



**DHS/MAV Food Safety Coordination
Project Steering Committee**

TempLink

Discussion Paper

Single Registration & Notification Central Database of
Temporary & Mobile Food Premises

July 2008

This paper has been prepared by the DHS/MAV Food Safety Coordination Project Steering Committee as the basis for consultation with Victoria's 79 councils and affected food businesses about the development of a single registration system for temporary and mobile food businesses.

Comments about the discussion paper are requested to be received by 2 September 2008.

Please forward comments to:

Paula Giles
Municipal Association of Victoria (MAV)
Email; TempLink@mav.asn.au .

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The MAV can provide this publication in an alternative format upon request, including large print, Braille and audio.

This document has been prepared by the DHS/MAV Food Safety Coordination Project Steering Committee as a working draft for discussion. MAV members have not been consulted on its contents.

The MAV is the statutory peak body for local government in Victoria, representing all 79 municipalities. The MAV would also like to acknowledge the contribution of those who provided their comments and advice during this project.

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1. Executive Summary

On 10 February 2008 the Treasurer announced that the State Government would establish a central database of temporary and mobile food businesses. The announcement was made as part of the Government's Response to the Victorian Competition and Efficiency Commission's Final Report "Simplifying the Menu: Food Regulation in Victoria" released in February 2008.

In March 2008 the Steering Committee of the Joint DHS/MAV Food Safety Coordination Project established a working group, comprising representatives from DHS, the MAV and three councils (a major metropolitan council, a regional council and a council with a mix of regional and rural activities) to consider how a central database might work. The key questions addressed by the working group were: what businesses would be included; how the central database would provide for mutual recognition of the registration of relevant food premises; and what responsibilities traders and councils would have under a central database system.

Deliberations by the working group and subsequently the Steering Committee has resulted in the development of an options paper that outlines the kind of changes to law and practice that would support a single registration system. This options paper is presented for comment from councils and industry to assist in the design of that system.

On 7 July 2008 DHS released a consultation paper on proposed changes to the Food Act ("the DHS consultation paper"). That paper builds on the Government response to the VCEC report and outlines a range of proposals. DHS is seeking feedback on those proposals before considering what specific amendments should be made to the Act. The deadline for comments on the DHS consultation paper is 2 September 2008. Copies of this paper have been distributed. The paper is also available at <http://www.health.vic.gov.au/foodsafety/>

The proposals in chapter 5 of the DHS consultation paper relate specifically to the proposed single registration system. However, these are not the only changes proposed for temporary and mobile food businesses as they will still be subject to many other aspects of the Act.

It is therefore suggested that the DHS consultation paper is read prior to this paper as it will provide the necessary context for the discussion about the single registration system for temporary and mobile businesses.

TempLink Discussion Paper

The purpose of the proposals to amend the Food Act is to balance the need for public safety and food risks with a desire for practical regulatory reform. This paper outlines proposals to streamline the registration process for mobile and temporary premises by providing for mutual recognition and the establishment of a central data base. These proposals aim to achieve a sensible balance between managing the food risks posed by mobile and temporary premises with the desire to both reduce the amount of 'red tape' faced by these traders and to provide workable administrative procedures for councils.

What does the single registration system mean for councils?

TempLink has been adopted as the working title of the single registration and notification central database system.

TempLink, as supported by legislative amendments and guidelines, will provide for state-wide mutual recognition of registration of mobile and temporary premises. It will:

- Incorporate an accessible and interactive internet based data bank;
- Reduce the administrative burden placed upon councils;
- Define the roles and responsibilities that each council has in regard to registration and inspections.

Specific matters detailing how *TempLink* will operate and the manner in which registering and non-registering councils will register premises and/or enforce compliance requirements are detailed in the following chapters.

General Recommendations

Based on the deliberations of the Working Group, the Steering Committee of the DHS/MAV Food Safety Coordination Project recommends that:

- 1) The following types of premises be included within the *TempLink* system:
 - i) mobile premises such as ice-cream vans and hot-dog vehicles
 - ii) temporary stalls such as those at craft and farmer's markets
 - iii) vending machines
 - iv) composite premises – a fixed premises that has associated temporary or mobile premises
- 2) Traders operating more than one temporary or mobile premises can apply for one registration which will apply to all their temporary or mobile premises. The same applies to premises subject to notification.
- 3) The temporary or mobile premises associated with the fixed premises can be included within the one fixed premises registration as an endorsed registration (but each fixed premises must have a separate registration).
- 4) The council where the associated fixed premises is located is the registering council. If there are no associated fixed premises, the registering council is the one where the equipment or vehicle is stored or garaged.
- 5) The State Government will provide guidelines to enable councils to determine the obligations of registering and non-registering councils, especially with regard to follow-up inspections;
- 6) The Food Act would be amended to enable authorised officers of a non-registering council to suspend operations of traders operating a temporary or mobile premises within their own municipality for specified breaches;
- 7) The Food Act would be amended to ensure that reasonable registration and inspection fees are recoverable by councils.

What this means for Community Groups

Many community groups use facilities at fixed premises (rather than from temporary structures), even if only for short periods of time. These include community halls and civic centres owned by local councils and kiosks and the like owned by sporting clubs. The proposed amendments to the Food Act outlined in this paper will not change the 'registration' process for community groups that use such fixed premises facilities in this way.

The proposals outlined in this paper are only about the carrying out of food handling for sale at temporary stalls (where the structure is dismantled), or from mobile vehicles such as vans. Community groups will continue to interface with their local council in regard to their registration (or notification) and food safety handling procedures (or more stringent requirements depending upon the type of food sold). They will also continue to interface with their council in regard to any other local matter such as meeting council local laws, or gaining council assistance with their event.

Community group details are currently lodged in a data base maintained by the local council. This will change. Under TempLink their details will be lodged onto the central data base in relation to their registration or notification regarding a temporary structure. Whether community groups operations are on one or another data base is not material to community groups themselves – this is part of the hidden mechanics of any registration system.

However, community groups will benefit in two ways:

- a) Community groups will be able to register (or notify) online by directly accessing the registration portal. This will reduce "form filling". Community groups not comfortable in registering online will be able to provide hard copy forms to their local council.
- b) If the community group wishes to operate in another council district, the new council will automatically have access to their details. This will make it easier for community groups to operate at events outside their immediate municipality – they will no longer have to complete a new set of registration forms for the other council.

This will complement other changes outlined in chapter 4 of the DHS consultation paper that will apply to community groups. For example, the proposed very low risk classification for "simple sausage sizzles" that means that these activities will no longer require registration but will only need to be the subject of a notification. Notification means that proprietors or group representative need only to notify the local council that it intends to operate and provide details regarding the type of food to be sold and the dates and locations of operations.

There is no reason to expect that the fee waiver status enjoyed by many community groups who need to register will change.

What this means for Vending Machine Operators

The Food Act 1984 currently applies to vending machines and requires that they be registered. Operators are responsible for ensuring that the food sold from their machines complies with the Food Standards Code.

Under the proposals, there will be greater clarity about who has responsibility for registering these machines. Regulation is expected to be minimal:

- The proprietors of the machines (that is, the operators, not the place where the machines are located) would be required to obtain a single registration or make a notification. All vending machines can be registered (or notified) as part of the one process;
- Almost all vending machines will be subject to notification rather than registration because they sell shelf stable foods and are therefore likely to fall within the proposed class 4 in the new risk classification system. Consequently a Food Safety Program (FSP) and Food Safety Supervisor (FSS) skills will not be required;
- Owners will be required to provide a Statement of Trade whenever a machine is relocated. This will be a simple exercise as each machine will have a unique endorsed notification identifier;
- Vending machine operators who need to register their machines will pay a small administration fee.

What this means for Premises on which Vending Machines are located

Owners of premises upon which vending machines are located will no longer be responsible for vending machine registration and compliance with the Food Act 1984. This responsibility now lies with the vending machine operator.

What this means for Mobile Vans and similar premises

Mobile food premises are a form of permanent premises that can be moved to new locations or remain on an existing site, and includes vehicles, vans, caravans and carts. Exclusions include vehicles used solely to transport food, and also fish vans and commercial fishing vessels as these are separately regulated by Prime-Safe.

