



**FOOD PREMISES
INSPECTION
PROGRAM
P2.0254.2**

FOOD PREMISES INSPECTION PROGRAM

DIVISION: Planning and Environment

BRANCH: Environment and Regulatory Services

CATEGORY: 3

PART 1 – INTRODUCTION

1. BACKGROUND

1.1 This Program has been developed to formalise Council's food inspection program.

2. OBJECTIVES

2.1 The objectives of this Program are to:

- Minimise the food safety risks associated with the consumption of food for sale within the Camden Local Government Area (LGA) by undertaking a Food Inspection Program that includes an integrated education and regulatory approach.
- Inform the community of Council's food premises inspection program.
- Outline the foundations of the risk-based approach to food premises inspections.
- Define risk ratings and inspection requirements for food businesses.

3. SCOPE

3.1 This Program applies to every premises (or activity) within the Camden LGA involved in the handling and/or sale of food for retail purposes. This includes, but is not limited to, fixed food premises, canteens and home-based food businesses.

3.2 Mobile food vending vehicles and temporary food stalls are subject to separate Council policies.

3.3 This Program does not apply to the operation of premises licensed and/or regulated by the NSW Food Authority.

3.4 This Program outlines the framework for Council's food premises inspection program. It does not provide a comprehensive list of all legislation, requirements or protocols.

4. DEFINITIONS

- 4.1 **AS** means Australian Standard. Copies of 'AS 4674-2004 Design, construction and fit-out of food premises' are available from Standards Australia at www.standards.org.au.
- 4.2 **Authorised Officer** means an Officer appointed and delegated by Council to exercise functions under the provisions of the *Food Act 2003* (the Food Act). At Camden Council Authorised Officers include Environmental Health Officers and the Team Leader Environment and Health. The Manager Environment and Regulatory Services and the Director of Planning and Environment have specific delegations for purposes of enforcement of this Act.
- 4.3 **Code** means Food Standards Code (Australia and New Zealand). The Code is available from www.foodstandards.gov.au/code.
- 4.4 **Fixed food premises** means any food business retailing direct to the public from a fixed commercial premises (e.g. service station, shop, café, restaurant, school canteen).
- 4.5 **Food Business** means a business, enterprise or activity that involves the handling of food intended for sale, or the sale of food, regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.
- 4.6 **Handling of food** means the making, manufacturing, producing, collecting, extracting, processing, storing, transporting, delivering, preparing, treating, preserving, packing, cooking, thawing, serving or displaying of food.
- 4.7 **Potentially Hazardous Food** means food that has to be kept at certain temperatures to minimise the growth of any pathogenic micro-organisms that may be present in the food or to prevent the formation of toxins in the food.
- 4.8 **Sell (or sale of food)** means the definition as described in the Food Act.

PART 2 – POLICY STATEMENT

5. OVERVIEW OF THE INSPECTION PROGRAM

5.1 Camden Council will provide support to the NSW Food Authority as an appointed Category B Enforcement Agency within the Food Regulation Partnership with the following responsibilities for retail food businesses:

- Inspection of retail food businesses (selling food products direct to the public) for compliance with the Food Act, *Food Regulation 2015* (the Regulation) and the Code.
- Inspection of home-based food businesses.
- Investigation of complaints.
- Referral to the NSW Food Authority, and providing assistance where required, for food borne illness complaints relating to two or more cases from unrelated individuals, households or groups.
- Providing assistance to the NSW Food Authority where there is an imminent threat to public health and safety or the health of any individual in connection with food.

5.2 Council's Authorised Officers will:

- Undertake inspection and enforcement activities relating to the handling and/or sale of food within the Camden LGA.
- Assist in the assessment of planning and development applications incorporating food activities.
- Coordinate and present food training seminars and other education for retail food businesses (including community groups) involved in the food industry.
- Provide advice to the community on safe food handling practices and where to find further resources.

6. RISK CLASSIFICATION OF A FOOD BUSINESS

6.1 The NSW Food Authority recommends that councils implement a risk-based inspection regime (high, medium or low) consistent with the national framework and NSW Food Authority Guidelines. The food policy framework for Australia is set by the Australian and New Zealand Ministerial Forum on Food Regulation which consists of health and agricultural ministers from the states and territories, and the Australian and New Zealand governments. Food standards are developed to reflect this national framework.

