

Mobile Vending Guidelines for applications

Review date July 2024



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1. Introduction

Mobile vending relates to an individual, organisation or business selling or offering goods for sale (including food) from a mobile vehicle on a public street, reserve or carpark.

Devonport City Council recognises that mobile vending can add to the vibrancy of the City. However, Council is also aware that they need to manage the competing needs and interests of local business, residents, consumers and users of the facilities.

Anyone wishing to use public roads, reserves or carpark for mobile vending requires Council approval.

Mobile vending is regulated under the *Vehicle and Traffic Act 1999* and Council's *Reserves, Parks and Gardens By-Law*.

This guideline has been developed to assist operators to apply for a permit for mobile vending and to comply with the requirements of the permit.



2. General Principles

These guidelines have been developed to:

- a) outline conditions and permit process for mobile vending;
- b) assist applicants in preparation of their application; and
- c) ensure consistency in application of the process.

3. Definitions

Mobile vending vehicle – for the purpose of mobile vending, a mobile vending vehicle is defined as any vehicle that is road registered such as trucks, minivans, caravans or enclosed trailers. Only vehicles where trade is wholly from inside the vehicle can trade as a mobile vending vehicle.

Mobile food vendors - for the purpose of mobile vending, a mobile food vendor is defined as any vehicle that is registered as a Mobile Food Business within Tasmania under the *Food Act 2003* (the Act). In accordance with the Act, a mobile food van is classified as a mobile structure - "a vehicle, trailer, cart, tent, stall, booth, pontoon, table, barbeque, pizza oven, or other mobile structure, that is not permanently fixed to the whole, or part, of a building, structure or land, in, at or from which food is, or is intended to be, handled or sold".

In accordance with Section 88 of the Act, a certificate of registration of a State-Wide Mobile Food Business issued to a mobile structure by one Council, satisfies the requirements of registration in respect of that food business throughout Tasmania.



4. Mobile Vending Permits

Mobile vendors wishing to trade in any public place within the Devonport Local Government area must hold a 'Mobile Vending Permit' issued by the Devonport City Council.

- To be eligible for a mobile vendor permit, in addition to payment of the permit fee, the applicant must provide evidence of current Mobile Food Business Registration Certificate and a copy of Public Liability Insurance (to a minimum of \$20 million).
- Mobile Vending Permits will be issued for a three month or twelve-month period. The permit remains valid until the expiry date or until such time as the vendor ceases to operate or trade, or the permit is cancelled.
- Mobile Vending Permits are only for the business identified on the permit and are non-transferable.
- The Permit Holder is responsible to re-apply for a permit when their existing permit expires – permits are not automatically renewed.
- The fee for Mobile Vending Permits will be listed in Council's Annual Fees & Charges. Refunds will not be provided for any cancelled, inactive or superseded permit.
- Permits granted to mobile vendors to operate are for one vehicle only. A business seeking to operate from more than one vehicle must apply for a separate permit for each vehicle. A non-motorised van/trailer coupled with a vehicle solely used to tow is defined as one vehicle.



5. Permit Conditions

The mobile Vending Permit Holder is responsible to ensure:

- Public access to parking, loading, taxi and bus zones, footpaths, roads, driveways and wheelchair access points must not be hindered at any time by the permit holder or their customers. Access to public infrastructure, including public seats, bike racks, rubbish bins, must not be restricted by the permit holder or their customers.
- Mobile vendors are not to provide tables, trestles, tents, chairs, boxes, crates or other seating, dining or shelter infrastructure for customers to use without prior approval by the General Manager.
- The permit holder must also ensure that customers do not queue across or block footpaths, roadways, driveways or other pedestrian or traffic access means.
- Mobile vendors must operate in a location where a 1500mm (minimum) wide sealed access is available to access the serving hatch. Mobile vendors must not operate adjacent to nature strips or other soft or pervious surfaces.
- Public access - Road registered mobile vehicles parked on the road reserve are to serve customers from the footpath side of the vehicle only and park the vehicle in the direction of the traffic flow.
- Mobile vendors must place out for use while trading, at least one rubbish bin (minimum 50 litres) adjacent to the serving hatch for refuse, and preferably a second bin for recyclables. All rubbish deposited must be removed by the vendor and disposed of responsibly. Council rubbish bins must not be used to dispose of the vendor's waste.
- Wastewater and waste oil are not to be deposited into the stormwater system and must be contained according to environmental health standards and correctly disposed of.
- Where Council is forced to undertake extra cleaning or rubbish removal as a direct correlation to the vending activity, the permit holder may be required to reimburse Council for these costs.
- The mobile vendor must, where possible, utilise power sources that generate low or inaudible noise emissions. The mobile vendor must also ensure that noise related to trade, including from customers, does not become a nuisance, and that amplified music or public address systems are not used.
- Vendors must comply with all relevant environmental health laws, and Australian Standards that apply to operating from a mobile vending vehicle. The vehicle should be well presented and clean, and roadworthy, and is not to emit any unnecessary odour or fumes.
- Mobile vendors must not leave the vehicle from which they conduct their business parked unattended on a public road at a location specified on their permit for a period longer than one hour.
- The permit holder is responsible to make good any damage caused to Council assets or infrastructure, in connection with their mobile vending activity. Any

