

**PORT DOUGLAS MARKETS – INTRODUCTION OF HOT FOOD****Darryl Crees: General Manager Corporate Services #453752****RECOMMENDATION:****That Council:**

- **Resolves to publicly advertise for applications to establish a limited number of Hot Food Stalls offering innovative multi-cultural cuisine at the Port Douglas Markets.**
- **Determines that only specifically designed mobile food vehicles which conform to relevant legislation and food standards will be able to operate at the Port Douglas Markets.**
- **Determines that successful applicants will be provided with security of a three (3) year term (non-transferrable) to operate at the Port Douglas Markets subject to the continuing adherence to relevant terms and conditions of the Markets.**
- **Delegates authority to the Mayor and Chief Executive Officer in accordance with section 257 of the *Local Government Act 2009* to facilitate all aspects of advertising and assessing applications and to present a further report to Council for adoption of the recommended stall holders and amended Market terms and conditions..**

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**EXECUTIVE SUMMARY:**

The Port Douglas Markets does not currently have stalls which cater for the sale of hot food and representations have recently been received for Council to reconsider this option. Previous research undertaken has recommended that specifically designed mobile food vehicles could be utilised for this purpose, and that temporary structures such as marquee style tents will not comply with legislation in circumstances where the vendor operates on site more than 11 times per year. Such vehicles would be subject to health inspections and compliance with all relevant legislation and food standards.

Approval of this concept will meet a perceived visitor need, will provide diversification in the Markets and further provide opportunities for suitable small business applicants to promote and develop a new economic initiative. All submissions will be assessed against predetermined criteria and a further report will be presented to Council with the recommended vendors for approval.

**BACKGROUND:**

The Port Douglas Markets currently operates with a ‘Cotters’ theme and is primarily an arts/crafts market intended to showcase wares produced locally. Food is sold at the market but no food preparation or cooking is currently permitted at the food stalls.

During the years of the former Douglas Shire Council, an Environmental Health Officer travelled to Darwin to review the Mindil Beach Sunset Markets. Following this visit, a comprehensive report was compiled proposing ways of introducing hot food that would be compliant with all Federal, State and Local Government legislation/regulations. That report is included as an attachment to this report.

Regular food preparation and cooking at the Port Douglas Market (ie more than 11 times per year) can only occur in stalls that are constructed with floors, walls and ceilings consistent with the Food Safety Standard 3.2.3. Food vehicles and carts designed to meet food safety standards would also be acceptable.

**COMMENT:**

The concept of having hot food stalls at the Port Douglas Markets has been raised during previous Council terms but has never been advanced. Staff are now responding to recent representations received to again consider the introduction of hot food into the Markets.

The key issues to be addressed are compliance with legislated food standards, ensuring public safety and waste collection. Through previous research undertaken on this matter it has been determined that compliance with food standards can be achieved by limiting stall holders to licensed proprietors with specifically designed mobile food vehicles. Such vehicles will be subject to inspection by Council’s Environmental Health Officers, the same as any other food outlet.

In determining the appropriate location for hot food stalls in the markets, it is proposed to locate these vendors in one area – “Hot Spot”, rather than having hot food stalls scattered throughout the Market precinct. The proposed location for the “Hot Spot” is adjacent to the toilet block and Rex Smeal Park on the eastern side of Market Park. This will assist in isolating any odours or noise from the food stalls into one area and Market patrons will readily be able to determine the variety of foods available.



To ensure a fair and equitable process is followed for approval of hot food stallholders, a request for applications will be publicly advertised. All submissions received will be assessed against pre-determined criteria with professional guidance being provided by Council’s

Environmental Health Officers. Following due assessment of applications, a further report will be provided to Council to formally approve the hot food vendors for the Markets.

Considering the initial costs to purchase and establish a mobile food vehicle, it is proposed that successful applicants will be provided with the security of being able to attend the Markets for a period of three (3) years. An alternative option to introduce hot food for a limited trial period (such as three months) has been considered by officers but it is not preferred. A trial period with no future certainty will be unable to attract or encourage new business or investment to the same degree as a period that offers financial security. Financing arrangements for a short trial period would be difficult, if not impossible for vendors to arrange and it is considered there would be little motivation to invest in this opportunity.

The offers are proposed to be non-transferrable and will be extended to the successful applicants only. However security of being able to operate at the Markets does not, in any way, infer security of a particular Market site for the stall and Council reserves the right to re-locate hot food vendors to another site in the Markets at Council's sole discretion.

