

## **Schedule 8 Commercial use of local government controlled areas and roads – (c) sale of goods**

Section 11

### **1 Prescribed activity**

Commercial use of local government controlled areas and roads – (c) sale of goods.

### **2 Activities that do not require approval under the authorising local law**

- (1) Activities prescribed in *Moreton Bay Regional Council Subordinate Local Law No.1 (Administration) 2011 - Schedule 5 (b) (holding of a public place activity)*.
- (2) Activities associated with an approval as an activity prescribed in *Moreton Bay Regional Council Subordinate Local Law No.1 (Administration) 2011- Schedule 17 Operation of a temporary entertainment event*.
- (3) A temporary business site associated with a fete, and sporting club or right of occupation and use for local government buildings and facilities, excluding markets.
- (4) A temporary business site where the goods/produce is grown on the property immediately adjacent to where the goods are being offered for sale on the road, excluding markets.
- (5) A temporary business site vending for a charitable, educational or political purpose, excluding markets.

### **3 Documents and materials that must accompany applications for approval**

- (1) A person may apply for an approval by lodging with the local government –
  - (a) a completed application on the prescribed form; and
  - (b) payment of the prescribed fee; and
  - (c) evidence of a current public liability insurance policy indemnifying the local government to the value of \$20,000,000 together with an indemnity in the local government's favour executed by the applicant; and
  - (d) statement as to the intended operation of the proposed temporary business site, including the nature of the goods to be offered for sale and the method of operation; and
  - (e) plan(s) identifying the area(s) where the temporary business site is to be established; and
  - (f) if the temporary business site is to consist of a stall or stand – details of the materials and equipment to be used to construct the stand or stall together with dimensions of the area to be occupied by the stall or stand; and
  - (g) if the temporary business site is to be a standing vehicle – details of the make, model, vehicle type (e.g. station wagon, van), registration number, gross vehicle weight and length of the vehicle, a copy of the vehicle

- registration certificate and photograph(s) of the nominated vehicle; and
  - (h) if the temporary business site is to be established on a State-controlled road - advice in writing from the Department of Transport and Main Roads that it agrees to the proposal; and
  - (i) if the temporary business site is to be used by a licensable food business - a copy of the licence required under the *Food Act 2006*.
- (2) The applicant must, if the local government so requires, furnish any further information or documents that the local government may require to decide the application.

#### **4 Additional criteria for the granting of approval**

- (1) In addition to the general criteria in section 9(1) of *Moreton Bay Regional Council Local Law No.1(Administration) 2011*, the following criteria are matters about which the local government must be satisfied before granting an approval-
- (a) the duration and frequency of use and the suitability of the nominated location of the proposed temporary business site is satisfactory; and
  - (b) the stand or stall –
    - (i) does not occupy an area of more than 10 square metres; and
    - (ii) will be established on a local government controlled area, footpath or nature strip adjacent to a road or at least 5metres from the carriageway of a road; and
    - (iii) is constructed–
      - (A) using materials that adequately support the goods being offered for sale; and
      - (B) so that it does not create a public nuisance or pose a health or safety risk in adverse weather conditions; and
  - (c) if a vehicle is nominated in the application to be used as a temporary business site for this prescribed activity-
    - (i) it does not have a gross vehicle weight in excess of 4.5 tonne or a length in excess of 7.5metres (unless approved otherwise by the local government); and
    - (ii) is currently, registered under the *Transport Operations (Road Use Management –Vehicle Registration) Regulation 1999*; and
    - (iii) is not parked in a manner that is likely to cause an obstruction to vehicular or pedestrian traffic or other users of the road or local government controlled area; and
  - (d) the temporary business site enables reasonable pedestrian movement along the footpath and a minimum clear pedestrian way width of 2.0 metres on the footpath unless specified greater or smaller in the conditions of the approval; and
  - (e) the temporary business site is not established within 500 metres of any

existing-

- (i) commercial premises, shopping centre or another roadside vending stall selling the same or similar goods; or
  - (ii) a school; or
  - (iii) a public swimming or recreational facility or ground where sport is played and the same or similar goods are sold as part of that facility; or
  - (iv) a place where a fete or market is operating unless the temporary business stall is part of the fete or market; and
- (f) the temporary business site, if established on a footpath, is not sited in a manner that requires pedestrians using the footpath to move out from under a shop awning over the footpath; and
  - (g) the layout of a temporary business site does not impede clear sight lines for official traffic signs or road signage, vehicles or pedestrians at road junctions, vehicle access crossovers or pedestrian crossings; and
  - (h) the establishment and use of a temporary business site does not obstruct access to property; and
  - (i) an umbrella used in association with a stall or stand has a minimum clearance above the footpath of 2.2 metres measured perpendicular from the lowest point of the extended arms (spokes) of the umbrella, and the umbrella is securely anchored and able to be taken down in times of high winds or as directed by an authorised person; and
  - (j) signage associated with the operation of a temporary business site is contained wholly within the site; and that the placement of signage does not obstruct pedestrians or other traffic and complies with the provisions of *Moreton Bay Regional Council Local Law No. 1 (Administration) 2011 – Schedule 9 – Installation of advertising devices*; and
  - (k) flammable liquids, poisons or other dangerous goods are not displayed or stored in, or on, a temporary business site; and
  - (l) any food displayed or stored in, or on, a temporary business is stored at least 750mm above ground level and in accordance with the provisions of the *Food Act 2006*.

