

Food Safety in Queensland

Food Licensing for Fixed Premises

For Submission of Food Premises Plan Approval And Food Licence Application

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Whitsunday Regional Council in Partnership with:

- Queensland Government – Queensland Health
- Australian Institute of Environmental Health
- Whitsunday Regional Council Association of Queensland Inc

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Introduction

This package assists food businesses with making application for a licence under the **Food Act 2006**. It has been specifically tailored to meet the needs of fixed food premises. Similar packages have been developed to assist food businesses operating from both mobile and temporary (market style) premises; Charter Vessels; and an information pack for Community Organisations.

This package relates to both applications for new fixed food premises and for existing fixed premises undertaking alterations, re-fit or refurbishment.

Queensland's food legislation

Queensland's food legislation aims to ensure consumers are provided with safe food whilst allowing for a flexible approach for food businesses to meet food safety requirements.

Food legislation in Queensland includes:

- Food Act 2006 (***the 'Act'***),
- Food Standards Code (***the 'Code'***), which includes the following Food Safety Standards:
 - Standard 3.1.1 Interpretation and Application
 - Standard 3.2.2 Food Safety Practices and General Requirements
 - Standard 3.2.3 Food Premises and Equipment.

The following documents may also provide guidance in the interpretation of the legislation:

- Safe Food Australia, A Guide to the Food Safety Standards (interpretation of the Food Safety Standards)
- Australian Standard 4674 (AS 4674- 004) – Design, construction and fit-out of food premises.

Details of where to obtain copies of these documents, and others relevant to food safety, are provided in the "***Further information and assistance***" section of this package.

Who enforces the food legislation?

Queensland Health and Whitsunday Regional Council both have responsibilities under the Food Act 2006 for the administration, monitoring and enforcement of food safety legislation.

Environmental Health Officers from both Queensland Health and Whitsunday Regional Council are appointed as authorised persons and undertake the administration, monitoring and enforcement of food safety legislation.

Whitsunday Regional Councils are responsible for licensing and inspecting food premises.

Queensland Health is responsible for ensuring compliance with the labelling and composition requirements under the Food Standards Code and co-ordinate the investigation of food-borne illness outbreaks.

Food labelling

For information on the labelling requirements for packaged foods, follow the link to Label Buster Guide under Further information and assistance section of this package. Label Buster was written as an easy to follow guide to food labelling as required for packaged foods under the Food Standards Code.

Powers of authorised persons

Queensland Health and Whitsunday Regional Council authorised persons have the power to:

- enter a food business for an inspection
- search any part of a food business
- inspect, measure, test, photograph or film any part of the place
- take samples
- copy a document
- bring any equipment and materials that are required with them
- require a person to help them
- question staff

- stop motor vehicles used as food businesses
- seize evidence
- destroy seized items
- require name and address
- require production of documents
- to require information.

All authorised persons are required to carry photographic identification which includes the legislation under which they are authorised. You are entitled to ask an Environmental Health Officer to show you their identification.

Environmental Health Officers work in a collaborative manner with the food industry to educate and assist food handlers in how to comply with food safety legislation and produce safe and suitable food. However, it is important to understand that the Food Act 2006 does allow for enforcement action to be taken, with significant penalties of up to \$102 500 or two years' imprisonment for the most serious of breaches.

What is a licensable food business?

A licensable food business is a food business that:

- involves the manufacture of food; or
- is carried on by an entity other than a non-profit organisation and involves the sale of unpackaged food by retail; or
- is carried on by a non-profit organisation and involves the sale of meals at least 12 days each financial year.

Examples of licensable food businesses

The following industry sectors are examples of licensable food businesses..