direct damage caused to Council infrastructure (such as bins, seats, trees, footpaths) by the mobile vendor, will result in the permit holder being on-charged for payment of Council's costs for repairing or replacing the damaged infrastructure.

- Permits will be cancelled by Council should the permit holder breach any of the permit conditions listed within the permit and this guideline.

6. Types of Mobile Vending

6.1. Pre-approved trading locations

Once a vendor has received a Mobile Vending Permit, they may choose to trade from a number of locations throughout the City that have been pre-approved for mobile vending. These locations were selected based on their suitability from a road safety and convenience perspective. Other locations may be considered on application and on a case by case basis (refer to section 4.2).

Trading is permitted seven days a week, between the hours of 6:30am and 8.00pm. A vendor may trade for a maximum of 6 hours (4 ½ hours at the Bluff) continuously in any one location on any given day. A vendor cannot trade from the same location on two consecutive days. Trading is only permitted from a mobile vending vehicle.

A booking system is utilised to enable vendors to book locations, dates and times (subject to availability). The booking system enables all vendors have fair and equitable access to their preferred location/s and that one operator does not monopolise a particular location. The booking system is accessible via Council's website. If it is found that vendors are making bookings that are not used, preventing other vendors from being able to book locations, then Council reserves the right to cancel the Mobile Vending Permit.

Parking for towing vehicles is not permitted at the same site as the vendor. The Mobile Vending vehicle needs to be dropped off to the locations and a legitimate parking space found for the towing vehicle.

Pre-approved trading locations are:

- Bluff Precinct – refer attachment B:
 - Bluff Playground (eastern end; western end and centre) – maximum of three (3) vendors
 - Bluff Headland Carpark (near Lighthouse) – maximum of one (1) vendor
 - Bluff Headland Road East – maximum of 1 vendor
- Victoria Parade Precinct – refer attachment C:
 - Vietnam Veterans/Aikenhead Point Carpark – maximum of one (1) vendor
 - Cenotaph Carpark – maximum of two (2) vendors
- Coles Beach Precinct – refer attachment D:
 - Coles Beach Carpark – maximum of three (3) vendors
- East Devonport Precinct – refer attachment E:
 - Melrose Street – maximum of one (1) vendor
 - Wheeler Street – maximum of one (1) vendor

- Thomas Street Carpark – maximum of one (1) vendor
- Pioneer Park Thomas Street – maximum of one (1) vendor
- Reg Hope Park – maximum of one (1) vendor
- Don Precinct – refer attachment F:
 - Dell Luck Reserve – maximum of one (1) vendor
- Bass Highway Precinct – refer attachment G:
 - Devonport Visitor Information Bay – maximum of one (1) vendor
- CBD Precinct – refer attachment H:
 - Market Square
- Maidstone Park – refer attachment I:
 - Maidstone Park Carpark

6.2. Mobile vending on nominated site

If a pre-approved location is not suitable, Council will consider applications for Mobile Vending on a nominated site if the site is owned/managed by Council. A vendor may choose to seek approval for a nominated site prior to obtaining a Mobile Vending Permit.

Council requires vendors seeking permission to operate from a nominated site to specify the particular location and times that they propose to operate from.

Council will assess the suitability of each nominated site from a general public safety and convenience perspective, taking into account the surrounding activities and the nature of the vehicle being used by the mobile vendors.

Any permit granted to mobile food vendors to operate on a nominated site does not guarantee availability or exclusivity of a particular location.

