

13 CORPORATE AND BUSINESS SERVICES DEPARTMENT

13.1 MOBILE FOOD VENDING POLICY

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Note: The Report Author does not have a pecuniary interest in the subject matter

AUTHORISING MANAGER: Jan Febey, Acting Manager Corporate and Business Services

REPORT CLASS: Public/Open

DATE OF REPORT: 29/08/2023

ATTACHMENTS:

1. Mobile Food Map 1 [13.1.1 - 1 page]
2. Mobile Food Map 2 [13.1.2 - 1 page]
3. Mobile Food Map 3 [13.1.3 - 1 page]
4. Mobile Food Van Policy August 2023 [13.1.4 - 5 pages]

PURPOSE OF REPORT

For Council to consider the adoption of the Draft Mobile Food Vending Policy following the public exhibition period from 24th August to 25th September 2023.

BACKGROUND INFORMATION

This policy has been developed to promote the availability of Latrobe Council owned or managed property for mobile food vendors throughout the Council area, while avoiding an ad-hoc approach to the regulation and control of street food locations in established retail precincts.

While promoting the variety of options for locals and visitors through the support of a Mobile Food Vending Policy it is imperative to acknowledge the need to ensure that local, established businesses are not unfairly disadvantaged through unregulated locations and activity.

PROPOSAL/SUMMARY

As part of the work associated with the possible relocation of the Latrobe Market, officers determined it was appropriate to consider the question of a mobile food vending policy given the likelihood of their presence at a new market site and other locations within the municipality. Clear definition of the requirements for operating without an event licence is required to avoid confusion by the operators.

Officers have prepared a draft policy that is available as attachment **13.1.4**

The guidelines for food vending within the policy are designed to support established businesses, while permitting the introduction of supplementary food businesses at prescribed locations.

The guidelines include:

- Food vending vehicles must be located a minimum of 200m from competing fixed food businesses without written consent from the fixed food business owner.
- If the food vending vehicle is to operate at a time the fixed business is closed, additional consent is not required.

- Food vending vehicles are to operate within permitted locations only, as marked on the applicable location map supplied with the application form.
- Food vending vehicles may only operate within the hours of 6:00 am to 9:00 pm or as otherwise prescribed in the permit conditions.
- The vendor is responsible for obtaining any other relevant approvals.
- The vendor is responsible for ensuring the food business does not impede vehicle and/or pedestrian movement taking into consideration ingress and egress from the vehicle location, any applicable speed limits, and any other potential or identified risks.
- The vendor must ensure they do not cause any safety risks and/or environmental nuisance.
- The vendor must not alter or make changes to any approved location.
- No alcohol is permitted to be made, sold, consumed or otherwise stored at the food vending vehicle.
- Appropriate Public Liability Insurance and Product Liability Insurance must remain current, and available for inspection while the food stall is operating. A Certificate of Currency must be provided to Council.
- Current state-wide Food Business Registration or Notification Certificate must be maintained, and a copy provided to Council.
- Council reserves the right to issue any permit with conditions with respect to the proposed location/s and operation.
- Council reserves the right to suspend or cancel any permit.

These guidelines have been modelled on the Kentish Council Mobile Food Vending Policy to ensure a consistent approach is applied across the two Councils as part of the Resource Sharing Agreement.

Following a review of Council controlled property throughout the municipality a number of sites were inspected to determine the relative safety of each location and possible community impacts of permitting mobile food vendors to operate in the future. Proposed sites were considered by the Economic Development Advisory Committee and presented to a Council workshop for further discussion.

RELATIONSHIP WITH STRATEGIC PLANNING AND POLICY

The Latrobe Council Strategic Plan 2020-2030 provides the following objectives and strategies:

2.1 Business Development - Identify, promote, and support business and economic development opportunities

- 2.1.1 Implement the Latrobe Economic Development Strategy
- 2.1.2 Actively promote the municipal area as an ideal location to conduct business and commerce

2.2 Tourism - Promote, develop, and support tourism activities

- 2.2.2 Provide guidance and support to tourism initiatives developed by the local industry

The subject policy provides a mixture of new business opportunities and acknowledgement of the importance of established businesses while servicing the needs of the local community and visitors.