6.2 The risk classification is assigned to a food business based on the type of activity conducted, the types of food handled/produced at the premises and/or the types of consumers.

- 6.3 **LOW RISK.** Some food businesses are unlikely to cause a food borne illness outbreak and are considered low risk. Examples include:
- Businesses that only handle pre-packaged or non-potentially hazardous foods (e.g. some service stations, newsagents, confectionery stores, bars and liquor stores).
 - Childcare (including home-based childcare) not preparing potentially hazardous food (e.g. children bring food from home).
- 6.4 Home-based food businesses that prepare food for sale directly to the public (e.g. preparing and storing food for sale at local markets) in a residential premises are considered low risk if they are handling packaged food or not handling potentially hazardous food, or if the business meets all the following criteria:
- It does not produce food that has a very high level of inherent risk and a potentially unreliable critical control point (e.g. raw egg foods such as aioli and mayonnaise).
 - It does not supply food to vulnerable populations or businesses that service vulnerable populations (e.g. childcare facility, care home).
 - It has at least one certified Food Safety Supervisor appointed by the business (if required).
- 6.5 Once a low risk rating is assigned (and the food business meets planning and construction requirements), Council will only inspect the food business on a reactive basis (no routine inspection) i.e. in response to a food safety complaint or foodborne illness investigation or where it comes to an Authorised Officer's attention that circumstances may have changed.
- 6.6 The NSW Food Authority may periodically review the low risk home-based food businesses criteria in consultation with enforcement agencies to ensure it remains fit for purpose. Council will implement any review recommendations made by the NSW Food Authority.
- 6.7 **MEDIUM RISK.** The risk classification for most retail food businesses is medium and includes cafes, restaurants, school canteens, takeaways, freshly prepared drink premises and supermarkets that prepare and sell potentially hazardous food.
- 6.8 A home-based food business is considered at least medium risk if it does not meet the low risk home-based businesses criteria, or if a significant non-compliance with the Code is identified at an inspection following a food safety complaint or foodborne illness investigation (e.g. resulting in enforcement action).

6.9 **HIGH RISK.** The risk classification for some retail food businesses is 'high' where the business:

- Prepares or supplies to vulnerable populations (e.g. childcare facility that prepares food on site for children including home-based childcare preparing potentially hazardous food), or
- Undertakes high risk processes/activities (e.g. raw egg products, smoking meats, sous vide), or
- Conducts large scale operations (e.g. function centre/large restaurant that employs more than 10 full time equivalent food handlers).

6.10 The NSW Food Authority advise that some medium and high-risk food businesses handling potentially hazardous foods do not require regular inspections. These premises are not associated with foodborne outbreaks or are regulated by other means. Examples include vending machines, boarding houses and group homes (low volumes of food prepared).

7. DEVELOPMENT APPROVAL

7.1 Prior to commencement, customers should contact Council's Duty Officer regarding the requirements for development approval for different types of food premises.

7.2 Customers should also contact an Authorised Officer to ascertain food safety and construction requirements, prior to the commencement of building works or the sale of any food.

7.3 Development approval is required to be obtained prior to the:

- Establishment of a food business (including a home-based food business).
- Use of a premises.
- Commencement of construction.
- Upgrading or modifying a food business.
- Sale of food.

7.4 Development approval can be in the form of development consent from Council or a Complying Development Certificate (CDC) from either Council or a private certifier.

7.5 Home-Based Food Business - A dwelling may be used as a home business for the purpose of the manufacture of food for sale (subject to conditions). The development must comply with the statutory definition of a home business, all applicable statutory planning controls and comply with AS 4674-2004 Design, construction and fit out of food premises. If the development does not comply with these requirements, it may be prohibited and may not be able to be carried out.