Trading is permitted seven days a week, between the hours of 6:30am and 8.00pm. A vendor may trade for a maximum of 6 hours (4 ½ hours at the Bluff) continuously in any one location on any given day. A vendor cannot trade from the same location on two consecutive days

6.3. Mobile vending at endorsed events

The mobile vending application process does not apply for vendors to operate from a public road, reserve or car park as part of a Council supported, endorsed or managed event. Applications for this purpose are made through Council's Events Application process.



6.4. Mobile vending on property not owned/managed by Council

If a location for mobile vending is not on site that is owned/managed by Council the vendor must seek permission from the property owner/manager. The vendor must also ensure that the proposed mobile vending location is in accordance with the *Tasmanian Planning Scheme – Devonport Local Provisions Schedule 2020*.

7. No Permit Required

Mobile vendors operating from a particular location for less than 15 minutes are permitted by Council to operate from a public road without a Mobile Vending Permit so long as they comply with the conditions set out in this policy.

Nevertheless, this permission may be revoked by the General Manager if it is considered that public safety is at risk.

8. Authority to issue permits

Mobile vending on a public street - Section 56C of the *Vehicle and Traffic Act 1999* states that a person requires a permit to set up or use a stall, stand or vehicle on a public street for the purposes of selling any goods, and that a permit for such activity may be issued by the General Manager. In assessing whether to grant a permit, the General Manager must take into account relevant traffic conditions and the safety and convenience of the public.



Mobile vending on 'public reserve' - The General Manager is also authorised to permit the selling of items in a public reserve under the *Reserves, Parks and Gardens By-Law 2017* Clause 10 (1).

Permits are issued for a 3 or 12 month period. Permits must be displayed at all times when operating.

9. Authority to cancel permits

A permit may be cancelled at any time if the permit holder breaches any conditions of the permit, including failure to pay the permit fee.

Council reserves the right to alter, add to or remove any of the conditions of the permit at any time, which will be communicated to the permit holder as soon as possible.

Additionally, Council may change or limit the time, duration, frequency or location that a mobile vendor may trade. External influences such as potentially dangerous weather events, the condition of roads, paths or reserves in the vicinity of the permitted location, as well as planned or unplanned events or works to infrastructure, may cause a booking to be varied or cancelled. No compensation for loss of trade will be paid under such circumstances, or where a permit is cancelled due to a breach of the terms and conditions of the permit.

10. Frequently Asked Questions?

10.1. What information is required to apply for a Mobile Vending Permit?

The following information is required from an applicant when submitting an application to Council for a Mobile Vending Permit:

- Completed Mobile Vending Application Form
<https://www.devonport.tas.gov.au/mobile-vending-application-form>.
- Mobile Vending Fee:
 - A fee is payable to Council for the assessment of the application and preparation of the permit.
- Public Liability Insurance:
 - A current copy of public and products liability insurance for the sum of \$20 Million.

Failure to submit all the above details may result in delays in processing the application.



10.2. How do I book a 'Pre-approved' location?

Once a mobile vendor has a Mobile Vending Permit (refer question 10.1) you just need to go to the booking system on Council's website to make a booking
<https://outlook.office365.com/owa/calendar/MobileVendingBooking@devonport.tas.gov.au/bookings/>

10.3. What is the Assessment Process?

On receiving an application Council staff will:

- Check that all relevant information has been received.
- Check the application to ensure it meets the intent and requirements of the Mobile Vending Guidelines.
- Inspect the site and check accuracy of submitted plans (for applications that are not at preapproved locations).
- Undertake an assessment of the application.

- Assess requests for locations that are not pre-approved (if applicable) and make a recommendation to the General Manager.
- Approve or refuse the application.
- Formally advise the applicant of Council's decision.

10.4. What if I need to amend my permit?

Contact the Council to arrange for your permit to be amended.

10.5. What if I sell my business?

Permits are not transferable between businesses or if a business is sold. The new operator would need to apply to Council for a new permit.

Permit fees are non-refundable.

10.6. How do I renew my permit?

The following information is required from an applicant when renewing an application to Council for a Mobile Vending Permit:

- Completed Mobile Vending Application Form
<https://www.devonport.tas.gov.au/mobile-vending-application-form/>.
- Mobile Vending Fee:
 - A fee is payable to Council for the assessment of the application and preparation of the permit.
- Public Liability Insurance:
 - A current copy of public and products liability insurance for the sum of \$20 Million.

