

# Information Sheet

## HOME ACTIVITIES ■ HOME-BASED BUSINESSES



### can someone run a business from home ?

Yes. It is possible for a person to run a small-scale business from residential premises in some circumstances and only under strict conditions.

This is known as a **Home Activity** and is specifically defined in the Development Regulations 2008.

### what is defined as a home activity ?

A Home Activity is defined in the Regulations as follows :-

*A use of a site by a person resident on the site -*

- (a) *that does not detrimentally affect the amenity or any part of the locality; and*
- (b) *that does not require or involve -*
  - ▶ *assistance by more than one person who is not a resident in the dwelling; or*
  - ▶ *use (whether temporarily or permanently) of a floor area exceeding 30 square metres; or*
  - ▶ *any source of power other than an electric motor of not more than 0.4 kilowatts; or*
  - ▶ *the imposition on the services provided by any public utility organisation of any demand or load greater than which is ordinarily imposed by other users of the services in the locality; or*
  - ▶ *the display of goods in a window or about the dwelling or its curtilage; or*
  - ▶ *the use of a vehicle exceeding three tonne tare in weight.*

### is an application necessary ?

Provided the business activity can be conducted at all times strictly within the criteria above, then **no** formal approval from the planning authority (ie the District Council of Mount Remarkable Development Assessment Panel) is necessary since a home activity does not constitute development within the meaning of the Development Act 1993.

As no approval is needed, an application does not need to be lodged with the Council for a planning assessment. Therefore, within the constraints imposed by the criteria listed above, a person is entitled to carry on a business enterprise without further reference to Council unless other issues are involved with that business, such as health and hygiene matters that may require special attention.

However, attention is drawn to the requirement that any such activity is to be conducted so that it does not detrimentally affect the amenity of the locality. As can be appreciated, this is a rather subjective test and one that has the potential to create friction if the impact of the activity is at all felt beyond the boundaries of the site.

### what sort of activity can cause a problem ?

Any sort of business that involves manufacturing or the production or repair of something has the potential to cause problems because of the very nature of any operations, processes and tools used. And, because of that subjective test that the amenity must not be affected, Council has the power to intervene to check the situation and see if the home activity is operating within the criteria. If the 'nuisance' factor is apparent, then it is likely that there will be a problem continuing that business.

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Council often receives complaints from neighbours and others about business activities which :-

- ▶ create repeated, prolonged or loud noise
- ▶ interfere with TV or radio reception
- ▶ produce smoke, smells, fumes, dust and the like
- ▶ increase traffic in the street or lead to congestion brought about by visitor parking and general movement
- ▶ are carried on at times outside of normal working hours

Ordinarily, mechanical repairs, wood working, panel beating, spray painting and activities which use noisy machinery or require regular delivery of materials or a constant turnover of customers do not fit comfortably into the definition of home activity.

Conversely, examples of those types of business activities that could be suitable include a professional office that is set up in a room of the house, a 'one-man' consultancy or a drafting office, a journalist or writer working from home, where 'light' or cottage handicrafts are being fashioned, or an agency which does not rely on constant public access nor the movement/storage of goods and products. Please note that these are possibilities only and are provided merely by way of example, not to indicate that they would be acceptable as of right.

Irrespective, anyone running a business from home needs to be mindful of the importance of operating at **all** times within the limits imposed by the home activity criteria. And, of course, to not cause any nuisance to neighbours nor create conditions which may give rise to complaint.

## what happens if you can't comply ?

If any of the criteria are breached or if the level of impact is such that it is clearly affecting the amenity, then the business is operating **outside** of the definition of home activity and thereby becomes a land use or a development in its own right and not something that is ancillary to the primary residential use of the land.

In this event, formal Development Application would have to be made to the Council for an assessment by its Panel against the provisions of the Development Plan (provided that the use is not classed as being of a non-complying nature in the area in which it is located). The processing of an application may involve giving public notice to neighbours and consultation with other Government Agencies. Approval to 'authenticate' the home activity **cannot** be taken for granted. It could well be that the business may have to relocate to alternative premises in a more appropriate location, such as an industrial or commercial zone.

## additional advice

It is strongly recommended that before setting up a business from home, the matter be first discussed with the Council planning officers so that the home activity guidelines and their ramifications can be explained, especially the importance of always remaining within the restrictions imposed by the criteria. Also, if the business involves the handling of food or personal services such as hairdressing, there may be health requirements under other legislation that have to be met.

It is also advisable to check with other authorities for any non-Council or non-planning related issues, such as licenses, registrations or additional requirements, that those authorities may have an interest in and/or a need to administer.

*This information is advisory and is provided by the Council as a community service and as a guide only to key elements of the South Australian planning system. For a more thorough understanding of the system or for any specific enquiries concerning the use and development of land, professional advice should be sought or the Council officers be contacted for further assistance on 8666 2014.*