

Jellybean Park Markets
Expression of Interest
Information Package

Submissions:

Close: 16th December 2015

Contact: Marianne Jones, Economic Development Officer, 02 4429 3388

Completed submissions can be submitted electronically at council@shoalhaven.nsw.gov.au or can be hand delivered to the Council Administration Building, Bridge Road, Nowra, during normal working hours.

All submissions to include Council Reference No. **52435E**

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Aim

To coordinate markets in Jellybean Park and Thorough_Fair. The markets will occur on the fourth Saturday of each month except where there is a conflict with Anzac Day (2020). Eligible applicants are local not for profit or community groups. Individuals are also able to apply but must provide proof that proceeds benefit local causes.

The successful market organiser will enter into a Memorandum of Understanding with the Economic Development Office of Shoalhaven City Council. The period of the agreement will be for two years via a one by one year option covering January 2016 through to December 2017.

Background

Jellybean Park and Thorough_Fair are open spaces that are used to promote business and community groups/events located or based in the Shoalhaven Local Government Area.

In 2015, a number of community groups expressed an interest to use Jellybean Park to hold markets. In response to this, the Economic Development Office of Shoalhaven City Council lodged a development application (DA). This DA (DA15/1706) was subsequently approved thereby allowing markets to be held in Jellybean Park and Thorough_Fair on the fourth Saturday of each month.

Existing Development Application

DA (DA15/1706) consent will lapse on the 27th of July 2016. The Economic Development Office intends to lodge an application in 2016 to extend the period of consent. It is likely, but not guaranteed, that approval will be granted to extend the DA consent period.

Attachment 1 – Development Consent DA15/1706 is included in this information package. The DA should be read in its entirety and outlines the responsibilities of the market organiser.

This Expression of Interest is for the operation of twelve (12) Saturday markets to be conducted on the fourth Saturday of the month, between the hours of 8.00am and 4.00pm only subject to approved extension of the DA consent period.

