

## Local Planning Policy No. 2

Adopted: 30 September 1998

## Home-based Businesses

Amended: 17 August 2021

### Introduction

The Town acknowledges that working from home is now a widely accepted practice in today's workforce. Not only has it become increasingly common, changes in the traditional organisation of work, coupled with dramatic advances in communications and technology, have made it a more feasible and practical avenue for small business and self-employment.

However, the Town recognises that while some home-based employment is acceptable within a residential environment, there are limits on the compatibility of home-based business activities with residential uses. Such activities pose a greater risk for adverse impacts on the amenity of their locality by way of traffic, noise and other impacts due to their likelihood to attract visitors and customers, as well as vehicular traffic, at levels higher than typically experienced or expected for a residential dwelling. Some degree of control is therefore necessary to protect the character and amenity of residential neighbourhoods, and that of residents within grouped or multiple dwelling developments.

### Objectives

- a) To encourage the opportunity for low scale home-based business activities to be conducted;
- b) To ensure that the use of land for any home-based business activity is small in scale, unobtrusive and compatible with surrounding buildings and uses;
- c) To protect the character of the locality;
- d) To ensure that home-based business activities do not have a prejudicial effect on the amenity of their locality by reason of any form of emissions or increased numbers of vehicle movements;
- e) To provide guidelines for the use of residential premises for the range of home-based business activities that may be considered for development approval by the Town ;
- f) To clarify the requirement for development approval for the various types of home-based businesses that may be operated within the Town.

### Definitions

**Home-based business** is a broad, general term used by this Policy to refer to any business, service or profession that is conducted from a dwelling or land around a dwelling by a resident of that dwelling, and includes the range of specifically defined land uses of 'Home Business', 'Home Occupation', 'Home Office' and 'Home Store'.

**Home Business** is defined by the Scheme and means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession —

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and

- (c) does not occupy an area greater than 50m<sup>2</sup>; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located

**Home Occupation** is defined by Town Planning Scheme No. 1 and means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation -

- (a) does not involve employing a person who is not a member of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 20m<sup>2</sup>; and
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2m<sup>2</sup>; and
- (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (f) does not-
  - (i) require a greater number of parking spaces than normally required for a single dwelling; or
  - (ii) result in an increase in traffic volume in the neighbourhood\*; and

*\*Note: For the purposes of determining compliance with (i) and (ii) above, the Town will interpret this to mean that where the Home Occupation involves any visitation by clients/customers/visitors by private vehicle to the site:*

1. *it does not involve more than a single client/customer/visitor vehicle (containing a maximum of up to 5 persons) visiting the site at any one time; and*
2. *all visitation occurs by appointment only, with a minimum 15 minute interval between appointments, to avoid client/customer/visitor overlap and minimise parking and traffic generation to the site; and*
3. *it is serviced by at least one on-site car parking bay (in addition to any required car parking bays for the dwelling residents) available for the use of any client/customer/visitor to the site.*

- (g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.

**Home Office** is defined by Town Planning Scheme No. 1 and means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation –

- (a) is solely within the dwelling; and
- (b) does not entail clients or customers travelling to and from the dwelling; and
- (c) does not involve the display of a sign on the premises; and
- (d) does not require any change to the external appearance of the dwelling.

**Home Store** is defined by Town Planning Scheme No. 1 and means a shop\* attached to a dwelling that –

- (a) has a net lettable area not exceeding 100m<sup>2</sup>; and
- (b) is operated by a person residing in the dwelling.

*\*Note: Under the Scheme 'shop' means premises other than a bulky goods showroom, a liquor store-large or liquor store-small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.*

**Scheme** refers to the Town of Victoria Park Town Planning Scheme No. 1.

## Requirement for Development Approval

(a) Land Use Permissibility

The Scheme does not permit a 'Home Occupation', 'Home Business' or 'Home Store' on 'Industrial (1)' or 'Industrial (2)' zoned land, as it is a 'X' (prohibited) use in these zones. These uses are also prohibited in the 'Special Use' zone within the following Scheme Precincts: P12 'East Victoria Park Precinct'; and P13 'Curtin Precinct' (Technology Park area)

(b) Home Office

Development approval is not required for a 'Home Office', where it strictly accords with its definition outlined above.

(c) Home Occupation

Subject to (a) above, development approval is not required for a 'Home Occupation', where it strictly accords with the requirements listed within its definition under the Scheme (refer to *Definitions* above).

(d) Home Business

Subject to (a) above, development approval is required to be obtained from the Council prior to carrying out a 'Home Business'.

An exemption from the requirement for development approval may apply for a 'Home Business' on land zoned 'Office/Residential', where it strictly accords with the requirements listed within its definition under the Scheme, as the use is a 'P' (permitted) use in the Office/Residential zone (refer to *Definitions* above and the Town's *Local Planning Policy 32 'Exemptions from Development Approval'* in relation to 'P' (permitted) uses).

