

Home Activities and Home Based Businesses

Can someone run a business from home?

Yes. It is possible for a person to run a small-scale business from residential premises in some circumstances and only under strict conditions.

This is known as a **home activity** and is specifically defined in the Development Regulations, 1993.

What is defined as a home activity?

A home activity is defined in the regulations as follows:

A use of a site by a person resident on the site –

- a) that does not detrimentally affect the amenity or any part of the locality; and*
- b) that does not require or involve –*

- *assistance by more than one person who is not a resident in the dwelling;*
- *use (whether temporarily or permanently) of a floor area exceeding 30 square metres;*
- *any source of power other than an electric motor of not more than 0.4 kilowatts;*
- *the imposition on the services provided by any public utility organisation of any demand or load greater than which is ordinarily imposed by other users of the services in the locality;*
- *the display of goods in a window or about the dwelling or its curtilage;*
- *the use of a vehicle exceeding three tonne tare in weight.*

Is an application necessary?

Provided the business activity can be conducted at all times strictly within the criteria above, then no formal approval from us is necessary since a home activity does not constitute development within the meaning of the Act.

As no approval is needed, you do not need to lodge an application with us for assessment. Therefore, within the constraints imposed by the criteria listed above, you are entitled to carry on that business enterprise without further reference to us unless other issues are involved with that business, such as health and hygiene matters which may require special attention.

Your attention is drawn to the requirement that any such activity is to be conducted so that **it does not detrimentally affect the amenity of the locality**. As can be appreciated, this can be a rather subjective test and one that has the potential to create friction if the impact of the activity is at all felt beyond the boundaries of the site.

What sort of activity can cause a problem?

Any sort of business which involves manufacturing, or the production of something has the potential to cause problems because of the very nature of any operations, processes and tools used. Because of that subjective test that the amenity must not be affected (as mentioned above), council has the power to intervene to check the situation and see if you are operating within the home activity criteria. If the "nuisance" factor is apparent, then you will have a problem continuing that business. We often receive complaints from neighbours and others about business activities which:

- create repeated, prolonged or loud noise

- interfere with TV or radio reception
- produce smoke, smells, fumes, dust and the like
- increase traffic in the street or lead to congestion brought about by visitor parking and general movement
- are carried on at times outside of normal working hours.

Ordinarily, mechanical repairs, panel beating, spray painting and activities, which use noisy machinery or require regular delivery of materials or constant turnover of customers do not fit into the definition of home activity.

Conversely, examples of those types of business activities that could be suitable include a professional office that is set up in a room of the house, a one person consultancy or a drafting office, a journalist or writer working from home, light handicrafts being fashioned, or an agency which does not rely on constant public access nor the movement/storage of goods and products. Please note that these are possibilities only and are provided merely by way of example, not to indicate that they would be automatically acceptable.

Irrespective, you need to be mindful at all times to operate within the limits imposed by the home activity criteria and, of course, not to cause any nuisance to neighbours nor create conditions which may give rise to complaint.

What happens if you can't comply

If you cannot meet at the outset any of the criteria, or subsequently breach any of the criteria (eg. the level of impact is such that it is clearly affecting amenity) then you are operating outside of the definition of home activity and the business becomes a land use or a development in its own right, and is most likely something that is not appropriate within a residential area.

In this event you should not commence, or cease undertaking the activity. If you still wish to undertake the activity you must first lodge a development application with us for assessment under the provisions of the Development Act. Processing such an application may involve giving public notice to neighbours and consultation with other government agencies. If your activity is one that is classed as being a non-complying form of development in the area, special provisions apply to seeking planning consent – see separate **Information Guide**. Approval from council to “authenticate” your home activity should not be taken for granted. It may well be that you will need to look at industrial or commercial premises in an appropriate location to set up your business.

Additional advice

It is strongly recommended that you first check with us before setting up a business if you are in any doubt as to whether you can comply with the home activity guidelines. Also, if the business involves the handling of food or personal services such as hairdressing, there may be health requirements under other legislation that need to be met.

It is also advisable to check with other authorities for non-council related licenses, registrations or additional requirements that those authorities may have an interest in and/or a need to grant.

The above information is advisory and a guide only to give you a general understanding of the key points associated with the approval system. It is recommended that you seek professional advice or contact our **Development Services Section on 8384 0666** regarding any specific enquiries or for further assistance concerning the use and development of land. Being properly prepared can save you time and money in the long run.

Revised: November 2019