

TOWN PLANNING SCHEME NO 3

LOCAL PLANNING POLICY

LPP12 HOME OCCUPATION POLICY



SUSTAINABLE DEVELOPMENT

NOVEMBER 2009

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FINAL

Background to Local Planning Policy No 12

In June 2009, Council commenced a major review of its existing Local Planning Policies.

Local Planning Policy No 12 *Home Occupation Policy* replaces the previous Local Planning Policy No 10 *Home Occupation Policy* adopted in December 2001.

Record of Adoption of Local Planning Policy 12 – Home Occupation Policy

<i>Revision No & Date</i>	<i>Description</i>	<i>Endorsed by Council</i>
<i>0 (02.09)</i>	<i>draft (for internal review)</i>	<i>N/A</i>
<i>1 (06.09)</i>	<i>draft for Council adoption to advertise</i>	<i>PCDS.13/6/09 G.37/6/09 16 June 2009</i>
<i>2 (11.09)</i>	<i>final for Council adoption</i>	<i>PCDS.31/11/09 G.51/11/09 24 November 2009</i>

Record of Modifications to the approved Local Planning Policy 12 – Home Occupation Policy

<i>Amendment No</i>	<i>Description</i>	<i>Endorsed by Council</i>

1. INTRODUCTION

1.1 OBJECTIVE

The objectives of this policy are to:

- provide for and promote small businesses that are able to operate within existing residential areas;
- recognise the advantages of home occupations with respect to the local community and the aim of creating a sustainable city;
- provide a flexible approach for people wanting to undertake a home occupation; and
- provide a flexible approach for the City of Mandurah in the assessment of applications for home occupations.

1.2 RELATIONSHIP TO TOWN PLANNING SCHEME NO 3

A Local Planning Policy is adopted under clause 9.6 of Town Planning Scheme No 3.

A Local Planning Policy is not part of Scheme 3 and does not bind the Council in respect of any application for planning approval but 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.

Local Planning Policies are guidelines used to assist Council in making decisions under Scheme 3. Although Local Planning Policies are not part of Scheme 3, they must be consistent with, and cannot vary, the intent of Scheme 3 provisions, including the Residential Design Codes.

In considering an application for planning approval, the Council must have due regard to relevant Local Planning Policies as required under clause 7.5.

If a provision of a Local Planning Policy is inconsistent with Scheme 3, Scheme 3 prevails.

1.3 INTERPRETATIONS

'Scheme 3' means the City of Mandurah Town Planning Scheme No 3. For the purposes of this policy, definitions and interpretations shall be applied in accordance with Scheme 3.

'Dwelling' has the same definition as per the Residential Design Codes ('R-Codes').

1.4 POLICY CONTEXT

Council is supportive of working from home arrangements, as there are many advantages and benefits from allowing an appropriate mix of non-residential land-uses that are compatible in areas with a predominately 'residential' character. Several benefits can exist from working from home, including:

- Greater ability for residents to spend more time at home and thereby contribute to a positive family environment;
- Greater number of residents being within their local neighbourhood during general business hours, thereby providing passive surveillance and greater community safety;
- Lesser requirements to commute to work and other related travel, thereby reducing vehicle kilometres travelled and reducing traffic congestion and emissions; and
- The capability for small or new businesses to establish at a lower initial setup cost. When such businesses begin to grow beyond the means of a domestic location, it is anticipated that these businesses would relocate to more appropriate 'commercial' settings. Working from home has become achievable in recent years due to improvements in communications and information technology. Such technology continues to make working from home a viable alternative, and therefore it is reasonable to assume that the number of 'home occupations' will continue to grow.

It is important to recognise that not all home occupations are compatible within the 'Residential' zone and that some degree of control is necessary to protect the character and amenity of residential neighbourhoods.

2. POLICY PROVISIONS

2.1 SCALE AND OPERATION

A home occupation shall:

- entail the conduct of an occupation, business, service, trade or similar activity on any lot with a dwelling;
- have at least one employee as a permanent resident of the dwelling;
- not detract from the residential appearance of a dwelling or domestic outbuilding;
- not impose any substantial increase in the amount of vehicular traffic in the area;
- not involve the use of a Commercial Vehicle, unless otherwise approved by Council pursuant to the provisions of Scheme 3;
- not include Bed and Breakfast Accommodation as defined in Scheme 3;
- not include a Family Day Care as defined in Scheme 3;
- be limited to displaying signage no greater than 0.2 square metres;
- not impose a load on any utility greater than that required for domestic use; and
- be compatible with its surrounds and not adversely affect the amenity of the area with respect to:
 - the parking of motor vehicles, where the requirement should be no more than that required for a residential dwelling;
 - the transporting of materials or goods to or from the dwelling;
 - the hours of operation, which should generally be limited to the normal business hours of 8am to 5pm Monday to Saturday; and
 - the creation of noise, vibration, electrical interference, or light emissions.

2.2 CATEGORIES OF HOME OCCUPATIONS

All home occupations shall be classified as a 'Home Office' or a 'Home Business'.

