



**RESPECT**



**INNOVATION**



**INTEGRITY**



**TEAMWORK**



**EXCELLENCE**

**Date approved/adopted 26/05/2020**

**Date last reviewed N/A**

**Next review date 27/05/2021**

**Department Environment & Health**

**Author Environmental Health Officer**

**TRIM reference 20/49987**

**Supporting documents**

## Table of contents

1.0	Introduction	4
2.0	Requirement to obtain consent	4
3.0	Complying Development Certificate (CDC)	4
4.0	Kiama Council Development Application Consent	5
5.0	Low and High risk rating and Potentially Hazardous Foods (PHF's)	5
6.0	Filling out a Kiama Council Development Application form	6
7.0	Development Application requirements	7
8.0	Plans	8
9.0	Statement of Environmental Effects (SEE)	11
10.0	Food Safety Program (HACCP Plan)	11
11.0	Domestic kitchen requirements for compliance with the food standards code	11

## 1.0 Introduction

Kiama Municipal Council is committed to ensuring the activities that are regulated by Council are safe, healthy and comply with all relevant and current legislation and guidelines.

From July 2018, the NSW Food Authority delegated regulation of home-based food businesses who sell direct to the final customer to Councils. This could be retail from the premises, markets/school canteens, events etc.

This guideline intends to provide information to prospective home based food business operators about the process involved with the submission of a development application to Council. It also informs home based food businesses operators of their legal requirements in relation to the following:

- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- The Food Act 2003 (the Act)
- The Food Standards Code (the Code) including the Food Safety Standards Standard 3.2.2, Standard 3.2.3 and other requirements
- AS 4674-2004, Design, construction and fit-out of food premises
- Building Code of Australia (BCA)
- Chapter 7 of Kiama Councils Development Control Plan (DCP) – Commercial Premises
- Chapter 6 of Kiama Councils Development Control Plan (DCP) – Residential Accommodation (Topic 6.3)

Prospective home-based food business operators are encouraged to contact Kiama Councils Duty Town Planner for consultation at Council's Customer Service counter between 8:30am and 11am Monday to Friday for development, zoning and Local Environmental Plan (LEP) enquiries. For Food Safety and fit-out requirements, please contact Councils Environmental Health Officers on 4232 0444 or via email at [council@kiama.nsw.gov.au](mailto:council@kiama.nsw.gov.au)

## 2.0 Requirement to obtain Development Consent

Part 4A, Division 1, Subdivision 2 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP 2008) states that "A home business that involves the manufacture of food is development specified for this code". This means that the development is not 'exempt' from the requirement of Development Consent.

Development Consent can be obtained via a Development Application or via a Complying Development Certificate (CDC).

## 3.0 Complying Development Certificate (CDC)

Complying development is a combined planning and construction approval for straightforward development that can be determined through a fast-track assessment by a council or an accredited certifier.

Development standards specified in the SEPP 2008 for a CDC state that the development must:

- (a) Not involve a change of building use, and
- (b) If the development is on land to which a local environment plan made under section 3.20 of the Act applies – comply with the applicable standards under clause 5.4(2) of that plan, and

- (c) Be carried out in premises that comply with the relevant requirements of *AS 4674-2004, Design, construction and fit-out of food premises*.

Note 1. The [Food Act 2003](#), and the regulations under that Act, may contain additional requirements in relation to premises on which food is manufactured.

Note 2. The elements that must comprise this development are specified in the definition of home business in the Standard Instrument.

Note 3. Under the Building Code of Australia, a change of building use involving a floor area greater than 10% of the floor area of a building would cause the building to contravene the development standard.

#### 4.0 Kiama Council Development Application Consent

A Development application submitted to Council can be assessed based on risk. Council Town Planners and Environmental Health Officers can determine specific requirements. For example; low risk (Non-potentially hazardous foods) home based businesses may not be required to comply fully with *AS 4674-2004, Design, construction and fit-out of food premises* and hence can enable development consent for a domestic style kitchen to be used for low risk and low quantity food production.

For high risk home based food businesses, the full requirements of a commercial kitchen including: *AS 4674-2004, Design, construction and fit-out of food premises* and Chapter 7 of Kiama Councils Development Control Plan (DCP) – Commercial Premises applies.

