

Operational Instruction

20.29

# Mobile Food Vending



Government of South Australia

Department of Planning,  
Transport and Infrastructure



# TRAFFIC MANAGEMENT Operational Instructions

## Mobile Food Vending - 20.29

### AMENDMENT RECORD

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This document has been prepared by the Traffic Operations Section. It has been approved and authorised for use by Department of Planning, Transport and Infrastructure and its authorised agents by:

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Manager, Traffic Services  
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## 1. Scope

This operational instruction provides guidance to the Department of Planning, Transport and Infrastructure (DPTI), local government and roadside vendors in the consistent and responsible management of roadside vending activities on or adjacent DPTI Roads. The intent of this instruction is to:

- Support roadside vending in appropriate locations.
- Ensure a safe and efficient road network.
- Protect road infrastructure from potential damage.
- Reduce potential impacts on future road construction and maintenance works.
- Preserve the function of rest areas and the space provided for parking.

This operational instruction does not apply to roads located in unincorporated areas (outside council boundaries). In the unincorporated areas of South Australia DPTI acts as council. Any applications for operating a mobile food vendor business in unincorporated areas should be forwarded to the Department of Planning, Transport and Infrastructure. Applications from the mobile food vendor (and whether any subsequent approvals are granted) to operate their business will be considered on a case-by-case basis. The Commissioner of Highways is not required to issue permits under the *Local Government (Mobile Food Vendors) Amendment Act 2017 (SA)*.

This operational instruction does not apply to non-commercial Driver Reviver operations. Driver Reviver events shall have priority over commercial mobile food vendors for rest area sites. Information regarding Driver Reviver is contained within Operational Instruction 5.1 – Road Safety Message Signs.

## 2. Background

Roadside vending has developed as a business activity in South Australia, offering a service to the community.

The Local Government Act 1999 provides legislative controls directly or through bylaws that enable Councils to issue a permit or restrict the conduct of business on roads and road related areas. It is an offence to conduct roadside activities on a DPTI road without a permit.

The Local Government (Mobile Food Vendors) Amendment Act 2017 requires councils to adopt rules that set out locations within a council's area in which mobile food vending businesses may apply to council for a permit to operate.

The location rules apply to road and road related areas and for mobile food vending businesses only. A mobile food vending business means a business involving the sale of food or beverages from a vehicle (within the meaning of the Road Traffic Act 1961).

Council must obtain DPTI's approval prior to issuing a permit for vending on a DPTI road or road related area.

### 3. Mobile Food Vending

Mobile food vending has the potential to produce more hazardous traffic conditions as compared with traditional commercial developments. If access and parking facilities are inadequate, or if traffic conditions vary, then roadside vending can lead to unexpected traffic / pedestrian manoeuvres and increased crash risk.

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Mobile food vending businesses (or potential businesses) should be aware that:

- They are making their own assessment on whether the site will be financially viable for their business. DPTI and council will not guarantee commercial viability.
- The permit will be limited to the sale of refreshments, including light foods, snacks and drinks (excluding alcohol).
- Mobile food vending businesses must hold a valid current Public Liability Insurance for a minimum amount of \$20,000,000.00.
- A permit to trade is granted at the sole discretion of the local council (with concurrence from DPTI).
- Only the approved use is allowed, no additional services may be provided.
- Approvals are not transferable to any other site or to any other person other than the applicant.
- The applicant must be the operator (business partners must also be named).
- Permits must be displayed at the site during operating hours.
- The permit holder is responsible and liable for the cost of any damages to the Commissioner of Highways assets resulting from the mobile food vending business.
- On road mobile vending vehicles must park parallel to the kerb with trading and service only to occur on the kerb side.
- Mobile food vending vehicles must not cause undue noise, odour, fumes etc. or other disturbance to the surrounding environment
- Mobile food vending vehicles must be self-sufficient in regards to power and waste water.
- Mobile food vending businesses must supply adequate rubbish and litter disposal receptacles for use for the business and customers, and all rubbish is to be removed from the site. Public bins shall not be used.
- If a site is permitted within a rest area, no advertising or activity will be allowable outside the rest area, including pedestrian or vehicle movements by the applicant or workers to take or deliver orders. The applicant shall not encourage trade from the opposite side of the road to the rest area.
- Unless otherwise stipulated in writing by Council and DPTI, no more than two mobile food vending vehicles are to operate within a 150 metre long section of public road or road related area (with the first attending vehicle to have preference of location). Where possible, these vehicles should locate themselves alongside each other to create a destination.

- Unless otherwise stipulated by council and DPTI in writing, trading hours are restricted to daylight hours.
- Council and DPTI reserve the right to terminate a permit in accordance with the conditions as set out in the approval.

## 4. Rest Areas

DPTI has undertaken to provide regular rest area facilities on DPTI maintained roads in South Australia to support road safety. The department supports operations at rest areas that may help drivers manage fatigue and enhance their travelling experience.

Heavy vehicle rest areas, in particular, play an important role in enabling heavy vehicle drivers to observe statutory regulations for driving, take rest breaks to counter the effects of fatigue, as well as to check their loads and fill in their log books. Therefore, at rest areas deemed suitable for certain activities, DPTI will work with councils to permit mobile food vendors to sell light refreshments. It is important, however, that vending in roadside rest areas does not adversely affect the function of the rest area or the number of parking spaces available.