The proposals put forward in this Paper will simplify regulations for mobile van proprietors:

- If the proprietor operates more than one vehicle they have the option to include all within the one registration.
- The registration will be accepted and recognised by all Victorian councils. The proprietor will no longer have to seek registration from other councils. Only one registration fee will be required.
- Compliance requirements (such as having to register rather than notify, the need for a Food Safety Plans or Food Safety Supervisors) will be determined by the classification of the highest risk van; this classification will apply to all other premises covered by that registration.

What this means for Temporary Stall-holders

Stall-holders operate from temporary food premises such as tents, marquees, stalls or similar structures at events such as craft markets, farmers markets, shows, festivals or other short-term occasions.

The proposals put forward in this Paper will simplify regulations for traders operating from temporary food premises:

- If there is no fixed premises at which food is stored or prepared for sale at that stall, the registration is granted by the council in which the stall

- structures are garaged. This means that stall-holders will no longer be required to register with the council in which they first operate in the year.
- Only one registration is required and that will be accepted and recognised by all Victorian councils. Traders will no longer have to seek registration from other jurisdictions in which they operate. They will pay only one registration fee.
 - If stall-holders operate more than one temporary premises, they have the option to include all premises within the one registration.
 - Compliance requirements (such as having to register rather than notify, the need for a FSP or FSS) will be determined by the risk class of the most risky individual stall and will apply to all premises covered by the registration.

What this means for composite premises – with both fixed and temporary premises

Composite premises are ones which have one or more temporary or mobile premises associated with a fixed premises. Many caterers fall into this category.

The proposals outlined in this Paper will significantly reduce the red tape associated with registration of such premises. Specifically:

- These fixed premises will continue to require registration (or notification, depending upon the nature of the food sold). Any associated temporary or mobile premises will be included on that registration. Although details of all premises will be required, only one application is required and only one council (the location of the fixed premises) will process that application.

Proprietors will no longer be required to apply to each council in which the temporary premises will operate (though such councils will be advised through a Statement of Trade – which includes details of dates and locations of intended operations).

- Compliance requirements (such as having to register rather than notify, the need for a FSP or FSS) will be determined by the highest risk classification that applies to one of the individual premises (most likely the fixed premises) and will apply to all premises covered by that registration, as in essence it is the whole of the temporary or mobile business that is being registered and its components cannot meaningfully be severed.
- Proprietors cannot include more than one fixed premises in a registration that also includes temporary or mobile premises. Any other fixed premises would continue to have a separate registration.
- Only the fixed premises associated with endorsed temporary premises will be lodged on the central database. However, if the proprietor supplies partially cooked or prepared foods to a suite of temporary and mobile premises from more than one fixed premises, the proprietor must nominate the principal place of food handling for the temporary or mobile business. This is to ensure that should a food outbreak occur it can be traced. The suite of temporary and mobile premises must form part of the registration (or notification) of that fixed premises.

What this means for Interstate Traders operating in Victoria

Interstate traders will be required to register in Victoria. If the home base of the mobile van or temporary premises lies within another state (e.g. if the food used in these premises is prepared interstate, or the vehicle or stalls are stored interstate), the trader must seek registration approval from the council in which it first operates within Victoria. Interstate traders will also benefit from the proposals in that mutual recognition of registration across Victoria is guaranteed – only one registration (within Victoria) will be required.

Feedback on Proposals

This Paper was developed to assist councils and industry stakeholders to provide feedback on the proposed amendments to the food safety regulatory environment as it pertains to temporary and mobile premises. Industry stakeholders include community groups, caterers, vending machine and mobile van operators, as well as commercial market and farm-gate stall-holders.

The MAV is interested in receiving views on the proposals in this paper, and especially about the nature of inspections that should be required. For instance:

- How many of the temporary or mobile premises owned by one proprietor should be inspected prior to registration?
- Should vans and stall structures be treated differently?
- Should requirements for routine registration related inspections differ according to risk i.e. the class of the premises?

Comments on this Paper should be forwarded to Ms Paula Giles, Director, MAV by email TempLink@mav.asn.au by 2 September 2008.

2. Introduction

2.1 Government Response to VCEC

In responding to the VCEC Final Report “Simplifying the Menu: Food Regulation in Victoria”, the State Government acknowledged the need to streamline the regulatory arrangements for temporary and mobile traders. It signaled that a central database of temporary and mobile food businesses would be developed within the Department of Human Services (DHS), so that each operator will only need to register once through a relevant council. Single registration will enable other councils to recognise the right for mobile and temporary businesses to operate in their municipalities.

Significant amendments to the Food Act 1984 will be required to ensure that there is mutual recognition across councils of the registration of such premises. Major changes will also be required to the way traders and councils interact and the way councils cooperate with each other.

The Steering Committee of the DHS/MAV Food Safety Coordination Project established a working group to help guide these changes and consider how a central database might work. The working group comprised representatives from the Department of Human Services, MAV and three councils - Greater Shepparton (rural), Melbourne (metropolitan) and Mornington Peninsula (mixed). All three councils have a large number of mobile and temporary premises operating within their municipalities throughout the year. Bearing in mind the Government response to the VCEC report, this Paper was developed following the consideration of matters raised in the working group and/or the Steering Committee.

On 7 July 2008 DHS released a consultation paper on proposed changes to the Food Act (“the DHS consultation paper”). That paper builds on the Government response to the VCEC report, and outlines a range of proposals. DHS is seeking feedback on these proposals before considering what specific amendments should be made to the Act. The deadline for comments on the DHS consultation paper is 2 September 2008. Copies of that paper have been distributed, and are also available at www.health.vic.gov.au/foodsafety/

The DHS consultation paper outlines a number of proposals that are relevant to the creation of a single registration system for temporary and mobile food premises. In particular, it sets out what amendments could be made to the Act in the following areas:

- how the single registration system would operate- including which council would register a temporary or mobile food business or vending machines (chapter 5);
- the risk classification system that would apply to all food premises, including temporary and mobile premises and food vending machines. This includes what regulatory requirements would apply to each class of food business (chapter 4);
- proposes changes to the timing of audits of non-template food safety programs and related matters (proposals 26 to 28 in chapter 7);
- inspections and recovery of any separate inspection fees (proposals 22 to 24 in chapter 6); and

- the powers of a non-registering council when a business operates in its district (which would be one instance in which the powers in proposals 18 and 19 in chapter 6 would be relevant).

Whilst the proposals in chapter 5 of the DHS consultation paper relate specifically to the proposed single registration system, other proposals that would apply across the board to all food businesses are relevant to how the single registration system would work, as temporary and mobile food businesses will still be subject to other aspects of the Act as well.

It is therefore important that when reading the proposals outlined in this MAV paper, that the relevant parts of the DHS consultation paper are read first. This will provide the necessary context for some of the discussion about the detail of the single registration system for temporary and mobile businesses.

The final set of amendments introduced into Parliament will need to ensure that the changes for temporary and mobile premises are consistent with, and form a coherent part of, the overall set of changes that are to be made to the Act.

2.2 Finding a Way Forward

Streamlining registration for mobile and temporary premises raises a variety of complex and interdependent issues such as which businesses are to be included, which council is responsible for registering such premises, how 'over-inspections' can be minimised but a safe food environment maintained and what enforcement tools are available to officers from non-registering councils.

In considering these issues the Working Party and the Steering Committee of the DHS/MAV Food Safety Coordination Project is guided by the following principles:

- a. Minimise the regulatory (including administrative) burden that is imposed on proprietors but consistent with the risk classification of the premises. That is, not all food premises can be treated equally as some premises are more risky than others (by virtue of the food they sell, the processes used or the 'sphere of impact' – the groups to whom the food is sold).
- b. Minimise the administrative burden that is imposed on councils;
- c. Ensure regulatory treatment does not distort the food industry – treatment applies equally to different types, configurations and sizes of operations within the same risk class;
- d. Create a flexible system that can adapt as lessons are learned from implementation.

2.3 Options for a Central Database

A system that provides for the mutual recognition of registration for temporary and mobile premises can mean different things to different people.

The simplest approach would be to establish a central data bank of all registrations granted by councils. Only one registration would be required of such premises and this would be recognised by all other jurisdictions. This approach would essentially formalise existing practices.

However, this option is unlikely to deliver systemic reductions in “red tape” for either traders or councils. The onus on traders to determine the appropriate council with which to register may remain, as would a continuous stream of paperwork to notify every relevant council of trading intentions. Similarly, the need for each council to “chase up” the records (including past performance reports) of traders would remain. More importantly, there would be confusion as to the rights and responsibilities of the registering council and other councils with regard to follow-up inspections and enforcement activities. The likelihood of ‘over-inspection’ would therefore be great.