Another purpose of offering security of attendance at the Markets is to provide Douglas residents with an opportunity to explore and develop a concept or idea and determine market acceptance. This has the potential to give the vendor/s confidence to further establish their businesses should they form the view that their product is successful.

One key aspect in the assessment criteria that the prospective hot food vendors will need to address in their submissions, is the type of food that will be available for sale. To be successful, applicants will need to offer innovative multi-cultural cuisine served in snack size portions and standard hot foods such as hot dogs, chips, hamburgers and the like will not be favourably considered. The introduction of hot food stalls into the Port Douglas Markets is designed to add another dimension to the patron's experience and not to provide a range of food that is readily available elsewhere.

Inclusion of hot food stalls at the Markets will not affect the current practice of approving of a temporary stall for community or charitable fund raising activities. This temporary stall will be located in another area of the Markets away from the "Hot Spot".

### **PROPOSAL:**

In order to provide an opportunity to not only diversify the Port Douglas Markets but to encourage new concepts and ideas for small business and economic development, it is recommended that Council publicly advertises for applications to establish hot food stalls at the Markets.

### **CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE:**

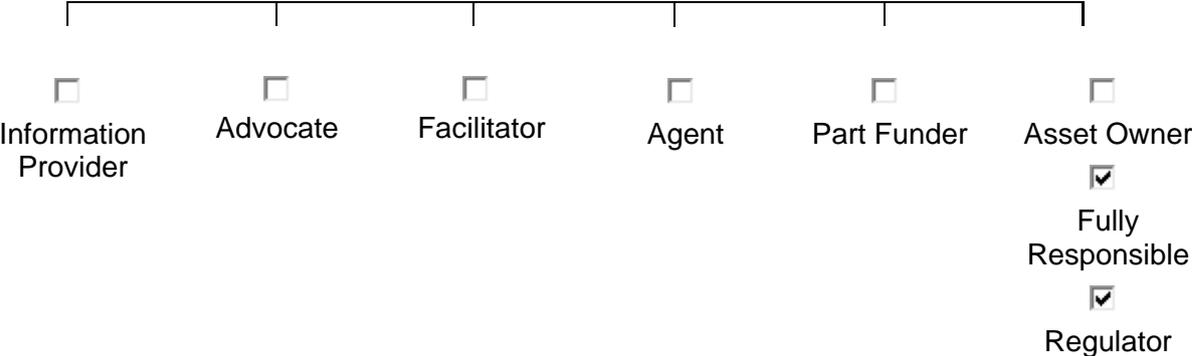
This report has been prepared in accordance with the following Corporate Plan 2014-2019 actions:

- 2.3.3 *Support and explore appropriate commercial uses of Council – controlled land, adding to the visitor experience and supporting the local economy.*

### **COUNCIL'S ROLE:**

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:



<b>Fully Responsible:</b>	Funding the full cost of a program or activity.
<b>Regulator:</b>	Meeting the responsibilities associated with regulating activities through legislation or local law.

**FINANCIAL/RESOURCE IMPLICATIONS:**

Health inspections of approved food vans/trailers will be incorporated within the Environmental Health Officers cycle of food outlet inspections therefore no additional budgetary expense. Approved food vendors will be submitting rates to obtain a place at the Markets which will increase revenue stream from this source.

**RISK MANAGEMENT IMPLICATIONS:**

Progressing the concept of hot food at the Markets will be regulated by Council’s Environmental Health Unit, ensuring vendors meet all necessary food standards. This is the main reason that hot food vendors are being limited to self contained food vans/trailers.

All Market stallholders are required to maintain public liability insurance coverage and this requirement will be automatically extended to hot food vendors.

Included in the application process, vendors will be required to lodge a suitable bond with Council. Research of other markets indicates that a bond mitigates the risk of illegal disposal of any oil/trade waste.

**SUSTAINABILITY IMPLICATIONS:**

**ECONOMIC:** The introduction of hot food at the markets will create opportunities for a vendor to establish a new idea/concept or expand on an existing business.

**ENVIRONMENTAL:** Nil

**SOCIAL:** This enhancement to the current stalls will provide a different aspect to the markets, which has the potential to entice patrons spending longer in the Market precinct.

**INTERNAL/EXTERNAL CONSULTATION:**

This matter was workshopped with Councillors and consultation has occurred between relevant Council staff including the Port Douglas Market Co-ordinator.

