the permit is subject to -

(i) a condition requiring the permit holder to have insurance of a kind specified by the Council (such as public liability insurance);

Council is self-insured with the Local Government Association Mutual Liability Scheme (LGAMLS). They recommend that food businesses have a minimum insurance amount of twenty million dollars ($20,000,000) covering all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against the mobile food vending permit holder in relation to the activity.

Neither the fixed or mobile food vans raised concern in relation to this requirement. This is considered standard practice for food businesses and is a requirement for Council’s footpath use permits.

It is recommended that the following conditions be placed within the Location Rules:

1. Mobile food vending permit holder shall take out and keep current a public risk insurance policy in the name of the mobile food vending permit holder insuring the mobile food vending permit holder for the minimum sum of twenty million dollars ($20,000,000) against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against the mobile food vending permit holder in relation to the activity. A Certificate of Currency for the policy must accompany the application and any renewal of a mobile food vending permit.
2. The permit holder assumes responsibility for any liability issues which arise and that are associated with the mobile food vending area.

The following wording can be added to condition 1 to reduce the burden:

A lesser amount public and product liability insurance might be accepted by Council but this decision will be subject to a risk assessment process.

As mentioned above the twenty million dollar amount is set by the LGAMLS, it is considered unwise to go against the insurers recommendations.

TRAFFIC
Section 24A (c)
A council must ensure that the permit is subject to -

(ii) conditions requiring that the operation of the mobile food vending business not unduly interfere with –
(A) vehicles driven on roads; or
(B) vehicles parking or standing on roads; or
(C) a parking area for people with disabilities (within the meaning of rule 203(2) of the Australian Road Rules); or
(D) public transport or cycling infrastructure (such as bus zones, taxi zones and bike lanes); or
(E) other road related infrastructure; or
(F) infrastructure designed to give access to roads, footpaths and buildings;

Below are recommended conditions relating to traffic and pedestrian movement. Please note condition three (3) would prevent the person who provided a deputation to Council from operating in the proposed location across from the Public toilets at the end of Bay Road.

1. The food truck or caravan must only be parked in one legitimate parallel parking space.
2. The food truck or caravan must not be parked within any 15 or 30 minute parking space, loading zones, disabled parks, or no stopping zones/areas. vehicular traffic, driveways (including line of site for motorists), bicycle lanes, queuing and other waiting areas.
3. Serving shall only occur from the footpath-side of the vehicle only.
4. Vans and trucks must be of dimensions which enable them to easily park in a standard parking space of 2.3 metres wide and 6.0 metres long (as per the Local Government (Parking) Regulations 1991)
5. If the van or truck is longer than a standard carpark vendors are only permitted in non-delineated car parks.
6. Food vendors on the footpath must be setback 1.8 metres from building fronts, allowing clear pathways and not interfering with pedestrian movement.
7. Food vendors on the footpath must be setback 0.6 metres from the kerb line, not interfering with opening of vehicle doors.
8. Food vendors on the footpath cannot set up adjacent to 15 or 30 minute parking space, loading zones, disabled parks, or no stopping zones/areas. vehicular traffic, driveways (including line of site for motorists), bicycle lanes, queuing and other waiting areas.
9. Fixtures must not be placed where they present a barrier and subsequent danger to pedestrians crossing the street or kerbside usage by motorists.
10. Must be positioned to allow reasonable access to service covers and existing services.

PUBLIC HEALTH AND SAFETY
(c) Council must ensure that the permit is subject to –

(iii) conditions requiring compliance with requirements under
(A) the Food Act 2001; and
(B) the South Australian Public Health Act 2011; and
(C) the Environment Protection Act 1993


LITTER CONTROL
(c) Council must ensure that the permit is subject to –

(iii) conditions requiring compliance with requirements under

(D) the Local Nuisance and Litter Control Act 2016; and

Both the fixed and mobile food businesses agreed that mobile food businesses should be responsible for the control of waste.

Suggested conditions regarding waste control are as follows:

1. Mobile food vendors must provide bins for use by their customers and ensure the area around their position is kept clear of rubbish and refuse at all times.
2. No trade waste or litter may be disposed of in Council rubbish bins.
3. Refuse shall be removed by the operator at the completion of trading.
4. All liquid waste (including waste water and waste oil) must be contained and removed or disposed of appropriately at the end of trading.
5. No waste or other material is to be deposited into the storm water system. No hosing down of areas is to take place.
6. Where the Council has to undertake cleaning and/or tidying of the area, the permit holder will be liable to reimburse the Council for all costs incurred by the Council in relation to the cleaning and/or tidying of the area.

