

GUIDELINE

Roadside Vending on State-controlled Roads

Purpose

This guideline is intended to guide the Department of Transport and Main Roads (TMR), local governments and roadside vendors in the consistent and responsible management of roadside vending activities on Queensland State-controlled Roads (SCRs).

Principles

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

Section 50 of the *Transport Infrastructure Act 1994* (TIA) requires that anyone wanting to conduct roadside vending on SCRs must apply for a permit. Approvals will be subject to conditions set by the relevant regional offices.

The aim of the guideline is to:

- permit roadside vending in appropriate locations
- provide safe operating conditions for roadside vendors and their customers
- ensure a safe and efficient road network
- protect road infrastructure from potential damage
- reduce potential impacts on future road construction and maintenance works
- reduce the potential legal liabilities of vendors, their customers, TMR and local governments.

Applicability

This guideline applies to SCR's, and may be applied to Local Government Roads.

Apart from the requirements of TMR, roadside vending must comply with a range of other state and local government requirements.

The guideline does not cover the following, which may be managed and administered by local government and/or other government agencies:

- stalls on private land
- open air eating areas and other commercial activities on footpaths
- itinerant roadside vending activities, such as roving ice cream vans
- workplace health and safety
- food hygiene
- fair competition with shopkeepers
- land use planning
- the use of children as stall attendants
- selling newspapers, charity collections at traffic lights
- cleaning windscreens from the carriageway
- selling vehicles from roadsides.

Guidelines

Approval process

Regional offices and local governments may enter into agreements for local governments to administer and enforce roadside vending on behalf of TMR. To obtain guidance on the situation applying in any particular area, vendors proposing to conduct vending activities on any SCR, should initially contact the nearest regional office. The Local Laws Database lists the regional councils that have local laws in place for roadside vending on both local and SCR's (<https://www.dlgrma.qld.gov.au/local-government/laws/local-laws-database.html>).

TMR will advise proposed vendors whether a particular road is a SCR and the procedure for the local government area. Advice can also be provided on whether the vendor needs to apply to the relevant local government, to the regional office, or to both authorities.

If a roadside vending site complies with a technical assessment¹ conducted by TMR, an approval will be issued with conditions. The approval will be for a finite and specified period (normally not greater than two years) and may be renewed subject to the roadside vendor lodging a renewal application. Conditions that may be imposed by regional offices include but are not limited to:

- evidence of the vending approval to be displayed whenever and wherever the vending occurs
- attendants and people in control to provide proof of identity whenever requested by an authorised officer of the local government, TMR or police
- details about the specific location
- times of operation
- placement of advertising
- removal of litter
- a monetary bond where shoulder damage is considered likely
- public liability insurance
- compliance with all permit conditions, including those of local government.

Applications to TMR

Where the Roadside Vending Guideline is administered by TMR, applications should be made in writing or electronically to the regional office that covers the area.

Regional offices will consult with the local government in the area that the roadside vending activity is to take place. Where the local government has no objections to roadside vending, the regional office will assess the proposed site for road safety and efficiency before issuing a permit. The permit will take the form of a Road Corridor Permit (RCP) and will be subject to compliance with local government requirements. If local government local laws or planning schemes do not permit roadside vending in the local government area,

TMR will not approve any roadside vending applications in that local government area.

Applications to local government

For some local government areas, TMR will advise vendors to submit their applications directly to the relevant local government. Where the local government has no objection to the vending application, it will be referred to TMR for an assessment of the road safety and traffic efficiency implications.

As well as TMR approval, the local government may require a licence or permit which may attract application and ongoing fees even on SCRs. Local government licences or permits generally relate to the administration of vending, health and land use requirements.

¹ Refer to Roadside Vending on State-controlled Roads – Technical Assessment Guideline

Roadside vending may be considered as “development” under a local government’s planning scheme. This then comes under the Integrated Development Approval System (IDAS). Depending on the local government’s requirements, an IDAS approval (for example, a development permit) may be required.

Local governments have broad functional responsibilities and may consider a range of matters as part of the approval process – for example:

- local planning scheme and planning scheme policies
- any relevant local laws and subordinate local laws
- the circumstances and nature of the vending activity
- likely social and commercial impacts
- environmental impacts, including potential impacts on adjacent land, particularly conservation reserves
- workplace, health and safety issues
- any relevant health and hygiene requirements, including food safety standards and litter collection.