#### 5.0 Low & High risk rating & Potentially Hazardous Foods (PHF's)

High risk food production generally involves the use of PHF's. PHF's must be displayed and stored in a manner that minimises the growth of pathogenic bacteria and bacteria that can form toxins in food.

**Table 1: High risk & PHF's**

Food type	Example or comment
Raw or cooked meat	Including poultry or game
Food containing raw or uncooked meat	Casseroles, curries, lasagne
Dairy products	Milk, custard, dairy desserts, unbaked cheesecake, custard tarts
Smallgoods	Devon, ham, chicken loaf
Processed fruit and vegetables	Salads, cut melons
Food containing eggs, beans, nuts or other protein-rich foods	Quiche, fresh pasta, soy bean products
Cooked pasta and rice	
Seafood (excluding live seafood)	Seafood salad, soup, fish sticks, stews
Food containing the above foods	Sandwiches, rolls, uncooked and cooked pizza

**Note:** This type of food product will require a commercial kitchen fit-out as per *AS 4674-2004, Design, construction and fit-out of food premises* and Chapter 7 of Kiama Councils Development Control Plan (DCP) – Commercial Premises applies.



Low risk foods generally do not support the growth of pathogenic bacteria or the formation of toxins in food however:

- Many of the products require refrigerated storage to prevent food spoilage or maintain quality to achieve the stated shelf life.
- Some of the products might harbour, but not support the growth of, enteric viruses or pathogenic bacteria such as enterohaemorrhagic strains of E. coli or Salmonella. They can be “not potentially hazardous” but still a food safety hazard. For example, foodborne illness has resulted from the consumption of peanut butter and unpasteurised juices.
- The below foods might become potentially hazardous when the food is opened or altered in some way. For example, opening a can of beef stew, slicing a melon, cooking vegetables or wetting dry foods.

**Table 2: Low risk and non-PHF’s**

Food Type	
Dry goods	Unopened canned foods
Pickles	Sauces – ketchup style
Salad Dressings	Sauces – Asian/soy
Bottled marinades	Bottled salsas
Bottled pasta sauces	Raw whole fruit and vegetables
Nuts in the shell	Dried fruit
Salted dried meats	Fermented Dried meats
Honey and jam	Peanut butter
Fruit cake	Plain cakes
Biscuits and crackers	Plain breads and bread rolls
Fruit juices	Confectionary

**Note:** This type of food will require a full commercial kitchen fit out as per AS 4674-2004, *Design, construction and fit-out of food premises* for a CDC but may be acceptable in a domestic kitchen with a Council Development Application.

## 6.0 Filling out a Kiama Council Development Application form

The Kiama Council Development Application form can be found on the Kiama Council website or using this web address: <https://www.kiama.nsw.gov.au/your-council/forms/forms>

An example of what to fill out in Part B – Proposed Development can be seen below:

<b>B3 PROPOSED DEVELOPMENT DESCRIPTION</b>			
<b>Description of development:</b>			
<ul style="list-style-type: none"> <li>Provide details of everything that you want Council to assess, including any demolition, proposed use/s and any signage</li> </ul>			
Approval for use of premises as home industry. Nil development - seeking approval of use of premises as home industry. Premises will be used to prepare [insert production] for [insert - retail]			
<input type="checkbox"/>	Erect, alter or add to a building or structure	<input type="checkbox"/>	Change the use of land or building (or BCA classification)
<input type="checkbox"/>	Subdivide land or building	<input type="checkbox"/>	Demolition
<input type="checkbox"/>	Carry out work	<input type="checkbox"/>	Signage
<input type="checkbox"/>	Other (specify) -		
<b>Type of development: (tick appropriate box/es below)</b>			
<input type="checkbox"/>	Single dwelling	<input checked="" type="checkbox"/>	Food premises
<input type="checkbox"/>	Residential alterations/additions	<input type="checkbox"/>	New industrial building
<input type="checkbox"/>	Secondary dwelling	<input type="checkbox"/>	Industrial fit-out
<input type="checkbox"/>	Dual occupancy	<input type="checkbox"/>	Community/education facilities
<input type="checkbox"/>	Multi-dwelling housing	<input type="checkbox"/>	Subdivision – residential
<input type="checkbox"/>	Residential flat buildings	<input type="checkbox"/>	Subdivision – rural
<input type="checkbox"/>	Seniors living	<input type="checkbox"/>	Subdivision – other
<input type="checkbox"/>	Outbuilding (garage, carport, etc)	<input type="checkbox"/>	Boundary adjustment
<input type="checkbox"/>	Shop top housing	<input type="checkbox"/>	Temporary use
<input type="checkbox"/>	New commercial/business building	<input type="checkbox"/>	Mixed use
<input type="checkbox"/>	Commercial/business fit-out	<input checked="" type="checkbox"/>	Other - Home based food business