An alternative is proposed in this Paper. It presumes an automated system which can deliver both single registration and a reduction in the administrative burden of food safety regulation for traders and councils. It canvasses the ‘mechanisms’ by which traders register. It also proposes operating principles and business rules which allow councils to recognise registrations as well as any compliance and enforcement actions associated with a registration.

It is proposed that *TempLink* be established as an interactive internet based system that provides a single point for registration and notification of temporary and mobile food premises, enables mutual recognition across jurisdictions and acts as a central repository (or data bank) of trader details.

TempLink is a working title and councils and industry are invited to propose an appropriate name for the Single Registration (and Notification) Central Database system.

2.4 What kind of businesses would be included?

Not all food premises are required to register *TempLink*. The concept of mutual recognition through a single point of registration and the establishment of an associated central registry (database) applies *only to mobile and temporary premises*, as these are the kinds of food premises that routinely operate across municipal boundaries. These premises have been disadvantaged by the devolved system of regulation.

A **mobile** food premises is a vehicle from which food is sold for human consumption. Mobile premises are permanent food premises that can be moved to new locations or remain on an existing site. This includes:

- Vehicles, vans, caravans and carts located in a set place to undertake roadside vending, such as pie vans and hot potato carts;
- Transient vehicles hailed down, such as ice-cream trucks;
- Vehicles including caravans, located at shows, markets or similar events and used for the preparation and / or sale of food;
- Food vending machines.

Mobile food premises do not include:

- vehicles which are only used to transport food (such as refrigerated delivery trucks)
- fish vans and vessels. Food sold from these or similar premises are regulated by Prime-safe.

A **temporary** food premises is one in which:

- food is sold from a structure that is erected and dismantled or removed from the site after the event.

This includes stalls, tents or other temporary structures at events such as craft markets, farmers markets, shows, festivals, fetes or other short-term occasions.

It is proposed that the *TempLink* system will be established to provide for state-wide registration and notification of:

- mobile food premises;
- vending machines;
- temporary premises; and,
- fixed premises associated with one or more temporary or mobile premises.

2.5 What will *TempLink* do?

Based on an information technology solution (such as systems operated by Business Victoria), *TempLink* comprises a data bank (a central repository of “living” information) and messaging mechanisms to:

- provide for electronic lodgement of applications for registration or notification of relevant premises;
- provide electronic alert mechanisms for *one* relevant council to process an application and to grant or reject registration;
- act as a registry (electronic data base) for registered and notified premises
 - registration or notification certificate number, business details
 - performance details (inspections and assessment details including photographic and scanned evidence and contact details of the authorised officer)
 - enforcement actions taken (sanctions imposed by councils, DHS and courts) and rectification details (payment of fines and penalties)
 - food sampling results
 - complaint details (access by trader to complainant details blocked)
 - fee invoices lodged and paid
- provide flagging mechanisms to alert other councils on when and where the registered or notified premises will operate within each jurisdiction;
- provide alerting mechanisms for follow-up inspections;
- enable all councils viewing access to the data base;
- enable the registering council and any authorised inspecting councils an ability to add information to premises files (with inspection reports)
- enable a trader to lodge, complete or amend a FSP (where required)
- enable a trader to lodge an audit report where third part audits are required;
- provide alerting mechanisms where third part audits are outstanding;
- generate printable documentation outlining food safety requirements in the event that an FSP is not required (or alternatively a non proceed tab until that trader acknowledges having read and accepted conditions of trading)
- accept online payments and generate online invoices;
- provide flagging mechanisms that invoices have not been paid.

TempLink has no status in regard to monitoring compliance or enforcing food safety regulations. These responsibilities rest with the registering council and any other council of a local government area in which a trader operates.

Relationships within this system are outlined in Attachment 1.

2.6 Future Legislative and Administrative Arrangements

Some of the proposals contained within this Paper will require legislative amendments. Others will require changes to administrative arrangements at both the State and Local Government levels.

Amendments will be required to the Food Act to enable a single registration system to operate for temporary and mobile food premises.

Once the amendments are considered by Parliament, the final form of the central database regarding registration can be determined. It is envisaged that the database would not take effect for some time (perhaps 12 or more months after proclamation of commencement of changes to the Food Act). This will provide sufficient time for the design, development, road-testing and implementation of a technology based solution, as well as communication and training for stakeholders.

Nevertheless, it is important that the intent of *TempLink* and the guidelines surrounding obligations and responsibilities of the stakeholders – traders and councils – be established as soon as is possible. Consultation with stakeholders will enable the Steering Committee of the DHS/MAV Food Safety Co-ordination Project to finalise recommendations and flag options that might be put to the Department of Human Services and Minister for Health. This will assist in informing the development of the legislation that is essential to underpin the single registration system and the database.

Design issues associated with the technology that will underpin *TempLink* have yet to be examined. These issues are outside the scope of this Paper and will be considered following consultations with regard to the coverage, responsibilities and rules of the *TempLink* system.

3. The registration process and routine registration inspections

The registration process for mobile and temporary premises will be streamlined under the *TempLink* system. Providing for mutual recognition and the establishment of a central data base offers an opportunity to both reduce the amount of 'red tape' faced by these traders and to clarify the administrative procedures for councils.

Specific issues associated with the registration process for mobile and temporary premises are detailed below, and include:

- What must be registered?
- Which council is the responsible registering authority?
- What is inspected as part of the registration process?

3.1. How are applications for notification, registration, for transfer or renewal made?

Traders can access *TempLink* online - as is done through EasyBiz in some Victorian municipalities and through NAFSIS in NSW.

Alternatively, traders can lodge hard copy applications with any council (who then lodges the application through the same on-line system).

3.2. What must be registered?

A fundamental principle underpinning the amended regulatory regime is that the registration (and compliance) requirements of mobile and temporary premises are essentially the same as those which apply to fixed premises. A "level playing field" is required in order to ensure that the State does not create distortions within the food sector. Parity will also prevent confusion and aid consistency across the State as the degree of interpretation is minimised.

Registration will apply to all mobile and temporary premises which are classified as high or medium or lower risk premises – within Classes 1, 2 and 3. Notification will apply to all premises which prepare or sell very low risk foods – premises in Class 4. The proposed differences between the compliance requirements of premises subject to registration and those subject to notification are outlined in Table 1. This table is extracted from the DHS consultation paper. For additional information about these proposals, refer to chapter 4 of that paper. In particular, chapter 4 describes what businesses would be likely to fall into class 1 (page 25), class 2 (page 28), class 3 (page 31) and class 4 (page 32). A proprietor that wishes to appreciate how the new single registration system would apply to his or her food business should first ascertain into which class the business would be likely to fall.

As for all other food premises, mobile and temporary premises operators must apply for registration each year, irrespective of whether they are a new business, one that has been transferred from another proprietor or, an on-going concern.

Table 1 sets out whether an annual inspection by a council is to continue to be *mandatory* prior to renewal of registration. The Act would continue to require an inspection of class 1, 2 or 3 food businesses prior to the decision to grant an initial registration, or to transfer registration to another business.

In addition, councils would in all cases retain the discretion to inspect premises at other times; this could be a random inspection or where the council considers that

Table 1: Mandatory compliance requirements based on risk classification

Class	Registration	Food safety program (FSP)	Staff training	Audit	Mandatory Inspection of registration renewals*
1 High risk	Yes, simplified registration template	Yes. This may be a separate document or it may be a component of a recognised proprietary HACCP program for the whole business that includes food safety (if audited by an approved auditor)	Must have a food safety supervisor or a staff member who has completed accredited training (eg a chef). Other staff could be required to complete free on line training or undergo training under FSP	2 per year	No annual council inspection prior to renewal of registration (as all are to be third party audited) Audit report of FSP must be available to council
2 Medium risk	Yes, simplified registration template	Yes. This may be a separate document or it may be a component of a recognised proprietary HACCP program for the whole business that includes food safety (if audited by an approved auditor) OR complete a simplified FSP template	Must have a food safety supervisor or a staff member who has completed accredited training (e.g. a chef). Other staff could be required to complete free on line training or undergo training under FSP	One per year (no audit for template FSP)	Annual inspection prior to renewal of registration if have a template FSP No such inspection in other cases, but auditor report of FSP must be available to council
3 Low risk	Yes, simplified registration template	No FSP, new simple record keeping instead Guidance material available	All food handlers complete free on line training (unless they have food safety supervisor competency or equivalent training)	No audit	Annual inspection prior to renewal of registration (because there is no FSP and no audit)
4 Very low risk	No. Will be required to notify council under the Act prior to conducting the activity	No. Guidance material and template available on simple record keeping instead, if relevant. (Not relevant if only shelf stable pre-packaged food is sold.)	No requirements. Businesses encouraged to ensure that at least one staff member has completed free on line training	No audit	No annual inspection, due to very low risk

Source: DHS Consultation Paper: Proposed Changes to the Food Act, July 2008 (page 24)

a follow up is required in response to a complaint or following an adverse audit report. Chapter 6 of the DHS consultation paper also outlines options for changing the times in which an annual inspection may be conducted.

