

SHIRE OF MOORA

# HOME OCCUPATION & HOME BUSINESS POLICY

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**MANAGER DEVELOPMENT SERVICES**

**[Pick the date]**



This document describes Council Policy on Operating a Home Occupation or a Home Business in the Shire of Moora.



## I. Introduction

The Shire of Moora Town Planning Scheme No.4 provides for a small business to be carried out from a 'dwelling', provided that it does not adversely affect the 'amenity' of the locality. Such businesses are referred to as Home Occupations, Home Businesses and Home Offices. Town Planning Scheme No.4 defines these uses as follows:-

**'Home Occupation'** means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:-

- (a) does not employ any person not a member of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20 square metres;
- (d) does not display a sign exceeding 0.2 square metres;
- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone.

**'Home Business'** means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:-

- (a) does not employ more than 2 people not members of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 50 square metres;
- (d) does not involve the retail sale, display or hire of goods of any nature;
- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone.

**'Home Office'** means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not

- (a) entail clients or customers travelling to and from the dwelling,



- (b) involve any advertising signs on the premises; or*
- (c) require any external change to the appearance of the dwelling.*

The purpose of this Planning Policy is to set out the objectives and policy provisions which the 'Council' shall have due regard to in the assessment and determination of applications for planning approval for Home Occupations and Home Businesses.

In this regard, no person shall commence or carry out a Home Occupation or Home Business without first having applied for and obtained the planning approval of the Council, pursuant to the provisions of 4.5 of Town Planning Scheme No.4.

## **2. Policy Application**

In Shire of Moora Town Planning Scheme No.4 the Zoning Table (Table No. 1) indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme Area in the various zones.

The permissibility of the Home Business use in Town Planning Scheme No.4 can be summarised as follows:-

- (a) The use is not permitted in the Residential, Rural Small Holding, & General Agriculture zones unless the Council has exercised its discretion by granting planning approval;
- (b) The use is not permitted in the Residential Zone & the Rural Small Holding unless the Council has exercised its discretion by granting planning approval, following a process of community consultation in accordance with clause 7.3.3 of the Scheme;
- (c) The use is not permitted in all other zones.

The permissibility of the Home Occupation use in Town Planning Scheme No.4 can be summarised as follows:-

- (a) The use is not permitted in the Residential, Rural Townsite Rural Residential Rural Small Holding & General Agriculture, unless the Council has exercised its discretion by granting planning approval;
- (b). The use is permitted in Special Mix Residential provided that it complies with the relevant development standards and the requirements of the scheme.
- (c) The use is not permitted in all other zones

Town Planning Scheme No.4 requires that in assessing applications for planning approval, the Council shall take into account the objectives of the particular zone and any Policy pertaining to that zone and this Planning Policy.

The Scheme also requires the Council to consider specific issues including:

- (a) the method and location of the operation,



- (b) the potential for nuisance to the surrounding neighbourhood,
- (c) impacts on neighbours,
- (d) hours of operation,
- (e) traffic generation,
- (f) car parking requirements; and
- (g) the location of any associated storage areas.

### **3. Policy Objectives**

The objectives of this Planning Policy are as follows:-

- (a) To promote the orderly and proper development of land by making suitable provisions to guide applicants who wish to operate a Home Occupation or a Home Business from a dwelling in a approved Zone;
- (b) To secure the amenity, health and convenience of the neighbourhood through appropriate development requirements; and
- (c) To comply with necessary Local, State and Commonwealth legislation that is applicable to the proposed development.

### **4. Policy Statement**

Applications for a Home Occupation and Home Business shall be assessed according to the following requirements.

#### **4.1 Town Planning Scheme No.4 (amendment 10)**

The Council shall only permit the operation of either a Home Occupation or Home Business that complies with Town Planning Scheme No.4 and the objectives and requirements of this Policy.

#### **4.2 Method of Operation**

The Council shall only permit the operation of a Home Occupation or Home Business within a dwelling or within the boundaries of a lot where it is satisfied that the operation will not cause injury to or adversely affect the amenity of the neighbourhood.

The operation of more than one Home Occupation or Home Business or a combination of both a Home Occupation and Home Business will be carefully considered by the Council based upon the applicant demonstrating compliance with TPS4 and objectives of this policy.

In this regard, a Home Occupation or Home Business that involves the retail sale, display or hire of goods of any nature will not be permitted.

Furthermore, a Home Occupation that includes provision for the fuelling, repair or maintenance of motor vehicles will not be permitted.

A proposed business operation that involves the use of the dwelling solely for administration purposes (i.e. bookwork, telephone etc.) would be deemed a



Home Office that does require planning approval as it is defined under the MTPS4 as a Home Occupation.

A mobile business that conducts all activities at the client's address and where the dwelling is used solely for administration purposes would be deemed a Home Office, issues that need to be looked at; if maintenance of equipment associated with the mobile business is to be conducted within a dwelling or within the boundaries of a lot.

The retail display, sale or hire of goods is not permitted on-site directly to customers, unless the retail of goods are ordered by customers via telephone or internet sales that are dispatched via post.