10.7. What is the process for enforcement of Mobile Vending Permits?

Upon receipt of a complaint for a breach of Council's Mobile Vending Guidelines (including dates, times and location of the breach), Council will:

- Investigate the complaint
- Cancel the permit should it be found that the permit holder has breached any of the permit conditions listed within the permit and this guideline.



ATTACHMENT A – SITE PLAN OF PRE-APPROVED MOBILE VENDING LOCATIONS



BLUFF PRECINCT:

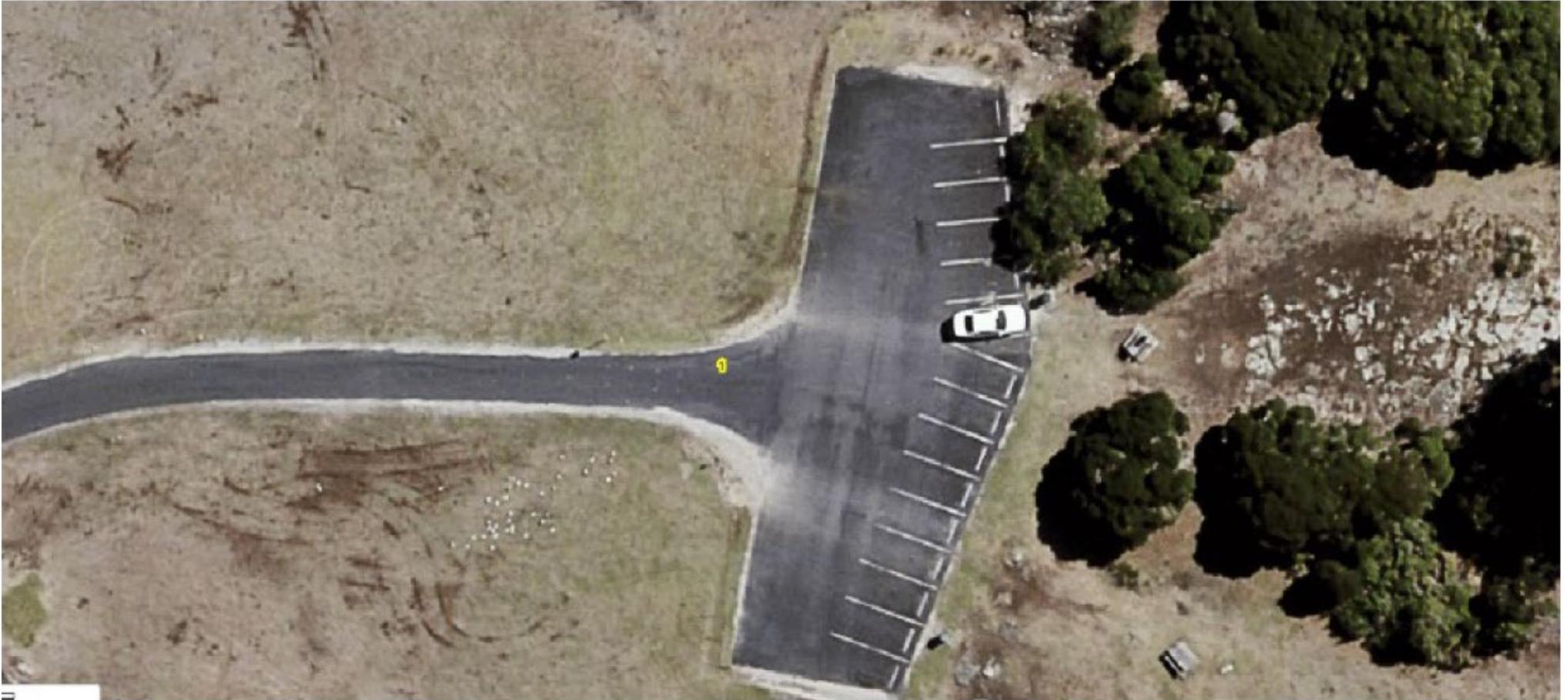
BLUFF PLAYGROUND (Max. 3 vehicles; Red area denotes permitted parking for mobile vendors; subject to availability – public car park):



2. BLUFF HEADLAND CARPARK (Max. 1 Vehicle; Red area denotes permitted parking for mobile vendors; subject to availability – public car park):



3. BLUFF HEADLAND ROAD EAST (Max.1 Vehicle; Vendor can select own spot in this car park; subject to availability – public car park):



VICTORIA PARADE PRECINCT:

4. VIETNAM VETERANS/AIKENHEAD POINT CARPARK (Max. 1 vehicle; Red area denotes permitted parking for mobile vendors; subject to availability – public car park):



