

# Home-based enterprises

## Rules for exempt and complying development

This fact sheet gives details about the type of businesses and other enterprises that you can carry out as exempt or complying development in conjunction with the residential use of a dwelling.

### Check planning controls first

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

The majority of the development that can be done as exempt or complying development in NSW is identified in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the policy). View the policy at the [Exempt and complying development policy web page](#).

**Exempt development** is minor building work that does not need planning or building approval. Fact sheet *Understanding exempt development* 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. Fact sheet *Exempt and Complying Development* gives more information about complying development.

Exempt and complying development cannot be carried out on certain land.



**Photo credit:** NSW Department of Planning and Environment / Jaime Plaza Van Roon

## The types of businesses you can carry out from a dwelling

The policy allows you to run several types of business and commercial enterprises as either exempt development or complying development, as well as using your dwelling as a home.

These business or commercial uses can be carried out within your dwelling or within the buildings that are ancillary to it, such as your garage, detached studio or other outbuilding.

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

- home business
- home industry
- home occupation
- home-based childcare
- bed and breakfast accommodation.

You can carry out these activities from within a dwelling as either exempt or complying development, as long as you meet the relevant development standards. Each of these land-use terms has specific definitions. You must meet the requirements in those definitions.

## Definitions

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

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:

1. employ persons other than those residents
2. interfere with the amenity of the neighbourhood through making noise, vibrations, smells, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise
3. display goods, whether in a window or otherwise
4. display any signage (other than a business identification sign)
5. involve the sale of items (whether goods or materials), or the exposure or offer of items for retail sale.



**Photo credit:** NSW Department of Planning and Environment / Salty Dingo

An example of home occupation is a solo trade photographer or graphic designer who provides service and products at home and online, which can also satisfy the requirements above.

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**. The only difference is these businesses or industries may employ up to 2 people who are not residents of the dwelling.

**Home-based child care** means a family day care residence (within the meaning of the *Children (Education and Care Services) National Law (NSW) 2010*) 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 **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 \(NSW\) 2010](#).

## 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 manufacturing 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 30 m<sup>2</sup> of floor area.

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

## Home-based childcare

Home-based childcare activities are also considered exempt development under the policy. These activities must meet the definition of this use and cannot be carried out on bushfire-prone land. In these situations, you need the relevant council to approve your development application.

To operate a home-based education and care service in your home, you must comply with additional requirements set by the Department of Education. For information on the requirements, visit the [Early Education website](#) or contact the Department of Education by [email](#).

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

## Signage

The policy also allows you to install one sign up to 1 m<sup>2</sup> on a property for 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 allows you to carry out 2 types of home enterprises 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:

1. meals are provided for guests only
2. cooking facilities for the preparation of meals are not provided within guests' rooms
3. dormitory-style accommodation is not provided.

Bed and breakfast accommodation must have only 4 guest bedrooms, or the maximum number of bedrooms specified in the council LEP applying to the land, which will allow no less than 3 bedrooms to be used for this purpose.

Other development standards for bed and breakfast premises:

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

You cannot use your dwelling for bed and breakfast accommodation if it is on bushfire-prone land.

The policy allows you to install exempt signage on a property in a residential, rural or environment protection zone. For bed and breakfast accommodation, a sign up to 2.5 m<sup>2</sup> 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 you to use your dwelling as a home business for manufacturing food for sale. The development must:

- not involve changing the building use
- 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 all requirements under the *Food Act 2003* and regulations under that Act and the Food Standards Code. These documents contain more requirements on the 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 that sell any sort of food or food ingredient as any part of their business.

A private certifier will advise the local council of a home business for the manufacture of food within 2 days of the issuing of a Complying Development Certificate.

## Alterations to a dwelling for a home-based enterprise

If you propose to use your dwelling for any type of home enterprise referred to in this fact sheet and you need to make changes to your dwelling, 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 Environmental Planning and Assessment 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.

## More information

To find out more, visit the [Exempt and complying development web page](#) or call the department's Codes Team on 02 8289 6600 or email [codes@planning.nsw.gov.au](mailto:codes@planning.nsw.gov.au).

© State of New South Wales through Department of Planning and Environment 2022. The information contained in this publication is based on knowledge and understanding at the time of writing (January 2022). However, because of advances in knowledge, users should ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate departmental officer or the user's independent adviser.