## **5 Conditions that must be imposed on approvals**

- (1) The conditions that must be imposed on an approval are-
  - (a) the approval holder must maintain a public liability insurance policy to the value of \$20,000,000 together with an indemnity in the local government's favour executed by the applicant; and
  - (b) evidence of the currency of the public liability insurance policy referred to in s5(1)(a) above must be submitted to the local government prior to carrying out the activity; and
  - (c) the approval holder must indemnify and keep indemnified the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the approval; and

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- (d) if the approval holder or their employee or their agent damages the road, or any public infrastructure within the road or on a local government controlled area, it must –
    - (i) take immediate steps to make the area safe and maintain the area in a safe condition until all necessary repairs are effected; and
    - (ii) report all damage to the local government; and
    - (iii) provide payment to the local government to have all damage rectified or with the local government's prior approval carry out repairs at its own expense to the satisfaction of the local government; and
  - (e) if the approval holder abandons the temporary business site or the approval is cancelled, the approval holder must take immediate steps to remove any vehicle or structure associated with the business and reinstate the site to a condition which satisfies the local government; and
  - (f) the approval holder must keep the temporary business site in a clean and tidy condition and must comply with notices from the local government to steam clean the site within the time specified within the notice; and
  - (g) the approval holder must comply with the operating hours and dates of operation, and location of the temporary business site specified on the approval; and
    - (i) the temporary business site must not be established within 500 metres of existing-
      - (a) commercial premises, a shopping centre or another roadside vending stall selling the same or similar goods; or
      - (b) a school; or
      - (c) a public swimming or recreational facility or ground where sport is played and the same or similar goods are sold at that facility; or
      - (d) a place where a fete or market is operating unless the temporary business stall is part of the fete or market; and
    - (ii) must maintain a pedestrian way width of 2.0 metres on the footpath, unless specified otherwise in the conditions of the approval; and
    - (iii) if established on a footpath, must not be sited in a manner that requires pedestrians using the footpath to move out from under a shop awning over the footway; and
    - (iv) must not obstruct access to property; and
    - (v) must not interfere with the movement or line of sight of vehicular and pedestrian traffic; and
  - (h) all goods, equipment, materials and rubbish must be removed from the temporary business site each day at the close of business; and
  - (i) the operator must not cause or permit any amplified music or other noise associated with the operation of the operator's temporary business site to be emitted so as to be a nuisance, and any such music or other noise is a nuisance if at any time, the adjusted average noise level emitted from the

temporary business site exceeds 60db(A), measured at any affected place (see *Environmental Protection (Noise) Policy, 2008*); and

- (j) flammable liquids, poisons or other dangerous goods must not be displayed or stored in, or on, a temporary business site; and
- (k) any umbrella approved to be used with a stall or stand must have a minimum clearance above the footpath of 2.2 metres measured perpendicular from the lowest point of the extended arms (spokes) of the umbrella, and the umbrella is to be securely anchored, and must be removed in times of high wind or as directed by an authorised person; and
- (l) approved signage for the temporary business site must be contained wholly within the site, and the placement of signage must not obstruct pedestrians or other traffic; and
- (m) the approval holder must comply with any other conditions that the local government considers necessary.

## **6 Conditions that will ordinarily be imposed on approvals**

(1) The conditions that will ordinarily be imposed on an approval are-

- (a) the area immediately adjacent to the business is to be kept clean at all times by the approval holder; and
- (b) the approval holder is responsible for the provision of adequate and appropriate refuse containers for patron use, and the proper disposal of wastes generated by the business; and
- (c) local government footpath waste receptacles are not to be used by the business for waste disposal; and
- (d) no liquid wastes are to be discharged onto the road, footpath or street drainage system; and
- (e) in accordance with section 5(1)(d) the local government may allow the approval holder to carry out rectification works at their expense for damage caused to the road or any public infrastructure if this is appropriate in the circumstances.

## **7 Term of approval**

An approval shall remain in operation for 12 months or part thereof.

## **8 Term of renewal of approval**

The term of renewal of approval is for a period of 12 months unless otherwise determined by the local government.

## **9 Transfer of approval**

An approval for this prescribed activity is not transferable

## **10 Dictionary**

*sale of goods* means to offer goods for sale or the selling of goods, includes roadside vending.

*roadside vending* has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.