

Home Business Code

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Advisory Note

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 commenced on 27 February 2009. This State Environmental Planning Policy (SEPP) applies throughout all of NSW and now allows certain home businesses, home industries, home occupations and home-based child care as exempt development (that is development not requiring development consent).

Full details of the requirements are found in Part 1 Division 2 (General Requirements) and Part 2 Division 1 Subdivision 22 and 23 of the SEPP.

An extract of the definitions of these different use types (from the Standard LEP) is outlined below:

home-based child care means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and that satisfies the following conditions:

- (a) the service is appropriately licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

home business means a business carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

home industry means a light industry carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the light industry carried on in the dwelling), or



- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or but does not include bed and breakfast accommodation or sex services premises.

home occupation means an occupation carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the building,

Implications for this code

If development complies with the exempt development requirements of the SEPP then it can be carried out without the need for development consent and does not need to meet the requirements of this code.

If development is not exempt development under the SEPP, and fits within the definition of a home business under this code, then the requirements of this code apply and development consent is required.

Further information

A copy of the State Environmental Planning Policy and explanatory information is available at www.planning.nsw.gov.au/housingcode.

For further information please email planningreform@planning.nsw.gov.au or contact the Department of Planning Information Centre on 9228 6333.

Disclaimer: The advice contained in this DCP is Council's understanding of the SEPP and is provided in good faith to assist Canterbury residents of the implications of the SEPP. While every reasonable effort has been made to ensure this document contains accurate advice, the City of Canterbury disclaims any kind of liability to any person or organisation in respect to anything or the consequence of anything done or omitted to be done in reliance upon the whole or any part of this document. You should obtain your own legal advice or contact the Department about interpretation of the SEPP.



HOME BUSINESS CODE

1. Introduction

The aim of this Code is to give a guide to persons wishing to establish a “Home Business” as to the type of development that would be acceptable to Council.

The planning controls and Council’s consideration of any application will be on the basis that the use will not adversely affect the existing or future amenity or character of the residential area in which it is to be situated either by way of on-site or off-site activities associated with the use ie noise or vehicular movement, parking etc.

2. General Objectives of the Code

- 2.1 To allow persons who are the occupants of a dwelling house limited use of part of the dwelling house or associated building for business, professional or industrial purposes.
- 2.2 to ensure that the activities of the “Home Business” do not cause a problem with the amenity of the area particularly by the emission of noise, smell, excessive vehicular or pedestrian movement.
- 2.3 To ensure that any buildings and associated facilities such as car parking remain in character with the amenity of the area.
- 2.4 To ensure that the operation of the non-residential use is ancillary to the use of the premises as a dwelling house.

3. Making the Application – Plans and Information.

- 3.1 To avoid delay applicants are encouraged to:
 - (a) Discuss the proposed use with Council’s Officers before lodgement particularly if the proposal involves the erection of a new building.
 - (b) Take any advice into consideration when preparing the final application.
 - (c) Submit all the information required under the Code, the development application form, development and advertising fees, any information that may assist in Council’s determination of the application and/or requested by Council’s Officers.
- 3.2 When lodging a development application the following is required:
 - (a) A completed development application form.
 - (b) Owner written permission to make the application.
 - (c) Development application and advertising fees.
 - (d) Plans showing:
 - (i) The site and building with the floor area to be used to be clearly shown and dimensioned.
 - (ii) Residential buildings on adjoining sites (where relevant).
 - (iii) Location of carparking.



- (e) A written statement from the applicant setting out the reasons for establishing the “business” in conjunction with a dwelling and why such a use would not be better located in an industrial or business/commercial zoning.

Amendment 19/11/87

4. Definitions

Home Business

“Home Business” means a business, profession or industry carried on in a dwelling-house or building within the curtilage of a dwelling-house by one or more permanent residents of the dwelling-house, in circumstances where the carrying on of the business, profession or industry does not involve:

- (a) use of a floor area exceeding 30 square metres;
- (b) interference with the amenity of neighbouring residential premises, or the locality as a whole;
- (c) the display of goods;
- (d) the display of a sign, other than a non-illuminated sign not exceeding 0.5 metres in width and 0.25 metres in height, indicating the name and occupation of the residents; or
- (e) any increase in the capacity of utility service mains in the locality.