When a business grows beyond the scale of the Home Occupation or Home Business approved by the Council, it is expected that operators will relocate their business to a business premises that is compliant with TPS4 requirements.

#### 4.3 Customers and Clients

The Council shall only permit a Home Occupation and Home Business operating where it is satisfied that customers and clients only arrive and depart the premises between the hours of:-

- (a) 9:00am and 5:00pm week days and Saturdays;
- (b) not at all on Sundays and Public Holidays.

When determining an application, the Council may limit the number of hours and/or days of clients visiting the premises or operation of a Home Occupation and Home Business, where it is necessary to protect the amenity of the surrounding area.

All customer and client visits must be made with 15 minute appointment intervals, unless the Council is satisfied that there is adequate on-site car-parking and the Home Occupation or Home Business is unlikely to affect the amenity of the neighbourhood.

#### 4.4 Deliveries

Regular deliveries of goods and equipment including deliveries carried out at daily intervals are generally not considered appropriate. Proposals involving deliveries will only be considered by the Council taking into account of the following factors:

- (a) The nature of the goods delivered;
- (b) Frequency of deliveries;
- (c) Type of delivery vehicle used;
- (d) Delivery Hours;
- (e) Likely inconvenience to existing traffic.

#### 4.5 Scale of Operation

##### (a) Home Occupation

The Council shall only permit the operation of a Home Occupation within a dwelling or within the boundaries of a lot where it is satisfied that the operation:-

- does not employ any person not a member of the occupier's household;
- does not occupy an area greater than 20m<sup>2</sup>; and
- does not involve the use of an essential service of greater capacity than normally required in the zone.

##### (b) Home Business



The Council shall only permit the operation of a Home Business within a dwelling or within the boundaries of a lot where it is satisfied that the operation:-

- does not employ more than 2 people not members of the occupier's household;
- does not occupy an area greater than 50m<sup>2</sup>; and
- does not involve the use of an essential service of greater capacity than normally required in the zone.

#### 4.6 Traffic Generation

Home Occupations and Home Businesses that generate vehicular traffic to a site have the potential to adversely affect the amenity of the neighbourhood.

The Council will only give consideration to traffic generating Home Occupations and Home Businesses when it can be demonstrated that visits to the site by clients can be controlled, i.e. by appointment only.

When considering an appointment based Home Occupation or Home Business, the Council will have due regard to the existing amenity of the neighbourhood. In this instance, the current capacity and nature of the street will be a consideration. If the traffic generated by a proposed Home Occupation or Home Business is likely to have an adverse impact upon the existing nature of the street or its amenity, the Council is unlikely to approve the proposal.

A Home Occupation that involves the presence, use or calling of a vehicle more than 2 tonnes tare weight will not be supported.

A Home Business that involves the presence, use or calling of a vehicle more than 3.5 tonnes tare weight will not be supported.

#### 4.7 Parking

##### (a) Home Occupation

The Council shall only permit the operation of a Home Occupation within a dwelling or within the boundaries of a lot where it is satisfied that car parking is provided so as to adequately cater for the expected number of visitors attending the site at any one time, in addition to the bays associated with the dwelling on-site.

Where visitor car parking cannot be provided on-site, the Council may permit the use of on-street car parking for visitors and clients, where this has already been constructed as part of subdivision works.

##### (b) Home Business

The Council shall only permit the operation of a Home Business within a dwelling or within the boundaries of a lot where it is satisfied that car parking is provided so as to adequately cater for the expected number of visitors attending the site at any one time and any employees, in addition to the bays associated with the dwelling on-site and does not result in traffic difficulties as a result of the inadequacy of parking.

#### 4.8 Advertising Signs

In accordance with the provisions of Town Planning Scheme No.4, a Home Occupation is permitted to display a sign not exceeding 0.2m<sup>2</sup> in area (generally 0.4m x 0.5m). The Council will apply the same 0.2m<sup>2</sup> maximum size requirement to Home Business signs.

A Home Occupation or Home Business sign shall only describe the name and type of business being carried out on the land and the contact name(s) and telephone numbers.

No more than one sign per lot shall be permitted and the sign shall be erected on the land on which the Home Occupation or Home Business is being carried out.

Pursuant to the provisions of Town Planning Scheme No.4 and the Council's Signs, Hoardings and Bill Posting Local-Law, a proposed advertising sign which does not



exceed 0.2m<sup>2</sup> in area is exempt from the requirement to obtain a Planning Approval and a Sign Licence.

#### 4.9 Food Requirements

The use of a dwelling for commercial food preparation is limited by the provisions of the Food Act 2008, Food Regulations 2009 and the Food Safety Standards. The Council's Health Department should be consulted in this regard.

#### 4.10 Noise Management

A Home Occupation and Home Business must comply with the Environmental Protection (Noise) Regulations 1997 at all time. If a proposal is likely to generate off-site noise impacts to neighbours, the applicant may be required by the Shire to implement noise management measures or engage a consultant to prepare Noise Management Plan, demonstrating compliance with the Environmental Protection (Noise) Regulations 1997, and noise management measures recommended are to be implemented for the duration of the Home Occupation or Home Business.

