

RISK, RESPONSIBILITY & WAIVER FORM

IMPORTANT RISK WARNING: READ THIS CAREFULLY

By their very nature, the Activities are challenging and demanding and that involves risk. You are participating in the Activities with the expectation of deriving for yourself personal rewards that may be outside your ordinary experience, but this can also be accompanied by risks that you will encounter which are also outside your ordinary experience.

Some of the risks you will encounter are:

- the risk that other people involved in the Activities may act dangerously or may lack the necessary skills to avoid dangers to you;
- the risk of hazardous conditions in connection with the Activities;
- the risk that the conditions may change without warning or predictability;
- the risk that other people involved in the Activities may need to make decisions quickly under pressure of time or events;
- physical demands that may be outside your ordinary experience;
- any lack of physical condition, health or stamina;
- the fact that control over elements of the activities may not be in your hands or Council's;
- the Disclosed Risks listed below.

You participate in the Activities at your own risk.

By signing this form, you agree to the terms and conditions starting on the next page of this form. This includes waiving rights that you might otherwise have had.

Activities:		
Disclosed Risks:		
Participant:	Name:	
	Address:	
	Signature:	
	Date:	
Guardian: <i>(only to be completed if Participant is under 18 or has a legal disability)</i>	Name:	
	Address:	
	Signature:	
	Date:	

Ipswich City Council is collecting your personal information so that we can manage your participation in the Activities. We will not disclose your personal information outside of Council unless we are required by law or you have given your consent.

However, in order to perform the above functions, we may need to disclose your personal information to the people or entities referred to in the terms and conditions on the next page of this form. By completing and signing this form and returning it to Council, we will consider that you have given us your consent to manage your personal information in the manner described in Council's Privacy Statement, Personal Information Digest (available on Council's website www.ipswich.qld.gov.au and this collection notice.

