

Form 3 – Goods on Footpath

Application for Approval of a Prescribed Activity

Cairns Regional Council Local Law No. 1 (Administration) 2011
Cairns Regional Council Subordinate Local Law No. 1 (Administration) 2011
Schedule 8 Prescribed Activity: Commercial Use of Local Government Controlled Areas and Roads

Year: 2012/2013

You **MUST** complete ALL questions unless the form indicates otherwise. Incomplete forms or forms without all necessary information and documentation will result in your application not being a properly made application.

For all applications, you must:

- complete this form
- complete any other forms relevant to your application
- provide any mandatory supporting information identified on the forms as being required to accompany your application
- submit the fee applicable

Business details

Trading name	<input style="width: 100%;" type="text"/>
Business name	<input style="width: 100%;" type="text"/>
ABN	<input style="width: 100%;" type="text"/>
Business address	<input style="width: 100%;" type="text"/>
Applicant's name	<input style="width: 100%;" type="text"/>
Postal address	<input style="width: 100%;" type="text"/>
Manager's name	<input style="width: 100%;" type="text"/>
Manager's contact phone number	<input style="width: 100%;" type="text"/>
Business phone number	<input style="width: 100%;" type="text"/>
Business fax number	<input style="width: 100%;" type="text"/>
Business e-mail address	<input style="width: 100%;" type="text"/>

Proposed Activity

Please identify the nature of the activity

Proposed Activity

Please provide a description of the proposed display, e.g. Dimensions of display area (width & length)

Proposed Location of Activity

Street Address

Locality/Suburb

Type of Approval	(Please tick)
New Application	<input type="checkbox"/>
Renewal Application	<input type="checkbox"/>
Transfer Application	<input type="checkbox"/>

Supporting documents, information and materials required to complete this application. Please complete this checklist in full	(Please tick)
Please attach a copy of your Public Liability Insurance to the value of \$10,000,000.00 noting Cairns Regional Council as an interested party.	<input type="checkbox"/>
Please attach a site plan (see attached detailed information)	<input type="checkbox"/>
Please attach photographs/brochure (see attached detailed information)	<input type="checkbox"/>

Please indicate below the maximum length of time for which the display would be in place.	(Please tick)
Example: The trading hours of a business might be 9:00am to 5:00pm, Monday to Friday and it is intended that the display will be placed on the footpath during those hours of operation.	

Existing Approvals	(Please tick)
Have any approvals been provided by Council or another department, agency or body pursuant to another law (for example, the <i>Liquor Act 1992</i> or the <i>Food Act 2006</i>)?	
Yes, please attach any approvals	<input type="checkbox"/>
No	<input type="checkbox"/>

Fee Schedule:	\$
Application Fee	\$ 269.00

Upon renewal of your licence or transferring of this licence the following fees will apply:

Renewal Application Fee \$269.00

Transfer Application Fee \$185.00

Term of approval: The term of approval is the period stated on the approval.

Term of renewal of approval: The term of any renewal of an approval is the same term as the original approval subject to compliance with all conditions stated on the approval.

Conditions that must be imposed on approvals

The following conditions are conditions that must be imposed on approvals—

- (a) The approval holder, its contractors or agents must—
 - (i) conduct the commercial recreation activity on the days and hours specified on the approval;
 - (ii) adhere to the safety standards;
 - (iii) indemnify the local government against all liability directly or indirectly associated with the activity;
 - (iv) take out a public liability insurance policy in the amount specified in the approval in the name of the operator and the local government;
 - (v) provide to its customers or any other persons undertaking the activity all necessary or appropriate safety equipment, warnings and instruction;
 - (vi) comply with all reasonable directions of an authorised person in the time specified by the authorised person.

Conditions that will ordinarily be imposed on approvals

The following conditions are the conditions that will ordinarily be imposed on an approval where applicable, in the opinion of an authorised person—

- (a) The approval holder, its contractors or agents may be required to—
 - (i) supply a written report advising compliance with the approval must be submitted to the Chief Executive Officer on an annual basis;
 - (ii) be responsible for any costs or expenses incurred by local government for rectifying any damage caused by the activity;
 - (iii) make smoking receptacles available to collect cigarette butts, lighted matches, tobacco products or any other lit materials;
 - (iv) ensure that vegetation, soil, sand, rocks, native animals or natural things are not interfered with, damaged or removed;
 - (v) not interfere with, paint, permanently mark, damage or remove any buildings, structures, fixtures, fittings or facilities provided by local government;
 - (vi) not erect any permanent or temporary buildings, signs or structures upon the approved activity area without the written consent of local government;
 - (vii) ensure that litter is collected and lawfully disposed at a local government waste transfer station;
 - (viii) ensure that portable toilets are supplied as directed by local government;
 - (ix) ensure that waste from portable toilets is collected by a regulated waste transporter and disposed of lawfully at a facility licensed to accept such waste
 - (x) ensure that serving or selling any food, refreshments, souvenirs or other retail items is prohibited unless written approval of local government;
 - (xi) ensure that cleaning, maintaining or repairing any vehicle, vessel, aircraft or other equipment except for emergency repairs is prohibited;