3.3. Does registration provide approval to operate across the State?

Yes, registration and notification is an approval to operate the mobile or temporary food premises within any municipality across the State.

Traders will no longer be required to separately register their food premises within each and every council in which they operate. However, traders will be required to provide their registering council (or directly online through *TempLink*) with a Statement of Trade which indicates the likely dates and location of operations (in any municipality).

3.4. Which council is responsible for approving registration?

All applications for registration will be forwarded to the registering council. This will be automated by the IT software which underpins *TempLink* (on the basis of address or postcode). This includes applications for initial registration, registration renewal, or a transfer of registration.

For interstate traders, the registering council will be the location of the first operation (within Victoria) of mobile or temporary premises.

For Victorian based mobile and temporary food traders, the issue of which council is the most appropriate is more complex.

Chapter 5 of the DHS consultation paper sets out a framework for determining which council should be responsible for registering a temporary or mobile food premises or vending machine. This is outlined in the following table (Table 2), which is extracted from that paper.

The DHS consultation paper outlines in detail the reason for structuring the registration system in this way.

Relevant considerations include the following:

- Many temporary stalls are associated with fixed premises where the food is prepared or stored. A reduction in “red-tape” can be achieved by streamlining the registration process by addressing both premises simultaneously. To not adopt this approach would mean that many temporary food businesses would have to register more than once, which would mean that there would not be a single registration system for these food businesses;
- Whilst some may hold the view that traders can only be adequately assessed whilst in full operation, pre-registration assessments undertaken on weekends (when many traders operate) are expensive. Additionally, such assessments mean that the trader *has in fact commenced operations*, which is problematic. An alternative is to assess the stall or vehicle beforehand, including by a ‘demonstration’, where this is warranted;
- Subsequent chapters of this paper explain in more detail how the registration and notification would work where there is a fixed premises associated with a temporary or mobile premises, where there are multiple temporary or mobile premises, and in relation to vending machines.

Table 2: Single registration of temporary, mobile or vending machine food businesses

	1. Temporary stalls (all businesses including caterers, and not for profit)	2. Vans (mobile premises)	3. Vending machines
Food is routinely prepared (or if not prepared, is stored) at one permanent fixed premises for the purposes of sale on a mobile or temporary basis, or in a vending machine of the proprietor	<p>The council in which the fixed premises is located would register that fixed premises (or if class 4, be notified).</p> <p>Certificate of registration would be endorsed to cover the nominated temporary stall(s) or activities associated with those premises.</p>	<p>Same.</p> <p>Certificate endorsed to cover the nominated associated van(s).</p>	<p>Same.</p> <p>Certificate endorsed to cover the nominated vending machine(s).</p>
As above, but food preparation (or storage) occurs at more than one permanent fixed premises	<p>The council in which the fixed premises nominated by the proprietor is located would register or receive the notification.</p> <p>Nominated place must be principal place of food handling for the temporary business.</p> <p>Certificate of registration would be endorsed to cover the nominated temporary stall(s)/activities.</p> <p>In the case of class 1 and 2 premises, the food safety program would need to address not only the food handling at the fixed premises but also for the temporary sites.</p>	<p>Same.</p> <p>Nominated place is principal place of food handling for the vans.</p> <p>Certificate endorsed to cover all nominated vans.</p> <p>In the case of class 1 and 2 premises, the food safety program would need to address not only the food handling at the fixed premises but also for the vans.</p>	<p>Same</p> <p>Nominated place is principal place of food handling for the machines.</p> <p>Certificate endorsed to cover all nominated vending machines.</p>
None of the above apply- e.g. food is taken straight to point of sale, the only items stored are equipment /vans/vending machines	<p>Register with (or notify) the council in which the equipment of the business is usually stored, and if none, at nominated principal business address of the business.</p> <p>Certificate endorsed to cover all nominated temporary sites.</p>	<p>Register with (or notify) the council in which the vans are usually garaged or if none, at principal business address of the business.</p> <p>Certificate endorsed to cover all nominated vans.</p>	<p>Notify (or register with) the council in whose district the nominated business address of the proprietor of machines is located.</p> <p>Certificate endorsed to cover nominated machines.</p>

Source: DHS Consultation Paper: Proposed Changes to the Food Act, July 2008 (page 39)

The discussion that immediately follows is common to all situations- it relates to when, and what kind, of inspections should be carried out by councils in relation to temporary and mobile premises and vending machines.

3.5. When are routine inspections to be conducted prior to registration?

Routine inspections are conducted by authorised officers as part of the assessment process conducted by a council when considering whether to register food premises.

The proposed requirements for routine mandatory inspections prior to renewal of registration for each class were outlined in detail in Table 1. Table 1 is designed to refer to *all food premises*, not just those that will be covered by the single registration system.

Table 3 below builds on this and gives an indication as to how this could be applied *specifically to temporary and mobile food premises and vending machines*. It attempts to take into account a range of relevant factors, such as-

- the risk classification of the premises (refer to chapter 4 of the DHS consultation paper and table 1);
- any other differences in the nature or scale of the activity (e.g. large caterers compared with small stalls, and the inherent nature of equipment in vehicles);
- whether or not the premises are being independently audited (as this is a form of check);
- whether the decision being made by the council is for initial registration or transfer of registration (as a “new” business) or renewal of registration (where the business therefore has a compliance history that can be taken into account); and
- when it is viable to conduct inspections (both in terms of day of the week and also the time of the year, bearing in mind the date on which renewal applications fall due).

If you operate a temporary or mobile food business or vending machines, refer to Table 3 to identify what inspection requirements would apply to your business. Councils should refer to the whole table. In summary, it provides as follows.

Renewals for Class 1 and Class 2 (proprietary FSP)

Mobile and temporary premises which are audited (Class 1 or in Class 2 using a proprietary Food Safety Plan) will require registration but will not be subject to a mandatory council inspection prior to registration renewal. An approved auditor will be responsible for ensuring that the food safety program is adequate. Compliance with audit reports will be taken into account by councils in considering registration renewal. Councils will retain the right to inspect premises prior to granting registration (for example, if audits demonstrate that past compliance has been inadequate).

(As noted above, councils will always retain a discretion to inspect premises if this is considered necessary, for example where there is a history of non-compliance.)

New and transferred Class 1 and Class 2 (proprietary FSP)

New Class 1 and proprietary Class 2 businesses and those that have been transferred will not have been audited (because an audit is only meaningful once the business has been operating). They will therefore require conditional registration until such time as a meaningful audit can be arranged. In such cases the registering council will need to undertake an inspection prior to granting or transferring registration. Full registration will only be granted once a successful audit is achieved.

Class 2 (template FSP) and Class 3 – Temporary Stalls and Vending Machines

For all other Class 2 and for Class 3 mobile and temporary premises, a routine inspection by Council will be required prior to registration for any initial registration, transfers and registration renewals, as these premises are not audited by approved auditors.

Table 3 introduces the concept of sampling for registration renewals. This relates to situations where there is more than one temporary stall. This is discussed in more detail in Chapter 5 below.

Class 2 (template FSP) and Class 3 – Mobile Vehicles

Table 3 sets out two possible options for dealing with registration and renewal of registration of mobile vehicles in class 3 and also class 2 (if the business has a template food safety program). These options are provided to promote discussion about inspection of mobile vehicles. Only one would be adopted in any amendments to the Food Act. Councils and mobile vehicle operators are asked to consider whether option (i) or (ii) is preferable in each case.

Class 4

Councils will not require an inspection of Class 4 premises prior to accepting the notification. However, councils will have the flexibility to undertake inspections at their discretion - at times and intervals consistent with their own risk management plans.

