



Gladstone Regional Council

Corporate Standard

Title	COMMERCIAL ACTIVITIES ON COUNCIL LAND
Standard Number	CS-01-2017
Date of Approval by Chief Executive Officer	7 FEBRUARY 2017
Date of Effect	7 FEBRUARY 2017
Date Review Due	7 FEBRUARY 2020

1.0 PURPOSE:

The purpose of this corporate standard is to detail the processes undertaken by regulatory staff when assessing applications for commercial activities on Council land under *Local Law No. 1 (Administration) 2011* and *Subordinate Local Law No. 1.2 (Commercial Activities on Local Government Controlled Areas and Roads) 2011*.

2.0 SCOPE:

This corporate standard applies to all applications for commercial use of Council land including but not limited to the following activity types:

- Commercial Beach Activities
- Commercial Fitness Activities
- Commercial Entertainment Activities
- Mobile and Stationary Vending (including on roadsides).

This corporate standard also applies when commercial operators do not comply with the minimum standards outlined in *Subordinate Local Law No. 1.2 (Commercial Activities on Local Government Controlled Areas and Roads) 2011* and therefore require an approval for the following activities:

- Busking
- Footpath Dining
- Displaying Goods on Footpaths.

3.0 RELATED LEGISLATION:

- Land Act 1994
- Local Government Act 2009
- Local Law No. 1 (Administration) 2011
- Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011
- Environmental Protection Act 1994

- Transport Operations (Road Use Management) Act 1995
- Sustainable Planning Act 2009
- Safety in Recreational Water Activities Act 2011
- Work Health and Safety Act 2011
- Coastal Protection and Management Act 1995

4.0 RELATED DOCUMENTS:

- P-2017/01 - Commercial Activities on Council Land Policy
- Application Form - Commercial Activities - Fitness, Beach, Other (AF - COA01)
- Application Form - Commercial Activities - Stationery or Mobile Vending (AF - COA09)

5.0 DEFINITIONS:

To assist in interpretation of this standard, the following definitions apply:

- **"Authorised Person"** means an Authorised Person appointed under Chapter 5 Division 1 of the *Local Government Act 2009*
- **"Commercial"** means soliciting or carrying on the supply of goods or services (including food or drink) for profit
- **"Community land"** means public open space (including waterways) that has been set aside for the community either by the State, where Council is trustee, or by Council, in the case of freehold and leasehold land, for which Council has the responsibility to manage.
- **"Community use"** means the use of community land for artistic, social, recreational or cultural activities that do not incorporate commercial activities.
- **"Mobile roadside vending"** means an operator soliciting or carrying on the supply of goods or services (including food or drink) for profit in circumstances where-
 - a) the operator travels from place to place: and
 - b) the operator supplies the food or services to a customer in response to the customer waiving down the operator
- **"Operation of temporary entertainment event"** means the opening to the public, or the preparation for opening to the public, of an entertainment event and for which the opening to the public does not constitute development under the Planning Act.
- **"Primary purpose"** means the purpose for which the land was set aside for the community. Examples of primary purpose include sport and recreation, environmental purposes, beach protection and coastal management.
- **"Secondary use"** means the use of community land that does not align with the land's primary purpose, or is commercial in nature.
- **"Stationary Roadside Vending"** means an operator soliciting or carrying on the supply of goods or services (including food or drink) for profit in circumstances where-
 - a) the operator carries on the activity from -
 - i) a specified place; or
 - ii) a number of specified places; but
 - b) the activity is not footpath dining.

6.0 STANDARD STATEMENT:

6.1 KEY RESPONSIBILITIES

6.1.1 Administration Officer

Administration officers within the Regulatory Services Division are responsible for receiving and lodging applications for commercial activities approvals. Administration officers must also ensure all applications are recorded in ECM and that relevant application fees are received prior to distributing to the Environmental Health team for action.

6.1.2 Environmental Health Officer

The Environmental Health Officer (EHO) allocated with an application is responsible for all assessment processes including obtaining relevant advice from other Council Divisions on the nature of the application and issuing of correspondence to the applicant. The EHO is responsible for all system maintenance on the progress of the application and gaining relevant sign off and approval from delegated decision makers.

6.1.3 Asset Manager

The relevant Asset Manager for the Council land nominated in an application is responsible for providing advice on their support or objection to an application within two weeks from notification by the EHO. Support or objection must be based on the guiding principles and any specific principles for the type of commercial use outlined in the Commercial Activities on Council Land Policy.

6.1.4 Delegated Decision Maker

The position delegated as the decision maker for an application; with the exception of stationary vending; is the Manager Regulatory Services or higher position. The decision maker for stationary vending is by resolution of Council. The decision maker is responsible for deciding to grant or refuse an application. The decision made must be communicated in writing and if the application is refused, grounds for refusing the application must be outlined in the written correspondence.

6.2 APPLICATION PROCESSING AND ASSESSMENT

All applications for a commercial activities approval on Council Land are submitted and processed as a Licence in Councils Corporate System Pathway - Licensing Module under the Health Class / Commercial Activities Type. Receipting of fees, assessment / inspection reports and outgoing correspondence are all recorded against the particular licence number in Pathway for recordkeeping purposes.

6.2.1 Application Assessment

Applications are assessed on an individual basis as received and generally within a 28 day period from being properly made. Applications are assessed using the respective Application Assessment Proforma and further information may be requested as required.

Assessment of an application must consider the guiding and specific principles outlined in the Council Policy and the provisions outlined in *Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011*.

6.2.2 Decision Making

Once an application has been assessed, a recommendation is made to the Delegated Decision Maker on whether to approve or refuse the application. Standard and site specific conditions are applied for approved applications based on the particular activity being undertaken and the recommendation should include any site specific conditions to be applied.

6.3 REVIEW OF DECISION

A person who is aggrieved by a decision may apply to the local government for a review of the decision. An application for review of a decision must:

- (a) be in writing; and
- (b) state the reasons why the applicant considers the decision should be reviewed; and
- (c) be lodged within 14 days after the day on which notice of the decision was given to the applicant.

However, any decision made by resolution of Council does not provide for any review provisions internally for that decision. If an applicant is aggrieved by a decision made by resolution of Council, the only review provision is with the Queensland Ombudsman Office.

6.3.1 Carrying Out Review

Council must carry out a review at either a meeting of the local government; or have the review carried out by an Authorised Person. An Authorised Person who carries out a review must not be the original decision maker and must be a person who is no less senior than the original decision maker.

6.3.2 Decision On Review

On completing a review, Council may confirm, vary or reverse the decision under review. The applicant will be provided written notice of the result of the review within 28 days after the receipt of the application.

6.4 ANNUAL RENEWAL PROCESS

Approvals are granted until the 30 June of the current financial year and renewals of approvals are issued by the end of April each year. Applicants will to have current public liability insurance and no outstanding compliance matters before renewal of their approval will be made.

7.0 ATTACHMENTS:

Nil

8.0 REVIEW TRIGGER:

This standard will be reviewed when any of the following occur:

1. The related legislation/documents are amended or replaced.
2. Other circumstances as determined from time to time by the CEO.
3. Periodic Review – 3 years from date of adoption.

TABLE OF AMENDMENTS	
Originally Approved:	15 JANUARY 2015
Amendment 1	7 FEBRUARY 2017
Amendment 2	<INSERT DATE APPROVED>
Amendment 2	<INSERT DATE APPROVED>

APPROVED:

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MARK HOLMES
ACTING CHIEF EXECUTIVE OFFICER