## 5. Assessment Checklist

A checklist has been developed to outline the typical assessment criteria required by DPTI to assess applications for roadside vending sites.

### 5.1 Location Rules

The proposed vending site and operations shall comply with the location rules established by local government.

If the operator of a mobile food business is directly adversely affected by the location rules of the council, the operator may apply to the Small Business Commissioner for a review of the location rules by the Small Business Commissioner.

### 5.2 Road Function

Mobile food vending businesses should not typically operate on or beside a road with a posted speed limit greater than 60 km/h unless the applicant can demonstrate to DPTI and council that neither safety nor efficiency is compromised e.g. a rest area or bay set back from the road and technically assessed as suitable for mobile vending.

Mobile food vending businesses should not operate:

- On or beside any DPTI maintained rural high speed roads including motorways, expressways and freeways.
- Within a clearway or special purpose lane e.g. bus lane, bicycle lane, tram lane, etc.

- On or beside the metropolitan arterial network during the hours of 7am – 10am and 3pm - 7pm Monday to Friday (unless otherwise stipulated by council and DPTI in writing).
- In a location that would unduly interfere with public transport, or unduly obstruct the use of public roads.

### 5.3 Visibility of entry and exit points

Sight distance requirements in accordance with *Austroads Guide to Road Design Part 3 – Geometric Design* shall be satisfied.

### 5.4 Road and Roadside Environment

The following should be considered as a minimum:

- Shoulder width (for non-kerbed roads) – sealed or unsealed (shoulders assist with the safe deceleration and acceleration of vehicles entering and exiting the site). Degradation of unsealed shoulders or pavement edges should not be accelerated.
- If not within an established parking lane the distance between the proposed vending operation and traffic lanes should be maximised to reduce the risk of impact by errant vehicles.
- Ensure that there is a suitable distance between the vending site and any other road / roadside infrastructure, for example
  - Intersections, accesses, turnouts (closely spaced accesses are associated with increased crash risk)
  - Roadside furniture and hazards (culverts, longitudinal drainage, lighting, etc.)
- Gradient suitability – downgrades may impede the ability of vehicles to decelerate into the site, while upgrades may require longer acceleration distances.

### 5.5 Police Enforcement

The proposed roadside vending site shall not coincide with an existing safety camera site.

### 5.6 Pedestrian Safety

Consider the following as a minimum:

- Pedestrians should not have to move out along the shoulder area of a carriageway to avoid the vending site.
- The likely interaction between entering / exiting vehicle traffic within pedestrian areas.

## 5.7 Disability Discrimination Act

The mobile vending business shall not obstruct vehicle and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities.

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## 5.8 Parking

The following should be considered as a minimum:

- Vehicles performing parking manoeuvres should not be in an area that will not be anticipated by, or unacceptably impede, through traffic.
- Anticipated parking volumes should not overload or congest existing parking facilities and therefore cause problems.
- Manoeuvring paths must be accommodated within the site.
- Consider the suitability of parking. E.g. parking provided on both sides of the road or only on the vending side.
- Suitability of the parking surface. E.g. sealed or unsealed.
- Parking should typically be clear of the existing formation (unless there is existing approved parking).

## 5.9 Road Construction and Maintenance

The site shall not interfere with proposed road works.

Vehicle and pedestrian access to the site shall not create new or accelerate existing maintenance requirements.

The permit holder is responsible and liable for the cost of any damages to the Commissioner of Highways assets resulting from the mobile food vending business.

## 5.10 Environmental Impacts

The site shall not have the potential to unduly impact on adjoining land or waterways.

If there is an adjacent nature reserve, there shall be no potential for negative impacts through trampling, physical intrusion or other damage to vegetation, or indirectly through soil compaction or a reduction in visual amenity.

## 6. Approvals

If councils include DPTI roads and road reserves within their location rules then council must articulate in their respective policies / permit processes that satisfying the conditions within this publication is a condition of permit for sites located on DPTI roads or road reserves.

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Council must obtain approval from the Traffic Operations Section of DPTI prior to issuing a permit for vending on a DPTI road or road related area. Traffic Operations will liaise with other sections within the department as required during the assessment period. Traffic Operations can be contacted via [DPTI.EnquiriesAdministrator@sa.gov.au](mailto:DPTI.EnquiriesAdministrator@sa.gov.au)

It is an offence to conduct roadside activities on a DPTI road without a valid current permit from council. Council and DPTI reserve the right to terminate a permit in accordance with the conditions.

If a mobile food vendor has had a permit cancelled under s 225(1)(a):

- The person must not apply for a permit within a period specified by the council (not exceeding 6 months).
- If the person holds a permit granted by another council, or has applied for a permit from another council, inform that council as soon as reasonably practicable.

## 7. Legislative Requirements

A mobile vending business must select a site and operate in manner that does not breach any relevant legislation. This includes but may not be limited to:

- The Australian Road Rules
- The Road Traffic Act 1961
- The Local Government Act 1999
- The Local Government (Mobile Food Vendors) Amendment 2017
- The Local Government (General) (Mobile Food Vendors) Variation Regulations 2017
- Local Council By -Laws
- The Motor Vehicle Act 1959
- The Food Act 2001
- The South Australian Public Health Act 2011
- The Environmental Protection Act 1993
- Work Health and Safety Act 2012