1. In this form:
"Activities", "Disclosed Risks", "Participant" and "Guardian" are as defined on the first page of this form.
"Council" means Ipswich City Council.
"Council's People" means the officers, employees, agents and contractors of Council and the subcontractors of those contractors.
2. The Participant enters into this document in consideration of Council allowing the Participant to participate in the Activities.
3. The Participant has voluntarily decided to participate in the Activities.
4. The Participant voluntarily assumes the Disclosed Risks and all:
 - (a) inherent risks associated with the Activities (that is, risks of something occurring that can not be avoided by the exercise of reasonable care and skill); and
 - (b) obvious risks associated with the Activities (risks that, in the circumstances, would have been obvious to a reasonable person in the Participant's position, even if they have a low probability of occurring); and
 - (c) to the extent legally possible, risks that are neither inherent risks nor obvious risks.
5. The Participant will not sue Council or Council's People for any loss, damage or liability (whether in contract, tort, breach of statutory duty or otherwise and whether for personal injury, death, property damage, loss or destruction of property or otherwise) suffered by the Participant as a result of any of the following risks or anything occurring which is a manifestation of the Disclosed Risks or any of the following risks:
 - (a) inherent risks associated with the Activities (see condition 4(a)); or
 - (b) obvious risks associated with the Activities (see condition 4(b)); or
 - (c) to the extent legally possible, risks that are neither inherent risks nor obvious risks.
6. The Participant consents to Council and Council's People administering or arranging for any medical aid or preventative treatment which Council or any of Council's People considers advisable in their discretion in the event of any injury, accident or illness suffered by the Participant in the course of undertaking the Activities. Council and Council's People will not have any liability to the Participant in relation to any such treatment or its quality or for not administering or arranging any such treatment. The Participant will pay for any such treatment and any evacuation or transport arranged by Council or Council's People in connection with any such treatment.
7. The Participant releases Council and Council's People and will indemnify Council and Council's People against any loss, damage or liability covered by condition 5 or 6.
8. The Participant agrees to comply with the lawful instructions given by Council and Council's People during, or regarding the conduct of, the Activities.
9. The Participant promises Council that the Participant:
 - (a) is at least 18 years old and has full legal capacity (unless this form is signed on behalf of the Participant by the Participant's legal guardian); and
 - (b) has fully and accurately disclosed, or will fully and accurately disclose, to Council the information in or called for by any questionnaire that Council requires the Participant to complete before allowing the Participant to participate in the Activities; and
 - (c) will fully and accurately disclose to Council if any of the information covered by paragraph (b) changes or becomes incomplete, inaccurate or out of date for any reason before the Participant's participation in the Activities is complete, as soon as that happens.
10. Except as required by any legislation:
 - (a) Council gives no warranty or guarantee with respect to any product, commodity, article or other thing supplied by Council; and
 - (b) Council is not liable for the loss of use of tangible property which has not been physically damaged or destroyed resulting from a delay in or lack of performance by or on behalf of Council of any legal obligation it owes to the Participant.
11. Some laws may create warranties, conditions, rights or remedies, in relation to the supply by Council of services or goods, that cannot be excluded, restricted, modified or limited (**"Non-Excludable Terms"**). To the fullest extent permitted by law, Council's liability for breach of or under a Non-Excludable Term of which the Participant has the benefit is limited at Council's option to the following:
 - (a) in the case of services – supplying the services again or paying the cost of having the services supplied again; or
 - (b) in the case of goods – repairing the goods, supplying equivalent goods or paying the cost of repairing the goods or supplying equivalent goods.
12. Council is not liable for indirect, special, economic or consequential loss or damage or loss of revenue, profits, goodwill, bargain or opportunities or loss of anticipated savings that the Participant incurs or suffers in any way, whether:
 - (a) Council caused it by its negligence; or
 - (b) Council knew or should have known of the possibility of the loss or damage.
13. The Activities comprise recreational services (as defined in section 74 of the *Trade Practices Act 1974*) and Council excludes:
 - (a) any warranty that the recreational services will be rendered with due care and skill or that any materials supplied in connection with those recreational services will be reasonably fit for the purpose for which they are supplied; and
 - (b) any right that the Participant would otherwise have under, or because of a breach of, a warranty covered by paragraph (a); and
 - (c) any liability that Council would otherwise have under, or because of a breach of, a warranty covered by paragraph (a), to the extent that the warranty, right or liability would apply to liability for death or personal injury (as defined in section 74 of the *Trade Practices Act 1974*).
14. The Participant consents to the use of:
 - (a) the Participant's name and results; and
 - (b) any photograph, film or other recording taken by or on behalf of Council or Council's People of the Participant in the course of or in connection with the Activities; and
 - (c) any testimonial or endorsement of Council or of the Activities by the Participant and of the Participant's name in relation to the use of that testimonial or endorsement, by Council and Council's People in any lawful advertising, broadcasting, telecasting or publishing activities. This consent also extends to anyone to whom Council licenses the right to use the photograph, film, recording, testimonial or endorsement in any advertising, broadcasting, telecasting or publishing activities.
15. If a Guardian signs this form, the Guardian promises Council that he or she is the legal guardian of the Participant. Whether or not that is the case, the Guardian indemnifies Council and Council's People against all Indemnified Claims. Council may enforce this indemnity before making a payment or incurring a liability in respect of the Indemnified Claim. An **"Indemnified Claim"** is each of the following:
 - (a) a claim, action, proceeding or liability that is brought or enforced against Council or Council's People by or on behalf of the Participant which the Participant would not have been able to bring or enforce against Council or Council's People; and
 - (b) a loss or expense incurred by Council or Council's People or a right that Council or Council's People would have had against the Participant, had the Participant been of full legal capacity and signed this form and had the terms and conditions in this form been legally enforceable by Council and Council's People against the Participant.
16. The courts of Queensland and Australia at Ipswich and Brisbane have non-exclusive jurisdiction to hear and determine disputes relating to the legal relationship between Council and the Participant which are within the respective jurisdictions of those courts (as regards the type of relief claimed and the amount involved in the dispute).