**ATTACHMENTS:**

1. Port Douglas Market Information Paper.



# Port Douglas Market

## Information Paper



Mindil Sunset Market, Darwin



ENVIRONMENTAL HEALTH SERVICES

Douglas Shire Council

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### **Appendix**

Attachment 1 (Port Douglas Market Policy)

Attachment 2 (Structural & Operational Requirements For Temporary Food Stalls)

Attachment 3 (NR&M Policy – Community Markets)



## Executive Summary

Port Douglas Market is primarily an arts/crafts market, showcasing wares produced locally. Food is sold at the market but no food preparation or cooking is currently permitted at the food stalls.

Introducing food preparation and cooking at the market will involve significant changes to market operations which can further translate to an increase in costs to the event organisers, Council and stall holders.

Regular food preparation and cooking at the Port Douglas Market can only occur in stalls that are constructed with floors, walls and ceilings consistent with the Food Safety Standard 3.2.3. Food vehicles and carts would also be acceptable in this regard.

The operation of food equipment for the preparation, cooking and storage of food will require power. At the moment there is limited power access at the market site and consideration into mains power/generators will need to be made. This in itself will present other issues and obstacles for event organisers.

Other key considerations for the inclusion of food preparation and cooking include WPH&S issues, waste collection, Council administration and resourcing.

The Port Douglas Market currently operates with a 'Cotters' theme, and the introduction of new and diverse foods could clash with this theme.

Further discussions in consultation with Council, staff from Community, Cultural & Economics Services and Environmental Health Services and other affected stakeholders to scope all possible issues should be undertaken to ensure an informed and sensible decision is made regarding the inclusion of food preparation and cooking at the Port Douglas Market.



## Introduction

The Port Douglas Sunday Markets, located at Market Park Wharf Street have been an iconic feature in Port Douglas for the past 20 years.

Initially run by the Labour Party, all manner of products were sold at the markets.

In 1998 the markets were formally taken over by Council and it was at this time the “Cotters” theme was introduced. Essentially this meant only goods or crafts locally produced could be sold.

The average number of stalls to the market each Sunday at the present time is approximately 170. Of these, around 12 sell food.

During the course of the day, in excess of 3000 people can attend the markets during the high season.

Council’s policy in regards to the operations of the market has over the years undergone some format changes but remains in essence the same policy as formulated in 1996 (refer to Attachment 1).

The existing market food policy limits this to local produce and primarily non high-risk foods such as cakes, sweets, packaged food and non-alcoholic drinks. No food preparation is currently permitted at the market, with the exception of the preparation of non-alcoholic drinks.

The intent of this information paper is to examine the existing arrangements for the sale of food at the Port Douglas Market and explore whether changes to the current format are possible. A recent visit of the Mindil Market in Darwin shall further provide information on opportunities for change.

An examination of the existing food policy in conjunction with the new amendments to Queensland’s Food Act will also be performed. This will allow Council and staff to make informed decisions regarding food arrangements at the market that are consistent with current legislation.



## Port Douglas Market

### The Food Stalls

As previously mentioned, preparation of food at market sites is restricted to the preparation of non-alcoholic drinks. Food that requires preparation is to take place in a licensed food premises. Food preparation at an unlicensed home or a private residence is not permitted. This is to ensure food is prepared safely.

The allowable food products at Port Douglas Market include

- Cakes, jams, biscuits, sweets
- Fruit and vegetables
- Non-alcoholic drinks
- Other food

### Excerpt Port Douglas Market Policy 15 June 2001

*Note: Other food pertains to food that generally requires temperature control. The food can be hot or cold so long as the correct storage temperatures are maintained. Since food cannot be prepared at the market site, it is prepared in a licensed kitchen and if required transported to the market under temperature control. Given the difficulty to access power, equipment required to store food under temperature control is not readily available and hot/cold food is not prevalent at the market.*

An inspection of the Port Douglas Market in August revealed the majority of food sold consisted of -

- Jams, preserves, chutneys, pickled vegetables
- Cakes, biscuits and sweets
- Fresh fruit and vegetables
- Pre – packed prawns
- Hot pies (Mocka's Pies)
- Freshly squeezed juices
- Bread



With the exception of Mocka's Pies and the pre – packed prawns, all of the above food is low risk in nature and does not require any advanced knowledge in food safety and hygiene.

No food is prepared at any stall with the exception of the freshly squeezed juices.