LEGAL AND RISK IMPLICATIONS

Council responsibilities in the administration and enforcement of the Mobile Food Vending Policy are related to the following legislation:

The Food Act (2003)

101. Appointment of authorised officers

- (2) A council may appoint a person to be an authorised officer for the purposes of this Act.
- (3) A person may not be appointed as an authorised officer under this section unless the person holds an approved qualification.
- (4) The Director of Public Health may approve the qualifications required for appointment as an authorised officer generally or for a particular appointment.

and,

Vehicle and Traffic Act 1999

Section 56C of the Vehicle and Traffic Act 1999 prohibits the setting up or use of a stall, stand or vehicle on a public street for the purposes of the sale of goods, or of a business, calling or employment without a permit.

FINANCIAL IMPLICATIONS

- a. No cost implications have been identified related to the development of this Policy.
- b. The collection of fees and charges associated with the licensing and registration of the Food Vendor/s will provide limited income to Council.
- c. The possible financial impact on existing food businesses has been considered throughout the development of the Mobile Food Vendor Policy. Proposed locations and trading guidelines have been developed to position the introduction of vendors as a complimentary service to customers wishing to shop local and minimise escape expenditure.
- d. The proposed fee structure for temporary food businesses operating within the Latrobe Council area has been modelled around the Kentish Council Fees and Charges Schedule for similar activity and is summarised in the following table.

Latrobe Council					
Fees and Charges Schedule 2023-24	Fee Basis	GST Code	Fee	GST	2023/24 GST Inc
State-wide temporary food business, vehicles & equipment registration - High risk (e.g., sushi food van)		EXEMPT	\$ 249.50		\$ 249.50
Temporary food business, vehicles & equipment registrations (3 or more events)		EXEMPT	\$ 63.00	\$ -	\$ 63.00
Temporary (1 Day)		EXEMPT	\$ 30.00	\$ -	\$ 30.00
Mobile Vending Permit					
Annual Fee		EXEMPT	\$ 285.00	\$ -	\$ 285.00
Six Months (November -April)		EXEMPT	\$182.50	\$ -	\$ 182.50
Six Months (May-October)		EXEMPT	\$ 114.50	\$ -	\$ 114.50

PUBLIC/CUSTOMER IMPLICATIONS

The proposed policy has been subject to discussion through the Economic Development Advisory Committee and was presented at a Latrobe Council workshop discussion item on 8 May 2023.

The following table provides a summary of public submissions received throughout the public exhibition period.

Submission number	Date received	Issue identified	Response to issue
1	23 August 2023	To add Port Sorell Surf Club to the list of approved locations to assist the club in the organising of suitable events.	Current event licensing arrangements are excluded from the policy. The impact on the current arrangements would be minimal. The existing event conditions would continue to be supported.
2	21 September 2023	<ul style="list-style-type: none"> How does the policy affect the positioning of food vans during events (e.g. at Memorial Hall) How are existing food van businesses influenced by the policy. 	<ul style="list-style-type: none"> Events are excluded from the policy as separate licence conditions apply. Future consultation around event conditions could be considered. Existing food van businesses are located on private property and therefore not subject to the policy. <p>Safe Food policies and approvals must be maintained at all times.</p>
3	11 September 2023	<p>The future impact on existing businesses outside of the 200 metre exclusion area. The seasonal nature of food businesses creates a heavy reliance on the peak periods.</p> <p>The inclusion of regular mobile food vendors would impact the potential income and create further pressure and uncertainty for business owners.</p>	<p>The presence of mobile vendors during peak periods will attract customers that may visit local established businesses.</p> <p>The provision of additional food options to a busy market may also assist visitors to enjoy their overall experience by providing further options which would encourage less travel outside of the area for food experiences.</p> <p>This is the experience currently offered through surf club events in the area.</p>
4	25 September	The proposed location in Warrawee is unable to be used as a Mobile Vending Site as it is positioned within the Wild Mersey MTB lease area;	The Warrawee location will be removed from the Draft Policy and associated maps released for consideration

		subject to conditions from the Crown as the landowner. The lease conditions prohibit the use of the land for businesses purposes. There is relief from this position during non-commercial and approved / licensed events.	during the Public Consultation process.
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SOCIAL/ENVIRONMENTAL IMPLICATIONS

The impact on local community members in close proximity to mobile food vans will be controlled through the licensing procedure to ensure that community amenity is maintained. Measures may include consideration of lighting, parking management, unacceptable noise and odour control and close attention to the health and environmental conditions to ensure all licence conditions are being met.

Increased congregation of customers, parking issues or unacceptably high traffic volumes will be permit conditions of sites with appropriate neighbourhood notification and control measures introduced where appropriate.

CONSULTATION

The proposed policy has been subject to discussion through the Latrobe Economic Development Advisory Committee and was presented at a Latrobe Council workshop discussion item on 8 May 2023.

