

Home-based enterprises

This information sheet provides details about what type of businesses and other enterprises can be carried out as exempt or complying development in conjunction with the residential use of a dwelling.

Important note

This information sheet is for guidance only and may not contain all the information relevant to every property in NSW. Applicants should refer to the [relevant planning controls](#)¹ before beginning work, or seek professional advice on how the planning controls apply to their property.

The majority of the development that can be done as exempt or complying development in NSW is identified in the State wide exempt and complying development policy (the policy). View the policy at the [Exempt and Complying Development Policy website](#)².

Exempt development is minor building work that does not need planning or building approval. [Information sheet 1.1](#)³ provides more information about exempt development.

Complying development is a joint planning and construction approval that can be granted by council or a private certifier. [Information sheet 1.2](#)⁴ provides more information about complying development.

Note: As identified in Information Sheets 1.1 and 1.2 exempt and complying development cannot be carried out on certain land.

What type of businesses can be carried out from a residence?

The policy provides for a number of types of business and commercial enterprises to be undertaken as either exempt development or complying development in conjunction with the residential use of a dwelling.

These uses can be carried out within the dwelling or within buildings which are ancillary to a dwelling, such as a garage, detached studio or other outbuilding.

The types of enterprises which are dealt with under the policy and which are detailed in this information sheet are:

- home business
- home industry
- home occupation
- home based child care and
- bed and breakfast accommodation.

These activities can all be carried out from within a dwelling as either exempt or complying development, subject to meeting the relevant development standards. Each of these land use terms have specific definitions and the requirement in those definitions must be met.

Definitions

A “**dwelling**” is defined as being a room, or group of rooms, occupied as a house or home or legal residence.

¹ <https://maps.planningportal.nsw.gov.au/Terms>

² <http://www.planning.nsw.gov.au/exemptandcomplying>

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⁴ <http://www.planning.nsw.gov.au/exemptandcomplyingoverview>

<http://www.planning.nsw.gov.au/exemptandcomplyingoverview>

This includes dwelling houses, semi-detached dwellings, attached dwellings, multi-dwelling housing, residential flat buildings, dual occupancies, secondary dwellings, and shop top housing.

Home occupation means an occupation that is carried out 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 through 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,

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

The definitions of **home business** and **home industry** are similar to that of a home occupation with the only difference being these businesses or industries may employ up to two people who are not residents of the dwelling.

Home-based child care means the use of a dwelling by a resident of the dwelling for the supervision and care of one or more children and must:

- be a service that is licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*, and
- comply with the restriction on the number of children (including children related to the carer or licensee), the maximum total number of children is seven, under the age of 12 years, including no more than five who do not attend school.

Exempt development

Under the policy, a dwelling may be used for the purpose of a home business, home industry or home occupation as exempt development.

The use of the premises must meet the requirements specified in the relevant definition and cannot involve the manufacture of food products or skin penetration procedures.

A home business or home industry must also comply with the maximum floor area requirements specified in clause 5.4 of the council's local environmental plan (LEP), which will be no less than 30m² of floor area.

A council may also have additional exempt development types not covered by the policy in their LEP (for example, home occupation (sex services), which are separately defined). The provisions in the policy do not affect the operation of these premises where the council's LEP separately provides for these uses.

Home-based child care

Home-based child care activities are also considered exempt development under the policy. These activities must meet the definition of this use and cannot be carried out in bushfire prone land. In these situations an approval by a development application from council is required.

There are additional requirements by the Department of Education and Communities that must be complied with for a home-based education and care service to gain approval to operate in a home. Information on the requirements can be found at the Education and Communities website⁵ or the Department can be contacted by email⁶.

These requirements will also mean you need to register with the Family Day Care service of your local council.

⁵ <http://www.dec.nsw.gov.au/what-we-offer/regulation-and-accreditation/early-childhood-education-care>

⁶ ececd@det.nsw.gov.au

Signage

The policy also allows one sign up to 1m² in area to be installed on a property in connection with a home business, home industry or home occupation in a residential, rural or environment protection zone. The sign can be flat mounted or painted on the exterior wall of an existing building, or on an existing boundary fence or wall.

Complying development

The policy provides for two types of home enterprises to be carried out in a dwelling as complying development.

Bed and breakfast accommodation means an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where:

- a. meals are provided for guests only, and
- b. cooking facilities for the preparation of meals are not provided within guests' rooms, and
- c. dormitory-style accommodation is not provided.

Bed and breakfast accommodation must have only four guest bedrooms or, the maximum number of bedrooms specified in the council LEP applying to the land, which will allow no less than three bedrooms to be used for this use.

Other development standards for bed and breakfast premises are:

- the dwelling must have at least one guest bathroom,
- the dwelling must have a fire extinguisher and fire blanket in the kitchen, and
- there must be at least one off-road car parking space per guest bedroom.

If the dwelling is located on bush fire prone land it cannot be used for bed and breakfast accommodation.

The policy allows exempt signage to be installed on a property in a residential, rural or environment protection zone. For bed and breakfast accommodation, a sign up to 2.5m² in area can be flat mounted or painted on the exterior wall of an

existing building, or on an existing boundary fence or wall.

Home business for the manufacture of food allows a dwelling to be used as a home business for the purpose of the manufacture of food for sale. The development must:

- not involve the change of building use, and
- comply with AS 4674 – 2004, *Design, construction and fit out of food premises*. These standards provide details on minimum construction and health safety requirements for food preparation areas.

The premises must also comply with the all requirements under the *Food Act 2003* and regulations under that Act, and the Food Standards Code. These documents contain further requirements on design, construction and operation of a food manufacture premises.

Most businesses that sell food in NSW must officially notify food standards enforcement agencies of their food business details.

All food businesses in NSW must:

- hold a current NSW Food Authority licence (this applies only to specific food businesses in sectors covered by a Regulation under the *Food Act 2003* (NSW)); or
- notify the NSW Food Authority of their food activity details.

This requirement also applies to other food businesses including those involved in temporary events and businesses which sell any sort of food or food ingredient as any part of their business.

The local council will be advised of a home business for the manufacture of food by the private certifier within 2 days of the issuing of a CDC.

Alterations to a dwelling for a home-based enterprise

When a dwelling is proposed to be used for any type of home enterprise referred to in this information sheet and alterations are required,, the alterations may be complying development if they meet the relevant requirements of the policy.

Conditions of approval for complying development

All development must comply with the prescribed conditions contained in the EP&A Regulation 2000, and the standard conditions located in Schedule 7 of the policy. All works must also comply with the requirements of the Building Code of Australia.

Further Information

For more information visit the [Exempt and Complying Development Policy website](#)⁷ or contact the Department's Exempt and Complying Development Team on 1300 305 695 or by [email](#)⁸.

Electronic Housing Code

The Electronic Housing Code website helps applicants determine whether the proposed development qualifies as exempt or complying development and the standards that must be met.

Applications for complying development can also be lodged and tracked online for those council areas which are using the Electronic Housing Code. Visit the [Electronic Housing Code website](#)⁹ to find out if it is used by your local council or for more details.

⁷ <http://www.planning.nsw.gov.au/exemptandcomplying>

⁸ codes@planning.nsw.gov.au

⁹ <http://www.electronichousingcode.com.au/>