

Food Business License Application Guidance

Policy Number	KASC-STRAT-018
Responsible Manager	Executive Manager Corporate and Financial Services
Legislation	Food Act 2006 Food Regulation 2016 Australia New Zealand Food Standards Code Food Production (Safety) Act 2000 Private Health Facilities Act 1999 Food Premises and Equipment Standard 3.2.3
Approval Date	14 July 2021

1. Summary

Under the [Food Act 2006](#) certain food business are required to be licensed by Council. This document provides guidance on which food businesses are required to be licensed, as well as information on the processes and requirements for assessing and approving food license applications (including those requiring a Food Safety Program).

2. Definitions and Terms

2.1 In this policy:

Council	Means Kowanyama Aboriginal Shire Council
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3. Acronyms and Abbreviations

3.1 In this policy:

KASC	Means Kowanyama Aboriginal Shire Council
The Act	Is the Food Act 2006
The Code	Is the Australia New Zealand Food Standards Code

4. Activities Exempt from the Application of the Act

The following activities are exempt from the application of [the Act](#):

- State or Government owned corporations
- The handling and sale of food at a state school tuckshop operated by a parents and citizens association
- The handling of food at a person's home, intended to be given away to a non-profit organisation for sale by the organisation. (e.g., baking a cake to give to the local rugby league club for sale by the committee at a fundraising stall).

The above activities do not require a licence and are not subject to enforcement provisions or inspections.

A food business sub-leased within a Queensland Government facility by a private commercial entity is not covered by the exemption and must comply with the requirements of the Act.

5. Which Food Businesses Do Not Require a License?

Section 48(2) of the Act identifies certain food businesses that are exempt from licensing provisions. 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 sale of unpackaged snack food such as cakes, biscuits, confectionary, nuts, and potato chips which are not potentially hazardous
- 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 snow cones or bags of party ice
- The provision of meals by a non-profit organisation that are pre-prepared by another organisation and are stored and heated or otherwise prepared by the non-profit organisation in accordance with the directions of the meal's manufacturer
- The sale of 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
- A food business prescribed by a regulation.

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 Act and the Australia New Zealand Food Standards Code, including the Food Safety Standards. These food businesses may be inspected and are subject to the same offence provisions and enforcement methods as licensed food businesses.

6. What Food Businesses Require a License from Council

A food business is defined under section 13 of the Act as a business, enterprise, or activity (other than primary food production) that involves the handling of food for sale, or the sale of food, regardless of whether the business is of a commercial, charitable or community nature, or whether it involves the handling or sale of food on one occasion only.

A licensable food business is defined in section 48 as 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 on at least 12 days each financial year.

Manufacturer	Sale of Unpackaged Food by Retail	Non-Profit Organisations that Provide Meals at least 12 Occasions each Financial Year
<ul style="list-style-type: none"> • Cannery • Production of packaged ice • Flour mill • Brewery • Wholesale bakery • Confectionary packer • Pre-prepared meals 	<ul style="list-style-type: none"> • Restaurant or delicatessen • Catering business • Takeaway food shop • Motel providing meals with accommodation • Private hospital • Private school tuckshop • Temporary food stall • Childcare centre • Bed and breakfast • Mobile food van 	<ul style="list-style-type: none"> • A restaurant, open daily to the public, operated by a sporting club to raise revenue for the club • Meals on Wheels • Meals provided by a homeless persons' hostel for a fee

Table 1: Examples of Licensable Food Businesses

7. Food Safety Programs

Section 48(2) of the Act identifies certain food businesses that are exempt from licensing provisions. 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 sale of unpackaged snack food such as cakes, biscuits, confectionary, nuts and potato chips which are not potentially hazardous
- 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.

7.1 Who Needs a Food Safety Program?

The following food businesses are required to have a Food Safety Program:

- a food business that involves on-site catering or off-site catering; or
- a food business that is carried on as part of the operations of a private hospital under the Private Health Facilities Act 1999
- a food business that:
 - involves the handling of potentially hazardous food or other food that is reasonably likely to pose a risk to public health or safety; and
 - is a food business prescribed under a regulation, if that is:
 - a facility that processes or serves potentially hazardous food for at least 6 persons in the facility's care at a time; or
 - a food business processing ready-for-consumption, potentially hazardous food for service to at least 6 persons at a time

- a food business whose principal activity is processing ready-to-eat, potentially hazardous food for delivery by a delivered meals organisation if the food is delivered to at least 6 persons at a time.