Technical assessment

Irrespective of whether TMR or local government enforce this guideline, TMR will conduct the initial technical assessment for the RCP for the roadside vending site. In short, roadside vending on SCRs must:

- not be located where the posted speed limit is 80km/h or higher, unless the applicant can demonstrate that safety and efficiency is not compromised
- not be located on a hill or a bend where sight distance is inadequate
- not be located in front of driveways or entrances to properties
- not be located where customers are required to park in the kerbside lane and where parking/standing restrictions apply
- have sufficient parking near the site
- comply with the advertising requirements of this document and those of local government
- not operate from vehicles standing in the kerbside lane
- not operate during darkness, unless adequate street lighting or other forms of lighting of an appropriate standard is employed to warn pedestrians and other road users
- not unduly obstruct the free passage of pedestrians, especially children, people with prams, the elderly and people with disabilities, including wheelchair users
- where located on footpaths, have sufficient width to accommodate the roadside vending activity as well as the free movement of pedestrians
- be carried out from an approved safe structure if a structure is used
- not be located where regulatory or sign posted parking/standing restrictions would be breached (for example - barrows in kerbside lanes when parking restrictions apply).

It should also be noted that roadside vending will not be permitted on motorways, freeways or motorway standard roads. On “limited access roads”, vendors will be subject to similar conditions as adjacent landholders.

Preferred roadside vending locations

Roadside vending activities on SCRs will generally only be permitted in rural and non-central business district areas.

Vending in a central business district will be considered where there is minimal interference with vehicular and pedestrian traffic. Examples of this are fruit barrows on footpaths, vending to pedestrians or vending near entertainment centres late at night/early morning. However, while TMR may not object, local government approval may include other considerations.

An application is more likely to be approved if the proposed site is contained within a ‘driver reviver’ site or in an appropriately designated rest area facility.

Advertising associated with roadside vending

Vending applications should include details of any proposed advertising. Vending approvals will explicitly include authorisation of any advertising that is permitted.

Permitted advertising signage for approved roadside vending may vary across the state according to local conditions. Where the vending site is on a local road, the signage requirements will vary with local government local laws or planning scheme requirements.

On a SCR it is an offence to display an unauthorised advertising device. TMRs' general advertising requirements are contained in the 'Roadside Advertising Guide'.

Renewal of roadside vending approvals

RCP applications may be renewed subject to the roadside vendor lodging a renewal application, subject to TMR approval.

Review of roadside vending approvals

Existing vending businesses that do not have approvals

Unauthorised vendors who are operating in unsafe or inappropriate locations will be required to cease their roadside vending activities immediately. If TMR make a preliminary assessment that a vending site is not a hazard and there are no compelling reasons to cease operations, the vendor will be permitted to continue vending while their application is assessed. Unauthorised vendors will be given two months to submit the required vending applications.

Ongoing review

An approval or permit may be reviewed at any time and found to be inappropriate because conditions may have changed since the initial licence or permit was issued. However, no assurances can be offered that a site, suitable to the vendor's needs, will be available. Where it is difficult to find a suitable site, regional offices may assist the vendor to continue vending by allowing the use of a short-term temporary site (normally for not longer than 3 months).

A current licence or permit may be revoked or amended either temporarily or permanently if:

- a roadside vending site becomes unsafe (for example, due to increased traffic volumes)
- changed traffic conditions cause the site to become unsafe
- maintenance and/or operational works will cause the site to become hazardous
- the vending interferes with the operational use or efficiency of the road
- terms and conditions of the approval are breached
- vending conflicts with local government planning controls
- changes occur to this Roadside Vending Guideline or existing local government requirements.

Enforcement

On all SCRs, it is an offence to conduct roadside vending activities without an appropriate approval (s50 of the TIA). In addition, when conducting roadside vending activities, an operator must comply with the conditions given in the approval. A penalty may apply and an approval may be revoked if a vendor does not comply with the conditions of approval.

TMR and local governments may enter into agreements for local governments to administer and enforce vending activities on the SCRs in their area.

If a road is damaged by activities associated with roadside vending, the vendor may be required to pay all or some of the relevant costs of the repair, replacement or reconstruction of the road. A particular example is road shoulder damage, which often occurs during the entry and exit of vehicles to the roadside vending site. In some circumstances, a monetary bond may be required to cover the cost of possible damage to road infrastructure. 'Before' and 'after' inspections will normally be performed to assess the condition of infrastructure.

With effective consultation between TMR, local governments and vendors, it should not be necessary for the Queensland Police Service² to enforce roadside vending conditions, except in extenuating circumstances.

Related Documents

- Roadside Vending on State-controlled Roads Fact Sheet
- Roadside Vending on State-controlled Roads Technical Assessment Guide

² With respect to roadside vending activities, the role of the Queensland Police Service is to:

- control activities involving charity collections, windscreen cleaning and sale of newspapers from carriageways of public streets
- assist local governments to serve eviction notices if a roadside vending operator is not adhering to the conditions of an approval (with particular reference to the *Police Powers and Responsibilities Act 2000*)
- provide advice on matters relating to safety and enforcement through local traffic committees.
- maintain an advisory role to both Transport and Main Roads and local governments in the application of the *Transport Operations (Road Use Management) Act 1995* on roadside vending policies.

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