- (xii) ensure that activities are not permitted within 30 metres of a deployed stinger net;
- (xiii) advise the means by which impacts on the environment must be minimised;
- (xiv) advise the means by which impacts on the amenity of neighbouring areas must be minimised;
- (xv) ensure that its customers and all other persons undertaking the activity are accompanied and supervised by a person holding a recognised first aid certificate and all other certifications required by any State or Commonwealth authority;
- (xvi) only permit experienced and competent guides, agents or supervisors to oversee the operation of the activity;
- (xvii) accept full responsibility for the safe transportation of customers and all other persons undertaking the activity;
- (xviii) provide information, explanations, cautions and warnings to customers and all other persons undertaking the activity regarding the hazards likely to be encountered by them when the activity is undertaken;
- (xix) ensure that any motor vehicle, vessel, aircraft or other machinery used in connection with the activity, complies with all safety requirements and regulations and are operated in accordance with requirements, guidelines or recommendations published from time to time by the manufacturer or any State or Commonwealth authority;
- (xx) identify the points at which an operator is to access the site for the purpose of undertaking the commercial recreation activity;
- (xxi) state the number of customers to be taken to the site at any one time;
- (xxii) include the programming of a commercial recreation activity on the site;
- (xxiii) include the use of any roads, jetties, foreshores or other means of accessing the site;
- (xxiv) include the amenities or facilities to be provided for use by customers.

Declaration:

To the Chief Executive Officer, Cairns Regional Council

I / We make application under *Cairns Regional Council Local Law No. 1 (Administration) 2011* to conduct the prescribed activity outlined in this form.

Print Name:

Signature:

Dated:

Cairns Regional Council – Information Privacy Statement

Your personal information has been collected for the purpose of assessing your Application for Approval. The collection of your information is authorised under the *Local Government Act 2009*. You are providing personal information which will be used for the purpose of delivering services and carrying out Council business. Your personal information is handled in accordance with the *Information Privacy Act 2009* and will be accessed by persons who have been authorised to do so. Your information will not be given to any other person or agency unless you have given Council permission or the disclosure is required by law.

OFFICE USE

Does the application fit the criterion for granting of approval?		YES	NO
<p>4. Additional criteria for the granting of approval. <i>The following criteria are criteria that must be considered for the granting of approval –</i></p> <p>(a) <i>whether in the opinion of an authorised person the proposed activity would –</i></p> <p style="padding-left: 20px;">(i) <i>adversely effect the amenity of the area or road and/or the environment; or</i></p> <p style="padding-left: 20px;">(ii) <i>adversely effect existing services located in, on or over an area or road.</i></p>			
PAYMENT DETAILS:	Receipt Type 317	Payment Amount \$	Receipt No:

GENERAL APPLICATION CONDITIONS

Section 8 - Form of Application

- (1) An application for the local government's approval of a prescribed activity must be made in a form approved by the local government.

Examples of a form approved by the local government –

A written form or an online application process.

- (2) The application must be accompanied by –

- (a) documents and materials required under a subordinate local law for this paragraph; and
- (b) proof that the applicant currently holds any separate approval relating to the prescribed activity that is required under another law; and
- (c) the prescribed fee.

Example for paragraph (a) –

The local government may require an application to include site plans, management plans, relevant consents, evidence of public liability insurance, etc.

Example for paragraph (b) –

A prescribed activity may require approvals under another Act in relation to development, building, liquor, carriage of goods, business licensing, etc.

- (3) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in the application.

- (4) The notice under subsection (3) must state –

- (a) the grounds on which the request is made; and
- (b) an outline of the facts and circumstances forming the basis for the grounds; and
- (c) a detailed description of the information requested; and
- (d) the date, not less than 7 days after the applicant receives the notice, by which the applicant must provide the information.

- (5) If the applicant does not, without reasonable excuse, provide the further information by the stated date –

- (a) the application lapses; and
- (b) the local government must give the applicant written notice stating that –
 - (i) under this section the application lapses; and
 - (ii) the applicant may make a new application.

- (6) However, the local government may extend the period for the applicant to provide the further information.

- (7) A person must not provide information in or in connection with an application that is, to the person's knowledge, false or misleading in a material particular.