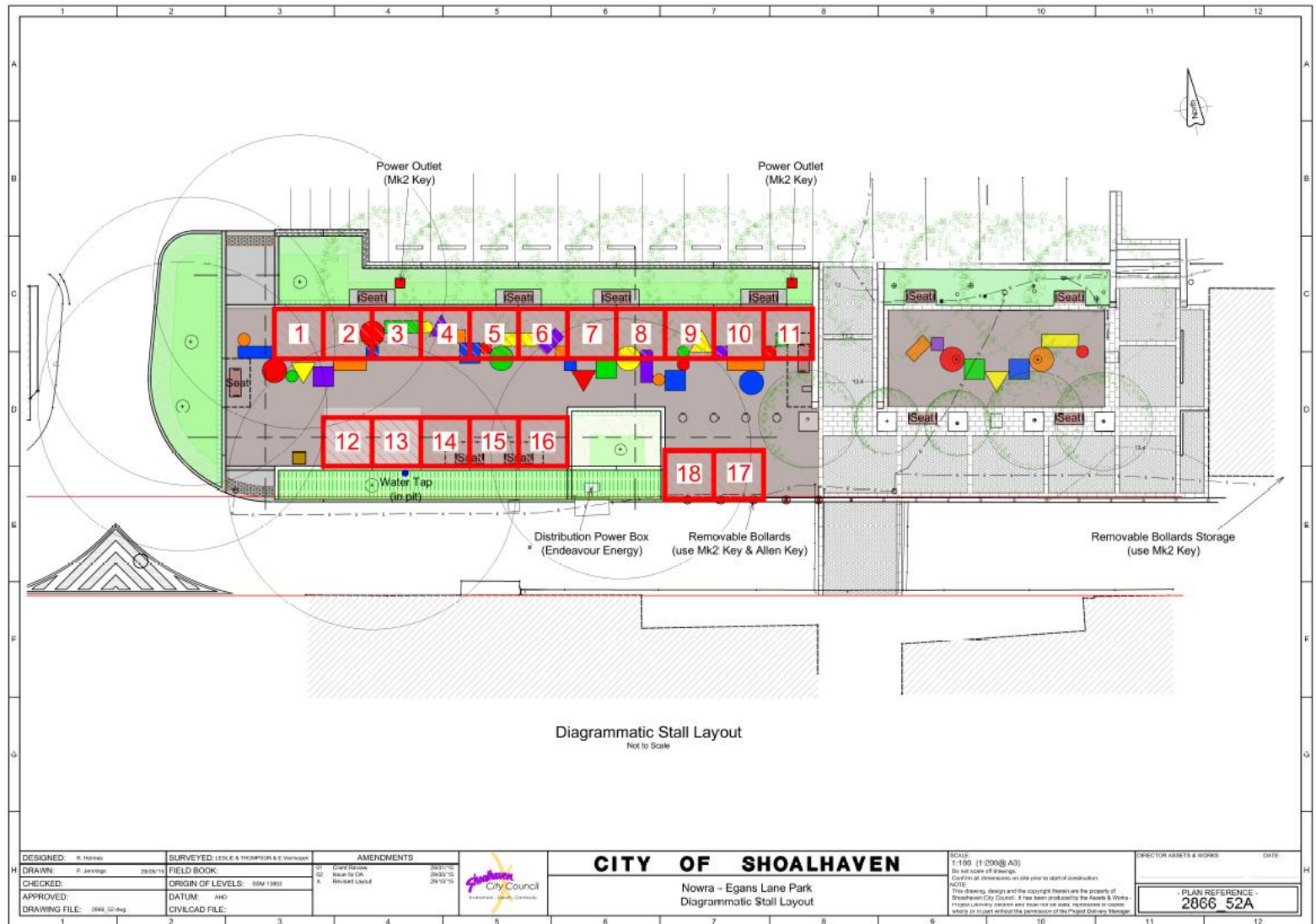
Maximum number of stalls

Jellybean Park

Jellybean Park has been modified post the lodgement of the DA. The modification means that the permitted number of stalls has been reduced from 25 to 18.

Stall layout is per adjacent image.