Table 3: Routine council inspections required by the Act prior to registration

Class	Initial Registration or Transferred Registration	Renewal of Registration
Class 1	<p>Yes – routine council inspection required to determine conditional registration (pending audit by approved auditor)</p> <p>Council may grant full registration once a satisfactory audit is undertaken.</p> <p><i>What is inspected?</i> As per class 2 tailored/proprietary FSP</p>	<p>No routine council inspection required, as premises are to be audited</p> <p>Successful third party audit required within 3 months prior to registration</p>
Class 2 (proprietary FSP)	<p>Yes – routine council inspection required to determine conditional registration. Full registration granted once an audit is undertaken.</p> <p><i>What is inspected?</i> 1. the fixed premises if one is associated with multiple temporary or mobile premises plus- 2. one typical stall or vending machine. If satisfactory, all others granted conditional registration until audit is complete and satisfactory on <i>all</i> stalls and vending machines, 3. one typical mobile vehicle. If satisfactory, all others granted conditional registration until an audit is complete on <i>all</i> vehicles.</p>	<p>No routine council inspection required, as premises are to be audited.</p> <p>Successful third party audit required within 3 months prior to registration.</p>
Class 2 (template FSP)	<p>Yes</p> <p><i>What is inspected?</i> 1. the fixed premises if one is associated with multiple temporary or mobile premises plus 2. all stalls or vending machines. 3 all mobile vehicles.</p>	<p>Yes</p> <p><i>What is inspected?</i> 1. the fixed premises if one is associated with multiple temporary or mobile premises plus 2.stalls and vending machines- Sampling of one typical stall or machine. If satisfactory, all others granted endorsed registration unless previous history indicates poor compliance.</p>

		<p>3. mobile vehicles: *Option (i) Sampling of one typical vehicle. All others automatically granted endorsed registration unless previous history indicates poor compliance; OR *Option (ii) Sampling of one typical vehicle prior to registration and all others granted conditional registration - conditional upon a routine inspection carried out by any council on all remaining vehicles with 3 months.</p>
Class 3	<p>Yes</p> <p><i>What is inspected?</i> 1. the fixed premises if one is associated with multiple temporary or mobile premises plus 2.stalls and vending machines- Sampling of one typical stall or machine. All others granted automatic registration unless council has reason to suspect poor compliance (e.g. previous history of related businesses operated by proprietor). 2. mobile vehicles: *Option (i) Sampling of one typical vehicle. All others automatically granted registration unless council has reason to suspect poor compliance; OR *Option (ii) Sampling of one typical vehicle prior to registration and all others granted conditional registration - conditional upon a routine inspection carried out by any council on all remaining vehicles with 3 months.</p>	<p>Yes</p> <p><i>What is inspected?</i> 1. the fixed premises if one is associated with multiple temporary or mobile premises plus 2.stalls and vending machines- Sampling of one typical stall or machine. All others granted automatic registration unless previous history indicates poor compliance. 2. mobile vehicles: *Option (i) Sampling of one typical vehicle. All others automatically granted registration unless previous history indicates poor compliance; OR *Option (ii) Sampling of one typical vehicle prior to registration and all others granted conditional registration - conditional upon a routine inspection carried out by any council on all remaining vehicles with 3 months.</p>
Class 4	No routine inspection	No routine inspection

3.6. How will councils inspect temporary and mobile premises?

One question that has arisen is how to ensure that a registering council can undertake a routine inspection (the inspection associated with registration) before the proprietor commences trading.

Some may argue that a trader can only be adequately assessed whilst in “full” operation at a market or other site.

However, this option has a number of limitations:

- It places an undue burden on those rural and outer metropolitan councils as these are where farmers and craft markets tend to operate.
- It forces councils to pursue assessments and inspections at weekends when most traders operate. Weekend work is high cost and some councils struggle to find adequate resources (staff willing to work). Conversely, routine inspections undertaken by the home council means that evaluation times can be made during normal working hours.
- It adds ‘red-tape’ to those traders who predominantly prepare food from an associated fixed premises - as they would need to have inspections conducted at separate times, possibly by separate councils, for their fixed and associated temporary or mobile premises. This would also complicate the registration process - it undermines the policy intention of ensuring that there is one registering council for these premises to meet the

objective of having a single registration regime for temporary and mobile food businesses.

The Steering Committee of the DHS/MAV Food Safety Coordination Project considered that the limitations of using the jurisdiction of the first operation of a temporary or mobile vehicle as the registering council outweigh those of using the location of the associated fixed premises or place of storage or garaging.

Moreover, the Steering Committee considers that regulatory oversight can be adequately covered if:

- Where appropriate, routine inspections (those associated with registration) require a trader to “set-up” the facilities to demonstrate that the structures and equipment are adequate and that the trader has appropriate knowledge to adapt to various local circumstances.
- Councils are given flexibility to arrange routine inspections during normal working hours wherever possible
- Councils retain the right to inspect a temporary or mobile premises operating within their jurisdiction according to their own risk management practices. This means that local councils can intervene or monitor traders if the environment in which the trader plans to operate increases the risks to public health. This might include forecast high temperatures, a venue that is resourced poorly in terms of water access, or unexpected high patronage.
- It is also noted that many traders who operate stalls would operate only one stall (and those that have more than one stall, such as caterers, will typically fall into Class 1 or tailored FSP Class 2 and will be 3rd party audited);
- All fixed premises require a routine inspection prior to being granted an initial registration. This is irrespective of whether they are stand-alone or associated with temporary or mobile premises.
- In the case of mobile vehicles, proprietors often operate a number of vans and the structure of each van will vary depending upon the age and fit-out of the vehicle. Such vans may typically be of a higher risk than temporary stalls (as they involve refrigeration and/or cooking and reheating).

Table 3 therefore proposes *as one option* conditional registration and renewal of registration of second and subsequent vehicles pending their inspection within 3 months. Under this option the registering council could issue a conditional registration certificate following the pre-registration inspection of one vehicle. Remaining vehicles could continue to operate under the conditional registration. Full registration would be conditional upon the trader having all mobile vehicles inspected within the following three months. The trader can move the vehicles to the jurisdiction of the registering council at a time or times which are mutually convenient (within the time limit). Alternatively the trader can seek an inspection from any council where the business operates. That council would recoup the inspection fee on the basis of an invoice. That council would, through the central database, notify the registering council of the assessment result. This in turn enables the registering council to issue a full registration certificate.

It is considered that, where routine registration related inspections are required, they can be undertaken by means of demonstration. Demonstration may mean a “set-up” of the stall structure and equipment or of the mobile van. It might also include an assessment of the proprietor’s knowledge about requirements to meet food safety standards.

In the case of class 1 and 2 businesses, the business will also need to have a food safety program in place that covers the entire temporary or mobile activities.

Councils, community groups and businesses are asked to consider the appropriateness of the inspection regime set out in Table 3, bearing in mind the following factors:

- the inspection framework proposed for all food businesses, based on the risk classification (per table 1);
- how this should be applied in the case of temporary and mobile food premises, and vending machines, after taking into account:
 - the logistics of arranging inspections of temporary stalls and vending machines (compared with mobile vehicles);
 - the days of the week when it is easiest to conduct inspections;
 - whether different vehicles or stalls of the one business require inspection, and if so, why;
 - whether the inspection regime should differ based on risk classification, and whether or not a premises is being audited by an approved auditor;
 - the scale of the operations (eg caterers); and
 - current practices within councils: what do you do now, and why?

Question 1: How many of the temporary or mobile premises within a registration should be assessed prior to registration?

Question 2: Does the risk class of the premises have a bearing on this issue? For instance, should class 2 and class 3 premises be treated the same or differently?

Question 3: Should registration renewals be treated differently from initial and transfer registrations?

Question 4: Should vans and stall structures be treated differently?

4. Monitoring and Assisting Compliance of Traders

Managing and monitoring compliance, with Food Safety Standards and Food Act requirements, of fixed premises rests solely with the registering council.

Many temporary and mobile traders are itinerant and often operate across a number of municipalities. For this reason all relevant councils have the responsibility to ensure that compliance is met and assistance is provided to traders to meet their requirements.

It is proposed that administrative and legislative changes will be made to help councils meet these obligations. They include:

- Statement of trade requirements;
- In-built flagging mechanisms to notify appropriate councils to undertake follow-up inspections
- Any council can inspect according to their own risk management policies;
- Any council can impose appropriate sanctions

These are detailed more fully below.