8. CONSTRUCTION

8.1 A food business is required to handle and sell safe and suitable food from a suitably constructed premises in accordance with the provisions of:

- AS 4674-2004 Design, construction and fit out of food premises.
- Food Standards Code (Australia and New Zealand), particularly 3.2.2 Food Safety Practices and General Requirements and 3.2.3. Food Premises and Equipment.
- Food Act and Food Regulation.
- National Construction Code - incorporating the Building Code of Australia (BCA) and the Plumbing Code of Australia (PCA).

8.2 Food Standards Australia New Zealand and the NSW Food Authority have developed guidance for home-based businesses and enforcement agencies on how home-based food businesses can demonstrate compliance with parts of the Code.

9. FOOD BUSINESS NOTIFICATION

9.1 Council must be notified of any retail food business, regardless of the risk classification or type of business (excluding some low risk activities carried out by not-for-profit or charitable organisations), prior to commencement of operation of that business. The requirement to notify is legislated and penalties may apply for failure to notify. Notifications may be made in writing or electronically using the designated form available on Council's website at www.camden.nsw.gov.au.

9.2 No fees are applicable for lodging a food business notification form for a fixed food business.

9.3 It is the responsibility of the food business proprietor to ensure that Council is advised of any change to the original notification (including business ownership details, postal address etc).

9.4 Council is required to keep a list of all food business notifications and to review the list annually. The list is used as the basis for risk assessment and inspection.

10. INSPECTION PROGRAM

10.1 The majority of fixed food premises in the Camden LGA fall within the high or medium risk rating requiring routine inspection by Council at least once per year.

10.2 Inspections will be conducted by Authorised Officers without prior notice.

10.3 Authorised Officers may enter and inspect any premises that the officer reasonably believes is used in connection with the handling of food intended for sale, the sale of food or any food transport vehicle.

- 10.4 Re-inspections may occur if a breach of the Code is identified and cannot be immediately rectified or serious non-compliances are observed and where necessary regulatory action is taken to ensure compliance with the relevant standards.
- 10.5 Additional inspections may be undertaken and/or the risk classification may be escalated if:
- A routine inspection identifies a breach or a non-compliance that requires further attention.
 - Council receives credible complaints which identify any significant non-compliance resulting in enforcement action.
 - There is an ongoing history of poor performance at previous inspections.
 - There are significant changes to the food business activities.
- 10.6 A medium- or high-risk premises will be inspected within six months of notification of a new business or where the ownership changes, after which it may be inspected on a performance-based frequency if any of the following apply:
- The business is the subject of a foodborne illness investigation or complaint investigation where a significant non-compliance is identified.
 - There is history of poor performance at previous inspections.
- 10.7 Low risk food businesses will be inspected in response to complaints or food borne illness investigations.
- 10.8 Inspections may also be carried out at the request of the food business owner or where written consent is provided from the owner (e.g. pre-purchase inspection), or when a new food business is being constructed prior to commencement of trade, or during fit-out, renovations and extensions.

11 FEES AND CHARGES

- 11.1 Council's adopted Fees and Charges are available on Council's website for the relevant year.
- 11.2 An annual administration fee will be applied to each food premises that has been inspected during the financial year to recover costs associated with administration of the inspection program.
- 11.3 The annual administration fee does not apply to food businesses operating for the sole purpose of raising funds for not-for-profit community or charitable cause (e.g. not-for-profit school canteen).
- 11.4 An inspection fee can be charged for every visit by an Authorised Officer to a food business this includes primary, routine inspections or re-inspection.

- 11.5 A fee may be charged for an inspection carried out as a result of a complaint or incident investigation where non-compliances are observed. This is separate to any routine inspection fee that may be charged in that financial year.
- 11.6 Not-for-profit school canteens and not-for-profit charities will not be charged for primary inspections. Demonstration of not-for-profit status may be requested.
- 11.7 A reinspection fee may be charged for reinspection of all food business types (including not-for-profit school canteens and not-for-profit charities).
- 11.8 Council will issue each person who is liable to pay a fee with an invoice.
- 11.9 Fees apply under legislation to cover the cost of preparing and serving an Improvement Notice. Improvement Notice fees will apply to not-for-profit school canteens and not-for-profit organisations/charities.
- 11.10 Council may extend the time given for payment of the Improvement Notice fee or reduce or waive the payment of the fee. Requests for reduction or waiver of the fee must be in writing and will be considered by an independent panel (not the issuing officer). Extenuating circumstances would need to be demonstrated for the fee to be reduced or waived.