5. CENOTAPH CAR PARK (Max. 2 Vehicles; Red area denotes permitted parking for mobile vendors – most northern and southern spaces in car park; subject to availability – public car park):



COLES BEACH PRECINCT:

6. WESTERN CAR PARK (Max. 3 vehicles; Vendors can select own spot in this car park, but must consider pedestrian access; subject to availability – public car park):



EAST DEVONPORT PRECINCT:

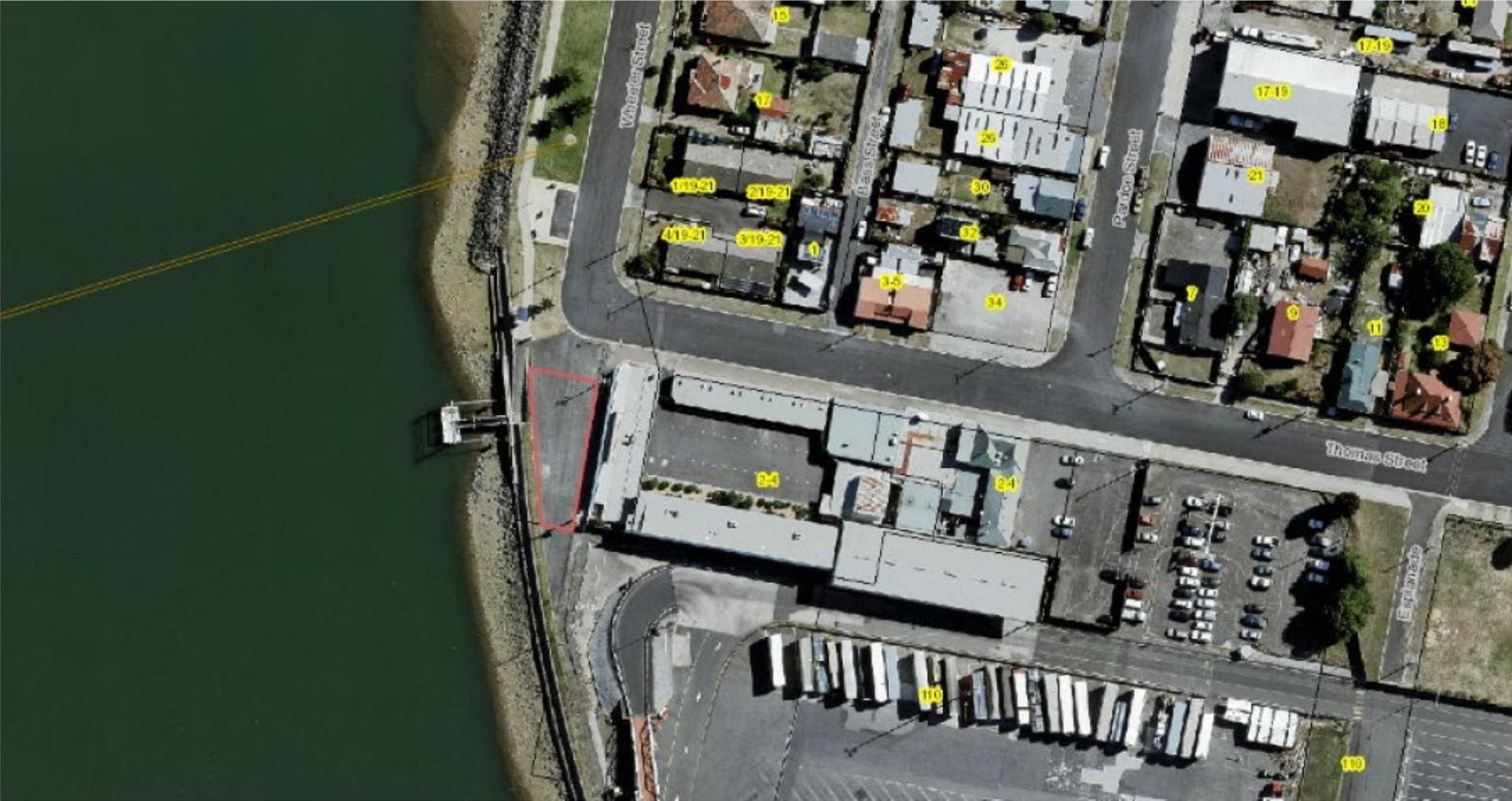
7. MELROSE STREET (Max. 1 vehicle; Vendor can select own spot in this car park, but must consider pedestrian access; subject to availability – public car park):