A public consultation period of four weeks, commencing 24 August 2023 included:

- Advertisement in public notices of the Advocate
- Distribution via social media including Latrobe Council, locality-based business groups, KaLIBA Facebook pages.
- Distribution to over 3000 subscribers of KaLIBA email newsletter
- Inclusion in Council Coast and Country Newsletter distributed by Latrobe Council.

OPTIONS FOR COUNCIL TO CONSIDER

The identified options for council to consider include:

- a. Council receives the report and adopts the amended draft Mobile Food Vending Policy, including the removal of Warrawee Reserve as a suitable site.
- b. Council receives the report and adopts the Mobile Food Vending Policy with additional reporting to track the success of the initiative through the Latrobe Economic Development Advisory Committee.
- c. Council receives the report and adopts the amended Mobile Food Vending Policy and the included proposal for Fees and Charges to be applied.
- d. Council receives the report and chooses not to adopt the Mobile Food Vending Policy.

OFFICER'S COMMENTS/CONCLUSION

The proposed policy has been carefully constructed to provide Council with an effective tool in the development of a street food culture in the Latrobe Municipality that will support existing businesses during peak periods by encouraging patrons to remain in the local area. The regulation of mobile food vendor activity through the adoption of the policy will provide service for the community outside of regular

business hours in a variety of locations, some of which are not currently serviced by nearby food vendors.

Following the public exhibition period and after considering the submissions received, it is recommended that the policy be adopted to ensure that all procedures can be implemented throughout the municipality prior to the upcoming holiday period.

The Warrawee Reserve as a preferred location within the policy has been removed as it is not Council owned land, and the lease restricts commercial activities.

RECOMMENDATION

That the report by the Economic & Tourism Development Officer concerning Mobile Food Vending Policy, be received and the amended draft Mobile Food Vending Policy, and the proposed fees and charges as presented, be adopted.