In addition, the operational needs associated with the sale of these foods do not require significant structural work to be done to the stalls. In essence, they are fairly simple stalls selling primarily packaged food.



To assist food stall operators, Environmental Health Services has developed a guide that outlines structural and operational requirements. This guide is based on the Food Safety Standards and is called “*Structural & Operational Requirements For Temporary Food Stalls*” (Attachment 2).

## Food Legislation

### Background Information

Recent amendments to the food legislation have resulted in a change in the way local governments in Queensland administer and regulate food. New licensing arrangements for all food proprietors, including food stall operators are now in effect.

Some of the key changes for food stall operators are briefly described below:

1. Previously temporary food stall licenses were given a ‘*provisional license*’ that was renewed every 6 months. This has now changed and a food stall license can be issued either for a minimum of 1 day to a maximum of 3 years. Environmental Health Services will issue licenses for a maximum of 1 year.
2. Stall operators who sell food prepared at their home must have their domestic kitchen licensed. Fees are dependent upon the type of food and the level of risk associated in preparing the food. Environmental Health Officers (EHOs) inspect these licensed kitchens annually. Food prepared at the market would not require home kitchens to be licensed.
3. It will be mandatory for all food operators to nominate a food safety supervisor (FSS). A FSS is a person who has the skills and knowledge in food safety and hygiene, can identify risks and help to alleviate them and also has the competency to train other people in food safety and hygiene. The competency required is commensurate with the level of risk of the food.

The recent legislative changes have not affected the temperature limits or the measures required by food operators to provide safe food (as outlined in the Food Safety Standards). These standards remain and continue to apply as they have since 2001. Any issue regarding Food Safety Standards are picked up at the application stage or at an inspection and discussed with the food operator.



Stall operators selling packaged food they themselves have not prepared are exempt from licensing. This means most of the food legislation (including the above changes) does not apply to them. Although they may not require licensing, they must still comply with the Food Safety Standards (eg. labelling) and ensure food is sold safely.

### **Opportunities For Change**

A large proportion of the stalls at the Port Douglas Market consist of crafts and wares. Food is not a predominate element of the market.

There is certainly sufficient scope to change the profile of the food stalls at the Port Douglas Market by:

- Increasing the number of food stalls
- Increasing the spectrum of food sold at the market (include more medium – high risk food that requires temperature control)
- Allowing food preparation and cooking

#### Implications

Expanding the Port Douglas market to allow food preparation and cooking on site would effect existing market operations. Depending on the magnitude, the following implications need to be considered -

#### *Environmental Health Services*

- Increase in inspections  
More overtime inspections of food stalls on the weekend  
Increase customer complaint investigations
- Increase in food related office administration  
More plans approval and application processing  
Coordinate food safety education promotion programs



### *Community, Cultural & Economic Services*

- Logistics for market site, including parking
- Formulate waste & recycling strategies  
Provide disposal points for waste water, food waste and cooking oil  
Organise collection
- Provide bigger stall sizes for food stalls and reconfigure market to allow vehicular access
- Compliance with the NR&M requirements for the intensification of the use of the Reserve
- Contingency planning and emergency evacuation procedures
- Insurance considerations for Council and food stall vendors
- Security and general co-ordination of market
- Set up & access to adequate public toilets

### *Local business and residents*

- Competition to local traders
- Potential nuisances to nearby residents

### *Food stall operators*

- Increase application cost (from nil to \$150.00)
- Increase licensing cost (from \$55.00 to \$273.00)
- Increase stall setup cost
- Increase operations cost

**NOTE:*****Access to power***

A source of power is required for cooking and storing food within the required temperature ranges.

Access to mains power at Market Park is not available.

Note: The use of mains power creates potential WPH&S issues

- o Burns
- o Wet conditions (short circuits)
- o Leads (tripping hazards)

**Generator power**

- o Noise and fumes
- o Placement issues
- o Power issues as per mains

**Stall Operations*****Stall Structure***

*Temporary Premises are structures set up for a specific, occasional event such as a fete or fair where the cost of providing premises to a permanent standard is unnecessary for food safety. Exemptions from the Food Safety Standards can apply to these premises.*

**Excerpt from ANZFA's  
Safe Food Australia - A guide to the Food Safety Standards**

Based on the above definition, the stalls at the Port Douglas Market would not be considered a *Temporary Premises*. The Port Douglas Market occurs weekly and is not a specific, occasional event. Consequently Environmental Health Officers (EHOs) cannot apply exemptions to the food stalls.