Food manufacturers:

- manufacturer of food products

Sale of unpackaged food by retail, including but not limited to:

- a restaurant or delicatessen
- a catering business
- a takeaway food shop, such as a pizza shop
- a motel providing meals with accommodation
- a food business that involves selling food, such as hamburgers, from a motor vehicle or unpackaged food from a vending machine
- private hospital
- private school tuckshop
- temporary food stalls

Non-profit organisations that sell meals on at least 12 days each financial year, including but not limited to:

- a restaurant, open daily to the public, operated by a sporting club to raise revenue for the club
- the provision of meals for a fee to homeless persons at a homeless persons' hostel
- the preparation of meals by Meals on Wheels

The following food businesses may also be a licensable food business:

- child care centres/services
- private residential facilities
- food vans, itinerant vendors
- bed and breakfasts

Activities exempt from the application of the Act

The following food activities are exempt from the application of the Food Act 2006:

- State or government owned corporations
- the handling or sale of food at a tuckshop operated by a parents and citizens association ¹ at a state school ²
- the handling of food, at a person's home, intended to be given away to a non-profit organisation for sale by the organisation

Example:

Baking a cake to give to a junior football club committee for sale by the committee at a fundraising stall

These activities do not require a licence and are exempt from all requirements under the Act and are not subject to enforcement provisions or inspections. However, Queensland Government facilities operating as a food business will be required to comply with administrative arrangements equivalent to the provisions of the Food Act 2006. This will be monitored by Queensland Health. If the food business in a Queensland Government facility is sub-leased by a private commercial entity, then a licence under the Act is required.

Example:

A food business sub-leased by a commercial entity at a railway station would require a licence and should consult with the relevant Whitsunday Regional Council for the area regarding the suitability of the premises.

If that food business was run by the State or a government owned corporation, then a licence would not be required, but the obligations imposed on other food businesses would still have to be met. The food business should consult with the relevant population health unit regarding the suitability of the premises.

Which food businesses do not require a licence?

Certain food businesses are exempt from licensing requirements.. These include:

- the production of primary produce under an accreditation granted under the Food Production (Safety) Act 2000
 - including meat, dairy, seafood and egg schemes
- the handling or sale of fisheries resources under a buyer licence issued under the Fisheries Regulation 1995, except where the seafood is cooked
- the sale of **unpackaged snack food**, such as biscuits, cakes, confectionary, nuts and potato chips **that are not potentially hazardous food**
- the sale of whole fruit or vegetables
- the sale of seeds, spices, dried or glazed fruit, dried herbs, tea leaves, coffee beans or ground coffee
- the grinding of coffee beans
- the sale of drinks (other than fruit or vegetable juice processed at the place of sale) including, for example, tea, coffee, soft drinks and alcohol
- the sale of ice, including flavoured ice, such as slurpees and snow cones or bags of party ice
- the provision of meals by a non-profit organisation that are prepared by someone other than the organisation and are stored and heated or otherwise prepared by the organisation in accordance with the directions of the meal's manufacturer

Example:

The sale of a frozen meal that has been reheated at a non-profit canteen of a private school

- the sale of food, by a non-profit organisation, that is prepared as part of an educational or training activity conducted by the organisation involving food preparation, hospitality or catering.

¹ A parents and citizens association formed under the Education (General Provisions) Act 1989

² Education (General Provisions) Act 1989, section – State school means a school at which primary, secondary or special education is provided by the State.

An application package and guide for the licensing of Fixed Food Premises

While these food businesses are exempt from the licensing requirements and associated provisions, such as food safety supervisors and food safety programs, they are still required to comply with all other aspects of the Food Act 2006 and the Food Standards Code, including the Food Safety Standards. These food businesses may be inspected, if needed, and are subject to the same offences and enforcement methods as licensed food businesses.

If you are unsure if your food business is required to be licensed, contact Whitsunday Regional Council to discuss any requirements that may apply to you.

Food safety supervisors

From 1 July 2008, a licensee must ensure that they have a food safety supervisor for the food business under the licence. The licensee may be the food safety supervisor and may have more than one food safety supervisor for the food business. The licensee must ensure the food safety supervisor is reasonably available to be contacted by the Whitsunday Regional Council while the food business is open for business.

The licensee must advise the Whitsunday Regional Council of the contact details of each food safety supervisor for the food business within 30 days after the licence is issued.

If the food safety supervisor for the food business changes, the licensee must advise the Whitsunday Regional Council of the contact details of the new food safety supervisor within 14 days. The licensee must also advise Whitsunday Regional Council of a person ceasing to be a food safety supervisor within 14 days. Any changes to the food safety supervisors contact details must also be provided within 14 days of the change.