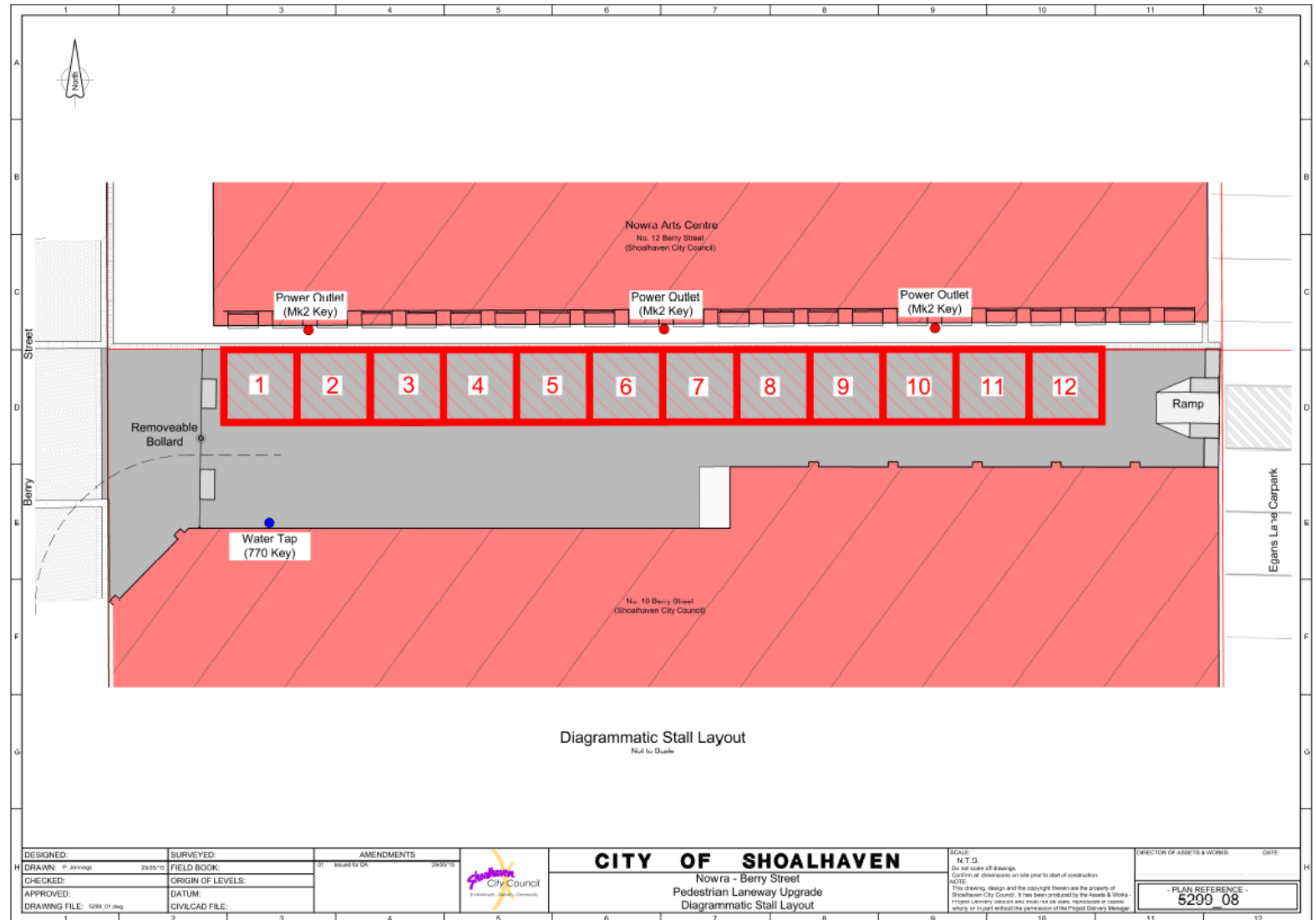
There are two power outlets in Jellybean Park.



Thorough_Fair

The maximum number of stalls permitted in Thorough_Fair is 12 and are to be set up as per adjacent image.

There are three power outlets in Thorough_Fair.



Market Organiser Responsibilities

Market organiser responsibilities are outlined in Attachment 1 – Development Consent DA15/1706.

In addition to conditions outlined in DA15/1706:

- The market organiser must keep a register of all market bookings, the date and operating times for each market and the names and addresses of stall holders attending each market. This must be forwarded to the Economic Development Office of Shoalhaven City Council within seven (7) days of holding a market.
- It will be the market organiser's responsibility to ensure that each stall holder has adequate APRA listed public liability insurance. The market organiser will enter into a Memorandum of Understanding with the Economic Development Office of Shoalhaven City Council releasing Council from any public liability claims that arise as a result of holding markets at Jellybean Park and in the Thorough_Fair.
- The market organiser must ensure that all market activities are specifically covered by their public liability insurance.
- Cooking of food is generally prohibited in both Jellybean Park and the Thorough_Fair. This is because the ground surface of both of these areas are challenging to clean. However, cooking of food will be permitted if the market organiser can guarantee that there will be systems in place to ensure that the ground surface is protected from fat spills and the like. This could be as simple as insisting that any food provider (hot food) uses a spill mat.
- Sale of cooked food. Jellybean Park is located in the CBD of Nowra. There are a number of cafes and other food outlets in the immediate area. Stall holders who sell hot food should be kept to a minimum and located away from existing food outlets. These stall holders should be located in Thorough_Fair.
- The sale of coffee will be prohibited. This will be in direct competition with a number of businesses within the immediate area. Should patrons to the markets want a coffee then they can easily source one from a variety of existing businesses.
- The market organiser will be financially responsible for any damage done to Jellybean Park and the Thorough_Fair as a direct result of the markets.