12 INVESTIGATION OF REQUESTS RELATING TO FOOD COMPLAINTS

12.1 Council will investigate complaints relating to:

- Single incidence foodborne illness.
- Foreign matter found in food.
- Unhygienic practices observed (e.g. foods not handled, stored, or processed in accordance with legislation).
- Labelling breaches.
- A business trading without the appropriate approvals, licence(s) or notification.

12.2 Role of responsible enforcement agencies:

- Council is the responsible agency for investigating foodborne illness complaint(s) about a retail business that relate to one individual or household/family.
- The NSW Food Authority is the responsible agency where complaints relate to two or more cases from unrelated individuals, households or groups. The NSW Food Authority may seek assistance from Council as needed.

12.3 When investigating complaints, the following will be considered:

- Effects on consumer health.
- Exposure of vulnerable persons (e.g. the elderly, children).
- How widely the product is distributed.
- Timeframe over which the problem has occurred.
- Compliance history of the food business, both in general and with respect to the complaint.

12.4 Any allegation regarding multiple-incident foodborne illness or any matter presenting a 'clear and present danger' will be redirected to the NSW Food Authority along with a copy of the most recent business inspection report.

12.5 Any allegation of food borne illness should also be directed to the NSW Food Authority to aid in identifying instances of multiple-incident food borne illness.

12.6 The following table is a guide used by Authorised Officers when assessing requests for investigation of food related complaints (Timeframes are approximate only):

Risk	Type of incident	Timeframe
Urgent	<ul style="list-style-type: none"> • Has caused, or has potential to cause, serious harm or injury to the consumer <i>e.g. pest infestation, unsanitary premises, interrupted water supply</i> 	Investigate as soon as possible (most likely within 24 hours/1 Business Day)
High	<ul style="list-style-type: none"> • Will not cause serious physical harm to a consumer <i>e.g. foreign matter detected in food that could result in minor injury</i> 	Investigate within 5 Business Days
Medium	<ul style="list-style-type: none"> • More than one complaint about a food business regarding poor hygiene, poor handling practices, unsound structures of premises or incorrect labelling 	Investigate within 10 Business Days
Low	<ul style="list-style-type: none"> • Single report of poor hygiene, poor handling or food quality related issues <i>e.g. handling money and food using the same hand, untidy waste area</i> 	Inspect at a convenient time, or at next routine inspection

13 COMPLIANCE AND ENFORCEMENT

13.1 Instances of non-compliance with the Code can range from minor issues with very small food safety risks through to serious issues that represent a significant threat to public health and safety. It is important that compliance interventions properly reflect these differing levels of risk.

13.2 The NSW Food Authority advocates the use of an escalating enforcement model consistent with the national framework. Under this approach, compliance action escalates based on severity of the issue and response to any previous warnings. This approach is consistent with Council's Compliance and Enforcement Policy.

13.3 Compliance tools available for enforcement include:

- Verbal Warning – Authorised Officers may issue verbal warnings for non-compliance with food standards where the risk of the non-compliance is considered low or can be immediately rectified.
- Written Warning – Authorised Officers may issue a written warning via a letter or on the Inspection Form to the owner/proprietor where the risk of the non-compliance is considered low or is the first offence and not an immediate risk to public health.
- Improvement Notice – Authorised Officers may issue a written improvement notice where previous warnings have been ignored or insufficiently executed, previous breaches reoccur and/or the risk of non-compliance with relevant standards is medium to high.
- Fines – Authorised Officers may issue fines (penalty notices) under the provisions of the Food Act and Food Regulation when escalating a breach that has not been rectified in accordance with a graduated enforcement approach or for a serious food safety breach.
- Prohibition Order – Authorised Officers may recommend to the appropriately delegated Council Officer the issue of a prohibition order where previous warnings/improvement notice have been ignored and/or the risk of non-compliance with standards has escalated and/or there is a serious threat to public health.
- Prosecution – Council may elect to proceed with prosecution under the provisions of the Food Act and Food Regulation in a court of law.
- Power of Seizure – Authorised Officers have the authority to seize any food, equipment, advertising material or any other thing that the officer believes contributes to a non-compliance or offence.