4.1 Statement of Trade

One of the great benefits of the existing system is that traders notify councils when they intend to operate within a specific jurisdiction. This enables the particular council to assess local conditions and alert the trader to special circumstances that might warrant their attention. Individual councils have specialist knowledge of venues, likely crowd sizes (the potential 'sphere of influence') and unforeseen events (such as extreme weather) and are in a better position to assess how these might impact upon food safety on the day or at that place.

None of this will be lost with the introduction of *TempLink* as traders are required to provide a Statement of Trade which details their locations and dates of trade. Penalties can be imposed if traders operate without having lodged a Statement of Trade or an amendment within the prescribed period.

The Statement of Trade will also enable councils to make their own internal cross-checks to establish that traders have independently sought adherence to local planning laws.

It is therefore proposed that traders be required to submit a Statement of Trade which details the dates and locations of operations. The Statement of Trade can be amended up until 5 days prior to operation. *TempLink* will be designed to automatically flag relevant councils of trading intentions.

4.2 Follow-up inspections

Follow-up inspections are required in the event of complaints and where the trader has performed poorly in a previous inspection.

However, the very nature of itinerant traders – their mobility across the State and the irregularity of operations – makes follow-up inspections difficult. These traders readily move from one jurisdiction to another (such as following craft and farmer's market

trails around the State) and can alter plans of operation quickly (to take advantage of community events, fairs and fetes).

Consequently *TempLink* will be designed with a capacity to flag premises that require follow-up inspections.

All councils will retain the flexibility to determine its own ability to inspect premises to follow-up on previously identified breaches and/or complaints. This will be based upon the councils own resource constraints and its own risk management policies.

The Steering Committee is of the view that a formal mechanism to require a council to undertake a follow-up inspection is unwarranted. A high degree of collaboration exists across councils generally and within the food safety community specifically. The establishment of *TempLink* is expected to bolster, rather than hinder this spirit of co-operation.

The *TempLink* management process will therefore require each relevant council - the registering council, the receiving council (of a complaint) or the council in which the trader intends to next operate – to assume the responsibility of:

- Following-up breaches and complaints in a timely manner;
- Keeping all parties abreast of proposed actions and achieved enforcement activities;
- Ensuring that accompanying reports are logged with *TempLink*

4.3 Council Risk Management Strategies

As outlined within the DHS Consultation Paper, the intention of the proposed legislative amendments is to adopt a risk based approach to regulation. To this end the government will encourage councils to formulate their own risk management strategies and policies to improve food safety.

With regard to temporary and mobile premises, this means that councils will be encouraged to assess and document the circumstances under which they believe that inspections and other compliance monitoring mechanisms might be required beyond those that are mandated within the Act.

All councils will retain the flexibility to inspect mobile and temporary premises as frequently as they desire in accordance with these risk management policies. For example, one council may want to undertake an inspection because the nature of a specific event might increase the risks attached to a trader's operation. This might include:

- Local post Grand Final celebrations imply a great number of attendees and possibly hastily arranged trading arrangements which might imply greater risk;
- Food poisoning outbreaks might signal additional monitoring of certain types of businesses.

Like routine and follow-up inspections, the results of these risk management inspections must be lodged with *TempLink*.

Whether the cost of risk management inspections may be recovered through fees imposed on traders as opposed to recovery through ratepayer funds is the subject of further review by the MAV/DHS Joint Food Safety Co-ordination Project.

4.4 What will prevent “over-inspection” of premises?

The Working Group and Steering Committee of the DHS/MAV Food Safety Co-ordination Project identified that:

- Mobile and temporary premises should not generally be subject to greater scrutiny than their fixed counterparts;
- Inspections should not be used as a means of revenue-raising.

DHS guidelines will be issued to assist councils in the determination of what is reasonable in relation to the number of inspections that can be conducted on any one mobile or temporary premises. The guidelines will be based upon the principle of risk – that is, inspections are based on the perception of risk due to a poor compliance history, that rectification of breaches are outstanding; or, the nature of the specific event warrants additional regulatory oversight.

4.5 What happens to inspection and assessment results?

All inspection results are entered into *TempLink* by the council which undertakes the inspection. The registering council is responsible for ‘managing’ this process - checking that results are lodged and complete, that breaches are rectified and sanctions paid or enforced.

“Files” on traders, which detail inspection and assessment results and sanctions imposed, are accessible to any relevant council. Relevant councils include the registering council and any other council in which the trader has operated or proposes to operate.

4.6 What sanctions can non-registering councils impose?

All councils will have the ability to impose sanctions and other enforcement options upon traders. The exact nature of this is detailed in the DHS Consultation Paper. They include:

- a graduated inspection fee schedule – where there are greater number of follow-up inspections required, there is potential for a higher fee;
- PINs;
- Seizure of food (under the current Act)
- An ability to suspend operations within the council municipality for a short term
- Prosecution (under the current Act)

4.7 Can a non-registering council revoke registration?

No, councils do not have the power to revoke a registration or notification that was granted by another council.

Registering councils “manage” files on their own premises. TempLink will provide flagging mechanisms to registering councils where breaches have been identified and sanctions have been imposed by other councils. It is on the basis of this information that a registering council will make decisions to revoke or refuse renewal of registration of mobile or temporary premises.

5. Registering Composite Premises

5.1 Background

Some businesses operate both fixed and off-site temporary premises – this is defined as composite premises. Examples include most caterers which prepare (in part or in full) food from a fixed kitchen and then finalise preparation and sell the food from a temporary stall or marquee at an event. It also includes smaller businesses such as restaurants that operate from stalls at cultural events and markets.

Under the current regulatory arrangements, businesses operating both fixed and temporary premises generally require separate registrations and Food Safety Programs for all premises. For example, an annexure which covers temporary premises is not possible under templates generated by Food Smart or under the DHS retail template.

Some businesses use the food event template but this is designed for one day events and occasions where the operator trades from the temporary stall no more than once a month and less than 12 times a year. The food event template is not meant to be used by traders operating over a 2 day event or longer or by those trading more frequently than described above.

The Government seeks to reduce the paper work associated with registering composite sites and registering with multiple councils according to the location of their temporary sites. The Government also seeks to reduce the burden of developing multiple Food Safety Programs for composite sites over multiple events.

After considering a variety of options, the proposal outlined in the DHS consultation paper and this paper is for temporary off-site premises to be included within the central database so that tracking of their activities and location, as well as their compliance performance, could be overseen by all relevant councils.

The association of such off-site premises cannot be readily or meaningfully divorced from their fixed site premises at which food may be prepared or stored which is subsequently sold at the temporary site. Consequently the fixed premises would also be included within *TempLink*.

Such treatment will be generally beneficial to proprietors, for the following reasons.

- Proprietors will have a 'one-stop' shopfront. They can apply to the local council in which the fixed premises are located to have both the fixed premises as well as the bundled temporary sites registered.
- Proprietors who are required to prepare a food safety program will only need to have one such document. . That program will cover all aspects of the food handled and the processes undertaken within the fixed and temporary sites. Proprietors will not have to divorce the food safety administration of the temporary premises which are interlinked with the fixed premises.
- Proprietors can move temporary premises from one location to another without having to apply for registration with each municipality.

Although a Statement of Trading would be required whenever locations change, the proprietor would not have to re-submit the FSP or past inspection

records – these are automatically accessed by the relevant council under *TempLink*.

- If one stall faces suspension from trading or registration is revoked, the sanction applies only to that stall and not all premises.

The proprietor will also be able to monitor the compliance of individual premises based on the unique identifier attached to the endorsed registration of each stall.

- It is noted that the Risk Classification defaults to the operation of highest risk. This means that the risk class (and compliance requirements such as a FSP) will be determined upon the most risky part of composite. For most businesses this will make no difference to the requirements that apply to the components as they would all be of the same risk classification in any event.

However, it might mean that a lower risk stall would be required to comply with more stringent compliance requirements than would otherwise be the case, if another part of the registration has a higher classification. For example, if a third party audit is required of the fixed premises, it will also be required of how the stalls are conducted. However, one set of requirements would make it easier for management and food handlers to understand what is required across the business. Comments are sought on this aspect of the proposal, from both a food safety and regulatory burden perspective. Ways to deal with this are discussed further at paragraph 6.3 below.