Food safety programs

Food safety programs are not currently required under the Food Act 2006. However, certain businesses will be required to develop and implement food safety programs from 1 July 2008. Information will be distributed to food businesses prior to commencement of this requirement.

What do I submit with my Food Premises Plan Approval Application?

In addition to the completed application form in the back of this package, you will need to provide plans and drawings of your food business. For guidance on the appropriate design, construction, fit-out, fixtures and finishing's used in your food premises, refer to Safe Food Australia.

Plans and drawings

Two copies of the following plans will be required for each application. Plans must be drawn to scale (*as indicated below*) and provide an accurate representation of the layout of the food premises. Two copies of the plans will be kept by Whitsunday Regional Council on file and the other copy will be returned to you if your application is approved.

Hand drawn plans are acceptable as long as they meet the requirements outlined below, are legible and drawn to scale.

Site Plan

This is a plan of the site showing the food premises location, waste storage, car parking, staff and public toilet facilities and adjacent land uses. **It should be drawn to scale of not less than 1:100** (1cm on the plan = 1m)

Floor plan

The floor plan should contain details of the layout of all the equipment, fixtures and fittings in a bird's eye view (looking down on the premises) **drawn to scale of not less than 1:50** (1cm on the plan = 0.5m)

Sink details should be provided, including the type of sink (single bowl, double bowl, triple bowl, wash hand basin, or cleaner's sink), and the dimensions (or the size and depth of the sink). The floor plan should also indicate the type of materials and finishes used on equipment, fixtures, fittings, floors, walls and ceiling (such as stainless steel or laminated work benches, walls and ceilings finished in a high gloss paint and ceramic tiled floor with epoxy grouting).

Sectional elevations - (drawn to scale of not less than 1:50)

Sectional elevations are a side-on view of the walls of the premises and should indicate the height of structures, benches, equipment and fixtures, including fixtures, fittings and equipment within cool rooms/freezer rooms (if applicable).

Hydraulic plans - (drawn to scale of not less than 1:50)

Hydraulic plans are plumbing and drainage plans and show the location of water and sewage pipes and connection types, tundishes, and grease traps.

Mechanical exhaust ventilation plans - (drawn to scale of not less than 1:50)

If a mechanical ventilation system is required, it must effectively remove all fumes, vapours, steam or smoke. A system installed in accordance with the Australian Standard AS 668 part would be deemed to comply with the requirements for mechanical ventilation.

Transport vehicle plan - (drawn to scale of not less than 1:50)

A transport vehicle plan should contain the details of the layout of all the equipment, fixtures and fittings and the types of materials used.

Documented food recall system (if applicable)

If your food business is a wholesaler or supplies, manufactures or imports food, you will need to attach a written food recall plan with the licence application. The 'Food Industry Recall Protocol: A guide to writing a food recall plan and conducting a food recall' may assist the food business in preparing a food recall plan. To find further information refer to page 3.

Prescribed fees

Please contact Whitsunday Regional Council for a scheduled of fees.

Application process

All applications for a licence must be directed to the Whitsunday Regional Council in whose area you intend to operate. Businesses which include off-site catering, are only required to hold one food licence to operate anywhere in Queensland. The licence must be issued by the Whitsunday Regional Council for the area in which your principal place of business is located.

Contact details can be found in the government sections of your phone directory.

Step 1 – Pre-lodgement meeting

Some Whitsunday Regional Councils provide a pre-lodgement meeting to assist you in understanding the requirements of the legislation and the application process. Pre-lodgement meetings are valuable in making the application process run smoothly and you are encouraged to make use of this service.

Step 2 – Complete the Food Premises Plan Approval Application form

All sections of the Food Premise Plan Approval application form must be completed. The completed application form is then submitted to the Whitsunday Regional Council along with all the relevant documentation (such as plans etc) for assessment and the required payment.

What will Whitsunday Regional Council assess?

Whitsunday Regional Council will assess the submitted food premises plans based on the following, to determine if an approval to fit-out the premises should be issued:

Town planning suitability

On submission of your plans they shall be provided to the Development Co-ordination Unit to be assessed to ensure that the food business fits within the zoning requirements of the parcel of land being considered for use. The DCU will assess requirements regarding suitability of location for business, includes home based businesses, car parking, traffic control, footpath dining and referrals to other government bodies for their advice. ***Please contact Council's Land Use and Social Planning Services on (07) 4945 0249 for advice on applications required.***

Suitability of premises

Food premises must comply with the Food Standards Code, Standard 3.2.3 – Food premises and equipment.