(e) Home Store

Subject to (a) above, development approval is required to be obtained from the Council prior to carrying out a 'Home Store' in all instances.

(f) Home-based businesses that do not accord with any specific land use definition

A home-based business that does not strictly accord with the requirements of any one of the Scheme definitions of 'Home Office', 'Home Occupation', 'Home Business' or 'Home Store' (*refer to Definitions above*) may be considered for approval by Council as an Unlisted Use in accordance with Clause 28 of Town Planning Scheme No. 1. Such proposals are not exempt from the requirement for development approval in any instance.

In such circumstances, the Council must be satisfied, by an absolute majority, that the proposed development is consistent with the matters listed in deemed Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

In assessing such proposals, Council Officers will have regard to the provisions of this local planning policy (*refer to Policy Requirements below*) in determining whether the matters listed in deemed Clause 67 have been addressed, and in forming their recommendation to Council on whether or not to approve the proposed activity.

## Policy Requirements

### 1. General provisions applicable to all home-based businesses

- (a) Any Home Office, Home Occupation, Home Business or Home Store must operate in strict accordance with all of the requirements set out within its respective definition at all times of operation;
- (b) Any change to the operations of a home-based business must ensure that:
  - i. they do not conflict with the conditions of any development approval issued in respect to the activity; or
  - ii. the change in operations results in the activity falling into another specifically defined home-based business land use that is exempt from the requirement for development approval on the land on which it is occurring.
- (c) Any home-based business which does not accord with (a) or (b) above is subject to the requirement for development approval in all instances;
- (d) Any business, service or profession that is carried out from a dwelling or on land surrounding a dwelling that does not employ a person that resides within that dwelling will not be considered by the Town as a home-based business and will instead be classified as a commercial/non-residential land use. Such activities will be subject to the specific land use permissibility and approval requirements of the Scheme applicable to that particular commercial/non-residential land use.

## 2. Home-based business activities to be small-scale and unobtrusive

- (a) Home-based business activities shall be small scale and unobtrusive such that they:
  - i. do not employ more people than that permitted under the respective land use definition, or alternatively no more than 2 people external to the occupants of the dwelling household in any other instance; and
  - ii. do not include provision for the fuelling, repair or maintenance of motor vehicles; and
  - iii. do not:
    - 1. exceed any size limitation specified in the definition for the specific home-based business use being carried out; or
    - 2. occupy an area greater than one third of the land or one third of the floor area of the dwelling/building(s) on the land from which it is conducted; whichever is the lesser;
- (b) Proposals which are inconsistent with a)iii. above will generally not be supported by the Town, as the size/scale of such activities are not considered to align with the appropriate use of the land or dwelling for residential purposes, in particular where they are occurring on 'Residential' zoned land.

## 3. Amenity of Surrounding Properties and Locality

- (a) A home-based business should not cause injury to or adversely affect the amenity of the neighbourhood or surrounding properties, including by way of light emissions, noise, fumes, odours, dust, vibration, electrical interference, waste water, or any other form of waste products; and
- (b) Applicants seeking approval for a home-based business shall demonstrate how any waste, emissions, noise or other impacts generated by the activity will be treated or mitigated to prevent harm or nuisance to surrounding properties.
- (c) A home-based business proposed from/in association with a Grouped Dwelling or Multiple Dwelling will generally not be supported by the Council unless it can be demonstrated that the amenity of the residents of other dwellings within the Grouped or Multiple Dwellings complex/development will not be adversely affected.

### *Applicants to Note:*

*Development applications for a home-based business that involve the proposed use of common property within a Grouped Dwelling or Multiple Dwelling development (including for customer access or parking) require signed consent from the Strata Council/Body Corporate (as applicable) or all owners within the complex in order to be a valid development application. Additional (separate) approval for the activity may also be required under the Strata By-Laws/Strata Titles Act in addition to any development approval from the Council.*

- (d) With respect to c) above, proposals involving the travel of customers/visitors to the site of a Grouped Dwelling or Multiple Dwelling development will generally not be permitted by the Town due to the potential for adverse amenity impacts on other residents within the development/complex by way of noise, traffic generation and car parking.

#### 4. Building Appearance

- (a) A home-based business should not require modifications to the structure of the dwelling which would impact the residential character and appearance of the dwelling.
- (b) Any additions or building modifications required to accommodate a home-based business will be subject to assessment against the provisions of the Town's *Local Planning Policy 3 'Non-Residential Uses In or Adjacent to Residential Areas'*.
- (c) In the case of a Home Store, variations to a) or b) may be considered where the use is being carried out from an existing building that was formerly or historically used as a traditional delicatessen (or similar retail use) attached to a residential dwelling.