Food Safety Program Examples

- A residential aged-care facility that prepares and/or serves meals for persons in its care.
- A childcare centre that provides morning tea, cooked lunches, and afternoon tea to the children at the centre each day.
- A cook–chill facility that processes food for service to patients in a private hospital.
- A Meals on Wheels branch that cooks meals for delivery to frail or aged persons.
- A spit roast catering company that partially prepares food at one place (their principal place of business), then finishes preparations and serves potentially hazardous food at the event or function site (for example, in a park, private property, hired hall).
- A function centre that prepares and services potentially hazardous food, predominantly for wedding receptions, but also has a small restaurant. The primary activity is catering for functions.
- A restaurant in a hotel has an additional dining room with extra seating. The room is used primarily for catered functions separate to the remainder of the business. Catering is provided on average to 200 to 300 people each fortnight.

Table 2: Food Safety Program Examples

Other food businesses that are not required to have a Food Safety Program may still choose to apply for accreditation of a Food Safety Program. However, the business will be required to have a third-party audit completed by an approved auditor. There are costs associated with engaging an approved auditor to complete these audits.

Off-site catering is when you serve potentially hazardous food at a place other than the principal place of business. It does not include:

- Delivering food under an arrangement with or on the order of a consumer, such as delivering pizzas from a takeaway pizza shop
- The sale of food from mobile premises or temporary premises, such as the sale of ice-creams from a mobile ice-cream van.

On-site catering means preparing and serving potentially hazardous food to all consumers at the premises from which the business is carried out, under an agreement where the food is:

- Of a predetermined type (this may be product specific or include a particular type of food),
- For a predetermined number of persons (this includes a group of people attending a particular event),
- Served at a predetermined time (this may include a specific day or days and normally specify a time); and
- For a predetermined cost (the cost is agreed prior to the preparation and service of the food).

On-site catering does not include:

- Preparing and serving food at a restaurant, café or similar food business that involves the preparation and service of food on the order of a person for immediate consumption by the person
- Preparing and displaying food for self-service by consumers, such as a buffet at a restaurant.

Potentially hazardous food needs to be kept below 5°C or above 60°C to minimise the growth of bacteria in the food. Examples of potentially hazardous food include:

- Raw and cooked meat or foods containing meat, such as casseroles, curries, and lasagne
- Dairy products, for example milk, custard, and dairy based desserts
- Seafood excluding live seafood
- Processed fruits and vegetables, for example salads
- Cooked rice and pasta
- Foods containing eggs, beans, nuts, or other protein rich foods, such as quiche and soy products
- Foods that contain these foods such as sandwiches and rolls.

7.2 Assessment and Accreditation of Food Safety Programs

Council does not assess Food Safety Programs. A Food Safety Program must be assessed by a third-party food safety auditor with the appropriate qualifications.

A list of auditors can be found by visiting Queensland Health's website [register of approved auditors](#).

Food Safety Programs or Amendments to Food Safety Programs submitted to Council must be accompanied with the auditors written advice stating Food Safety Program complies with section 104 of [the Act](#) and a copy of Food Safety Program for accreditation/amendment.

If the license application includes a Food Safety Program compliant with section 104 of [the Act](#) and Council decides to grant the license application, then Council is taken to have accredited the Food Safety Program.

If you need any further information regarding Food Safety Programs, please refer to the Resources section of this guideline.

7.3 Suitability of Premises Assessment

When constructing a new food premises or making alterations to an existing premises, you must ensure that the design meets the requirements of the Food Safety Standards. Food safety begins at the earliest planning stages which is why it is important to get it right from the start.

If you intend to renovate or alter the fit-out of the food premises, you will need to contact Council for advice prior to making any changes. You may need to lodge a Suitability of Premises application with Council for assessment.

Council must assess whether the premises or proposed alterations are suitable for carrying out the proposed food business. In deciding if the premises is suitable, Council may consider whether the premises complies with the [Food Premises and Equipment Standard 3.2.3](#).

A Suitability of Premises application must be completed in conjunction with an application for a new food business license, or when an existing and lawfully operating food premises proposes to undertake renovations or alterations.

A Suitability of Premises application is not required for the renewal of a food business license if no renovations or alterations are being proposed.

7.4 Consideration of Food License Applications

A food license may be issued only if Council is satisfied that:

- a) The applicant is a suitable person to hold a license.
- b) The premises from which the food business is to be carried on is suitable.
- c) A Food Safety Program (if required) has been provided that has been deemed compliant by the third-party assessor.

8. Operating your Food Business

It is your responsibility to conduct your food business in a safe manner. This includes having appropriate knowledge including, but not limited to, the following:

- Health and hygiene requirements of food handlers
- Appropriate waste management
- Avoiding cross-contamination
- Implementing temperature control measures
- Effective cleaning, sanitising and maintenance
- Preventing food poisoning
- Pest management
- Food disposal and food recall

9. Resources

Legal obligations and responsibilities of the Food Business Licensee are outlined in the below:

- [Food Act 2006](#)
- [Food Regulation 2016](#)

The [Food Act 2006](#) requires the Food Business Licensee to comply with the following Food Safety Standards:

- [Food Safety Standards 3.1.1](#)
- [Food Safety Standards 3.2.2](#)
- [Food Safety Standards 3.2.3](#)

There are penalties for not complying with the requirements of the Food Act 2006 and the Food Safety Standards.