The Australian Standard for the Design, construction and fit-out of food premises (AS 4674 – 2004) provides design, construction and fit-out criteria for new food premises and for the renovation or alteration of existing premises. The scope of the Standard is limited to permanent buildings used by the food service industry, by food retailers and by small-scale food manufacturers. The Standard does not provide criteria for the design, construction and fit-out of temporary and mobile food premises.

The Standard provides an option for meeting the requirements of Standard 3.2.3 – Food premises and equipment. However, compliance with the standard is not mandatory.

How long does the assessment take?

Generally, a decision will be made on your Food Premises Plan Approval application **within 30 days**. However, if you have forgotten to include some required documentation or if the Whitsunday Regional Council needs additional information, they may request this of you and this will extend the time taken to decide on your application.

For complex applications, the Whitsunday Regional Council may notify you that additional time is required to make a decision. This notice will include the date when a decision will be made.

Step 3 – Complete the licence application form

On Approval of your Food Premises Plan, Council will provide an application for a Food Licence. All sections of the food business licence application form must be completed. The completed application form is then submitted to the Whitsunday Regional Council along with all the relevant documentation and required payment.

Step 4 – Assessment of the application

What will Whitsunday Regional Council assess?

Whitsunday Regional Council will assess the following in determining if a licence should be issued:

Suitability of person to hold a licence

The following criteria will be used to determine whether a person is a suitable person to hold a licence:

- whether the applicant has appropriate expertise or experience to provide safe and suitable food under the licence and be able to obtain the services of other persons with appropriate expertise or experience to provide safe and suitable food
- whether the applicant has a conviction for a relevant offence, other than a spent conviction
- whether the applicant has held a licence under the Food Act 2006, the Food Act 1981 (or the previous Food Act) or a corresponding law
- anything else relevant to the applicant's ability to sell safe and suitable food

Note:

If an applicant is a corporation or an incorporated association, the applicant is an executive officer of the corporation or a member of the association's management committee.

Suitability of premises

See step 2.

How long does the assessment take?

Generally, a decision will be made on your application within 30 days. However, if you have forgotten to include some required documentation or if the Whitsunday Regional Council needs additional information, they may request this of you and this will extend the time taken to decide on your application.

For complex applications, the Whitsunday Regional Council may notify you that additional time is required to make a decision. This notice will include the date when a decision will be made.

Step 5 – Decision on application

Whitsunday Regional Council can make one of three decisions on your application for a licence:

Approval of application

If your application is approved, Whitsunday Regional Council will provide written notification along with a Food Licence Application.

Note:

Construction or fit-out of your food premises should not commence until an approval is granted. This is important for you as any changes required by the Whitsunday Regional Council to ensure that your premises complies with the Food Safety Standards will cost you less to make in the planning stage rather than after construction or fit-out.

Food Licensing

Your licence will include some additional conditions and you will receive written notification of what they are and the reasons for the conditions.

Provisional approval of application

In some cases, the Whitsunday Regional Council may not be fully satisfied that your application meets all of the criteria for granting a licence. However, if they believe that a licence will be issued in the future when the criteria are met, a provisional licence will be issued.

A provisional licence is issued for a maximum of three months and cannot be renewed or extended.

The provisional licence allows you to operate your food business. However, you will need to address the issues identified by the Whitsunday Regional Council in order to be issued with a licence after the provisional licence period.

Refusal of licence

If you have failed to meet the criteria for granting a licence, the Whitsunday Regional Council will refuse to grant a licence and will issue you with written notice explaining their decision. If you believe that you are able to address the deficiencies in your application, you are able to resubmit your application with updated information.

Another reason for refusal of an application is failure of the applicant to provide additional information within the time requested. If you are asked for additional information, you will be given minimum of 30 days to provide it. If you do not provide the information in that time, your application will be refused.