#### 5. Signage and Advertising

- (a) Any signage associated with a home-based business is restricted to a single sign and shall comply with the requirements for a 'Home Occupation Sign' as contained in the Town's adopted *Local Planning Policy 38 'Signs'*.
- (b) In the case of a Home Store, variations to a) above may be considered on their merit on a case by case basis, particularly in circumstances where the proposed signage is attached to an existing building that was formerly or has been historically used as a traditional delicatessen (or similar retail use) attached to a residential dwelling, and having regard to the potential impact of the signage on the amenity of the streetscape and surrounding properties. Such proposals should have regard to (but not exceed) the standards applicable for the relevant sign type under the Town's *Local Planning Policy 38 'Signs'*, applicable only to the building (or portion of) attached to the dwelling that contains the Home Store.

#### 6. Traffic and Car parking

- (a) Other than a Home Store, any home-based business should not generate any vehicular traffic to the site that, in the opinion of Council, is substantially greater than that which is normal to the residential neighbourhood in which it is located;
- (b) Any home-based business resulting in the attraction of customers/visitors to the site shall:
  - i. demonstrate how customers will park on the site, or otherwise be serviced by available on-street parking adjacent to the site; and/or
  - ii. confirm that visitations will occur by appointment only, and include an appropriate interval between appointments, to avoid customer overlap and minimise parking and traffic generation to the site;
- (c) In the case of a Home Store, on-site car parking (in addition to that required for the dwelling) should be provided at the rate specified for a Shop use as per the Town's *Local Planning Policy 23 'Car Parking'*. Variations, subject to consultation in accordance with the Town's *Local Planning Policy 37 'Community Consultation on Planning Proposals'*, may be considered on their merit on a case by case basis having regard to the following:
  - i. the scale or intensity of the retail activity being undertaken;
  - ii. whether customer visitation will be by appointment only and include an

- appropriate interval between appointments, to avoid customer overlap and minimise parking and traffic generation to the site;
- iii. the availability and number of on-street car parking bays within the immediate vicinity of the site;
  - iv. the proximity of the site to public transport; and
  - v. the proportion to which the nature of the retail sale, hire or display of goods or services from the Home Store is likely to generate customer visitation by pedestrians, as opposed to private vehicles or other transport modes.
- (d) Any vehicle which is used in connection with a home-based business must not be kept on the land unless it:
- i. is not more than 6 metres long, 2 metres wide and 2.3 metres high;
  - ii. is parked within a dedicated car parking bay on the site (preferably behind the dwelling or garaged so it is not visible from the street); and
  - iii. is limited to a single vehicle in addition to the vehicle(s) of the residents of the dwelling;
- (e) Any deliveries to the site should occur only during the normal business hours of 8am to 5pm, Monday to Friday;
- (f) The use of visitor car parking bays provided as part of a Grouped or Multiple Dwelling complex/development for customer car parking in relation to a proposed home-based business is not appropriate and will not be supported by the Council;
- (g) Access to any car parking bays for customers to the site should be available and unobstructed during customer visitation/appointment times and not restricted by secured gates or doors.

## **7. Approval is Specific and Non-transferable**

The approval of a home-based business is:

- (a) specific to the property and the applicant/operator to which the approval has been granted; and
- (b) is not transferable to an additional or alternative property, applicant or operator.

## **8. Consideration of application for development approval**

Where an application for development approval is submitted to Council for approval of a home-based business, the Council shall have regard to and may apply conditions relating to:

- the restriction of any approval to the particular property and applicant/operator of the business;
- days and hours of operation;
- number of clients/customers to the site;
- booking of appointments;
- car parking;
- deliveries to the site;
- advertising signs; and

- any other matters pertaining to the operation and activities of the particular home-based business.

## 9. Community Consultation

- Community consultation in relation to a proposed home-based business will be carried out by the Town where required by, and in accordance with, *Local Planning Policy 37 'Community Consultation on Planning Proposals'*.
- The consultation requirements for an Unlisted Use apply where a proposed home-based business does not strictly accord with the Town Planning Scheme No. 1 definition of either a 'Home Occupation', 'Home Business' or 'Home Store'.

## 10. Revocation of development approval

The approval of a Home Business may be revoked in accordance with clause 31 of Town Planning Scheme No. 1 where a notice served to an owner or occupier under clause 35(1) has not been complied with. A notice may be served in circumstances where, in the opinion of the Council, the development is:

- causing a demonstrably unreasonable nuisance or annoyance to neighbours or occupiers of land in the neighbourhood; and/or
- failing to comply with the conditions of its approval; and/or
- failing to comply with the relevant provisions of this policy or the Scheme.

## Version Control

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