8. WHEELER STREET (Max. 1 vehicle; Red area denotes permitted parking for mobile vendors; subject to availability – public car park):



9. THOMAS STREET CAR PARK (Max. 1 vehicle; Vendor can select own spot in this car park, but must adhere to parking restrictions in this car park; subject to availability – public car park):



10. PIONEER PARK THOMAS STREET (Max. 1 vehicle; Vendor can select own spot along Thomas Street outside Pioneer Park (on northern side of Thomas Street), but must adhere to any parking restrictions on road and not park in front of residential properties; subject to availability – public road):



11. REG HOPE CAR PARK (Max. 1 vehicle; Vendor can select own spot in this car park – subject to availability – public car park):



DON PRECINCT:

12. DELL LUCK RESERVE (Max. 1 Vehicle; Red area denotes permitted parking for mobile vendors; subject to availability – public car



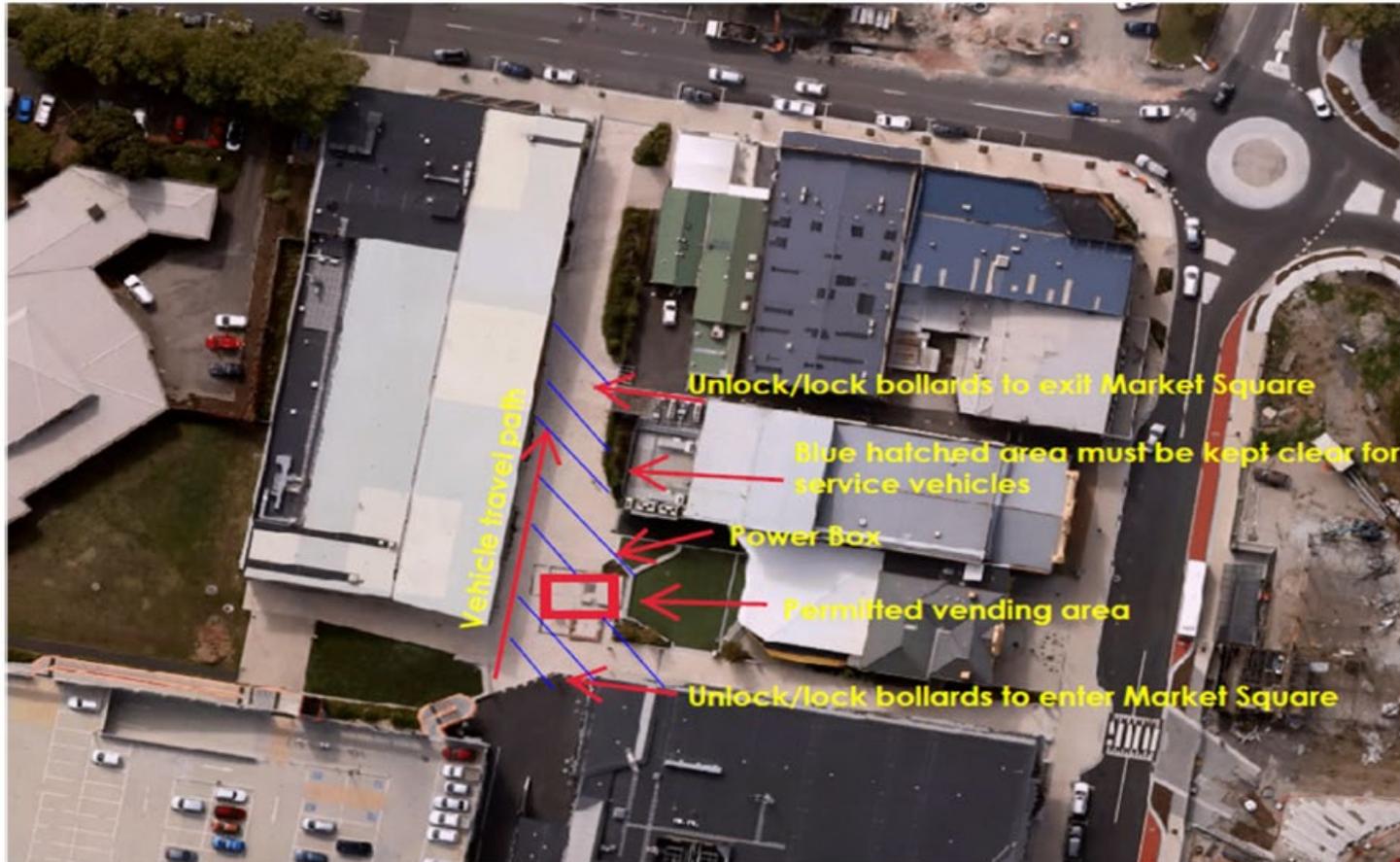
BASS HIGHWAY PRECINCT:

13. **DEVONPORT VISITOR INFORMATION BAY: (Max. 1 vehicle; Vendor can select own spot in this car park, but must adhere to parking restrictions in this car park; subject to availability – public car park – Additional Department of State Growth conditions - van must be located well inside the site no closer than 10 m from the nearest edge of any Bass Highway traffic lane; The site access - entry/exit lanes and a clear through lane - must be kept clear and accessible at all times for general public use and so any customer vehicles can safely park clear of these areas)**



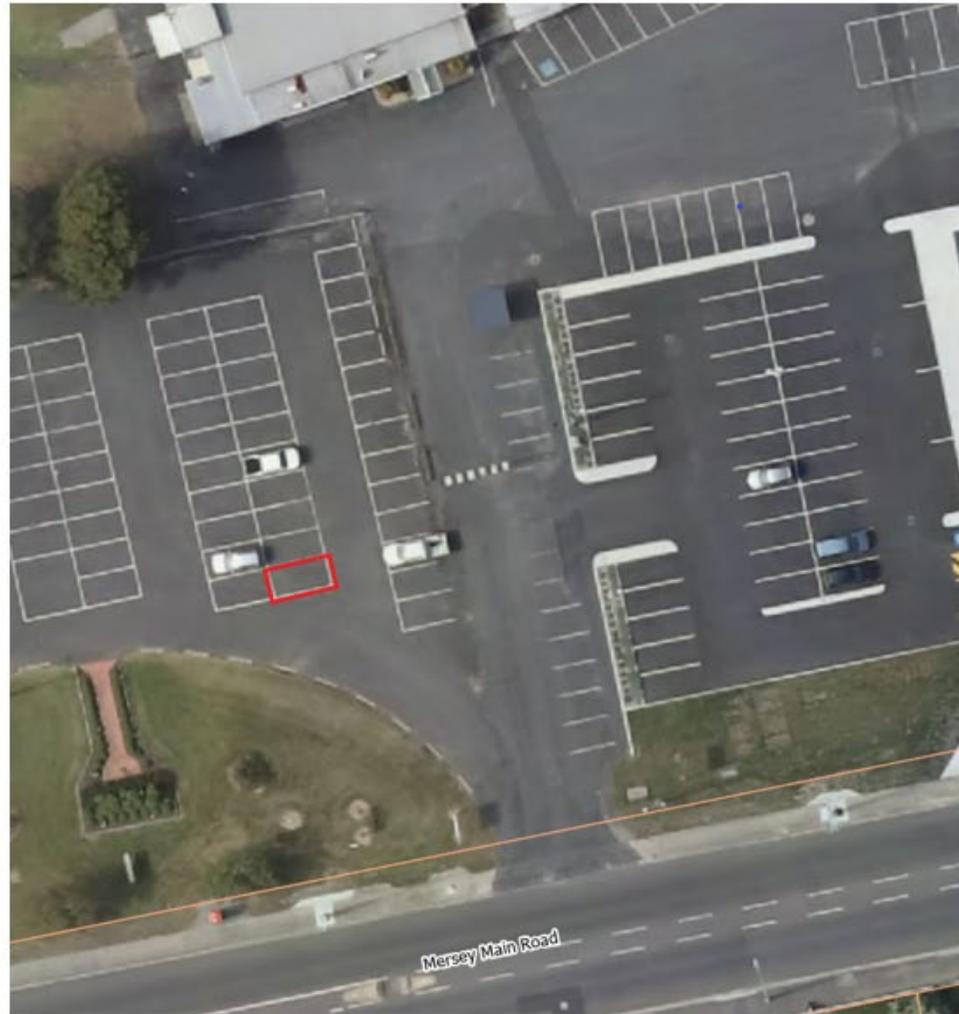
CBD PRECINCT:

14. **MARKET SQUARE:** (Max. 1 vehicle; Red area denotes permitted parking for mobile vendor, subject to availability. Collect key from Level 2 paranable centre to unlock bollards. Key must be returned at the end of the nominated time. Any authorised vehicle accessing or exiting Market Square is to proceed at a speed of no more than 10kph and are to activate vehicle hazard warning lights when entering and exiting the area).