2.2A Home Office

Characteristics

In addition to the characteristics outlined in section 2.1, a home office shall demonstrate and be limited to the following characteristics:

- is carried out solely from within a dwelling;
- does not entail the retail sale, display, manufacture or hire of goods of any nature;
- does not require any clients or customers to visit the dwelling frequently;
- will employ no more than the equivalent of two full-time staff, one of whom is a permanent resident of the dwelling;
- does not entail the presence, parking or garaging of any additional vehicles; and
- does not entail a family day care service, hairdressing, services involving skin penetration, the preparation of food, vehicle service or vehicle repairs.

Assessment

Home occupations that are determined to be a 'home office' are exempt from planning approval.

Should an application for a home occupation be received by Council and determined to be a 'home office', the applicant shall be notified in writing that approval is not required and any application fee returned.

Should any home office grow to the extent that its operation has become the subject of a notice or complaint, the occupant of the dwelling shall demonstrate compliance with the operations of a home office or make an application for planning approval.

2.2B Home Business

Characteristics

In addition to the characteristics outlined in section 2.1, a home business shall be identified with the following characteristics:

- may be carried out in a dwelling, in an approved outbuilding or on land on which the dwelling is situated;
- relies on clients visiting the site;
- does not employ any more than the equivalent of three full-time staff, one of which must be a permanent resident of the dwelling;
- does not entail the retail sale of any goods, other than those produced, manufactured, serviced or repaired at the subject property, or may entail the sale of those goods that are incidental and directly related to the operation of the home business;
- involves a maximum of two (2) clients visiting the premise at any one time;
- shall not result in any traffic conflict as a result of the inadequacy of on-site and off-site parking; and
- shall not result in a substantial increase in the amount of vehicular traffic in the area.

Assessment

All home businesses require planning approval. When assessing a home business application, Council shall consider the following:

- the nature, scale and hours of operation of the proposed home business;
- the relationship of the proposed home business with the adjoining land or on other land in the locality, including lot sizes;
- any relevant submissions or objections received from advertising (where required) of the application;
- the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect of that traffic on the movement of traffic on that road system;
- whether utility services are available and adequate for that development; and
- any other planning considerations which the Council considers relevant.

2.2C Mobile Businesses

Characteristics

In addition to the characteristics outlined in sections 2.1 and 2.2A, a mobile business shall be identified with the following characteristics:

- the operation of a home office where the business is carried out for a client on private or public property not associated with the site on which the home office is situated;
- materials associated with the business may be required to be stored on-site and minor home office use is involved; and
- may involve the use and/or garaging of a private vehicle or Commercial Vehicle on the site on which the home office is situated.

Assessment

Council recognises that mobile businesses shall be classified as a 'Home Office'. However, where the business:

- (a) operates outside of the hours of 7am and 7pm Monday to Saturday, the business shall be determined as a 'Home Business'; or
- (b) requires the use of a Commercial Vehicle, approval for the Commercial Vehicle shall be required in accordance with Scheme 3. No such vehicle shall be taken from or brought to the lot between the hours of 10:00pm and 6:30am.
- (c) The operation of a Mobile Business on public land requires prior written approval by Council.

2.2D Non-conforming Uses

In adopting this policy, Council recognises that there are home businesses operating from dwellings that are not consistent with the provisions of this policy.

Such a business will be permitted to continue its operations as a 'Non-Conforming' use, so long as the home occupation does not cause aggravation or nuisance to surrounding neighbours, or affect the amenity of the surrounding area.

3. ADMINISTRATION

3.1 NON-CONFORMING USES

In adopting this policy, Council recognises that there are home businesses operating from dwellings that are not consistent with the provisions of this policy.

Such a business will be permitted to continue its operations as a 'Non-Conforming' use, so long as the home occupation does not cause aggravation or nuisance to surrounding neighbours, or affect the amenity of the surrounding area.

3.2 MOBILE BUSINESSES

Council recognises that mobile businesses shall be classified as a 'Home Office'. However, where the business:

- (a) operates outside of the hours of 7am and 7pm Monday to Saturday, the business shall be determined as a 'Home Business'; or
- (b) requires the use of a Commercial Vehicle, approval for the Commercial Vehicle shall be required in accordance with Scheme 3. No such vehicle shall be taken from or brought to the lot between the hours of 10pm and 6:30am.

3.3 CONSULTATION PROCEDURE

Any home business that is likely to display any variation to the characteristics listed in Section 2 with respect to:

- the creation of noise, vibration, electrical interference, or light emissions;
- the parking of motor vehicles;
- the transporting of materials or goods to or from the dwelling;
- the hours of operation;
- any home business associated with the repair, storage or maintenance of motor vehicles,

then the application shall be advertised to surrounding landowners in accordance with clause 7.3 of Scheme 3.

3.4 APPROVAL PERIOD

Any approval of a home business is valid until the next 31st day of December after the approval date and shall be renewed within 90 days of the 31st December for a further 12 month period.

Applications approved by Council after the 1st day October of each year will remain valid until the 31st day of December the following year via the process specified in the preceding paragraph.

Approvals are not capable of being transferred or assigned to a different property or person.

3.5 COMPLIANCE

Should a business that is operating from a dwelling become the subject of notice or complaint, Council may undertake any of the following:

- (a) ensure that conditions of any approval are being complied with, and should any conditions not be complied with:
 - require business practices to be altered; or
 - rescind the approval, and request the business be relocated to a more suitable area within three months.
- (b) impose additional conditions to ensure that the residential amenity of the area is maintained; or
- (c) request a retrospective application, should the business be operating without valid approval.