## 7.0 Development Application requirements

The following associated plans and documents must be submitted with the Development Application if applicable. Specific information and examples can be seen in further sections of this guideline.

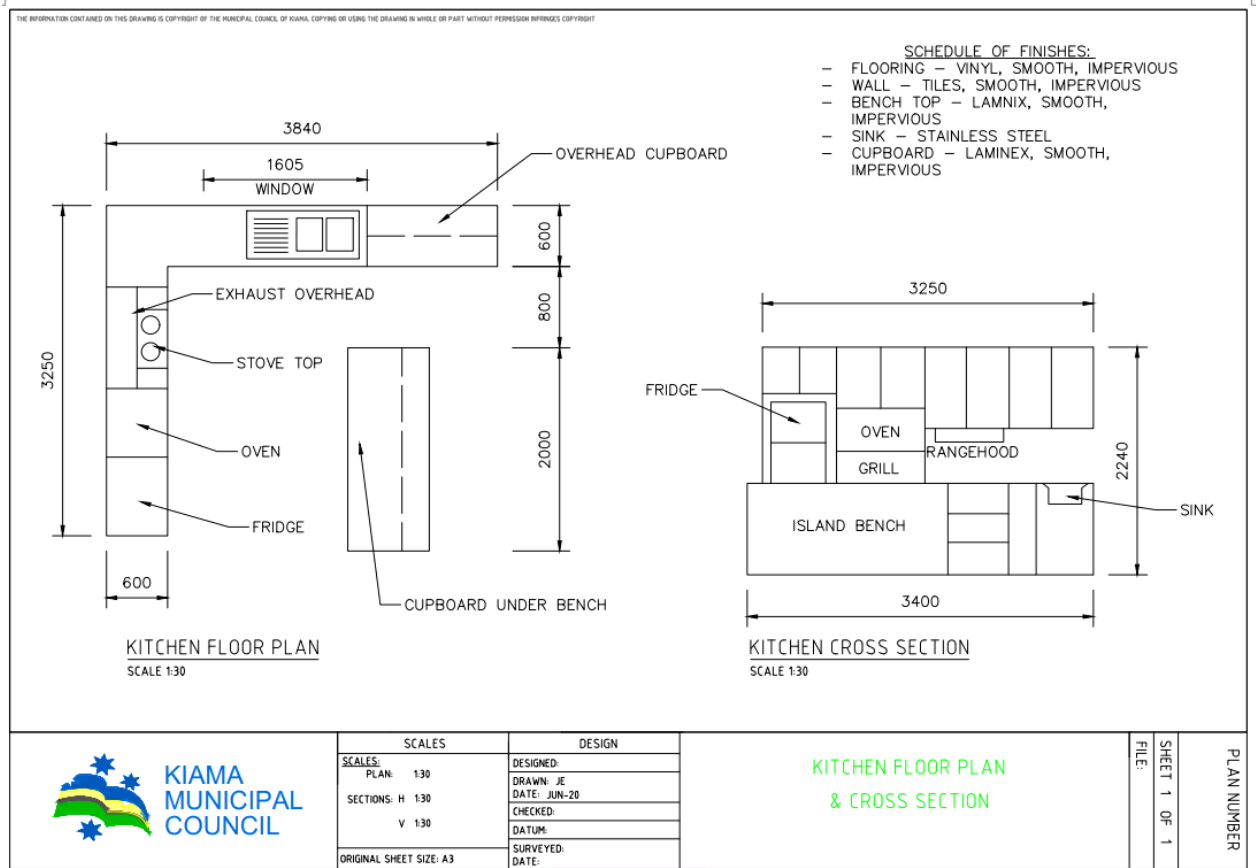
Council approval is required for all food premises and the following information and documentation is required to accompany a development application:

1. A development application form correctly filled in.
2. Plans required:
  - Floor plans, scale 1:50.
  - Sectional elevations, scale 1:50 – through any building showing details of mechanical ventilation. NB: Inlets and outlets.
  - Site plan, scale 1:100 – including car parking, adjacent land uses and refuse area.
  - Hydraulic plans – detailing plumbing connections, floor waste positions and trade waste details.
  - Schedule of finishes – details of floors, walls, ceilings, equipment, fixtures and fittings finishes.
  - Layout of all equipment, benches, fixtures, fittings and mechanical exhaust.
  - Door and window openings.
  - Statement of environmental effects.
  - Food Safety Program including full list of foods and ingredients

3. Further information required at time of application:
  - If it is deemed from Sydney Water that a tradewaste system is not required a letter or other appropriate evidence from Sydney Water is required to be submitted

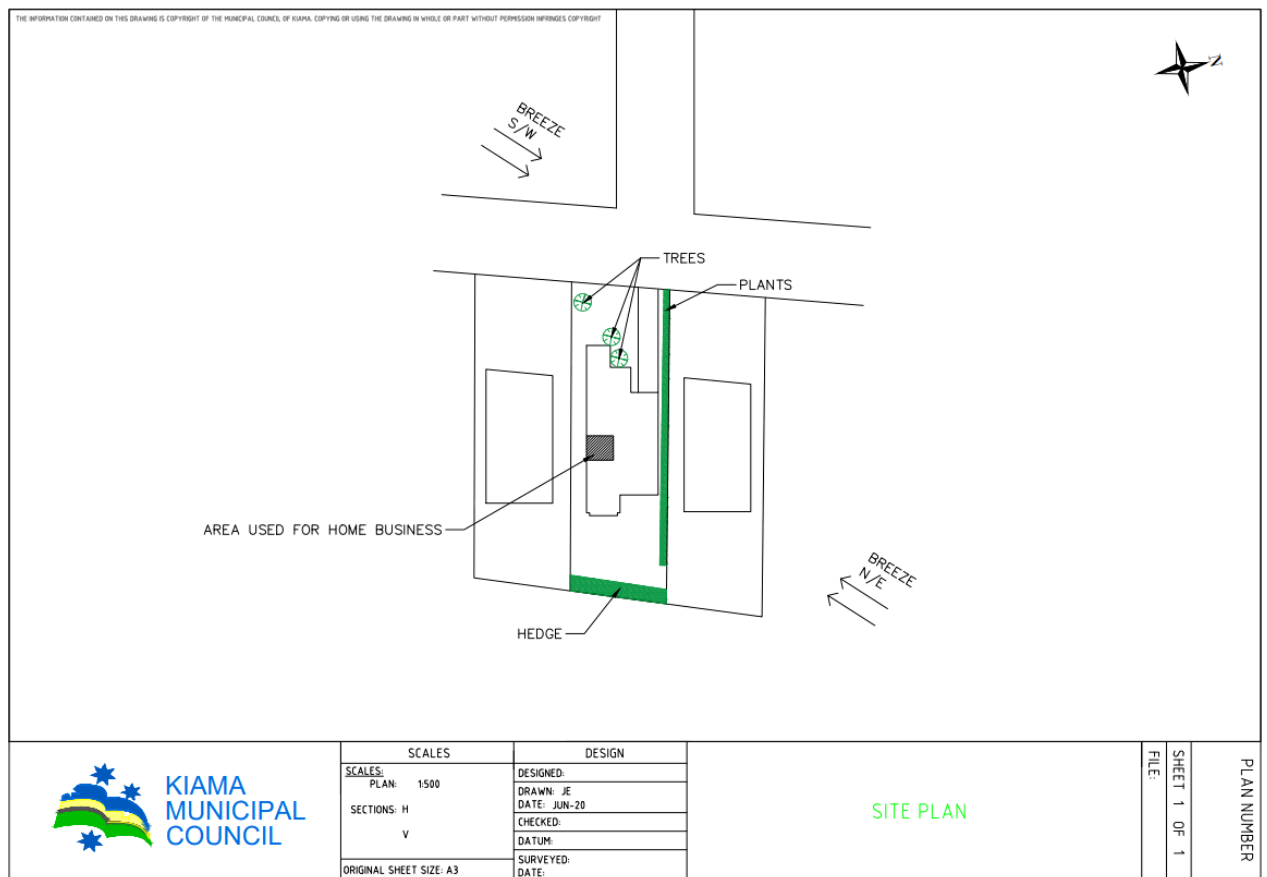
## 8.0 Plans

### Example Floor Plan & Schedule of Finishes (scale 1:50):

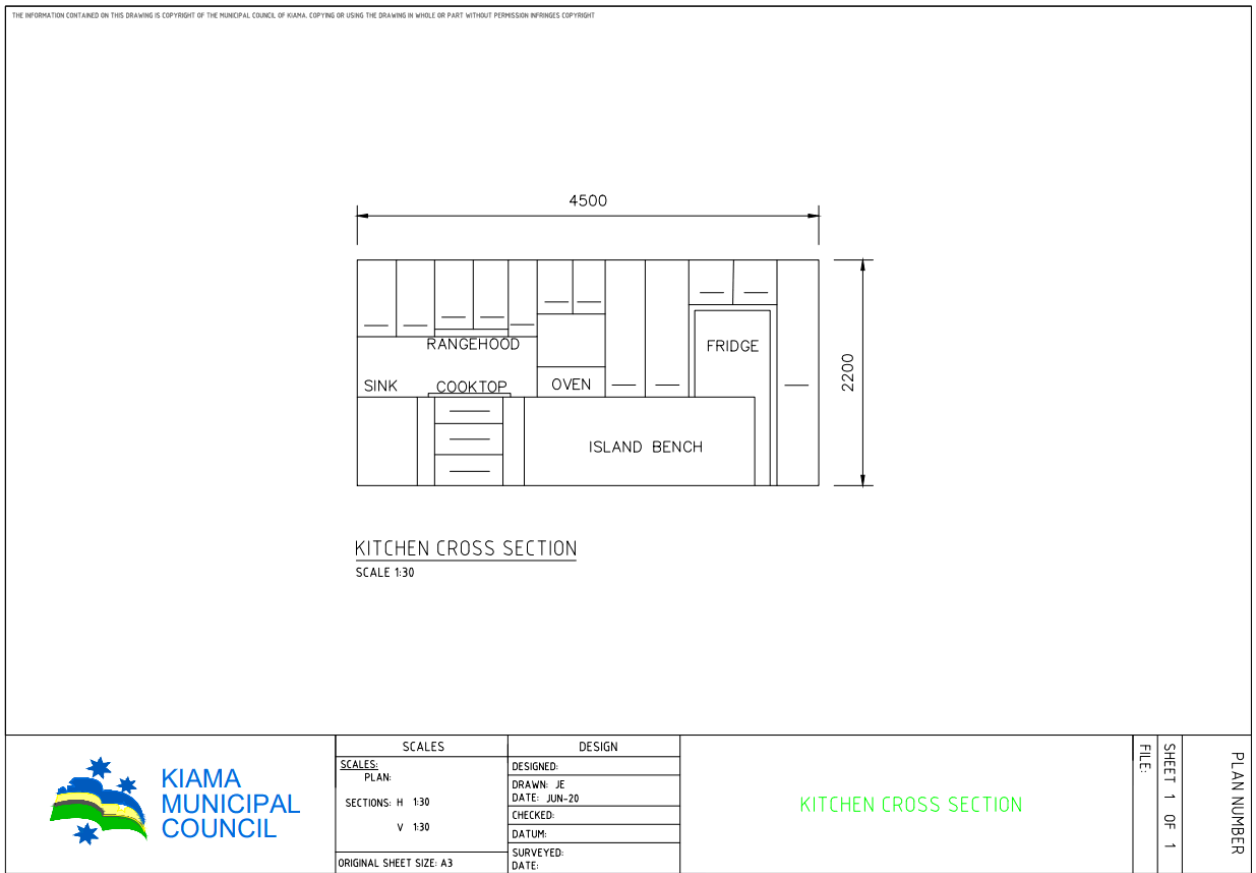




## Example Site plan (scale 1:100)



## Examples cross section of kitchen (1:50 scale)



## 9.0 Statement of Environmental Effects

The Statement of Environment Effects (SEE) must address all controls listed in Chapter 6 of Kiama Councils Development Control Plan (DCP) – Residential Accommodation. It should also address the following:

- The nature, operations and activities of the proposed home business/industry,
- The proposed hours of operation of the home business/industry,
- The projected number of clients attending the site.
- The nature and frequency of deliveries to the site.
- The areas which will be utilised for the business/industry.
- A Waste Management Plan
- Specialist consultant reports, eg acoustic engineer's report to be submitted.
