

**SUBJECT: ENVIRONMENTAL HEALTH OFFICERS  
ASSESSMENT REPORT FOR OH...COFFEE!  
STATIONARY ROADSIDE VENDING APPLICATION-  
COA-83**

**Responsible Officer: Environmental Health Officer**

**Council Meeting Date: 3 July 2018**

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**Purpose:**

Nil

**Consideration:**

Nil

**1. Background**

Nil

**Officer's Recommendation:**

Nil

**2. Assessment against Local Law and Council Policy**

*Under Subordinate Local Law 1.2 (Commercial use of Local Government Controlled Areas and Roads) 2011 Section (4) (6) states:*

If the prescribed activity is mobile roadside vending or stationary roadside vending-

- (a) Whether the prescribed activity for which the approval is sought is competitive with business activities operated from fixed premises in the local government area; and
- (b) Whether the business activities operated from the fixed premises are sufficient to meet public demand for the goods or services proposed to be sold as part of the operation of prescribed activity; and
- (c) Whether the grant of the approval will result in substantial competition between the applicant for the approval and operators of business activities operated from fixed premises in the local government area; and
- (d) Whether the goods or services proposed to be sold as part of the operation of the prescribed activity, or similar goods or services, are available for sale from fixed premises near the location of the prescribed activity.

**3. Application Assessment**

Council's Commercial Activities on Council Land Policy (P-2017-01) outline six (6) guiding principles that must be addressed in an application for a commercial activity. Each guiding principle has been assessed and discussed below:

**3.1 Community Use Takes Precedence**

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The applicant plans to park in areas that are away from footpaths and allowing traffic to pass through. The public can still access the area like normal without any detrimental effects on their enjoyment and safety.

### **3.2 Alignment with Council's Vision**

The applicant believes the proposed activity at the site aligns with Council's current Corporate Plan with its commitment to both Place and Prosperity. The below outlines how Place and Prosperity would be met.

*Place-* The Esplanade and Hancock Street sites would enhance the public place as the current areas allow the public to carry out diverse activities and be the custodian of the surrounding natural environment.

*Prosperity-* The theme that 'We will be open for business' along with the activities' potential to improve tourism for Turkey Beach is thought to be beneficial.

### **3.3 Community Benefit**

The proposed activity will provide community benefit by adding a new service. People occupying these public areas will now have access to a variety of new food in convenient areas. There is currently only one fixed premises that sells food in Turkey Beach. The food sold at the local convenience store is not food that requires a Food Licence under the *Food Act 2006*.

### **3.4 Limited Impact**

The physical business set up is proposed to be stationary and therefore will cause minimal impact on the environment and Council's assets. Furthermore, maintenance programs will not be affected. The applicant has stated that nothing will be left at the sites, as it will be removed daily when they leave the site.

### **3.5 Compliance with other agencies requirements**

The applicant has applied for the corner of Turkey Beach Road and Bruce Highway which is State Controlled Land. However, as per Schedule 3 of Subordinate Local Law 1.2 (*Commercial Use of Local Government Controlled Areas and Roads*) 2011, Council's Local Laws are also applicable on State land. Therefore, the applicant is required to seek approval from Council and additionally approval through Department of Transport and Main Roads (DTMR). Part of the DTMR approval requires a letter from Council either, confirming Council has no objections to the operations or, if there are objections what these are. After an email was sent to Road Services, a response was provided that there was no objection in principle with a letter of no objection issued to the applicant on 9 May 2018.

### **3.6 Annual Approvals – No Exclusive Use or Ongoing Rights**

If the proposed activity is approved, the applicant will be made aware that the approval can be revoked if unsatisfactory activities are being conducted or conditions are not being complied with.

## **4. Additional Assessment for Stationary Vending**

### **4.1 Does the activity have an unfair advantage over competing fixed premises?**

The *Food Act 2006* requires Council to monitor the standard of operations in fixed, mobile and temporary food premises. This monitoring is achieved by providing for the licensing of particular food businesses. Currently there is only one fixed food premises within Turkey Beach which is a convenience/liquor store. The fixed premises currently has a food business licence (low risk) selling manufactured pre-packaged food and

pies. The food that is proposed to be prepared and sold by the business proprietor applying for the commercial operation activities licence includes burgers, toasted sandwiches, cold drinks and coffee and will require a food business licence. The fixed premises is located 1.1 kilometres away from the three (3) proposed locations. The latest recorded population figures for Turkey Beach was 183 permanent residents (2016). The applicant has been advised that if the stationary vending is approved, it is unlikely to include cold drinks e.g. soft drinks as that would directly compete with the store. The applicant has confirmed they only plan on operating from the proposed locations over the weekend and then at separate times from the DTMR approved location.

#### ***4.2 Is the activity continuing to provide local employment?***

The applicant currently resides within the Gladstone region and will be sourcing supplies from local businesses. The applicants are dual proprietors who currently have one (1) staff member employed.

#### ***4.3 Are the goods and/or services needed to meet public demand?***

The proposed locations for operation of the food van are required to meet public demand due to at the time of the application being presented before Council there are no food or coffee outlets within the Turkey Beach area. The closest facility for the locals of Turkey Beach and tourists to buy freshly made cooked food or Barista Coffee is approximately thirty-five (35) kilometres away. The benefits that the food van would provide to the region include casual employment, meals for tourists and a social outlet (meeting place) for member of the Turkey Beach community.

### **5. Communication and Consultation (Internal/External):**

An Environmental Health Officer contacted the owner of the licensed fix premises seeking verification on their position for a food van applying for commercial operating activities license within Turkey Beach. The owner stated they would have an objection to a food van being approved to operate at the proposed locations. It was stated that they currently sell pies in a pie warmer due to the slow business. The fixed premises does not currently sell Barista coffee and tea as it has not been beneficial in the past. The owner also stated that, if customers enter the store and do not feel like a pie they walk around the store and purchase meat, or frozen pizzas to cook themselves. Additionally, whilst the customer is walking around the store there is potential for additional sales of other items they stock such as clothes. The owner went on to state how much it costs to run the business every year (electricity, rates, food license and water testing) and restated that would object to a food van operating in Turkey Beach. Following this, the business operators have submitted their concerns via email. A subsequent phone call confirmed they object to not only the sale of pies, but the business. However, the operators advised they would be agreeable to approval being granted if they operate at least 4-5 kms away from their business, alternatively, they are agreeable to negotiating with the vendor and ascertaining if they can work in conjunction with each other from the same site, therefore sharing customers, but are not agreeable to the approval regardless of distance. Having since spoken with the applicant, they have confirmed there are no agreeable sites outside the 4-5km radius, as this would be the same distance as their private residence. Therefore, no alternative sites for approval were discussed. The applicant did confirm at this time that, they will be buying all items for the van from the local store and will not be selling anything the fixed business sells.

### **6. Legal Environmental and Policy Implications:**

Nil

**7. Financial and Resource Implications:**

Nil

**8. Commentary:**

Nil

**9. Summary:**

Nil

**Attachments:**

1. Site map of the Esplanade and the two different locations on Hancock Street.
2. Site map distance from the proposed sites and the Turkey Beach Convenience Store.

**Tabled Items:**

Nil

**Report Prepared by:** Environmental Health Officer

**Attachment 1 – Site Map The Esplanade and Hancock Street, Turkey Beach**



**Attachment 2 – Site Map Distance from Proposed Sites and the Turkey Beach Convenience Store**