Dwelling House

Means a building design, constructed or adapted for use as a dwelling for a single family but does not include a flat.

5. Location and Design of Building

5.1 Objectives

- (a) To ensure that the design and character of the dwelling and any associated buildings is compatible with the character of the area.
- (b) To locate any use/new building so that it is unlikely to create any amenity problems for adjoining residents particularly with regard to noise and odour emission.
- (c) To limit the extent of floor area used for business or industrial use.

5.2 The building proposed to be used and/or erected to be located/alterd or designed so that any openings (windows, doors) are situated or orientated away from adjoining residential development.

5.3 Buildings proposed to be used to be suitably sound proofed to a sufficient standard for the use proposed.

5.4 The use being confined to a maximum of 30m² of floor area.

5.5 Any proposed building being of a design that is in scale and character with residential development in the area.



6. Car Parking and Loading Facilities/Requirements

- 6.1 Objectives:
- (a) To ensure that there is adequate parking space available on-site for residents of the premises.
 - (b) All loading and unloading to be conducted off-street.
- 6.2
- (a) All loading and unloading is to be carried out off the street and an areas is to be available for the activity, uses that require extensive loading will require a loading area that is not visible from the street.
 - (b) If any residential car parking is to be displaced by the proposed use then alternate parking must be provided on-site behind the building line and in accordance with Council's Car Parking requirements.

7. Operational Considerations

- 7.1 Objectives
- (a) To ensure that activities both on and off the site that are associated with the use of the premises are compatible with the character of the area.
 - (b) To outline the particular factors that Council will take into account when considering applications for establishment of a Home Business.
- 7.2 When considering an application for a "Home Business: some of the factors that Council will particularly examine closely will include:
- (a) The General Objectives for this Code and its provisions.
 - (b) Number of vehicular movements likely to be associated with the use.
 - (c) Number of persons likely to be visiting the site.
 - (d) The size and frequency of vehicles associated with the use and whether all deliveries should be carried out by the person carrying on the business.
 - (e) the proposed nature of waste products associated with the use and the proposed manner of its disposal.
 - (f) whether the use would be more suitable for location in a business or industrial zone.
 - (g) Any likely nuisance that could be caused to adjoining residents or residents in the vicinity because of the conduct of the use.
 - (h) Whether the hours of operation of the business should be limited between 8.00 a.m. and 5.30 p.m. Monday to Friday.
 - (i) the nature and need for any advertising that may be associated with the "Home Business".
 - (j) The nature of submissions received from residents in the vicinity.
 - (k) The type of any plan and associated equipment to be used in conjunction with the use.

When making application for a "Home Business" the applicant should provide detailed information in respect of the above applicable points.



8. Limitation on any Development Approval

Objective

- (a) To allow Council to review approval on a long and short term basis to ensure that the business does not adversely affect the amenity of the area.
- (b) To issue any approval to a particular person to establish an individual as responsible for the conduct of the “Home Business” in accordance with the terms and then intent of the approval.

If Council approves of an application for a “Home Business: it will impose a condition limiting the use:

- (a) To the applicant or specific person.
- (b) For a limited period of 12 months after which it will review the effects of the use on the amenity area and the desirability of issuing a further limited approval and the length of time of any such approval.

Amendment 19/11/87

9. Industrial Relations

9.1 Objective

To ensure that the Department of Industrial Relations and relevant employee organisation are aware of the Council’s determination of an application for a “Home Business: so that all this Department’s requirements are met.

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- 9.2 When Council received an application for the establishment of a “Home Business: which has an industrial component (i.e. it involves a manufacturing process) it will inform the Department of Industrial Relations and relevant employee organisations of its determination of the application.

10. Number of Persons Working on Site

10.1 Objective

To limit the number of people working on a site and to ensure that adequate floor space is allocated for the proposed activity.

- 10.2 A maximum of two persons to work on a premises and a minimum of 10m² of work floor area per person being available.