Maximum penalty for subsection (7) – 20 penalty units

Section 9 – Local government’s discretion in granting approvals

- (1) The local government may grant an approval for an applicant to undertake a prescribed activity only if it satisfied that –
- (a) if the prescribed activity requires a separate approval under an Act, a law of the Commonwealth or the local government’s planning scheme – the separate approval has been granted; and
 - (b) the proposed operation and management of the prescribed activity is adequate to protect public health, safety and amenity and prevent environmental harm; and
 - (c) the grant of the approval would be consistent with the purpose of any relevant local law; and
 - (d) the proposed operation and management of the prescribed activity would be consistent with any additional criteria prescribed for the activity under a subordinate local law for this paragraph; and
 - (e) if the application relates to trust land – the grant of the approval would be consistent with the terms and conditions of the trust; and
 - (f) if the application relates to a prescribed activity mentioned in section 5(b) – the grant of the approval would be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval.

Example for paragraph (a) –

An application for commercial use of a local government controlled area that is held in trust by the local government under the Land Act 1994 may require registration of a trustee lease or issue of a trustee permit prior to the approval being granted for commercial use of the area.

- (2) The local government may, by written notice to the applicant –
- (a) grant the approval unconditionally; or
 - (b) grant the approval subject to conditions determined in accordance with section 10; or
 - (c) refuse to grant the approval.

Examples for paragraph (b) –

- a. If an application for which the local government’s approval is required may result in damage to property, the local government may, as a condition of giving its approval, require the applicant to give reasonable security (which may include a deposit of money, a guarantee or an insurance bond) to ensure that the damage is made good.
 - b. The local government may grant an approval subject to the standard conditions imposed on the approval pursuant to a subordinate local law made under section 10(3) of this law.
- (3) However, the local government’s powers in deciding the application are subject to the provisions of any relevant local law.
- (4) The local government must give the applicant an information notice if the local government –
- (a) refuses to grant the approval; or
 - (b) grants the approval subject to a non-standard condition.

- (5) In this section –

Non-standard condition means a condition that is not prescribed under section 10(3) as a condition that must be imposed on an approval or that will ordinarily be imposed on an approval.

Section 10 – Conditions of approval

- (1) An approval may be granted on conditions the local government considers appropriate.
- (2) However, the conditions must –
 - (a) be reasonably necessary to ensure that the operation and management of the prescribed activity will be adequate to protect public health, safety and amenity and prevent environmental harm; and
 - (b) be consistent with the purpose of any relevant local law; and
 - (c) if the approval is for prescribed activity mentioned in section 5(b) – be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval; and
 - (d) not conflict with the conditions of any other relevant approval issued under an Act; and
 - (e) require the approval holder to notify the local government in writing of a suspension or cancellation of a relevant approval for the prescribed activity under an Act within 3 days of the relevant approval being suspended or cancelled.
- (3) Subject to subsection (2), the local government may, by subordinate local law, prescribe conditions that must be imposed on an approval or that will ordinarily be imposed on an approval.
- (4) To remove any doubt, it is declared that a condition of an approval may authorise an act or omission that –
 - (a) contravenes a noise standard; or
 - (b) causes an environmental nuisance.³

Example for paragraph (a) –

A condition of an approval for operation of a temporary entertainment event may authorise the operation of an amplifier device at specified times that would otherwise be a contravention of the noise standard in the *Environmental Protection Act 1994* section 440Y.

- (5) In this section –
environmental nuisance see *Environmental Protection Act 1994*, section 15.

Noise standard see *Environmental Protection Act 1994*, section 440K.

Local Law No. 1 (Administration) 2011
Subordinate Local Law No. 1 (Administration) 2011
Schedule 8 – Commercial use of local government controlled areas and roads

GUIDE TO SITE PLAN

A site plan to a scale of approximately 1:100 should be attached which extends:

- (a) from the kerb's edge, the full width of the footpath, to the frontage of the building; and
- (b) from within 2 metres of one adjoining premises, the full length of the property frontage, to within 2 metres beyond the other adjoining premises, and shows:
 - the boundaries of the site, the outline of buildings, and the use of adjoining buildings;
 - the area (including dimensions) intended to be used for displaying goods (shown in red) and the location of all proposed displays; and
 - any trees, fire hydrants, transformers, telephone booths, mail boxes, bus seats and shelters, traffic signal boxes, fixed rubbish bins, pillars and posts (supporting signs or other objects) and other obstructions.

GUIDE TO PROVIDING PHOTOGRAPHS/BROCHURE

The following should be attached to the application:

- (a) a colour photograph of the site frontage and proposed area to be used; and
- (b) a photograph (or brochure) detailing displays or goods intended to be placed on the footpath.