



# FACT SHEET

## Home Business – Food Manufacturing

### What is a home business involving food manufacturing?

It is a business that is carried out in a dwelling (or building ancillary to a dwelling such as a garage) involving the preparation of food and beverages for sale for commercial purposes.

### What qualifies as a home business?

The home business must:

- employ no more than two people other than those who are residents of the dwelling;
- be of low impact and not interfere with the amenity of the neighbourhood;
- sell only food and beverages produced at the dwelling; and
- only display a small sign identifying the business.

Further details of what a home business is can be found in the definitions of Lake Macquarie Local Environmental Plan 2014 (LEP 2014).

### What area of a dwelling can be used for a home business?

Up to 50m<sup>2</sup> of floor area (whether existing or proposed) can be used to undertake a home business.

### Where can a home business be carried out?

Home businesses are permitted in the following zones under LEP 2014:

- RU2 Rural Landscape
- RU4 Primary Production Small Lots
- RU6 Transition
- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- E2 Environmental Management
- E3 Environmental Management
- E4 Environmental Living

### Does my kitchen need to meet a specific standard for food manufacturing?

A home business involving the manufacture of food must be carried out in a kitchen that complies with the relevant requirements of Australian Standard 4674 - 2004, Design, construction and fit-out of food premises (AS 4674-2004).

Most residential kitchens do not comply with this standard. This means your kitchen may need to be upgraded to meet the standard, or a new kitchen constructed to achieve compliance.

### Do I need approval?

All home businesses involving the preparation of food and beverages require approval and are never considered 'exempt development'.

Approval is also required to upgrade a kitchen or construct a new kitchen to comply with AS 4674-2004.

Approval may be obtained via the following processes:

#### 1. Complying Development

##### Use of a dwelling as a home business

Council or an accredited private certifier may approve a home business for food manufacturing as 'complying development'. For this to occur the home business must meet specific standards detailed in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP). These standards are as follows:

- the home business must not involve a change of building use (that is, not more than 10 per cent of the floor area of the dwelling (or the ancillary building));
- the home business must not comprise more than 50m<sup>2</sup> of floor area; and
- the home business must be carried out on premises that comply with the relevant requirements of AS 4674-2004.

Approval is issued in the form of a Complying Development Certificate and must be obtained prior to the dwelling being used for a home business.

### Kitchen upgrade or new kitchen

Council or an accredited private certifier may approve a kitchen upgrade or construction of a new kitchen to meet the requirements of AS 4674-2004. For this to occur, the development must meet the following standards for internal alterations detailed in the Codes SEPP:

- the development must not result in a change of building classification;
- the development must not result in any additional separate dwelling; and
- the development must not result in the creation of an additional floor within the dwelling.

The Complying Development Certificate must be obtained prior to construction works.

## **2. Development Application**

If the requirements under complying development as listed above cannot be satisfied, a development application must be lodged with Council. For example, if more than 10 per cent of the dwelling or detached garage is proposed to be used for a home business, a development application would need to be lodged.

Applications submitted as a development application must comply with the requirements of LEP 2014 and Development Control Plan 2014.

### **Who can provide certification that my kitchen complies with AS 4674-2004?**

Council or an accredited private certifier can certify that a kitchen complies with the relevant requirements of AS 4624-2004.

Council offers a fee-based fit-out compliance inspection service whereby an Environmental Health Officer can inspect a kitchen and provide a report identifying whether the kitchen complies with this standard or what is required to alter a kitchen to achieve compliance. For more information on this service, contact our Environmental Health Officers on 4921 0333.

### **Are there any additional requirements that must be met for premises on which food is manufactured?**

The Food Act 2003 and the regulations under the Act may contain additional requirements in relation to premises on which food is manufactured. For example, the Food Act 2003 specifies that notification must be provided to Council before a food business commences operation. This applies to food businesses that sell directly to the final customer (e.g. from the premises or from a market). Refer to the Food Business Registration Form available on Council's website or contact Environmental Health Officers on 4921 0333.

When a food business does not retail food directly to the customer (i.e. sale to another party such as a café or restaurant to on-sell), notification of the business and food activity must be provided to the NSW Food Authority. NSW Food Authority carries out an inspection program across food industries, which is generally limited to higher risk operations such as businesses that produce ready-to-eat, potentially hazardous foods such as sandwiches and salads. Whether a home-based food manufacturing business falls within the inspection program is determined on an individual basis.

All food businesses, including home-based food manufacturers, must comply with the relevant parts of the Food Standards Code. For more information, refer to the NSW Food Authority website.

## **Development contributions**

Council levies for a wide range of development types, including home businesses. Home businesses are classified as business premises under Council's contributions plans and the levy is calculated based on the gross leasable floor area of the business.

Contributions are levied for home businesses that are complying development as well as those that require development consent.

It is important to make contact with the Local Development Contributions team to establish if a developer contribution levy applies to your proposal.

More information on developer contributions is available on our website or by contacting us on 4921 0333 or [developmentcontributions@lakemac.nsw.gov.au](mailto:developmentcontributions@lakemac.nsw.gov.au).

## **Fees**

Submission of a complying development application, or development application and construction certificate must be accompanied by the relevant application fee.

Fees are charged for Council's Environmental Health Officers to undertake inspections of food premises to ensure businesses understand and meet the requirements expected of them.

Fee estimates can be obtained by calling Council.

## **Need help?**

If you have any questions, please contact Council's Duty Planner or Duty Building Officer on 4921 0333 or email [dutyplanner@lakemac.nsw.gov.au](mailto:dutyplanner@lakemac.nsw.gov.au) or [dutyofficer@lakemac.nsw.gov.au](mailto:dutyofficer@lakemac.nsw.gov.au).

## **Disclaimer**

This fact sheet provides a summary of key elements of a home business involving food manufacturing. Any person using this document must do so on the basis that not every scenario and issue can be addressed, and discussion with Council should be undertaken. This document is subject to change without notice.

Version 1, July 2018