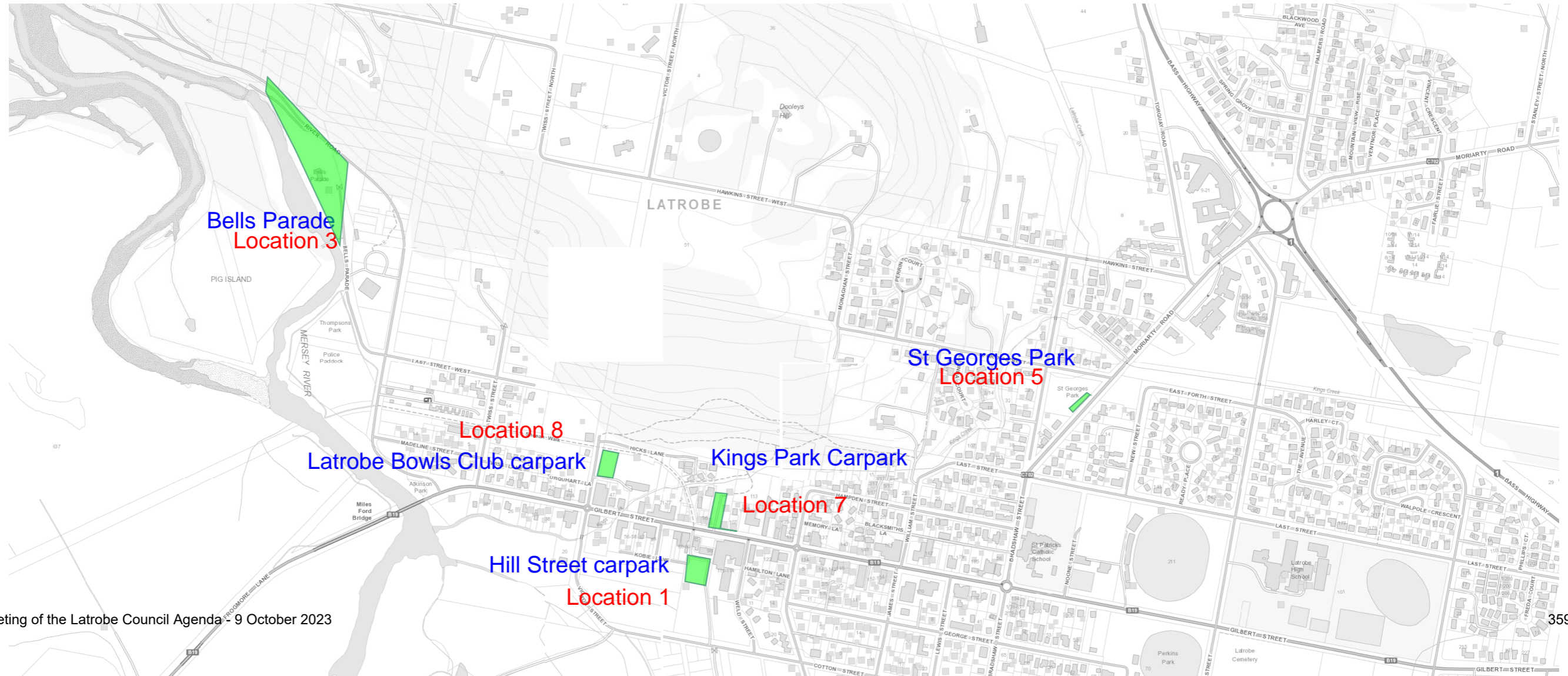
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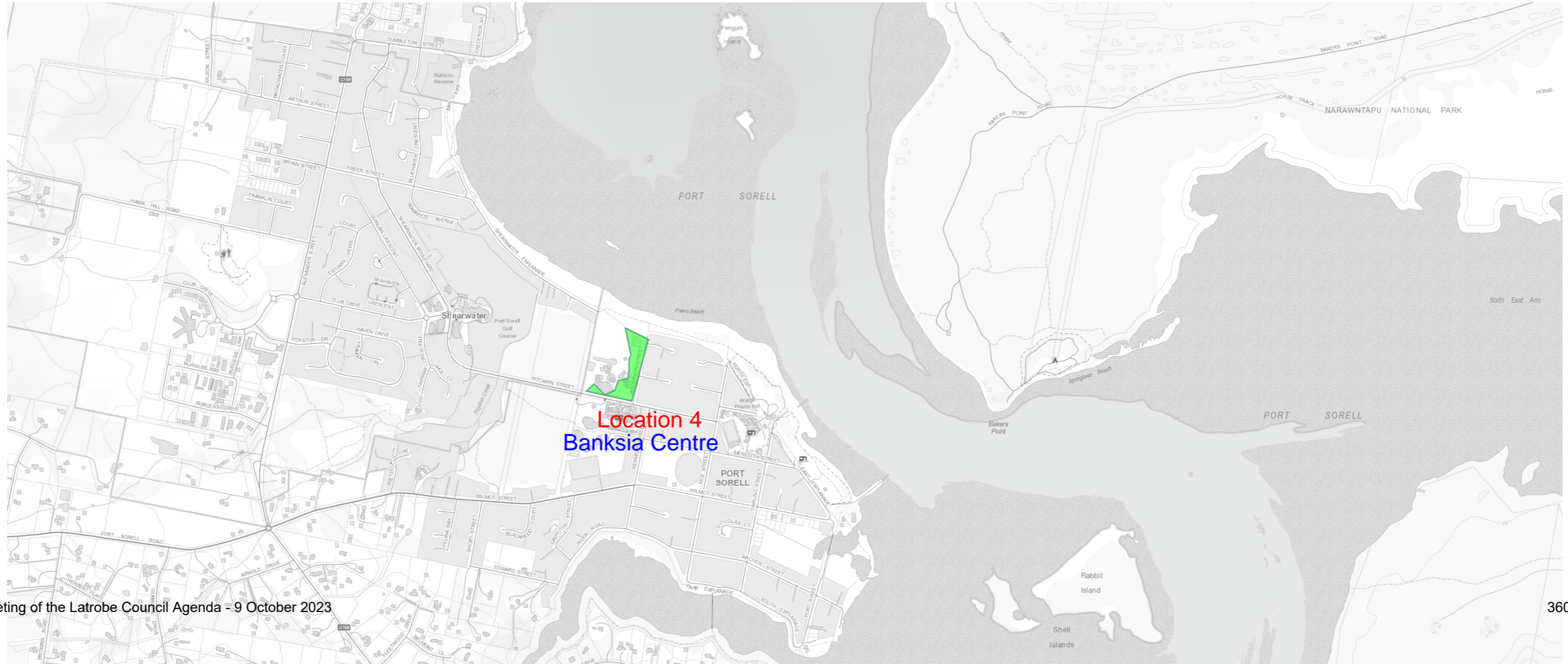
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Mobile Food Vending Policy

(Policy Number – if relevant)
(Policy Type – Council / Management)

1 Introduction

This policy is to provide the pathway for mobile food businesses to operate on land and/or roads under Council control.

Section 56C of the *Vehicle and Traffic Act 1999* contains provisions for the General Manager of a Council to issue a permit for vehicles to operate from a public street.