It is important to note 'off-site' means that the temporary premises are not in the immediate vicinity of the fixed premises. Thus proprietors operating a stall immediately in front of their fixed premises during street festivals and such like are excluded from *TempLink*. These types of occurrences will continue to be managed on a 'one-off' basis by the local registering council.

This form of composite registration also offers the most significant reduction in administrative or regulatory burden for councils because:

- Councils will no longer have to process applications each time a temporary stall operates within the municipality.
- One council is responsible for registering the composite rather than separate councils registering individual components of the composite. For many composites the component parts are forever evolving yet intertwined so that separation is meaningless. The complication of teasing out these intricacies is removed.
- Inclusion within *TempLink* provides better regulatory oversight:
 - It allows all councils to track the whereabouts of all separate premises;
 - It allows councils to monitor the compliance of all premises

6. Registering Multiple Temporary and Mobile Premises

Some proprietors operate more than one mobile vehicle, temporary stall or vending machine. For some proprietors these multiple premises are associated with fixed premises as discussed in Section 4. Other traders may have a suite of temporary premises, particularly multiple mobile vehicles or vending machines, which are not associated with any fixed premises.

Specific issues associated with the registration process for multiple mobile or temporary premises or vending machines are detailed below, and include:

- What must be registered?
- Which council is the responsible registering authority?
- What is inspected as part of the registration process?

6.1 What must be registered?

Proprietors that operate a number of temporary premises, a fleet of mobile vehicles or multiple vending machines will have the option to include all such premises in the one registration application.

The details of all premises will be lodged and separate Statements of Trade will be required for each temporary and mobile premises incorporated within the one registration.

6.2 Which is the registering council?

As detailed in previous sections, the registering council will be the jurisdiction in which any fixed premises associated with the temporary or mobile premises or vending machines is located (that is, if food is prepared or stored at those fixed premises for the purposes of the temporary or mobile business or vending machines). In this case the registering council registers the fixed premises and endorses on that registration the temporary or mobile premises.

The registering council will provide a unique identifier (such as R2008-00) to the fixed premises as part of the registration process. The registering council will also provide unique identifiers to each of the temporary and mobile premises associated with that fixed premises (such as R2008-01, R2008-02 and R2008-03).

As outlined in row 3 of table 2, where there is no fixed premises at which food sold at the stall, vehicle or vending machine is prepared or stored, the trader will nominate an address that is to be the “home base” for that business. The council in which that home base is located will be responsible for registering the stalls, vehicles or machines. In such a case “home base” means:

- The place where the equipment or vehicle is usually garaged or stored. (And if none, at the nominated principal business address of the food business.)
- The nominated business address of the proprietor of the vending machines

Note that the primary place of storage of equipment or vehicles only provides an address which automatically assigns the application for registration to the relevant council. The trader must nominate each *vehicle, stall or vending machine* for which

registration is sought. The registering council will provide a unique identifier to each as part of the registration process.

6.3 How do councils classify multiple premises within a registration?

The most risky element of the incorporated suite of temporary or mobile premises determines the risk class of the entire registration.

If three of the temporary stalls are essentially shelf-stable foods (so Class 4) but one is medium risk (Class 2), the entire registration is classified as Class 2. Compliance requirements such as a Food Safety Plan will therefore apply to all premises within that incorporated registration.

Application of a risk class over an entire bundle will reduce the administrative complexity for councils and traders alike.

However, including all premises within the one registration is optional. If traders determine that applying the higher compliance requirements to each of his or her multiple premises represents an additional regulatory burden he or she has the option to separately registering the relevant stall or mobile vehicle or vending machine.

6.4 What happens to multiple premises in Class 4?

Some temporary and mobile premises, especially vending machines, will not require registration. These premises (Class 4) will be subject to notification which means that only their details (proprietorship, food sold, dates and locations of operation) will be required.

The process of accepting notification of multiple Class 4 premises is the same as that described above for registrable premises. All premises can be notified at the one time, and each will be assigned a unique identifier associated with that notification (such as N2008-00, N2008-01, N2008-02 and N2008-03 etc).

6.5 What is the purpose of the unique identifiers for bundled premises?

Unique identifiers will enable all premises to be tracked. This is required:

- to enable traders to amend statements regarding the location and dates of operation of individual premises;
- to enable traders to cease operations from one stall, vehicle or vending machine without having to amend the entire registration;
- to enable councils to track the compliance performance of any specific stall or mobile vehicle;
- to enable councils to impose sanctions upon any specific stall or mobile vehicle;
- to enable councils to follow-up on complaints based on any specific stall or mobile vehicle;
- to enable councils to make food recalls from certain types of mobile or temporary premises and vending machines.

7. Vending Machines

7.1 Current Statutory Requirements for Vending Machines

The *Food Act* (1984) defines a food vending machine as "a machine or mechanical device used or capable of being used for selling food without any intervention or attention by or on behalf of the seller at the time of the sale".

The Act currently applies to food vending machines. The DHS consultation paper proposes that the Act will continue to apply, but will no longer require a certificate of registration to be granted *by each council in which the machines are located*. In addition, most machines will sell very low risk pre-packaged food and therefore fall within the proposed class 4. If all of the machines of a food business fall into this category then the business will only need to notify the one council in which the business is based, rather than formally register.

7.2 . Improved regulatory oversight of Vending Machines

Registration or notification of vending machines is considered important because it provides a basis from which food recalls can be made, when required. However the extent to which local councils actually register premises upon which vending machines are located is unknown. The sheer number of such premises places an undue administrative burden on councils.

The principal rationale for including vending machines within *TempLink* is that a vending machine is like any other mobile operator – they move regularly subject to location and profit. Movement of this type means that local councils “lose track” of where vending machines are located, frustrating any attempt at regulatory oversight.

Additionally, the need for traceability in the case of food poisoning, contamination or sabotage can be more readily achieved through a central data base such as *TempLink*.

7.3 . What compliance requirements apply to Vending Machines?

Vending machines will be subject to compliance requirements according to their Risk Class. It is acknowledged by the National Risk Validation Project that vending machines which supply shelf-stable foods present negligible risk of causing foodborne illness. As noted above, most vending machines will continue to fall within the lowest Risk Class and will attract low compliance requirements – notification rather than registration. A food safety program will not be required.

Notification is important because it provides local councils with knowledge of the location of the machines and the type of foods sold. This would assist food recalls and food safety educational activities.

However a mechanism will be required to enable greater registration of vending machines that supply higher risk foods. This is required for the possibility that the Victorian food industry adopts current overseas trends (especially those of Japan).

7.4 . Who is the Registering Council for Vending Machines?

Vending machines are located in dispersed areas of Victoria. Application for a bundled notification of these premises is complicated by the potential number of councils which might have that responsibility. A reduction in “red tape” can only be achieved if proprietors can readily identify the one council with whom they must seek notification. Column 3 of table 2 outlines which council would be responsible for registering a food vending machine business.

Note that *TempLink* will be designed to alert all relevant councils of the location of vending machines within their municipality. This will aid councils in following up on complaints and recalls as each machine will be provided with a unique registration identifier.

7.5 Recommendations

It is therefore proposed that:

- Vending machines will be included as mobile food premises
- Vending machine proprietors will be responsible for registering, or giving notice about, their machines.
- Vending machine proprietors can include all machines within the one notification, irrespective of the municipal boundaries in which those machines are located.

