



# ENVIRONMENT AND PLANNING SERVICES - HOME BASED USES

## IS DEVELOPMENT CONSENT REQUIRED FROM COUNCIL FOR HOME BASED USES?

Home Occupations, Home Based Child Care, Home Business and Home Industry are considered exempt development (not requiring development consent from Council) if they comply with the requirements of State Environmental Planning Policy (Exempt and Complying Development) 2008 (SEPP) and State Environmental Planning Policy (Education and Child Care Facilities) 2017 and The Hills Local Environmental Plan 2019.

*\*Other uses for example Health Consulting Rooms are not Home Based Uses as they are elsewhere defined within The Hills LEP 2019. It is important to confirm that your intended use is consistent with the terms of a Home Based Use prior to proceeding.*

## WHAT ARE THE APPLICABLE DEFINITIONS WITHIN THE SEPP AND STANDARD INSTRUMENT?

**A Home Occupation is defined under the SEPP and Standard Instrument as:**

*“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:*

- the employment of persons other than those residents, or
- 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

- the display of goods, whether in a window or otherwise, or
- 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 occupation carried on in the dwelling), or
- 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, a brothel or home occupation (sex services).”

## HOME BASED CHILD CARE IS DEFINED AS:

- family day care residence (within the meaning of the Children (Education and Care Services) National Law (NSW)), or

*Note. A family day care residence is a residence at which a family day care educator educates and cares for children as part of a family day care service—see the Children (Education and Care Services) National Law (NSW).*

- a dwelling used for the purposes of a home based education and care service (within the meaning of the Children (Education and Care Services) Supplementary Provisions Act 2011) at which the education and care service is provided at any one time to no more than 7 children (including any child of the person providing the service) all of whom are under the age of 13 years and no more than 4 of whom are children who do not ordinarily attend school.

### A HOME BUSINESS IS DEFINED AS:

*A 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."

### A HOME INDUSTRY IS DEFINED AS FOLLOWS:

*"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 building, but does not include bed and breakfast accommodation or sex services premises."

### WHAT OTHER DEVELOPMENT CONTROLS ARE APPLICABLE?

Under the Building Code of Australia, if a Home Occupation, Home Business or Home Industry exceeds 10% of the existing floor area of the storey in which it is located, then this will change the classification of the building and will require the building to be classified for

each use - This may require extensive fire safety upgrading in order to achieve this.

Under Clause 2.43 of the SEPP, a Home Occupation, Home Business or Home Industry is not permitted to include the manufacture of food products or the undertaking of skin penetration procedures.

### HOW CAN I GET WRITTEN CONFIRMATION THAT MY PROPOSAL IS CONSIDERED EXEMPT DEVELOPMENT AND WHAT DO I NEED TO PROVIDE?

Written confirmation can be obtained from Council following the submission of a written request. This request should include the following documentation:

- Covering letter detailing the nature of the proposed use including hours of operation (where applicable);
- Submission of a Site Plan showing the location of the dwelling house and any associated parking spaces;
- Submission of a Floor Plan depicting the intended area of use and confirmation that the identified area is less than 10% of the floor area of the storey it is situated on; and
- Evidence of property owners consent for the proposed 'home bases use' on the site.

In addition to the above required documentation, payment of a written planning enquiry fee is required in accordance with Council's fees and charges.

For more information, or to submit an Exempt Home Based Business Assessment Online Form, search for 'home based businesses' on Council's website.

### FURTHER INFORMATION

If you are unsure, please ask - time spent early may avoid delays later.

#### Customer Service Centre:

3 Columbia Court, Norwest NSW 2153

**Phone:** 9843 0555

**Hours:** 8:30 am to 4:30 pm, Monday to Friday

**Website:** [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au)

### DISCLAIMER

*This fact sheet provides a summary of the major issues concerning home based uses. Any person using this document must do so on the basis that not every scenario and issue can be addressed, and discussion with relevant staff at Council's Customer Service Centre should be undertaken. This document is subject to change without notice.*