



**TEMPORARY FOOD
STALL AND MOBILE
FOOD VEHICLE
POLICY
P2.0237.2**

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TEMPORARY FOOD STALL AND MOBILE FOOD VEHICLE POLICY

DIVISION: Planning and Environment

BRANCH: Environment and Regulatory Services

CATEGORY: 2

PART 1 – INTRODUCTION

1. BACKGROUND

- 1.1 Under the provisions of the *Food Act 2003* and the Food Regulation Partnership with the NSW Food Authority, Council is the relevant enforcement agency for the retail sale of Food from all premises (except butchers) within the Local Government Area (LGA), including Mobile Food Vehicles and Temporary Food Stalls.
- 1.2 This policy has been developed to supplement the relevant legislation that governs temporary and mobile food vending including provisions of the *Local Government Act 1993*, the *Local Government (General) Regulation 2005*, *Food Act 2003*, *Food Regulation 2015* and the *Food Standards Code*.
- 1.3 Council's existing policy 'Mobile Food Vending Vehicles and Temporary Food Stalls in Public Place', was adopted on 24 October 2005 and is superseded by this policy.
- 1.4 This policy has been developed to reflect changes in the mobile and temporary food industry and streamline Council's approval process.

2. OBJECTIVE

- 2.1 The objectives of this policy are to:
 - Provide a clear and concise policy for the management of all Temporary Food Stalls and Mobile Food Vehicles operating or intending to operate within the Camden LGA
 - Outline the requirements and simplify the administration of temporary and Mobile Food Vehicle registration and notification processes
 - Detail the options and process that needs to be followed in order to obtain approval from Council
 - Ensure that the construction, fit out and operation of Temporary Food Stalls and Mobile Food Vehicles are appropriate for the storage, preparation, handling and sale of Food.
 - Minimise risk to the public from Temporary Food Stalls and Mobile Food Vehicles.

3. SCOPE

- 3.1 This policy applies to all proprietors selling Food through a Temporary Food Stall or Mobile Food Vehicle within the Camden LGA.
- 3.2 Part 3 of this policy relates to Temporary Food Stalls.

A Temporary Food Stall is any structure, food stall, mobile food vehicle, any van, truck, trailer or moveable module, tent or gazebo used for the purpose of selling any article of food. A temporary food stall may be erected, installed or located on public land or private land at sporting events, fetes, fairs, festivals, carnivals, community markets or similar events

- 3.3 Temporary Food Stall operators must only trade within Approved Events and with the permission of the Event Organiser. Temporary Food Stalls are not permitted to trade outside of the event premises or the Approved Event times.
- 3.4 Part 4 of this policy relates to Mobile Food Vehicles trading on roads.

A Mobile Food Vehicle is any vehicle, including but not limited to a truck, van, trailer or scooter used for the retail sale of food, direct to the consumer on a public roadway. It does not include a food transport vehicle used to deliver food from a fixed food business to the consumer.

- 3.5 This policy does not apply to any Mobile Food Vehicles operating with a development consent or under the provisions of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- 3.6 In accordance with the *Food Act 2003*, all Food Businesses (including Temporary Food Stalls and Mobile Food Vehicles) are required to notify their activity to the local authority (Council). In addition, under the provisions of the *Local Government Act 1993*, an approval is required to engage in trade or business on Public Land and use a standing vehicle or any article for the purpose of Selling any article in a Public Place. This policy combines the notification and approvals process.

4. DEFINITIONS

- 4.1 Refer to Appendix 1 of this policy.

PART 2 – POLICY STATEMENT

5. APPROVALS

5.1 Operators of a Temporary Food Stall must apply for and receive a Temporary Food Stall approval before operation. There are two approval categories:

- An annual Temporary Food Stall approval **OR**
- A single event Temporary Food Stall approval.

5.2 Operators of a Mobile Food Vehicle trading on the road must apply and receive a Mobile Food Vehicle road trading approval before operating in the Local Government Area.

Refer to Part 3 of this policy for further details on Temporary Food Stall approvals.

Refer to Part 4 of this policy for further details on Mobile Food Vehicle approvals.

6. GENERAL REQUIREMENTS

6.1 Design and Construction Requirements

Temporary Food Stalls and Mobile Food Vehicles must be designed, constructed and fitted out in accordance with:

- NSW Food Authority's Guidelines for 'Food Businesses at Temporary Events' and 'Mobile Food Vending Vehicles'
- *Food Act 2003* and *Food Regulation 2015*
- Food Safety Standards – *Australian and New Zealand Food Standards Code*.