8. Summary of Roles and responsibilities under TempLink

8.1 What are the responsibilities of the trader?

The trader:

- a) seeks registration or notification through an on-line portal (or via hard copy with any council)
 - o Seeks registration or notification for set period according to trading circumstances – one day, one month, 12 months.
 - o Provides details on the ownership of the business, the nature of the business (food type, menu) and the nature of the premises (stall, vehicle, vending machine)
 - o Lodges a Food Safety Program and/or details of food handling qualifications where these are required (dependent upon Class category)
 - o Submits a completed Statement of Trade which includes dates and locations of intended trading - can be changed up until 5 working days prior to trading.
 - o Undertakes to amend registration if the nature of the business changes (additional processes or different foods)
 - o Provides public liability indemnity if required;
 - o Acknowledges that information regarding registration, trading schedules and inspection outcomes is shared between councils (removes privacy concerns of councils) and the State Government.
- b) Pays an registration or notification fee to the registering council
- c) Acknowledges that inspection fees are invoiced separately and that non-payment provides grounds for the cancellation of registration or notification;
- d) Pay any inspection fees to the issuing council
- e) Is required to display its Food Act registration or notification certificate whenever it operates.
- f) Observes sanctions imposed by any Council or court
- g) Pays financial sanctions to the issuing Council.
- h) Has access to own files (certain information blocked – such as details of complainants)

8.2 What are the responsibilities of the Registering Council?

The registering council:

- a) Assesses an application for notification or registration (paperwork complete and correct)
- b) Determines what kind of pre-assessment is required and undertakes or arranges required pre-registration inspections.
- c) Grants registration or accepts notification and imposes fees in accordance with state-wide Guidelines;
- d) Undertakes routine inspections at a frequency established under the Act, issues an invoice for the cost of inspection to the trader, submits the inspection results to *TempLink*, acknowledges (through *TempLink*) that breaches have been rectified
- e) Undertakes follow-up inspections in response to complaints, where previous inspections have recorded non-compliance.
- f) If inspections described in either (d) or (e) above are not possible (because the trader has “moved on”) the registering council should log this onto the

- TempLink* system. This will trigger an alerting message to other municipalities in which the trader plans to operate.
- g) May impose sanctions and enforcement actions as required. The registering council must acknowledge (on the *TempLink* system) when sanctions are lifted (through rectification of breaches);
 - h) If financial sanctions are imposed, the registering council must acknowledge (on the *TempLink* system) payment of those sanctions – otherwise the system will show that financial sanctions are outstanding;
 - i) Manages the interface with *TempLink* in relation to any premises that it registers or about which it is notified. The registering council is responsible for managing the data base “file” on those traders. This includes ensuring that registration is current, assessment and inspection results are lodged within the file, and areas on non-compliance are rectified.

The registering council is responsible for ensuring that the number of inspections undertaken (by any council) matches the minimum number required under the legislation and regulations. If it is not possible for the registering council to undertake the minimum number of routine inspections it should liaise with another jurisdiction to ensure that it does.

8.3 What are the responsibilities of other Councils?

Non-registering councils

- a) Receive Statement of Trade alerts (automated by the central database of *TempLink*) that a trader plans to operate within its jurisdiction
- b) Determines the status of that operator – registration up-to-date, assessment results and follow-up actions taken by the registering council or other councils. This determination is at a cost borne by the council (and is not recovered through fees imposed on traders), on the basis that each council will participate in the mutual recognition scheme to provide basic support to the principal registering council. Each council will, in turn, obtain the benefit of this co-operative approach in relation to any of its own responsibilities as registering council.
- c) Should endeavour to undertake a follow-up inspection when their jurisdiction is the next municipality in which a trader will operate and that trader requires a follow-up inspection (as flagged by any council). Nevertheless, a non-registering council is not mandated to undertake a non complaint related follow-up inspection.
- d) May undertake inspections on its own accord. A non-registering council may determine (in accordance with its own operating procedures) whether a routine inspection is required. For example, it may want to undertake an inspection because the nature of a specific event might increase the risks attached to the operation (for example Grand Final celebrations implies greater number of attendees which implies possibly greater risk). The results of these inspections must be lodged with *TempLink*. Whether the cost of such inspections may be recovered through fees imposed on traders as opposed to recovery through ratepayer funds is the subject of further review by the MAV/DHS Joint Food Safety Co-ordination Project.
- e) May impose any sanctions and enforcement actions as and when required. Details and outcomes (including payment receipt of payment for financial sanctions) must be lodged onto *TempLink*.

8.4 What is the responsibility of the *TempLink* service operator?

It is envisaged that *TempLink* would be a system hosted and supported by a third party with no direct food regulatory function. This party would ensure that the central database is maintained technically so that:

- all councils have access 24/7 to all relevant “files”
- councils have the ability to add to the “file” (such as additional inspection reports)
- The system messaging system is operational

The operator is like a web site manager or systems administrator in that it has no ownership or responsibility over the content. It would not co-ordinate the regulatory activities of councils and would not allocate regulatory responsibilities between them. Additionally, the operator would not ensure that records held on the system are accurate and up-to date.

To ensure the efficiency and currency of the system individual councils should ensure that all documentation - registration details, inspection and assessment results and copies of relevant documents - are lodged in a timely and accurate fashion with *TempLink*.

8.5 What Guidelines will be provided by DHS?

DHS is expected to provide guidelines which will:

- a. Assist councils to ensure that mobile and temporary premises are evaluated consistently across the state. Such guidelines might define what constitutes areas of non-compliance and how these might be rated (for example in terms of small, important and significant areas of breach) and describe how premises might be scored;
- b. Assist councils to apply sanctions in a way that is consistent across the state. These guidelines might outline what actions can be taken for each type of non-compliance (such as written notices, infringement notices, seizure, temporary suspension or closure, revocation of registration);
- c. Enable each council to formulate their individual food safety risk management strategy. These guidelines might sketch the conditions or circumstances under which councils may choose to undertake inspections above those mandated (such as follow-up of complaints and breaches);
- d. Ensure that temporary and mobile premises are not “over-inspected”.
- e. Enable councils to formulate their fee structures relating to registration and inspections

The guidelines are to be developed by DHS in consultation with councils.

9. Glossary

The following technical terms are used throughout this Discussion Paper. The following definitions are to assist traders in understanding this paper. Where they are consistent with any equivalent terms used in the Food Act 1984 (the Act) this is indicated.

Community Groups	Community Groups are those organisations which comprise persons who come together to pursue a common cause or interest for the good of their community. They are often run by volunteers, manage themselves and undertake fund-raising and not-for-profit activities.
Composite Premises	Temporary or mobile premises that are associated with a fixed premises
Fixed premises	A food business that is conducted at the same site and where the structure used is permanent. (Typically in a building that is affixed to the land.) In this paper it refers to all premises <i>except</i> those of a temporary nature (which are dismantled), mobile vehicles and vending machines.
Food premises	As defined in the Act , food premises means any premises at, on or from which food is sold, or handled with the intention that it be sold (exceptions are outlined within the Act).
Food Safety Program (FSP)	A Food Safety Program is a written plan that shows how the business will manage the safety of the food prepared, served, manufactured or sold from food premises. It must identify hazards that might occur and how they can be controlled. It must also provide for monitoring and review, and record keeping to demonstrate compliance, and for corrective action where required. (Refer to section 19D of the Act.)
Food Safety Program - template	A template is a set of instructions to enable a proprietor to create a food safety program for their food business. This template must be registered by DHS for this purpose under the Act. If a proprietor completes such a template in accordance with the instructions, the completed document is recognised under the Act as a food safety program for that business. . (Refer to sections 19D, 19DA and 19DB of the Act.)
Food Safety Program - proprietary	The Food Safety Program was designed and written by the proprietor or an agent of the proprietor.
Food Safety Standards	As defined in the Act: Food Safety Standards means the standards contained in Chapter 3 of the Food Standards Code. Food Standards Code means the Australia New Zealand Food Standards Code as defined in the Australia New Zealand Food Authority Act 1991 of the Commonwealth

Food Safety Supervisor	A Food Safety Supervisor is a person (appointed by the proprietor) who knows how to identify hazards associated with handling food at the premises, has met appropriate food safety competency standards (ie training) and has the ability and authority to supervise food handlers. (Refer to section 19G of the Act.)
Mobile vehicle or mobile premises	As defined in Chapter 2.4 of this Paper
Notification	A system where low risk businesses notify local councils that they intend to operate a food premises on particular dates and from specified locations.
Proprietor	As defined in the Act, proprietor of a food business means- (a) the person carrying on the food business; or (b) if that person cannot be identified, the person in charge of the food business.
Registering Council	The council that grants an initial, transferred or renewal of registration of a food premises
Registration	Where a council provides the proprietor with authority to operate a food premises from that place under Part 6 of the Act and records this on a certificate. Registration with local councils is required under the Act.
Risk Class	It is proposed that food premises would be categorised – as Class 1, 2, 3 or 4 – according to the risks posed by the premises. This in turn reflects the nature of the food or processes involved, the type of customer and the ‘sphere of impact’ (the potential number of customers). For a full description of these four proposed classes refer to pages 25, 28, 31 and 32 of the DHS consultation paper at http://www.health.vic.gov.au/foodsafety/regulatory_info/consult_paper.htm
Temporary premises	As defined in Chapter 2.4 of this Paper
Vending Machine	As defined in the Act- a food vending machine means a machine or mechanical device used or capable of being used for selling food without any intervention or attention by or on behalf of the seller at the time of the sale

Attachment 1: How the Central Data Base Could Work