Additional assistance with your application

On-site assessment during construction

While an on-site assessment during construction is not a legislative requirement, it may be in the interests of the applicant to request an on-site assessment during construction.

When the food business is substantially fitted out, you can contact Whitsunday Regional Council to assess whether the premises have been designed and fitted-out in accordance with the approved plans. During the on-site assessment the Environmental Health Officer may provide feedback on items that still need to be attended to or where the standard of work needs to be improved. A timeframe will be provided for the work to be carried out.

On-site assessment prior to opening

Whitsunday Regional Council will conduct a final inspection on the applicant's request to determine if a licence may be issued for the premises. You must have been issued with your licence prior to operating as a food business.

Ongoing inspections and assistance

After you have commenced operating, Whitsunday Regional Council Environmental Health Officers will conduct inspections of the food business at regular intervals to ensure that the food business is operating in accordance with their licence conditions and the Food Safety Standards. The Environmental Health Officer will also provide advice and other information to assist the food business in meeting these standards.

Other approvals required by food businesses

Approvals issued by Whitsunday Regional Council

In addition to applying for a food business licence, you may need to obtain the following approvals from Whitsunday Regional Council:

Development permits and approval

- Please contact the Council's Land Use and Social Planning Services.

Building approval

- Please contact the Council's Land Use and Social Planning Services.

Plumbing and drainage approval

- Please contact the Council's Land Use and Social Planning Services.

Trade waste approval

- Please contact the Council's Transport and infrastructure Services.

Search applications

A search application will provide a formal report on the conduct of the business prior to sale, but does not provide information on the quality of the fixtures and fittings. The report will provide the applicant with an indication of the current standard of the premises (including outstanding orders or notices).

- Please contact the Council's Customer Service Centres at Bowen, Collinsville or Proserpine.

Advertising signs or devices

You may be required to apply for a permit for any advertising signs or devices. A permit may be obtained by making an application to Council.

- Please contact the Environment and Compliance Services.

Footpath dining

If you would like to include alfresco or outside footpath dining as a part of your food business you must first apply for a Footpath Dining Permit. A permit may be obtained by making an application for approval to Council. A permit application must be accompanied by the application fee and plans of the proposed footpath dining area.

- Please contact the Council's Environment and Compliance Services.

Issues managed by other government departments

Contact details for the relevant departments are listed in the "***Further information and assistance***" section.

Liquor licensing

A liquor licence may be required. Contact the Liquor Licensing Division of the Department of Tourism, Fair Trading and Wine Industry Development, in Mackay (07) 4969-3005.

Tobacco laws

Queensland Health is implementing new legislation restricting smoking in certain places. For more information on how these restrictions affect your food business, contact the Tobacco Hotline on 1800 005 998.

Workplace health and safety

Workplaces are subject to provisions of the Workplace Health and Safety Act 1995. Contact the Division of Workplace Health and Safety for further information.

Definitions

Definitions from the Food Act 2006

Food business – means a business, enterprise or activity (other than primary food production) that involves:

- (a) the handling of food intended for sale
- (b) the sale of food

regardless of whether the business enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.

Off-site catering – in relation to a food business, means serving potentially hazardous food at a place other than the principal place of business for the food business. Off-site catering does not include:

- a) merely delivering food under an arrangement with, or on the order of, a consumer (e.g. delivering pizzas from a takeaway pizza shop), or
- b) the sale of food from mobile premises or temporary premises. (e.g. the sale of ice-creams from a mobile ice-cream van).

On-site catering – in relation to a food business, means preparing and serving potentially hazardous food, to all consumers of the food at the premises from which the business is carried on, under an agreement under which the food is:

- a) of a predetermined type; and
- b) for a predetermined number of persons; and
- c) served at a predetermined time; and
- d) for a predetermined cost.

On-site catering does not include:

- a) preparing and serving food at an eating establishment; or
- b) merely preparing and displaying food for self-service by consumers. (e.g. preparing food for consumption from a buffet at a restaurant).

Eating establishment – means a restaurant, cafe or similar food business that involves the preparation and service of food on the order of a person for immediate consumption by the person.

Definitions from the Food Safety Standards

Equipment - means a machine, instrument, apparatus, utensil or appliance, other than a single use item, used or intended to be used in or in connection with food handling and includes any equipment used or intended to be used to clean the food premises or equipment.