There is no historical information or data within the Shire or local area that allow food preparation or cooking to occur in stalls at markets on a regular basis. It would be difficult to derive and plan for the type of issues EHOs are likely to encounter without some prior knowledge.



Drawing on the experience of the Mindil Market in Darwin where food is allowed to be prepared and cooked in stalls, insight on matters pertaining to food safety can be obtained.

### **Mindil Beach Sunset Market**

The Mindil Beach Sunset Market in Darwin is famed for its arts, craftwork and multicultural food. It operates twice a week from April to October, starting in the late afternoon and finishing around 10pm. It is visited by many people around the world and is a popular tourist destination. Around 20,000 people a week visit Mindil Market during the peak season, generates over \$15 million to the region and is recognised by the National Trust as an icon of National Significance.



The Mindil Markets have been in operation for 20 years and has well over 200 stalls. A large number of the stalls at the Mindil Market sell food (60 stalls).

The food arrangements at the Mindil Market are quite unique to Australia. It is unique because food can be prepared, cooked and served in a temporary food stall.



A variety of factors have resulted in this arrangement being accepted at the Mindil Market. Starting as a small, simple and community run market prior to the conception of the Food Safety Standards, it consisted mostly of makeshift food stalls run by Asian operators. Over time, the market gained widespread popularity and slowly expanded.

The amount of food surveillance and monitoring the stalls have experienced over the years has fluctuated and subsequently there have been varying degrees of food safety compliance amongst the stalls at the Mindil Market.





Council's Senior Environmental Health Officer was fortunate enough to accompany EHOs of the Northern Territory Government on inspections of the food stalls at the Mindil Market. Temperature checks and random sampling of food was taken.

Below are some brief general observations of the Mindil Market -

- Very busy and frenetic scene at the food stalls, however food operators go about their work methodically as you would expect from long time vendors
- Food operators are well aware of water, waste & oil depository points



- o Solid waste bins were located behind the stalls (no recycling available)
- o Bins for the collection of waste oil were located behind the stalls at periodic intervals
- o Bins for the collection of waste water were located behind the stalls at periodic intervals

- A wide variety of stall setup and configuration were noted including –
  - o Tents, marques, mobile vehicles & carts
  - o Some of the stalls had floors, others had no floor
  - o Some of the stalls had walls (screens), some without





- Some stalls had proper hand wash basins, others had the customary containers with taps at their bases
- Esky's were the most prevalent form of cold storage
- Typical cooking equipment present - deep fryers, gas burners, woks, grillers and BBQ's
- Other prominent equipment included bain-maries and cool refrigeration display units
- Mains power supply





As previously outlined, *Temporary Premises* do not need to fully comply with the Food Safety Standards. They are not expected to withstand the same amount of use and cleaning as a commercial premises.

The Mindil Markets however, are a common occurrence in Darwin during the April – October months. They occur twice a week. Effectively the food stalls at Mindil Market do not fit the *Temporary Premises* definition of ANZFA. This means exemptions are not possible.

Any moves now to change the operations of the food stalls at Mindil Market to make them compliant with the Food Safety Standards would be difficult and probably require extensive community and political support.

### Food Safety Observations At The Mindil Market

Observation of the food stalls at the Mindil Market has proven to be a worthwhile exercise. Of particular interest, the following food safety observations were noted on the day -

- Early preparation and cooking of food



Potential for elevated bacterial growth

- Poor storage - food heaped in bain-maries or cold display at some food stalls

Potential again for sustained bacterial growth





- Absence of impervious flooring at some stalls
  - Prevents effective cleaning of spills or other accidents within the stall and reduces ability to maintain stall in a clean condition during food operations. Also exposes the earth and dust from the ground to food preparation & cooking areas
  
- Absence of walls or screens at some stalls
  - Absence of walls or screens can allow airborne contaminants and pests to enter the food preparation and cooking areas. This is a key factor as to why preparing and cooking food at a temporary food stall is generally not permitted. Cross contamination is less likely to occur if the Food Safety Standards are adopted in full which means providing to the extent that is practicable the ability to –
    - ⊙ Exclude dirt, dust, fumes, smoke and other contaminants;
    - ⊙ Not permit the entry of pets; and
    - ⊙ Not provide harbourage for pests



This essentially means constructing a stall with 3 side walls and a roof.