Copies of the NSW Food Authority Guidelines can be obtained from the NSW Food Authority website: www.foodauthority.nsw.gov.au.

Legislation may be accessed online: www.legislation.nsw.gov.au.

The *Food Standards Code* can be obtained at www.foodstandards.gov.au/code.

6.2 Use of Separate Premises

6.2.1 Food preparation at home or any other premises for the purpose of Selling from a Temporary Food Stall or Mobile Food Vehicle may require development approval. Contact Council for further information.

6.2.2 Any separate premises must comply with the *Food Act 2003*, the *Food Standards Code* and AS4674 – Design, construction and fit out of Food Premises.

6.3 Fees and Charges

6.3.1 Application fees will be charged in accordance with Council's adopted fees and charges, revised each financial year. Applications will not be accepted without payment of the applicable fee.

6.3.2 Where a reinspection of a Temporary Food Stall is required due to non-compliance, a reinspection fee may be charged in accordance with Council's adopted fees and charges.

6.4 Refunds

6.4.1 There will be no refund of annual application fees.

6.4.2 Fees for single event Temporary Food Stall approvals will not be refunded where:

- An event is cancelled due to weather (no additional fee will be charged if the event is rescheduled), or
- A Temporary Food Stall Proprietor fails to attend an event.

6.4.3 The Manager of Council's Environment and Regulatory Services Branch may consider a request for refund of fees in extenuating circumstances. Requests shall be made in writing and will be assessed on individual merit.

