

# Setting up a takeaway food or drink shop



## Rules for exempt and complying development



### Setting up a takeaway food or drink shop as complying development

This document answers frequently asked questions about what you need to do to set up a shop to sell takeaway fresh food or drink items under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (State Policy).

#### What is the definition of a takeaway food or drink shop?

A [takeaway food or drink shop](#) is a premises that people primarily use for the preparation and retail sale of food and drink for immediate consumption away from the premises.

#### Is the change of use to a takeaway food or drink premises considered complying development?

Yes. The State Policy allows you to use an existing shop as a takeaway food or drink premises without having to get development consent if you meet the development standards (see below).

#### Things to consider

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| ✓ | <b>COUNCIL APPROVAL</b><br>Under <a href="#">s68 of the Local Government Act 1993</a> to connect to water supply and waste water services.                  |
| ✓ | <b>NSW FOOD AUTHORITY</b><br>Regulates appointment of a Food Safety Supervisor - may be required if processing and selling certain food.                    |
| ✓ | <b>NOTIFICATION TO ENFORCEMENT AGENCIES</b><br>Relevant council and NSW Food Authority.   |
| ✓ | <b>FOOD AUTHORITY LICENCE</b><br>Certain activities listed in the Food Authority's Guideline require a licence e.g. businesses that handle or process meat. |

#### Restrictions

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|  | Refer to the <a href="#">Codes SEPP</a> for any land-based exclusions or local variations that may apply to the land. |
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## Rules for exempt and complying development

### Do I need planning approval for a change of use of premises to a takeaway food or drink shop?

Yes, a change of use of premises to a takeaway food and drink shop requires planning approval. You can get planning approval by submitting a development application to your local council or by applying for a complying development certificate.

### What criteria apply to the change of use of a premises to a takeaway food and drink shop?

[Clauses 5.3 and 5.4](#) of the State Policy set out the list of development standards you must fully satisfy before you begin selling takeaway food and drink. Development standards are criteria that manage the impacts of your business, including certain Building Code of Australia requirements and Australian Standards for food premises.

### Do I need to make sure council allows my takeaway shop under existing planning controls?

Yes. The use must be permissible with consent under an environmental planning instrument that applies to the land. A council's local environmental plan is one such environmental planning instrument. The applicable land-use table in the local environmental plan must state that it permits food and drink premises with consent. A takeaway food and drink premises is a type of food and drink premises.

### Does the previous use of the premises need to be lawful?

Yes. The consent authority must have previously issued a development consent or complying development certificate. You can get a copy of the previous approval from your local council.

#### Did you know?



Certain types of business signs do not require planning permission if the proposed sign meets the relevant development standards. See the [Planning Portal](#) for more details.

#### Remember to check:



You need to check whether the building is suitable for occupation and use according to the Building Code of Australia classification. If you are proposing an increase to the area of the premises, you also need to confirm the building fire resistance performance and the structural integrity of awnings.



Keep in mind that the number of car parking spaces you need to provide may increase when you change from one use to another. An existing development consent that applies to the land may stipulate these requirements, or they may vary between local government area policies. If you are unsure, check with council to see whether it's the local environmental plan or development control plan that covers parking rates.



The takeaway premises must also comply with Australian Standard AS4674-2004—Design, construction and fit-out of food premises.



All cafes and restaurants must practise safe food handling and preparation to meet food safety requirements. This includes notifying local council of your business and food activities, appointing a food safety supervisor and meeting Food Standards Code requirements. To find out more, please visit the [NSW Food Authority website](#).

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### What alterations and additions can I make as complying development?

The State Policy considers installing a new or replacement awning, windows or skylights; a rubbish bin enclosure; or a business identification sign (projecting from the wall or freestanding) as complying development. You can carry out these types of development as complying development as long as you comply with the development standards in [Part 5](#) of the State Policy.

You can also make internal building alterations as part of complying development. You can find the development standards in [Part 5.2](#) of the State Policy.


You may also build an addition to the rear of a commercial premises or externally alter a commercial premises as complying development under [Part 5A](#) of the State Policy.

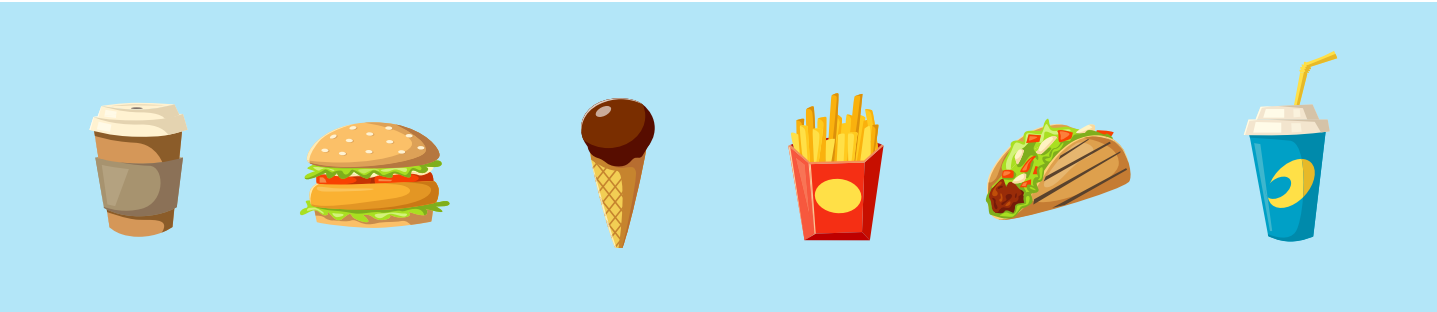
### Should I seek professional help with my application?

We encourage you to engage a professional town planner and building designer who can help you make sure your proposal meets the required development standards. When your plans fully comply with these standards, you can lodge your application with your local council or private certifier.

### What happens once I lodge my application?

Once you have lodged your application, either your local council or an accredited certifier will assess it. If your development meets the specific development standards, they can approve your complying development certificate in as few as 20 days. The certifier will register the complying development certificate on the NSW Planning Portal, and your local council will be notified accordingly.

| More information  |  |
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|  | Contact the Codes Hotline.<br><b>Tel: 13 77 88</b><br><b>Email: <a href="mailto:codes@planning.nsw.gov.au">codes@planning.nsw.gov.au</a></b> |



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