



Guideline for Home Business, Home Occupation & Home Industry

Do you Need Council Approval to Work from Home?

1.0 Introduction

This Guideline has been prepared for anyone interested in establishing a low-key commercial activities from a residential property and relates to “Home Business”, “Home Occupation” or “Home Industry” activities within the Tenterfield Shire Local Government Area. It contains Council’s development standards and requirements for Home Business/Occupation/Industry uses.

Home Businesses/Occupations/Industries are permitted in the RU5 Village and RU1 Primary Production zones under the provisions of the Tenterfield Local Environmental Plan 2013.

In summary;

- “Home Occupation” does not allow for any additional employees on the site.
- “Home Business” allows for up to two (2) additional employees, but contains limitations on what activities can be undertaken.
- “Home Industry” allows for up to two (2) additional employees and also contains limitations on what activities can be undertaken.
- All of the above MUST be ancillary to the residency.

2.0 Aims and Objectives of development for Home Businesses, Home Occupations and Home Industries

- To allow the occupants of a dwelling house limited use of part of the dwelling house or a building ancillary to a dwelling for business, professional or industrial purposes;
- To ensure that the activities of a Home Business/Occupation/Industry do not affect the residential amenity of the area, particularly by the emission of noise, smell, light, excessive vehicular or pedestrian movement;
- To ensure that any building and associated facilities, such as car parking, remain in character with the amenity of the area;
- To ensure the operation of the non-residential use is ancillary to the use of the premises as a dwelling house;

- To provide activity and natural surveillance in residential areas throughout the day;
- To promote safety and security of public and private spaces; and
- To promote employment and economic development by enabling cottage industries to emerge, enhancing the diverse and unique character of the area.

3.0 General Criteria

- The proprietor (or operator) must principally live in the dwelling where the Home Business/Occupation/Industry is located. For “Home Occupation” if any other person is employed as part of the development, the other persons must also live in the dwelling. Only a maximum of 2 persons employed in a “Home Business” or “Home Industry” can live away from the premises.
- All Home Business/Occupation/Industry uses will be required to comply with Council’s existing requirements for business identification signage.
- The Home Business/Occupation/Industry must not impact on neighbours by generating noise, vibration, smells, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise.
- Council may restrict the hours of operation to between 8.30 a.m. to 5.30 p.m., Monday to Friday, and 8.30 a.m. to 12 noon Saturday, with no work to be conducted on Sundays or public holidays.
- Home Business/Occupation/Industry, which generate smell, light spill, smoke or chemical emissions, will not be permitted.
- The Home Business/Occupation/Industry must not impact on neighbours by generating excessive traffic, by attracting an excessive number of clients or customers (a maximum of three (3) clients/customers permitted on site at any one time), or by reducing car parking in the vicinity of the home.
- The development must not involve the parking of more than two (2) additional vehicles, (other than those owned by the residents of the site) on the property or on a street to which the property fronts, at any one time;
- Car parking shall be made available on-site, behind the building alignment of the residential dwelling, or stacked parking in driveways is permitted.
- All loading and unloading is to be conducted on-site and an area for this activity shall be made available behind the existing building alignment.

4.0 Definitions

What is a “Home Occupation?”

Home Occupation is defined under the provisions of Tenterfield Local Environmental Plan 2013 as;

home occupation means an occupation that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and 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 signage (other than a business identification sign), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

What is a “Home Business?”

Home Business is defined under the provisions of Tenterfield Local Environmental Plan 2013 as;

home business means a business that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and 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 signage (other than a business identification sign), 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.

Note. The floor area used for a home business must not exceed 100 square metres.

What is a “Home Industry?”

Home Industry is defined under the provisions of Tenterfield Local Environmental Plan 2013 as;

home industry means a dwelling (or a building ancillary to a dwelling) used by one or more permanent residents of the dwelling to carry out an industrial activity that does not involve any of the following:

- (a) the employment of more than 2 persons other than those residents,
- (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,
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter,
- (d) the exhibition of any signage (other than a business identification sign),
- (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 or sex services premises.

Note. The floor area used for a home industry must not exceed 100 square metres.

Home industries are a type of light industry, which is defined as;

light industry means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following:

- (a) high technology industry,
- (b) home industry.

Home Based Child Care is defined separately and does not require consent if the following criteria are met

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 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.

5.0 Is Council Consent Required?

Home Businesses Home Occupation and Home Industries do not require the prior consent of Council, provided they meet the relevant standards as set down by State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, copied below and Council's General Criteria as set down in section 3.0 above;

44 Development standards

The standards specified for this development are that the development must:

- (a) not involve a change of building use, and*
- (b) if the development is on land to which a local environmental plan made under section 33A of the Act applies, comply with the applicable standards specified under clause 5.4 (2) and (3) of that plan.*

Note 1. *The elements that must comprise this development are specified in the definition of **home business, home industry or home occupation** the Standard Instrument.*

Note 2. *Under the Building Code of Australia, a change of building use involving a floor area greater than 10% of the floor area of a building would cause the building to contravene the development standard.*

Issues

If Council receives a complaint from an adjoining or adjacent resident concerning an alleged breach of the prescribed definitions (such as interference with local amenity, noise or smell), and Council supports the issues raised in the objection, then the home occupation, business or industry is unable to comply with the definition parameters.

This will deem the home occupation activity as unlawful as it does not satisfy the relevant criteria. The Home Business/Occupation/Industry will be required to cease, and a Development Application may be required to be submitted to Council if the use is consistent with relevant provisions of Tenterfield Local Environmental Plan 2013. The application will then be assessed and a decision made on whether the activity should be approved or refused.

What do I need to do?

Assess your proposal against the provisions of the above definitions and if you deem your proposal to be a Home Business/Occupation/Industry which complies you are able to operate.

It is recommended that you write to Council advising of the details of your proposal– ie the address of the premises, proposed use, and the hours of operation. Council will then advise you in writing whether or not your proposed use meets the criteria and the requirements that the Home Business/Occupation/Industry would need to comply with.

If your proposal falls outside the definitions, proceed to lodge a development application in accordance with Council's lodgement process. Information about lodging a development application can be found on Council's website at www.tenterfield.nsw.gov.au.

Ancillary Approvals

Should the operation involve food preparation, hairdressing or skin penetration, e.g. acupuncture, dry needling or beautician, you are required to contact Council's Health & Building Surveyors prior to operation. Approval is required for certain activities and you must register your business with Council. An inspection of the premises is required before commencing operations.

6.0 Summary

A Home Business/Occupation/Industry must comply with the aforementioned criteria at all times.

Depending on the nature of the Home Business/Occupation/Industry, a Plan of Management for the Home Business/Occupation/Industry may be required to ensure that all the criteria have been considered appropriately and suitable management procedures are in place to comply with this Guideline.

To avoid delay, applicants are encouraged to discuss their Home Business/ Occupation/Industry proposal with Council's Officers prior to lodgement of an application or letter.

7.0 Further Information

If you require further information please contact Council's Strategic Planning and Environmental Services Department on 02 6736 6002