MOTOR VEHICLES ACT AND ROAD TRAFFIC ACT
(c) Council must ensure that the permit is subject to –

(iii) conditions requiring compliance with requirements under

(E) the Motor Vehicles Act 1959 and Road Traffic Act 1961; and

This requirement is considered to be covered suitably by the conditions listed under the traffic section.
POWER SUPPLY

(c) Council must ensure that the permit is subject to –

(iii) conditions requiring compliance with requirements under
(F) any law or legislative provision relating to electrical or gas installations or appliances; and

In the Adelaide City Council information, it was found that a standard condition required food vans not require external power connection.

The local fixed food businesses strongly oppose the provision of free power to food vans.

Council received a deputation at its last meeting regarding providing a food van access to a power box.

In the interest of free trade it is not recommended that Council only provide access to a power box to one food van operator. If a food van was to have access to a power box which required Council to charge for usage Council staff time would be spent undertaking readings and ensuring that users are only charged for their usage.

A flat administration rate would need to be charged it would be an estimated $100.00 for each day the box was used just to cover the cost of administration plus power usage.

It should be noted that the power box in question provides power to the public toilet block and defining the amount used by the mobile food van operator as opposed to the Council toilet block would be difficult.

We are seeking a quote for the installation of a credit card power box (or Similar) which could be installed. This would provide all food vans with access to power rather than limiting access to one van or requiring generators.

One of the biggest problems with this situation is that food vans can not book locations. As such, a food van not requiring access to power could park in a position preventing access to the power box.

The alterative of food vans providing their own power is for generators, batteries, gas or other sources. The Local Nuisance and Litter Control Act 2016 requires noise be control to prevent disturbance. If Council elect to require food vans to provide their own power an additional condition will be required about noise.

“Food Vans are to take responsibility of noise generated by patrons and ensure noise does not escalate to disturb residence. Generators associated with food vans must not reach levels which will disturb nearby residences.”

Options

(a) Food vans must not require external power connections.
   Food Vans are to take responsibility of noise generated by patrons and ensure noise does not escalate to disturb residence. Generators associated with food vans must not reach levels which will disturb nearby residences.

(b) Install a credit card power box for use by food vans.

(c) Set a fee for power usage.

(d) Provide free access to Council power boxes
HEALTH, SAFETY AND ENVIRONMENT
(c) Council must ensure that the permit is subject to –

(iii) conditions requiring compliance with requirements under

(G) any other relevant law or legislative provision relative to health, safety or the environment.

Recommended Conditions relating to health, safety and environment are as follows:

1. Mobile food vending vehicle and fixtures must be kept in a safe and well-maintained condition at all times.

2. Ensure the safety of adjoining buildings is not compromised by restricting access or adding unreasonably to fire potential.

3. The mobile food vending set up should be sturdy and windproof, made of quality materials and be well designed and constructed to be safe to use, without sharp edges or other features likely to cause injury.

4. The permit holder is responsible for abiding by all legislative requirements relating to business operations, occupational health and safety, employment conditions and any other relevant requirements.

5. All items positioned within the permitted boundaries for mobile food vending are the permit holder's responsibility.

LOCATION CONDITIONS

Regulation 24C
(1) For the purposes of section 225A(2)(a) of the Act, a council, in adopting or amending its location rules—

(a) must ensure that its location rules provide for a reasonable distance between mobile food vending businesses and fixed food businesses during the operating hours of fixed food businesses, taking into account the—

(i) location; and
(ii) number; and
(iii) operating hours, of fixed food businesses in the council area; and

(b) must take into account the effect of the operation of mobile food vending businesses on—

(i) vehicle and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities; and
(ii) the requirements relating to, and availability of, parking spaces at the locations in which mobile food vending businesses may operate under the location rules; and
(iii) residents and businesses at the locations in which mobile food vending businesses may operate under the location rules; and

(c) must ensure that its location rules are consistent with any other relevant requirement under regulation 24A (including any relevant requirement under a law or legislative provision referred to in that regulation).
(2) A council's location rules may show the locations within the council area in which mobile food vending businesses are permitted to operate by use of maps.

