



FACT SHEET

Home Business - Food Manufacturing

Disclaimer: This information is provided in good faith as a guide. It provides a summary of key elements of a home business involving food manufacturing. Not every scenario is the same and discussions with Council should be undertaken prior to any activity. This document is subject to change without notice and applicable legislation and planning documents take precedence over the information provided in this fact sheet.

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 Glen Innes Severn Local Environmental Plan 2012 (LEP 2012).

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

Up to 30m² of floor area (whether existing or proposed) can be used to undertake a home business.

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).

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 requires 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.

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% of the floor area of the dwelling, or an ancillary building, can be used);
- the home business must not comprise more than 30m² 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;
- any additional separate dwelling; and
- the creation of an additional floor, or floor area, within the dwelling.

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

2. Development Consent

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% 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 2012 and Development Control Plan 2014.

Who can check that my kitchen complies with AS 4674-2004?

Council, or an accredited private certifier, can assess and inspect a kitchen to check compliance with the relevant requirements of AS 4624-2004.

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 Council’s Church Street Office on 02 6730 2350.

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.

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 <https://www.foodauthority.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 by Council to undertake annual inspections of food premises to ensure businesses are meeting their requirements under the *Food Act 2003*.