- The submission of an internal floor layout plan of the dwelling or ancillary building is required which shows the location and gross floor area of the proposed home business.

## 10.0 Food Safety Program (HACCP Plan)

A food safety program is designed to help businesses identify and manage hazards to food safety and consists of a HACCP plan. A HACCP plan is used to clearly identify hazards and establish controls that will prevent, eliminate or reduce hazards to an acceptable level. It is a Kiama Municipal Council requirement that a HACCP plan is provided with the development application and includes all proposed food items to be manufactured and included in the development application.

The NSW Food Authority has very useful guidelines for the development and implementation of a food Safety Program:

[https://www.foodauthority.nsw.gov.au/sites/default/files/Documents/industry/guide\\_to\\_develop\\_food\\_safety\\_program.pdf](https://www.foodauthority.nsw.gov.au/sites/default/files/Documents/industry/guide_to_develop_food_safety_program.pdf)

The NSW Food Authority also has a word document template which can be used:

<https://www.foodauthority.nsw.gov.au/industry/audits-and-compliance/food-safety-programs-haccp>

For other key resources including but not limited to fact sheets on cleaning and sanitising as well as health and hygiene requirements for food handlers, please see the NSW Food Authority's resource centre and contact Councils Environmental Health Officers for specific enquiries:

<https://www.foodauthority.nsw.gov.au/resource-centre/factsheets-guides-and-policies>

## 11.0 Domestic kitchen requirements for compliance with the Food Standards Code (FSC)

A home-based food business which is seeking approval for the production of low risk food in a domestic kitchen must demonstrate and comply with the following clauses of the Food Standards Code standard 3.2.2 with the submission of a Development Application.