#### 4.11 Consultation

All applications for planning approval for the operation of Home Businesses in the Special Rural zone will be the subject of a process of community consultation in accordance with clause 7.3.3 of Town Planning Scheme No.4 and Planning Procedure No.1.3 - Community Consultation.

Unless otherwise determined by the Manager, Statutory Planning, all other applications for planning approval for the operation of Home Occupations and Home Businesses will be the subject of a process of community consultation in accordance with clause 6.3.3 of the Scheme and Planning Procedure No.1.3 - Community Consultation.

### 5. Application Procedure

Applications for planning approval for the operation of Home Occupations and Home Businesses shall be made on the form prescribed by the Council, and shall be signed by the owner(s), and accompanied by the following information:-

- (a) A written submission describing the proposal, which should include the following information and confirmation that the requirements of this Planning Policy can be achieved:-
- (i) Confirmation that the Home Occupation or Home Business is to be conducted by an occupier of the dwelling;
  - (ii) The number of persons to be employed in the Home Occupation/Home Business and their relationship to the applicant;
  - (iii) Hours of operation;
  - (iv) Method of operation, including any equipment used for the Home Occupation/Home Business;
  - (v) Details of the storage of goods or equipment (if appropriate);
  - (vi) Details on whether clientele will be attending the residence and if so, the manner in which appointments will be managed and likely frequency of visits.
- (b) Such plans (to a scale of not less than 1:500) and other information that the Council may reasonably require to enable the application to be determined (Refer to clause 7.2 of Town Planning Scheme No.4). Plans to include:-
- (i) The room/s within which the Home Occupation/Home Business will be conducted;
  - (ii) The location and layout of car parking areas intended to be provided;
  - (iii) The location and dimensions of any storage area associated with the Home Occupation/Home Business.



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(c) Details of any proposed signage to be erected, together with a separate application for a sign licence to the Council's Building Department.

(d) The payment of an Administration Fee as detailed in the Council's Planning Scale of Fees for Planning Services.

## 6. Approval Period

Approvals issued by the Shire for Home Occupations or Home Businesses are valid for a period of two years. If the use is not substantially commenced within two years, a fresh application is required to be lodged with the Shire.

The City may grant approval for an initial period of twelve months, where it has concerns regarding the potential operation of the use on the residential amenity of the locality.

In such cases, the applicant will be required to seek a renewal of approval to continue to operate the Home Occupation or Home Business.

## 7. Post Approval Considerations

(a) Should the scale of the Home Occupation/Home Business operation increase above that initially approved, a revised application for planning approval is required to be submitted. Any further assessment will be undertaken with reference to the Scheme provisions and the contents of this Planning Policy.

(b) Should the Council receive substantiated complaints from adjoining/ nearby residents regarding a Home Occupation/Home Business, or if the Council observes that conditions of planning approval are not being complied with, the Council will:-

(i) by written notice served on the owner and/ or occupier of the land, require compliance with the conditions imposed on any approval granted; and/ or

(ii) prosecute the owner or occupier of the land as the case may be pursuant to section 10 of the Planning and Development Act 2005.

## 8. Authority

This Planning Policy has been adopted by the Council under clause 8.9 of Town Planning Scheme No.4 and whilst it is not part of the Scheme and does not bind the Council in respect of any application for planning approval, the Council is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

## 9. Interpretations

For the purposes of this Planning Policy, the following terms shall have the same meaning as in Town Planning Scheme No.4 (amendment 10):-

*Amenity means all those factors which combine to form the character of an area and include the present and likely future amenity.*

*Council means the Council of the Shire of Moora.*

*Dwelling means a building or portion of a building being used or intended, adapted or designed to be used for the purpose of human habitation on a permanent basis by:-*

*(a) a single person;*

*(b) a single family; or*

*(c) no more than six persons who do not comprise a single family.*

## 10. Delegation

All applications for planning approval for the operation of Home Businesses in the Special Rural Zone will be referred to the Council for determination.





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All applications for planning approval for the operation of Home Occupations and Home Businesses which comply in all respects with the objectives and provisions of this Planning Policy will be determined under delegated authority, pursuant to clause 8.10 of Town Planning Scheme No.4 and the Delegated Authority Register.

All applications for planning approval for the operation of Home Occupations and Home Businesses which generate objections following community consultation or where such applications have been received as a result of a complaint will be determined on the following basis:-

- (a) A submission in objection to an application that does not include valid planning considerations associated with a proposal; and where the objection can be resolved through condition(s) of planning approval in the opinion of the Director Planning and Development, will be determined under delegated authority, pursuant to clause 8.9 of Town Planning Scheme No.4 and the Delegated Authority Register.
- (b) If in the opinion of the Manager Development Services an application for the operation of a Home Occupation or Home Business generates significant concern or could impact on the amenity of the locality in the opinion of the Manager Development Services, the application will be referred to the Council for determination.

**11. Adoption**

This Planning Policy was adopted by the Council at its ordinary Meeting held on the .....