The fixed food businesses set an exclusion zone around Streaky Bay, Wirulla and Poochera for the operation hours of normal businesses being 6 am until 9 pm.

The food van operator would like defined locations where food vans can operate freely within the towns.

![Map of Streaky Bay and Wirulla](image)

It should be noted that exclusive use of an area is not provided and areas are not able to be reserved.

Exemption

The fixed food businesses requested an exemption from the location rules by adding in a clause which enables a fixed food business to park a food van directly in front of the fixed food business owned by the same party.

1. A mobile food van may be directly located in front of the fixed food business owned by the same party.
2. These location rules will remain in effect with the exception of food vans associated with an approved community events or private functions. To be associated they must pay for a site or be given permission from the event facilitator to provide food/drink as part of the event. Food vans are only to provide food/drink to people participating in the event, not passing members of the public.

**REMOVAL OF FIXTURES FOR MOBILE VENDING OPERATION**

The fixed food business asked that mobile food business be moved outside of usage. Otherwise they would become a de facto fixed business without the on cost of rates etc..

The mobile food vendor agreed with this comment but was concerned about the wording and capability of meeting this requirement.
6. A food van can only remain operating in one location for a maximum of 36 hrs. The food van must be relocated to a different location for 24 after the 36 hr period has expired.

7. A mobile food vending area must be vacated of all mobile food vending equipment daily when food vending operation ceases. Removal of mobile food vending items is at the permit holder’s expense. If mobile food vending items are not removed, Council can remove the items under Section 144 of the Local Government Act, and issue an invoice to the permit holder for the works.

8. Mobile food vending area remains public space.

**FEE**

The fixed food vendors requested that to be a comparable cost to fixed food businesses that the maximum charge be required. They did however request an exemption for fixed food businesses for this charge.

The mobile food vendor did request that this exemption be extended to rates payers in general.

The Maximum Fee Council can set is $200 per month $2000 per annum

**Recommendation**

That Council, having considered Report No 2.1, Mobile Food Van Location Rules, 9 November 2017

Release the following location rules for public consultation:

1. Mobile food vending permit holder shall take out and keep current a public risk insurance policy in the name of the mobile food vending permit holder insuring the mobile food vending permit holder for the minimum sum of twenty million dollars ($20,000,000) against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against the mobile food vending permit holder in relation to the activity. A Certificate of Currency for the policy must accompany the application and any renewal of a mobile food vending permit.

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30. Mobile food vending area remains public space.

31. Fees: $xxx per month / $xxx per annum
FIXED BUSINESS OWNERS COMMENTS LOCATION RULES
Outcomes from a meeting conducted on 10 October 2017
Creation of an exclusion zone for the Streaky Bay, Wirrulla and Poochera Townships.

Also a 1km exclusion zone during community events e.g. Perlubie sports day, new year’s eve, sports clubs (Saturdays and training nights).

Exclusion Zones are to be in effect from 6am till 9pm
Vans are not be parked or remain in the exclusion zone outside operation hours.

Food vans must supply their own power, no power is to be gained from Council supplies.

Food Vans must supply suitable waste disposal in the form of rubbish bins. Food Vans are not to rely on Council public bins for patrons waste.

Food Vans are to take responsibility of noise generated by patrons and ensure noise does not escalate to disturb residence. Generators associated with food vans must not reach levels which will disturb nearby residences.

Exemptions
These location rules will remain in effect with the exception of food vans associated with community events or private functions. To be associated they must pay for a site or be given permission from the event facilitator to provide food/drink as part of the event. Food vans are only to provide food/drink to people participating in the event, not passing members of the public.

Fixed food businesses may operate their own food van directly in front of their fixed premises.

FEES
Food Vans are to be have set fees of:
- $200 month
- $2,000 Annual fee

Excluding fixed food business contributing to the Streaky Bay rate base as fixed food businesses.
MOBILE FOOD BUISINGNESS OWNERS COMMENTS LOCATION RULES
Outcomes from a meeting conducted on 25 October 2017

Food vans should be able to operate at the following locations

Food vans operating within a special event should be allowed. An exclusion zone around special events of 200 metres is to be provided around events. – This does not apply is the event does not enable food vans.

Private function should have a food van supply food in other areas. In such instances they can serve public.
If there are time constraints this should be imposed on all food vans even if parked in front of associated fixed businesses.

Food vans should only be allowed to stay in one location for a maximum 48 hr period.

Local Rate payers should be exempt from paying fees.