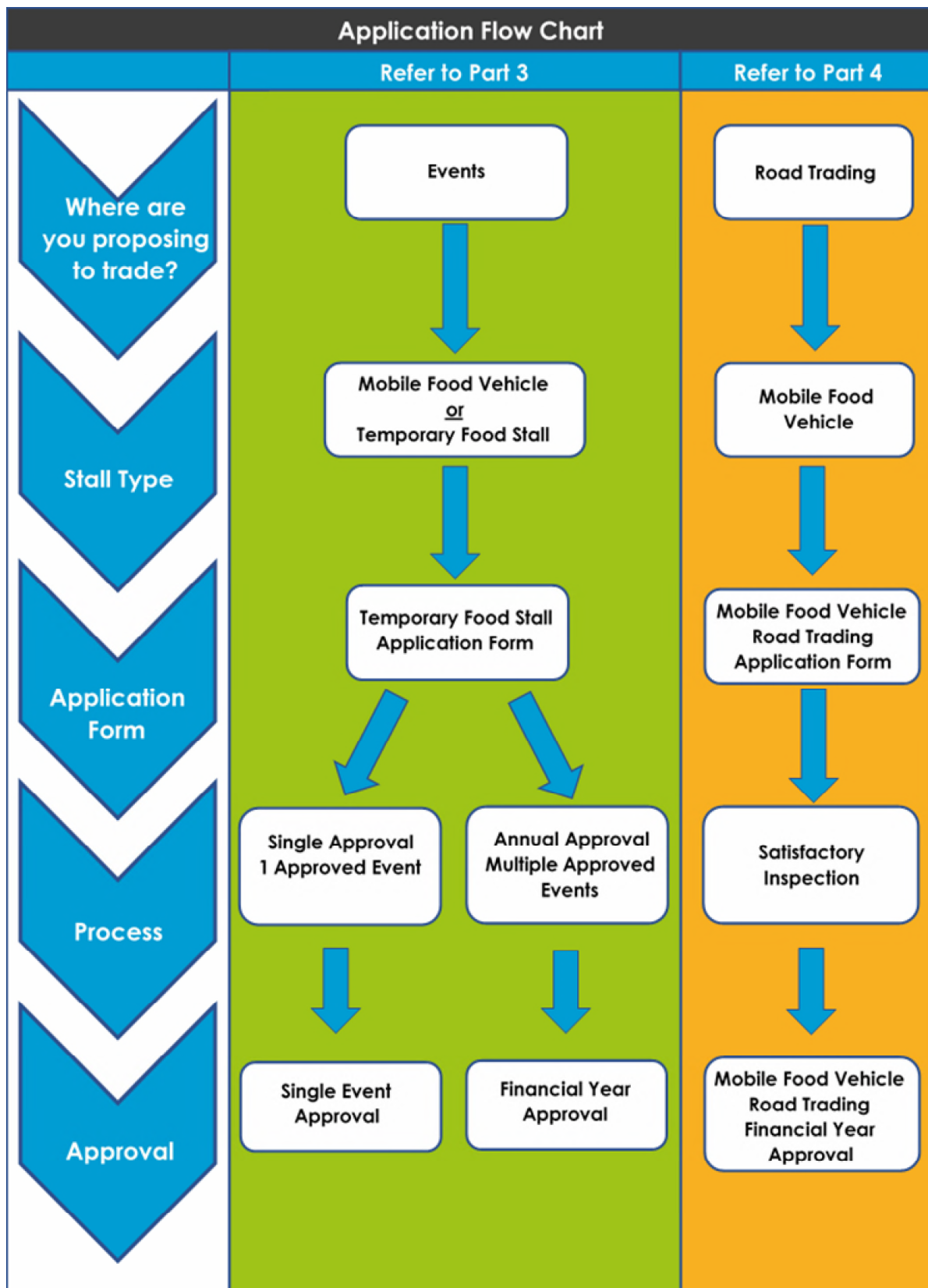
6.5 Insurance

An 'Application for Approval to Conduct Temporary Food Stall' or 'Application for Approval to Conduct Mobile Food Vehicle Road Trading' must include a copy of the operator's current public and product liability insurance. The Operator must maintain an insurance policy in respect to public and product liability to a combined total of not less than \$20,000,000 for any one occurrence and in the aggregate.

6.6 Non-Compliance

If Council becomes aware that a condition of an approval has not been complied with, it may modify or revoke the approval and/or require remedial action to be undertaken.

In the event that a Proprietor of a Temporary Food Stall or Mobile Food Vehicle does not comply with the requirements of this policy, the *Food Act 2003*, the *Food Standards Code* or any other relevant legislation, code, standard or policy, Council's Authorised Officers may initiate appropriate regulatory action in accordance with Council's Compliance and Enforcement Policy.



PART 3 – TEMPORARY FOOD STALL APPROVALS

7. TEMPORARY FOOD STALL APPROVALS

7.1 Approvals

All Proprietors who operate a Temporary Food Stall must apply for and receive a Temporary Food Stall approval before operating in the Camden LGA, including (but not limited to) Proprietors who:

- Sell Food for profit
- Offer samples and/or goods for tasting
- Sell only Pre-packaged Food
- Sell only drinks
- Are local sporting groups or charities who Sell Potentially Hazardous Food from temporary stalls.

7.2 Approval Categories

7.2.1 Proprietors can apply for approvals in either of the following two categories:

- An annual Temporary Food Stall approval valid for a period of 12 months each financial year, **OR**
- A single event Temporary Food Stall approval.

7.2.2 An annual 12-month approval permits the Proprietor to operate a Temporary Food Stall at Approved Events within the Camden LGA subject to the conditions of the approval. The period of issue will coincide with the financial year being 1 July - 30 June each year. An application for annual registration may be submitted at any time within the financial year but will be valid only for that financial year.

7.2.3 A single event approval permits the Proprietor to operate a Temporary Food Stall at a single specified Approved Event in the Camden LGA subject to the conditions as outlined in the approval. A single event registration is valid only for the event specified and is not transferable to any other Temporary Food Stall Proprietor or event. A separate application is required for each Temporary Food Stall within the same event.

7.3 Application Process

7.3.1 An application for approval or renewal under this policy must be submitted annually or per event for a single event registration.

7.3.2 Proprietors should apply for a Temporary Food Stall approval at least 21 days prior to the first proposed trading of the Temporary Food Stall or additional fees may apply.

7.3.3 An application for approval shall include:

- A completed Approval to Conduct Temporary Food Stall application form
- Payment of the applicable application fee
- A copy of the Temporary Food Stall operators current public and product liability insurance (Certificate of Currency).

7.3.4 For trading on public land, the operator must maintain an insurance policy with respect to public and product liability in the amount of not less than \$20,000,000 for any one occurrence and in the aggregate.

7.3.5 Application forms are available on Council's website and may be submitted electronically or in person at 70 Central Avenue, Oran Park NSW 2570.