Eligibility

The successful market organiser will be an incorporated not for profit or community group. Individuals are also able to apply but must provide proof that proceeds benefit local causes.

Cost

Use of Jellybean Park and the Thorough_Fare will be provided free of charge to the successful EoI applicant. The sites must be left clean and tidy and returned to their original condition upon completion of each market.

Attachment 1 Development Consent DA15/1706

**NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION
DEVELOPMENT CONSENT
Environmental Planning and Assessment Act, 1979
DA15/1706**

TO:

Economic Development
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

being the applicant(s) for DA15/1706 relating to:

Lot A DP 161398 (No.16) Berry Street , Lot 1 DP 657194 Egans Lane and Lot M DP 39259 Egans Lane, Nowra

APPROVED USE AND OR DEVELOPMENT:

Markets - Jellybean Park (25 stalls) and Thorough Fair (12 stalls)

DETERMINATION DATE:

27 July 2015

Pursuant to the Section 81 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM:

27 July 2015

CONSENT TO LAPSE ON:

27 July 2016

*This consent is valid for a limited period and will expire on **27th July 2016**.*

In accordance with Section 95 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS

The conditions of consent and reasons for such conditions are set out as follows:

PART A

CONDITIONS OF A GENERAL NATURE, INCLUDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT

General

1. This consent relates to **markets - Jellybean Park (25 stalls) and Thorough Fair (12 stalls)** as illustrated on the plans, specifications and supporting documentation (referenced in the table below) stamped with reference to this consent, as modified by the following conditions. The development shall be carried out in accordance with this consent.

DOCUMENT	REF/SHEET NO.	PREPARED BY	DATED
Egans Lane Park Diagrammatic Stall Layout	2866_52	Shoalhaven City Council	29/05/2015
Berry Street Pedestrian Laneway Upgrade Diagrammatic Stall Layout	5299_08	Shoalhaven City Council	29/05/2015
Economic Development Office, Shoalhaven City Council, Statement of Environmental Effects	-	Economic Development Office	-

Notes:

- *Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works, **other than those approved under this consent**, shall be carried out without the prior approval of Council.*
 - *Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of that inconsistency.*
2. The approved development shall not commence until all relevant conditions of development consent have been met or unless other satisfactory arrangements have been made with council (i.e. a security).

Limited Use Consent

3. This consent is valid for a limited period terminating on **27th July 2016**.

Notes:

- *Prior to the expiration of the consent period, an application may be made to extend the consent under Section 96(1A) of the Environmental Planning & Assessment Act, 1979.*
- *The application to extend the consent should be made at least 56 days **before** the consent is due to lapse. In deciding whether to extend the consent, Council will take into account any relevant policy amendments made since the consent was issued.*

PART B

CONDITIONS THAT MUST BE COMPLIED WITH BEFORE THE USE CAN COMMENCE

Public Liability Insurance

4. The operator of the approved development must secure public liability insurance with an approved insurance company. Such policy should not be less than \$20 million dollars and must indemnify and keep indemnified all interested parties from and against any actions, suits, claims and demands of whatever nature and all costs charged and expenses in respect of any accident or injury to any person or property which may arise out of the activities approved under this consent. Evidence that such insurance has been effected must be submitted to Council **prior to commencement of the markets.**

PART C

CONDITIONS RELATING TO THE APPROVED WORK, SITE MANAGEMENT, AND ONGOING MANAGEMENT OF THE PROPOSED DEVELOPMENT

Hours of Operation/Number of markets

5. The markets must be conducted in accordance with the following:-
 - (a) A maximum of twelve (12) Saturday monthly markets to be conducted on the fourth Saturday of the month, between the hours of 8.00am and 4.00pm;
 - (b) A maximum of eight (8) twilight markets to be conducted from September to April (inclusive), between 3.00pm and sunset; and
 - (c) A maximum of twelve (12) daytime markets to be conducted between the hours of 8.00am and 4.00pm.