### **Hygiene of food handlers- duties of food businesses (related to hand washing)**

Hand washing facilities must always be available while food is being prepared and that they do not become contaminated. The kitchen therefore must comply with the following:

- At minimum, a double bowl sink with one compartment dedicated for handwashing or a washbasin adjacent to the kitchen of easily accessible from the kitchen.
- The sink/s must be cleaned and sanitised in between uses if there is a risk of contamination occurring (for example between using a sink for hand washing and washing of food).

- one or two people maximum are permitted in the kitchen so that a sink is always available.
- food handling activities are organised so that the sink can be separated by time (i.e. the sink is only used for one purpose at a time) and it is available when required.
- liquid hand soap and paper hand towels at the washing facilities at all time.

### **General duties of food businesses (related to people on premises)**

A food business must take all practicable measures to ensure all people on the food premises of the food business:

- (a) Do not contaminate food;
- (b) Do not have unnecessary contact with ready-to-eat food; and
- (c) Do not spit, smoke, or use tobacco or similar preparations in areas where there is unprotected food or surfaces likely to come into contact with food.

These measures can be achieved by:

- Having designated storage areas for food (e.g. in secured containers, cupboards, rooms, refrigerators) to keep family food separate from the business's food
- Keeping visitors and family members away from the kitchen or other food preparation areas when food is being processed.
- Preventing young children accessing food handling areas by, for example using child safety gates or by only handling food at times when children are not present.
- Not allowing smoking in the food preparation areas.