7.4 Temporary Food Stall Approval Number

Each Temporary Food Stall approval will be issued with a unique approval number. Proprietors must provide their approval number to the Event Organisers and to Council's Authorised Officers upon request.

7.5 Trading on Public Land

7.5.1 Under section 68 of the *Local Government Act 1993*, a person who wishes to engage in trade on Public Land can only do so with prior approval of Council.

7.5.2 A Proprietor who holds a current annual or single event Temporary Food Stall approval is taken to have been granted approval from Council to trade on Public Land in accordance with the provisions of section 68 of the *Local Government Act 1993*.

7.5.3 Trade must occur in accordance with the conditions of the approval held. Temporary Food Stall operators trading on public land may trade only during Approved Events and with the permission of the Event Organiser.

7.5.4 A Temporary Food Stall on Public land during a sporting season or sporting event is only to trade after an approval has been issued by Council and with the written permission of the associated/relevant sporting group, if any.

7.6 Trading On Private Land

7.6.1 If trading on Private Land, the Proprietor of a Temporary Food Stall for which an annual or single event approval has been issued must obtain the relevant Event Organiser's and land owner's consent.

7.6.2 A development approval may be required prior to trading on Private Land. For further information contact Council's Duty Planner on 02 4654 7777.

7.7 Fee Exemptions

Council will grant exemptions for the payment of the Temporary Food Stall application fee if the Proprietor:

- Holds a current Mobile Food Vehicle road trading approval issued under section 68 of the *Local Government Act 1993* by Camden Council
- Is a School Parents and Citizens Association
- Is a registered charity
- Is a not-for-profit local sporting group
- Is a community organisation that can demonstrate not-for-profit status (e.g. Lions Club, Country Women's Association etc.)
- Is applying for a Stall that only Sells Food that is not classed as Potentially Hazardous Food and is Pre-packaged Food where no samples are offered.
- Is Selling only uncut fresh produce (e.g. whole fruit and vegetables).

7.8 Inspections

7.8.1 Authorised officers may enter and inspect premises that they reasonably believe are being used in connection with the handling of any Food intended for sale.

7.8.2 Council inspections may take place at any time during any event, whether on Public or Private Land. It is an offence to obstruct access to an Authorised Officer.

7.9 Events

7.9.1 Events on Public Land or Private Land may be subject to development approval.

7.9.2 Events on Council-owned land may require approval from Council's Open Space and Sustainability team and/or the Communications and Events Team.

7.9.3 For information on use of Councils parks and reserves, contact Council's Open Space and Sustainability team on 02 4654 7777.

PART 4 – MOBILE FOOD VEHICLE ROAD TRADING APPROVALS

8. MOBILE FOOD VEHICLE ROAD TRADING APPROVALS

8.1 Approvals

8.1.1 An approval is required to use a standing vehicle or any article for the purpose of Selling any article in a Public Place, in accordance with section 68 of the *Local Government Act 1993*. For the purposes of this policy, a standing vehicle includes any Mobile Food Vehicle which has stopped on a public roadway to make a sale, or with the intention to Sell Food.

8.1.2 A separate approval is required for each Mobile Food Vending Vehicle. Once issued, approvals are not transferable to any other Proprietor or vehicle.

8.1.3 An annual 12-month approval permits the Proprietor to operate a Mobile Food Vehicle on public roads within the Camden LGA subject to the conditions of the approval. The period of issue will coincide with the financial year being 1 July - 30 June each year. An application for annual registration may be submitted at any time within the year and will be valid for that financial year only.

8.1.4 Mobile Food Vehicle operators should seek information from the Road and Maritime Services (RMS) for their license and registration requirements.

8.2 Application Process

8.2.1 An application for a Mobile Food Vehicle road trading approval must be submitted annually. An application for approval must include:

- A completed Approval to Conduct Mobile Food road trading application form
- Payment of the relevant application fee
- A copy of the Mobile Food Vehicle operators current public and product liability insurance. The Operator must maintain an insurance policy in respect to public and product liability to a combined total of not less than \$20,000,000 for any one occurrence and in the aggregate.

8.2.2 A Proprietor holding a current Mobile Food Vehicle road trading approval, may apply for a fee exemption of an annual Temporary Food Stall approval.

8.3 Inspection For Approval

8.3.1 Prior to the issue of a Mobile Food Vehicle road trading approval, all Mobile Food Vehicles must be presented for inspection each financial year.