13.4 This escalating enforcement approach does not negate the immediate use of notices/orders and/or penalty notices and/or other more severe interventions where required to effectively mitigate serious risks.

13.5 Food business owners should be aware that the NSW Food Authority has the legislated power to publicly name businesses issued with a penalty notice or prosecuted by Council. The public register is intended to provide an open and transparent system which allows the community to make an informed decision about where they choose to eat. The register is available on the NSW Food Authority website.

14 ADVICE, SERVICES AND TRAINING

- 14.1 Education forms an integral part of this Program and is delivered through a diverse range of strategies.
- 14.2 Open and honest communication with local food businesses is vital in maintaining food safety. Council's Authorised Officers are available to discuss any issues with food business operators during inspections or can be contacted by phone or email.
- 14.3 Inspections of food businesses aim to not only provide regulation of food standards, but also an opportunity to increase the knowledge of food handlers.
- 14.4 Council will endeavor to provide information to food businesses as the need arises on a range of topics and issues including food safety, food handling and legislative changes.
- 14.5 Advice and revision of plans by Authorised Officers, prior to commencement of construction, is available on request. Food proprietors proposing changes to existing food businesses and construction of new premises are strongly encouraged to seek a review of their plans prior to starting work (in addition to any approvals issued by certifiers). Potential food proprietors are encouraged to contact Council prior to the lodgment of a Complying Development Certificate or Development Application. Non-compliances with the Food Act, Australian Standards and associated Codes may be required to be rectified prior to opening for business or notices may be issued requiring rectification works.
- 14.6 Council produces and distributes various educational tools and resources which may include:
- Food Safety newsletters, information on Council's website, an annual calendar, handwash stickers and temperature control stickers/magnets.
 - I'm Alert – Free Online Food Safety Training is accessible via Council's website. Once completed a certificate of participation is provided.
 - Factsheets and other educational materials, available in both printed format and as downloadable documents, are accessible from the NSW Food Authority's website.
- 14.7 Council may provide workshops for food handlers to update their knowledge and skills in the food industry, discuss relevant food safety issues, changes to legislation, practical solutions and requirements for food safety supervisors.
- 14.8 The Food Act requires certain food businesses in the NSW hospitality and retail food service sector to have at least one trained Food Safety Supervisor (FSS). Information about what businesses are required to have a FSS is available on the NSW Food Authority website.

- 14.9 Food safety campaigns are generally implemented in conjunction with the NSW Food Authority targeting specific food safety issues such as personal hygiene, cross contamination, temperature control etc.

15 GUIDELINES, FACT SHEETS AND OTHER COUNCIL POLICIES

- 15.1 Guidelines and factsheets relating to food safety are available on the NSW Food Authority website at www.foodauthority.nsw.gov.au.
- 15.2 Council has separate policies/guidelines for mobile food vehicles, temporary food businesses and temporary events.
- 15.3 Further guidance and resources may be developed by Council and the NSW Food Authority in the future and should be utilised in conjunction with this Program.

RELEVANT LEGISLATIVE INSTRUMENTS:

Camden Local Environmental Plan (LEP) Environmental Planning and Assessment Act 1979
Food Act 2003
Food Regulation 2015
Local Government Act 1993
State Environment Planning Policy (Exempt and Complying Development) 2008

RELATED POLICIES, PLANS AND PROCEDURES:

AS 4674-2004 – Design, Construction and Fit-out of Food Premises
Compliance and Enforcement Policy
Food Standards Code
Temporary Food Stall and Mobile Food Vehicle Policy
National Construction Code – Building Code of Australia 2019
National Construction Code – Plumbing Code of Australia 2019

RESPONSIBLE DIRECTOR:

Director Planning and Environment

APPROVAL:

General Manager through the Executive Leadership Group (ELG)

HISTORY:

Version	Approved by	Changes made	Date	EDMS Number
1	ELG	New	22/08/2019	19/315307
2	ELG	Minor changes	15/09/2022	19/315307