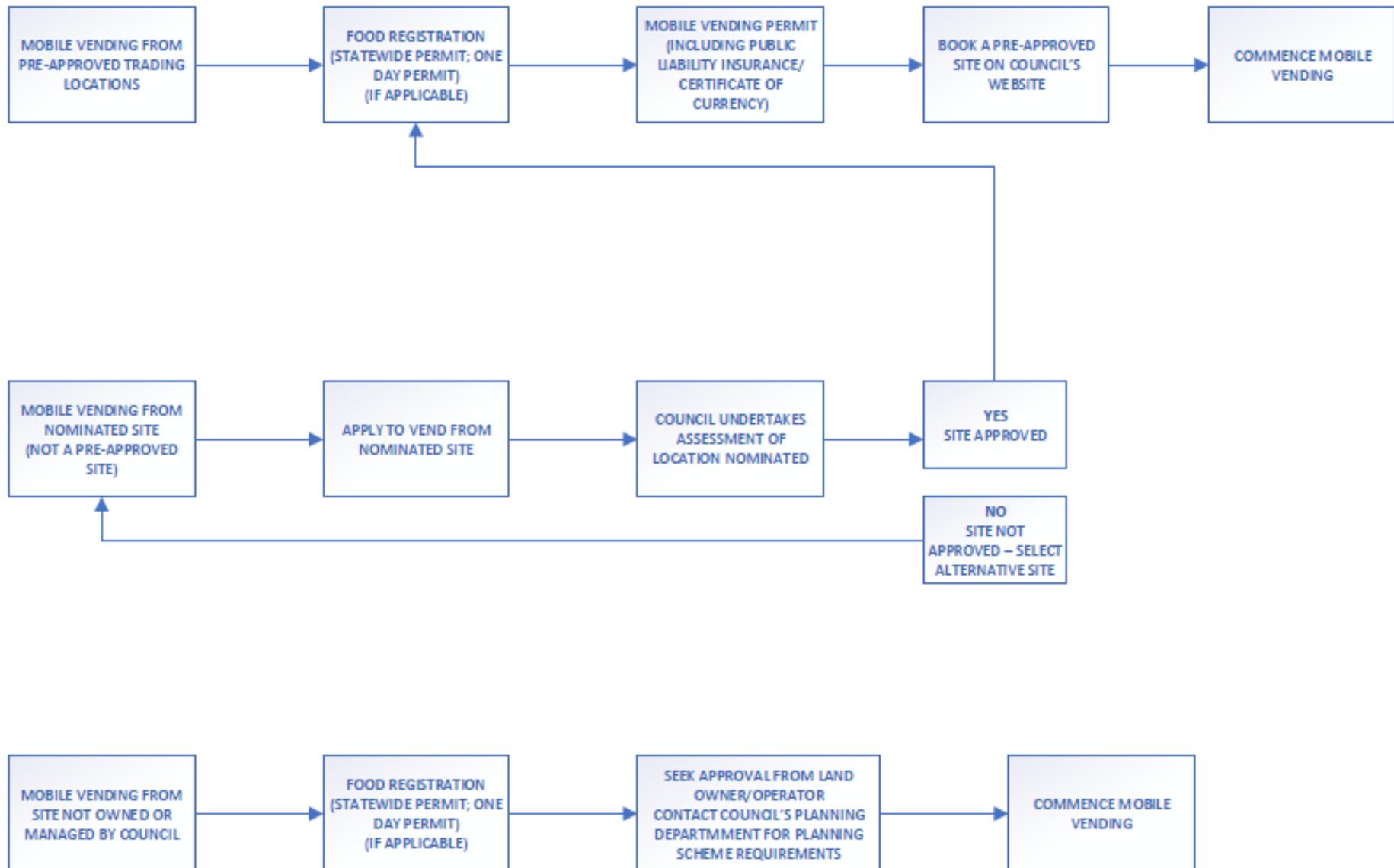


MAIDSTONE PARK:

MAIDSTONE PARK CARPARK: (Max. 1 Vehicle; Red area denotes permitted parking for mobile vendors; subject to availability – public car park):



APPLICATION PROCESS FLOWCHART





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