### **Cleaning and sanitising of specific equipment**

To comply with this standard, the premises **must contain a dishwashing machine**. The dishwashing machine must be used on the hottest and longest dishwasher program (e.g. 'hygienic wash' or equivalent heavy duty, high-intensity settings).

### **Animals and pets**

Pets and animals must not be able to have access to areas where food is handled. This can be achieved by:

- Physical barriers to prevent animal access to areas where food handling activities are occurring (e.g. self-closing screen doors, child safety gates)
- Storing food in secure room or cupboards
- Making sure pets are not in the vehicle when transporting food, or ensuring there is a suitable physical barrier in place to protect the food from contamination by pets.

### **General requirements (related to adequate space)**

The premises must have adequate space to be able to:

- Separate food handling activities to prevent cross-contamination (e.g. sufficient bench space/table area for work flow so that, for the volume of food being handled, prepared ready-to eat foods are separate from raw foods and ingredients)
- Safely store ingredients, food packaging and other raw materials (e.g. sufficient cupboards/secure storage areas for the scale of operations)
- Provide additional refrigerator/s or freezer/s if required.

### **Water supply**

The premises must have hot and cold water systems and a potable water supply. For a reticulated town water supply, the supply is deemed as potable. For rural non-reticulated water supplied for rain water tanks, the storage tanks must be adequately designed and constructed to prevent contamination.

Non-reticulated water suppliers must comply with:

- The Australian Drinking Water Guidelines 2011
- NSW Health Private Water Supply Guidelines 2016
- *Public Health Act 2010*
- *Public Health Regulation 2012*

Under the *Public Health Act 2010 & Public Health Regulation 2012*, a Quality Assurance Program (QAP) must be provided to NSW Health. The Quality Assurance Program must address the elements of the Framework for Management of Drinking Water Quality (as set out in the Australian Drinking Water Guidelines published by the National Health and Medical Research Council) that are relevant to the operations of the supplier of drinking water concerned. Refer to the NSW Health Private Water Supply Guidelines 2016 which helps private water suppliers to develop a QAP.

### **Storage of garbage and recyclable material**

The premises must have an adequate supply of garbage, recycling and organics bins to a volume to cater for domestic and commercial use. If more bins are required or other waste services, please contact Kiama Councils waste services on 4232 0444 or via email at [council@kiama.nsw.gov.au](mailto:council@kiama.nsw.gov.au)

### **Ventilation**

Domestic range hoods are deemed suitable for low risk production of food. For high risk and large quantity production where frying is involved, an assessment of the existing exhaust system is required and must comply with AS/NZ 1668.1 and AS 1668.2-2002 —The use of ventilation and air conditioning in buildings – Ventilation design for indoor air contaminant control.

### **Floors**

Floors must be appropriate for the activities conducted by the food business so they can be effectively cleaned and unable to absorb grease, food particles and water. Appropriate flooring includes:

- Ceramic tiles with flush epoxy grouting
- Sealed quarry tiles
- Polyvinyl sheeting
- Laminated thermosetting plastic sheeting
- Epoxy resins
- Non-slip stainless steel

Not appropriate flooring includes carpet and other absorbent flooring such as worn, cracked and rough wood.

Coving is not a requirement for low risk production.

### **Bench and preparation surfaces**

All bench surfaces must be smooth impervious and easy to clean. Wooden bench tops are not an appropriate surface as they are porous, absorbent and not able to be easily cleaned.

## How to contact Council

### Post

General Manager  
Kiama Municipal Council  
PO Box 75  
Kiama NSW 2533

### Telephone

+61 (02) 4232 0444

### Facsimile

+61 (02) 4232 0555

### Online

Email: [council@kiama.nsw.gov.au](mailto:council@kiama.nsw.gov.au)  
Website: [www.kiama.nsw.gov.au](http://www.kiama.nsw.gov.au)

### Office hours

Our Administration Building located at  
11 Manning Street Kiama is open 8.45 am to 4.15 pm  
Monday to Friday (excluding public holidays)



**KIAMA MUNICIPAL COUNCIL**  
your council, your community