Food handler - means any person who directly engages in the handling of food, or who handles surfaces likely to come into contact with food, for a food business.

Food premises - means any premises including land, vehicles, parts of structures, tents, stalls and other temporary structures, boats, pontoons, including premises used principally as a private dwelling, but does not mean food vending machines or vehicles used only to transport food.

Handling of food - includes the making, manufacturing, producing, collecting, extracting, processing, storing, transporting, delivering, preparing, treating, preserving, packing, cooking, thawing, serving or displaying of food.

Potentially hazardous food – means food that has to be kept at certain temperatures to minimise the growth of any pathogenic micro-organisms that may be present in the food or to prevent the formation of toxins (e.g. meats, seafood, dairy products).

Sinks – includes sinks for food preparation, cleaners sink, utensil and equipment washing, and personal hand washing basins.

Temperature control - means maintaining food at a temperature of:

- (a) 5°C, or below if this is necessary to minimise the growth of infectious or toxigenic micro-organisms in the food so that the microbiological safety of the food will not be adversely affected for the time the food is at that temperature
- (b) 60°C or above
- (c) Another temperature- if the food business demonstrates that maintenance of the food at this temperature for the period of time for which it is so maintained, will not adversely affect the microbiological safety of the food.

Sanitising – is a process that significantly reduces the number of micro-organisms present on a surface. This is usually achieved by the use of both heat and water or by chemical sanitisers.

Definitions relevant to this document

FSS – Food Safety Standards.. These are part of the Food Standards Code and define requirements for food premises on food handling practices and the structural requirements of food premises.

NHMRC – is the National Health and Medical Research Council which funds health and medical research in Australia.

Potable water – means water suitable for drinking.

Primary food production - is the growing, cultivation, picking, harvesting, collection or catching of food, and includes:

- (a) transport or delivery of food on, from or between the premises on which it was grown, cultivated, picked, harvested, collected or caught.
- (b) packing, treating (for example washing) or storing of food on the premises on which it was grown, cultivated, picked, harvested, collected or caught, and
- (c) any other food production activity prescribed by another Act.

Safe and suitable food – Food is considered unsafe if it is likely to cause physical harm to a person who might later consume it, assuming they treated the food correctly after purchase. Food is considered unsuitable if it is damaged, deteriorated or perished to an extent that affects its intended use e.g. out of date, contains a substance that is foreign to the nature of the food i.e. foreign matter or chemicals which may have fallen into the food, poor maintenance or poor storage of chemicals.

Further information and assistance

The tables below provide further information on how to obtain copies of the legislation and guidelines, and other useful websites and contacts.

Legislation and guidelines	Web address	Available from:
Food Act 2006	www.legislation.qld.gov.au	Government Printing Office (Go Print) Phone: (07) 3246 3399
Food Standards Code	www.foodstandards.gov.au	
Food Safety Standards	www.foodstandards.gov.au	Food Standards Australia New Zealand
"Safe Food Australia - A guide to the Food Safety Standards"	www.foodstandards.gov.au	Phone:" (02) 6271 2222
"Food Industry Recall Protocol - A guide to writing a food recall plan and conducting a food recall"	www.foodstandards.gov.au	
Label Buster Guide	www.health.qld.gov.au	Queensland Health Population Health Unit
Food Licensing Tool Box Fit-out Guide	www.whitsundayrc.qld.gov.au	Whitsunday Regional Council Environmental Health Unit Phone: (07) 4945 0200
Additional Websites / Contacts		
Department of Tourism, Racing and Fair Trading - Liquor Licensing Division	www.liquor.qld.gov.au	Phone: (07) 4969-3005 Mackay
Department of State Development - Business Licences and registration	www.sd.qld.gov.au	Phone:1300 363 711
Division of Workplace Health and Safety	www.dir.qld.gov.au	Phone: 1300 369 915
Safe Food Queensland 12 Helen Street Newstead Qld 4006 PO Box 440 Spring Hill Qld 4004	www.safefood.qld.gov.au	Phone: 1800 300 815 Email: info@foodsafety.qld.gov.au