On market days, set up may commence from one (1) hour prior to the starting time for the market and the sites must be cleared by no later than one (1) hour following the conclusion of the market.

6. A maximum of 32 markets can be conducted during the twelve (12) month period of this consent.

Market Stalls/General Requirements

7. The total number of stalls associated with the market shall not exceed thirty-seven (37) in number, consisting of a maximum of twenty-five (25) within 'Jellybean Park' and twelve (12) within 'Thorough Fair'.

8. Market stalls placed within 'Thorough Fair' shall ensure that a minimum clear width of 2m is available over the entire length of 'Thorough Fair', between the public car park and Berry Street, to allow for the movement of pedestrians through the space.
9. The market organiser must ensure that the operations of the market and the stall holders are conducted in accordance with the following requirements:-
 - (a) Any goods or services offered for sale are to conform to the requirements of the Fair Trading Act 1987, the Competition and Consumer Act 2010, the National Measurement Act 1960 and other applicable legislation;
 - (b) The applicant and market organiser must demonstrate that, as far as practicable, the majority of the stalls will:
 - (i) meet a "Make it, Bake it, Sew it, Grow it" criteria, which may include items designed locally but manufactured elsewhere; and/or
 - (ii) involve Nowra CBD retailers selling goods that are available at their CBD retail outlet; and/or
 - (iii) involve goods which are not available in the Nowra CBD and therefore not in direct competition with existing CBD businesses.
 - (c) All goods exposed for sale must be sold by normal retail means, and no goods can be sold by auction or any other means;
 - (d) The market organiser shall ensure that the articles sold and displayed have been legally obtained and are not unsightly or offensive to public morality; and
 - (e) Whenever possible, local retailers should be invited to participate in the market.
10. The applicant must keep a register of all market bookings, including the details of the market organiser; the date and operating times for each market and the names and addresses of stall holders attending each market.

Waste Collection and Disposal

11. The market organiser must ensure that adequate provision is made for the collection and disposal of litter and waste generated by the market. Wherever possible recycling should be encouraged by the strategic placement of recycling bins, such as near food stalls and any refreshment stalls. Further information on facilities available from Council can be investigated by contacting the Waste Minimisation Officer on 44293 111.
12. All litter must be collected from the site during and immediately after the market to prevent it being blown or washed off site. All waste and recycling materials from the function shall be collected and deposited at Council's Waste Depot.

Food Stalls

13. The following requirements in relation to food stalls must be complied with:
 - a) All food stalls that operate at the approved development must comply with the Food Act 2003, Food Regulation 2010 and Council's Mobile Food Stall/Vehicles and Temporary Food Premises Code.
 - b) All food stall operators must hold a current approval from Shoalhaven City Council to trade as a Mobile Food Vehicle, Temporary Food Premises or Itinerant Food Vendor.

Alternatively the market organiser can make a single application to Council for approval of all Food Stalls on site. The design and setup of all food stalls must comply with Council's Mobile Food Stalls/ Vehicles and Temporary Food Premises Policy.

Note: *Additional requirements in relation to the above are contained in Part G – General Advice to the Applicant.*

Electrical Installations

14. All temporary electrical installations are the responsibility of the applicant/market organiser and must comply with the relevant Australian Standards.

Security

15. The market organiser is responsible for managing the activities and for maintaining good order and conduct on and around the site.

Amusement Devices

16. Any amusement device required to be registered under the Construction Safety Regulations 1950, must not be installed or operated on the property unless an approval under Section 68 (Part F) of the Local Government Act, 1993 has been obtained from Council. Any such device must, when installed or operated, meet all the requirements of the relevant clauses of the Local Government (Approvals) Regulations, 1999.