Mobile food businesses undertaking any vending on Council land and/or roads will be controlled by a permit and associated permit conditions.

2 Eligibility

In assessing the eligibility of the mobile food business, the Act requires the General Manager to consider traffic and pedestrian safety, public convenience, and any other relevant issue.

Mobile food businesses must also demonstrate:

- Current state-wide Food Business Registration or Notification Certificate, and
- Current vehicle registration, and
- Current Public Liability and Product Liability Insurance with a minimum cover of \$20 million and indemnifying Council.

3 Application Process

All applications must be made in the approved Council form accompanied with the application fee and a copy the following documentation:

- Current state-wide Food Business Registration or Notification Certificate.
- Current Public Liability Insurance and Product Liability Insurance.
- Current vehicle registration including any trailers.
- Details of the type of food and beverages to be sold (i.e. menu).
- Signed 'Letter of Consent' from fixed food businesses within a 200m radius of

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the proposed food vending location (if applicable).

Council will assess each application within a period of 28 days. If further information is required, Council will notify the applicant in writing and the application will be placed on hold.

Council reserves the right to issue or refuse applications.

4 Guidelines for Food Vending

Mobile Food Businesses must comply with the following food vending guidelines and Permit conditions will be prescribed based on these guidelines:

- Food vending vehicles must be located a minimum of 200m from fixed food businesses.
- If the food vending vehicle is to operate at a time the fixed business is closed, additional consent is not required.
 - Food vending vehicles are not permitted on Gilbert Street, Latrobe or other designated State Roads. This does not apply to approved events, markets or on private property.

Food vending vehicles are to operate within the permitted locations only.

Food vending vehicles may only operate within the hours of 6:00 am to 9:00pm or as prescribed in the permit conditions.

The applicant/vendor is responsible for obtaining any other relevant approvals.

- The applicant/vendor is responsible for ensuring the food stall does not impede vehicle and/or pedestrian movement taking into consideration ingress and egress from the vehicle location, any applicable speed limits, and any other potential or identified risks.
- The applicant/vendor must ensure they do not cause any safety risks and/or environmental nuisance.
- The applicant/vendor must not alter or make changes to any approved vending location.
- No alcohol is permitted to be made, sold, consumed or otherwise stored at the food vending vehicle.
- Appropriate Public Liability Insurance and Product Liability Insurance must be maintained at all times the food stall is operating.

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- Current state-wide Food Business Registration or Notification Certificate must be maintained.
- Council reserves the right to issue any permit with conditions with respect to the proposed location/s and operation.
- Council reserves the right the suspend or cancel any permit.

5 Permits

Permits are issued for a period up to 12 months between 1 July to 30 June each year.

Permits are not transferrable.

Permits are not automatically renewed. An application will be required for each permit period.

The permit grants the applicant/vendor to operate a mobile food business within the approved location/s in accordance with the permit conditions.

Permit fees will be prescribed in Council's schedule of fees and charges unless otherwise prescribed by Council resolution.

Permits will not be issued unless the applicable permit fee/s is paid.



6 Permitted Food Vending Locations**

<p>Location 1:</p> <p>Hill Street Carpark, Gilbert Street LATROBE</p>	<p>Location 2:</p> <p>Bosworth Park, Stanley Street, LATROBE</p>
<p>Location 3:</p> <p>Bells Parade, River Road, LATROBE</p> <p>Special times will apply subject to competing business conditions.</p>	<p>Location 4:</p> <p>Banksia Centre and Camp Banksia Pitcairn Street, PORT SORELL</p>
<p>Location 5:</p> <p>St Georges Park, Bradshaw Street, Latrobe</p>	<p>Location 6:</p> <p>Dalrymple Reserve, Railton Road, LATROBE</p>
<p>Location 7:</p> <p>Kings Park Carpark Gilbert Street, LATROBE</p>	<p>Location 8:</p> <p>Latrobe Bowls Club Carpark Victor Street, LATROBE</p>
<p>** Site changes may be considered subject to Council resolution</p>	

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7 Exemptions

A Food Vending Permit is not required under the following circumstances:

- Food transport vehicles delivering pre-ordered products, or
- Operating within a Council approved pre-organised event or festival.

APPROVED BY COUNCIL: day month year Minute: xx

EFFECTIVE DATE: day month year

ADMINISTERED BY: insert General Manager and/or name of relevant Manager/Team Leader

This policy will be reviewed periodically to ensure its relevance in terms of community needs and expectations and Council goals, targets, budget and statutory requirements.

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