- Mixed compliance with hand washing requirements
  - Most hand washing was performed using the customary container with a tap at its base, but many of them were located in places that didn't readily lend themselves for frequent use. Other observations included obstructed hand wash basins and open buckets (not very effective)





- Inadequate storage temperatures observed at some stalls
  - o An esky containing perishable food was measured above 20°C
  - o Some bain-maries operating below the required temperature of 60°C



- Variation in personal hygiene practices
- Access to probe thermometers for temperature checks varied
  - o Some operators had probe thermometers, some still had them new in their packaging, some did not have a thermometer
- General OH&S concerns at some stalls
  - o Electric power leads criss-crossing the ground
  - o Tripping hazards - Boxes, containers and cooking equipment cluttered together
  - o Limited room to navigate in and around some of the food stalls





A sustained inspection and education program (similar to what the Northern Territory EHOs are currently doing) is essential to improve and maintain compliance with the Food Safety Standards.



As a side note, it is important to appreciate that most, if not all of the food at the Mindil Market was fresh.

This helps to significantly reduce the incidence of food poisoning.

Also, the high turn over of food (typical at Mindil between 6-8pm) helps to prevent food poisoning because the food is not sitting out for an extensive time in the bain-marie or cold storage displays.



## Notes For Consideration

The current food arrangements at the Port Douglas Market have the potential to expand into something like the Mindil Markets. But in absence of the historical and political support embedded with the Mindil Market development, the integration of food preparation and cooking at the Port Douglas Market would need to be carefully administered with strong regard to the application of the Food Safety Standards.

To achieve this, significant changes to the physical layout of the market would need to occur, as well as a review of Council's administration practices. Amendment to the current Port Douglas Market Policy would also need to be made.

Some of the key issues from a food safety perspective include –

- **Construction of permanent food stalls that are consistent with Standard 3.2.3 of the Food Safety Standards, taking into account -**
  - Water supply
  - Sewage & waste water & cooking oil disposal
  - Storage of garbage & recyclable matter
  - Ventilation
  - Lighting
  - Floors, walls, & ceilings
  - Fixtures, fittings & equipment
  - Storage facilities
  - Toilet facilities
  - Food transport vehicles
  
- **Strict adherence to food handling controls consistent with Standard 3.2.2 of the Food Safety Standards, taking into account -**
  - Food receipt
  - Food storage
  - Food processing
  - Food display
  - Food packaging
  - Food transportation
  - Food disposal
  - Food recall
  - Hygiene of food handlers
  - Cleanliness, sanitising and maintenance
  - Temperature recording



- **Education programs – advanced skills and knowledge in food safety and hygiene**

The above considerations will require substantial undertakings by potential food operators. Some of these undertakings may prove challenging and operators may perceive the level of work required to satisfy the Food Safety Standards is disproportionate to the amount of time spent at the market.

### **Miscellaneous Considerations**

At this stage, only vendors who are consistent with the “Cotters” theme are allowed at the Port Douglas Market. This can have the affect of limiting the types of food sold at the market. Any resemblance to the Mindil Market with its exotic and Asian influence will not be achieved.

The aims and aspirations for the Port Douglas Market, as outlined in the current policy may need to be re-examined if food preparation and cooking food were to be introduced to allow a greater diversity of food.

This raises other questions.

What type of market do we want for the Port Douglas market? What types of food would be consistent with a “Cotters” theme? Should we retain the “Cotters” theme?

With out doubt, careful consideration by Council would be warranted for any proposal to introduce cooking at any market, not just the Port Douglas Market. A thorough scoping of all issues, mapped and investigated with all affected parties would be prudent to ensure a cohesive, well run and safe market.



## Recommendations

If Council decides to allow food preparation and cooking at the Port Douglas Markets, the following recommendations from Environmental Health Services are provided :

- ◆ Council have regard to the NR&M policy for Secondary Use of Trust Land before making any decisions on food preparation and cooking at the markets (Refer Attachment 3 - NR&M Policy – Community Markets)
- ◆ Food preparation and cooking be confined to licensed proprietors AND be restricted to Mobile Food Vehicles and be subject to the provisions of the Food Act 2006.

Mobile Food Vehicles can be set out in a manner that can allow them to overcome many of the obstacles typical of temporary food stalls and address the stringent requirements of the Food Safety Standards.

- ◆ Council consider the cost implications (eg. power, administration, labour, waste) as outlined in **Opportunities For Change** section of this information paper in consultation with Environmental Health Services and Community, Cultural & Economics Services departments.