8.3.2 A prior appointment must be made with Council Environmental Health Officers for the inspection.

8.3.3 Following a satisfactory Council inspection, a written approval for Mobile Food Vehicle road trading will be issued. The operator is to operate the vehicle in accordance with the conditions of the approval at all times.

8.3.4 Where the mobile food vehicle has been satisfactorily inspected within the last 12 months, on application Council may provide an exemption from inspection.

8.4 OPERATIONAL INSPECTIONS

In accordance with the *Food Act 2003* and *Food Regulation 2015*, Council's Authorised Officers may inspect vehicles at any time during operation.

8.5 OPERATION OF MOBILE FOOD VEHICLES

8.5.1 Noise

The use of amplified music, bells or public address system is restricted to the approved hours of operation on any day. The use of such equipment is also prohibited whilst the vehicle is stationary.

The operation of the Mobile Food Vehicle shall not give rise to offensive noise within the meaning of the *Protection of the Environment Operations Act 1997*.

8.5.2 Operating Areas

The Selling of Food from a Mobile Food Vehicle is prohibited within all areas defined in Appendix 2, which includes prohibited zones, neighbourhood shopping centers and roads.

8.5.3 Hours of Operation

Permitted hours of operation for Mobile Food Vehicles are between 7:00am and 7:00pm on any day.

8.5.4 Pedestrian and Traffic Consideration

Whilst undertaking mobile Food vending, the Proprietor must not:

- Restrict any vehicular or pedestrian access to or from any road or entry to or from any building
- Obstruct the operation of, or access to any utility services
- Be located within the canopy of, or result in damage to any tree
- Cause damage to public property on the land on which they are operating or on any adjacent land
- Stop within 15 metres from bus stops and taxi ranks, to ensure safety and access
- Obstruct sight lines, traffic signals and road signage

- Locate on footpath areas, and
- Stop within 25 metres from a marked pedestrian crossing or similar traffic control facilities

8.5.5 Stopping time and distance between stops

Mobile Food Vehicles may trade in an approved location for a maximum of 20 minutes at any one position (unless required by an Authorised Officer to leave the area). After stopping to vend, the vehicle must proceed a minimum of 100 metres before again stopping to trade.

APPENDIX 1 - DEFINITIONS

The terms used within this policy are defined in the *Local Government Act 1993*, *Protection of the Environment Operations Act 1997*, *Food Act 2003*, *Food Regulation 2015* and the *Food Standards Code*.

The purpose of these definitions is to assist with the understanding of terms used throughout this policy.

Approved Event(s) means a festival, fete, sporting event, carnival, fair, community event, market or the like which has been approved either by a development consent or the appropriate forms from Councils Recreation and Sustainability Branch and Communications and Events Branch.

Authorised Officer means an Officer appointed and delegated by Council to exercise functions under the provisions of the *Local Government Act 1993* and *NSW Food Act 2003*. In regard to the *NSW Food Act 2003* Authorised Officers include Environmental Health Officers (EHO) and the Team Leader Environment and Health. The Manager Environment and Regulatory Services and the Director of Planning and Environment have specific delegations for purposes of enforcement of the Food Act.

Event Organiser means a person or organisation responsible for organising an Approved Event including appropriate approvals, e.g. Development Consent and/or event approval. Also includes a person/group responsible for organising a sporting season at Council's sporting grounds.

Food includes:

- (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 (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 the substance, thing or chewing gum is in a condition fit for human consumption.

However, Food does not include a therapeutic good within the meaning of the *Therapeutic Goods Act 1989*.

To avoid doubt, Food may include live animals and plants.

Food Business means a business, enterprise or activity that involves:

- (a) The handling of Food intended for sale, or
- (b) The sale of Food.

Regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involved the handling or sale of Food on one occasion only.

Food Premises means any premises including land, vehicles, parts of structures, tents, stalls and other temporary structures, boats, pontoons. It also includes any other place declared by the relevant authority to be premises (under the *Food Act 2003*) kept or used for the handling of Food for sale, regardless of whether those premises are owned by the Proprietor, including premises used principally as a private dwelling, but does not mean food vending machines or vehicles used only to transport Food.

Food Safety Standards means the standards contained in Chapter 3 of the *Australian New Zealand Food Standards Code*.