The Queensland Government have developed an information portal for both business and consumers called the [Food Pantry](#). This site contains a lot of helpful and useful information.

Appendix 1: Process for Assessment

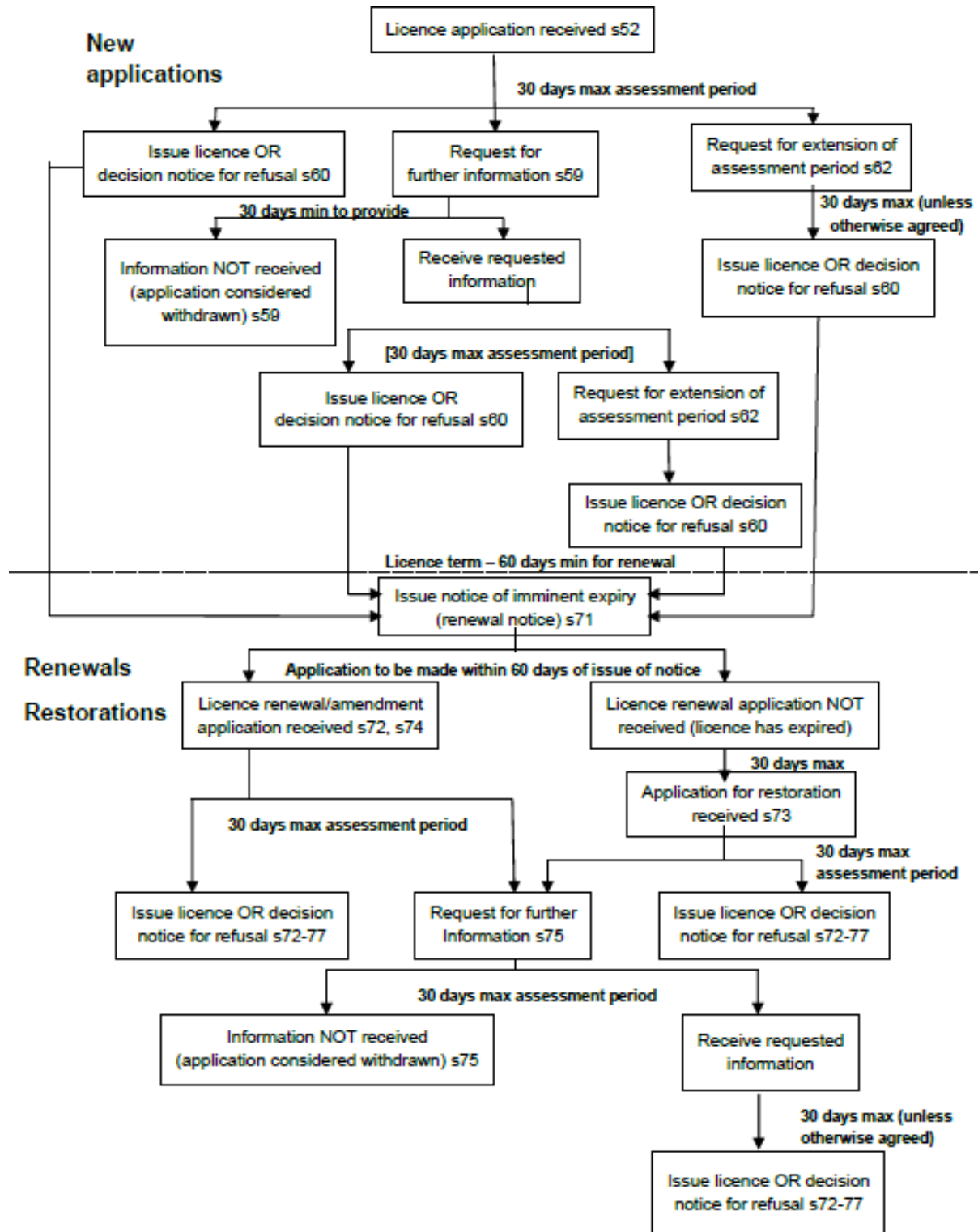


Figure 1: Process for assessment of an application for a licence (or renewal, restoration, or amendment of a licence) under the Food Act 2006
 Source: Queensland Health, 'Local Government Assessment of Applications for a License under the Food Act 2006' (November 2015)