Noise, Vibration, Waste

17. a) The operation and use of any machinery, equipment or musical instruments within, on or in connection with the operation of the markets is to be carried out so as not to cause 'Offensive Noise' as defined in the *Protection of the Environment Operations Act 1997*. The use of any PA system should be kept to a minimum.

b) The markets must not impact upon the amenity of any adjoining property or tenancy by reason of the emission of noise, dust, fumes, odour, vibration, electrical interference or otherwise.

PART D

CONDITIONS THAT MUST BE COMPLIED WITH UPON COMPLETION OF THE EVENT

Site Rehabilitation

18. The sites occupied by the market must be left clean and tidy and returned to their original condition upon completion of each market.

PART E

REASONS FOR CONDITIONS

Conditions of consent have been imposed to:

1. Ensure the proposed development:
 - a) achieves the objects of the Environmental Planning and Assessment Act, 1979;

- b) complies with the provisions of all relevant environmental planning instruments;
 - c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
2. Ensure that the relevant public authorities and the water supply authority have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities.
 3. Meet the increased demand for public amenities and services attributable to the development in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979.
 4. Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.
 5. Minimise any potential adverse environmental, social or economic impacts of the proposed development.
 6. Ensure that all traffic, car parking and access requirements arising from the development are addressed.
 7. Ensure the development does not conflict with the public interest.

PART F

ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL

Development Consent under Environmental Planning and Assessment Act, 1979

*Under section 82A of the Environmental Planning and Assessment Act, 1979 an applicant may request the council to review its determination except where it relates to a complying development certificate, designated development or integrated development. The request must be made **within six (6) months** of the date of the receipt of the determination, with a prescribed fee of 50% of the original DA fee.*

*Section 97 of the Environmental Planning and Assessment Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised **within six (6) months** after receipt of this notice.*

PART G

GENERAL ADVICE TO APPLICANT

Privacy Notification

Personal information contained on this Development Consent and any associated documents will be published on Council's website as required by the *Government Information (Public Access) (GIPA) Act 2009*.

Disability Discrimination Act 1992

This application has been assessed in accordance with the Environmental Planning & Assessment Act, 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The Disability Discrimination Act covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

Disclaimer – s88B Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of Shoalhaven Local Environmental Plan 2014 agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

Mobile Food Premises and General Food Advice

An application for approval for a mobile food stall/temporary food premises can be obtained from Council.

All food handling must comply with the requirements of Food Safety Standard 3.2.2 – in particular food must be stored and displayed under temperature control with hot food kept above 60°C and cold food must be kept at or less than 5°C. Food must be stored and displayed in a manner that is protected from contamination. The temporary premises must be kept in a clean and sanitary condition throughout the event.

When transporting food from off site, food handlers must:

- protect all food from the likelihood of contamination;
- transport potentially hazardous food under temperature control; and
- ensure that potentially hazardous food which is intended to be transported frozen remains frozen during transportation.

Potentially hazardous food must be kept at or less than 5°C or greater than 60°C. Food must not be displayed hot unless a suitable bain-marie is used that will hold the temperature above 60°C and protect the food from contamination. Thermometers must be available on the day of the event to check holding and receiving temperatures at each stall.

Food that is to be reheated before serving must be heated quickly to a high temperature to minimise the time the food is in the temperature danger zone (between 5°C and 60°C). A bain-marie is designed to keep food hot and is not suitable for reheating food. Alternative methods of reheating should be sought such as microwave, portable hotplates or cook tops.

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Food handlers wearing gloves must ensure that they are changed regularly or whenever they become soiled or contaminated.

Food handlers shall have a supply of liquid soap and paper towels available for hand washing if handling potentially hazardous and/or unpackaged food.

Food stall operators should be aware of the ingredients of each dish to provide advice to customers that may have specific dietary requirements such as allergies.

SIGNED on behalf of Shoalhaven City Council:

Signature

**Name Andrew Lissenden
 Development Co-Ordinator
 Planning & Development Services Group**