Food Standards Code means the *Australia New Zealand Food Standards Code*.

Mobile Food Vehicle (MFV) means any vehicle including but not limited to a truck, van, trailer or scooter used for the retail sale of Food, direct to the consumer on a public road way. It does not include a Food transport vehicle used to deliver Food from a fixed Food business to the consumer.

Not-for-profit means does not operate for the profit, personal gain or other benefit of particular people (for example, its members, the people who run it or their friends or relatives).

Potentially Hazardous Food means Food that has to be kept at certain temperatures to minimise the growth of any pathogenic microorganisms that may be present in the Food or to prevent the formations of toxins in the Food.

Pre-packaged Food means Food which is sold in the manufacturer's original packaging.

Private Land means land owned by a person, company, State Government or crown land and all other lands not classified as Public Land.

Proprietor of a Food Business means:

- a) The person carrying on the Food Business, or
- b) If that person cannot be identified, the person in charge of the Food Business.

Public Land means land that is classified as community or operational land under Division 1 of Part 2 of Chapter 6 of the *Local Government Act 1993*.

Public Place means:

- a) A public reserve, public bathing reserve, public baths or public swimming pool, or
- b) A public road, public bridge, public wharf or public road-ferry, or

- c) A Crown reserve comprising land reserved for future public requirements, or
- d) Public land or Crown land that is not:
 - i) A Crown reserve (other than a Crown reserve that is a public place because of paragraph (a), (b) or (c), or
 - ii) A common, or
 - iii) Land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
 - iv) Land that has been sold or leased or lawfully contracted to be sold or leased, or
- e) Land that is declared by the regulations to be a public place for the purposes of this definition.

Sell means to:

- 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 for 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 of 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 advertising or in furtherance of trade or business, or
- n) Supply Food under a contract (whether the contract is made with the consumer of the Food), together with accommodation, service or entertainment, in consideration of an include charge for the Food supplied and the accommodation, service or entertainment, or
- o) Supply Food in the course of providing services to patients in public hospitals or inmates in correctional centres, or

- p) Sell Food for the purpose of resale.

Temporary Food Stall(s) means any structure, food stall, mobile food vehicle, any van, truck, trailer or moveable module, tent or gazebo used for the purpose of selling any article of food. A temporary food stall may be erected, installed or located on public land or private land at sporting events, fetes, fairs, festivals, carnivals, community markets or similar events.

APPENDIX 2 – MOBILE FOOD VEHICLE PROHIBITED OPERATING AREAS

Commercial zones, neighbourhood shopping centers, main roads and buffer distances in which the Selling of Food from Mobile Food Vending Vehicles is prohibited

Mobile Food Vending Vehicles are prohibited from trading:

1. Within a 100-metre buffer from the following land use zones as per the *Camden Local Environment Plan 2010*:
 - B1 – Neighbourhood Centre
 - B2 – Local Centre
 - B4 – Mixed Use
 - B5 – Business Development.
2. Vehicles are prohibited to trade along arterial, sub-arterial, collector roads, roads with speed limits greater than 60km/h, and
3. Within designated school zones.

Neighbourhood Shopping Centers include:

1. Bringelly	9. Gregory Hills
2. Camden	10. Harrington Park
3. Catherine Field	11. Leppington
4. Cobbitty	12. Mount Annan
5. Currans Hill	13. Narellan Vale
6. Elderslie	14. Oran Park
7. Emerald Hills	15. Spring farm
9. Gledswood Hills	

4. And any other business districts approved and/or built after the date of this document.

□ * * *

RELEVANT LEGISLATIVE INSTRUMENTS:

*Australian and New Zealand Food Safety Standards
Camden Local Environment Plan 2010 Food Act 2003
Food Regulation 2015
Food Standards Australia New Zealand Act 1991
Local Government Act 1993
Local Government (General) Regulation 2005
Protection of the Environment Operations Act 1997
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
Therapeutic Goods Act 1989
Trustees of Schools of Arts Enabling Act 1902*

RELATED POLICIES, PLANS AND PROCEDURES:

RESPONSIBLE DIRECTOR:

Planning and Environment

APPROVAL:

Council

HISTORY:

Version	Approved by	Changes made	Date	EDMS Number
1	Council	New	24/10/2005	15/217188
2	Council	Major amendments	10/03/2020	20/203749