9.3.10 Home-based business code

9.3.10.1 Application

1. This code applies to assessing a material change of use if:
2. accepted development subject to compliance with identified requirements, where acceptable outcomes of this code are identified requirements in a table of assessment for a material change of use (section 5.5) or a neighbourhood plan (section 5.9); or
3. assessable development where this code is an applicable code identified in the assessment benchmarks column of a table of assessment for a material change of use (section 5.5) or a neighbourhood plan (section 5.9); or
4. impact assessable development for home-based business or a use of a similar nature.
5. When using this code, reference should be made to section 1.5 and section 5.3.3.

Note—The following purpose, overall outcomes, performance outcomes and acceptable outcomes comprise the assessment benchmarks of this code.

Note—Where involving new premises or an increase in gross floor area, these constitute part of the primary use of the site, for example dwelling house or multiple dwelling, and are assessed by the applicable residential use code (e.g. Dwelling house code, Multiple dwelling code etc.), not the Home-based business code.

Note—Home-based business excludes:

* legitimate homestay arrangements organised by the Department of Education of up to a maximum of 2 students, where accommodation is provided by a host family in their own dwelling, to local and/or overseas students studying or training at an Australian university or other Australian educational establishment;
* legitimate telecommuting (where an employee of an off-site business or organisation works from their dwelling and conducts work-related activities and communicates with their employers electronically).

Note—Other legislation or licensing requirements may also be applicable to the home-based business. For example, the *Child Care Act 2002* has legislative requirements for home-based child care services.

Note—

* Bed and breakfast is the ancillary use of a dwelling providing tourist and visitor short-term accommodation on a commercial basis. Bed and breakfast facilities are operated and maintained by the resident host and guests are generally provided with breakfast. A bed and breakfast does not include short-term accommodation or rooming accommodation.
* Dog day-care facility is the ancillary use of residential premises for the care, feeding and exercising of pets other than overnight boarding and does not include animal keeping.
* Farm stay is the use of a working farm to provide short-term accommodation for tourists and visitors to enable them to experience farm living. It is a secondary business to primary production and is ancillary to the primary residential dwelling on the site. Farm stay does not include short-term accommodation or rooming accommodation.
* Home-based child care is a home-based care service providing care for a small group of children within a private dwelling. Home-based child care does not include care in the child’s own home or care by relatives.

Note—Where this code includes performance outcomes or acceptable outcomes that relate to noise impact assessment, guidance is provided in the Noise impact assessment planning scheme policy.

9.3.10.2 Purpose

1. The purpose of the Home-based business code is to assess the suitability of development for a home-based business.
2. The purpose of the code will be achieved through the following overall outcomes:
3. Development for a small-scale business in association with the primary use of a dwelling operates without compromising the safety of, and amenity enjoyed by, adjoining and nearby residents.
4. Development for a home-based business is:
5. a small-scale component of a dwelling used primarily for residential purposes;
6. subsidiary in size, form and function to the principal residential use of the dwelling;
7. operated by the occupiers of the dwelling;
8. unobtrusive in nature and operation.
9. Development ensures that the operation of a home-based business:
10. is conducted at times suited to a residential environment;
11. minimises adverse impacts upon the privacy and amenity of neighbouring residential dwellings;
12. does not involve repairing or maintaining motor vehicles or boats;
13. does not involve the storage of dangerous goods in quantities greater than that reasonably expected in a residential area;
14. does not generate large volumes of solid or liquid waste, greater than that reasonably expected in a residential area;
15. does not produce trade waste, contaminate land or pollute waters;
16. does not involve the storage or display of any goods or waste visible from outside the dwelling;
17. generates minimal traffic volumes, no greater than those reasonably expected in the surrounding residential area;
18. generates minimal visitor volumes, no greater than those reasonably expected in the surrounding residential area;
19. generates visitor vehicle types consistent with those reasonably expected in the surrounding residential area;
20. is within the safe and effective design capacity of the utilities and transport networks servicing the area.

9.3.10.3 Performance outcomes and acceptable outcomes

Table 9.3.10.3—Performance outcomes and acceptable outcomes

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| Performance outcomes | Acceptable outcomes |
| PO1  Development is subordinate in size and function and is an inconspicuous component of the primary use of the dwelling as a permanent residence. | AO1.1  Development is conducted:   1. within a dwelling; or 2. within another enclosed structure, such as a shed or garage, where on the site of a dwelling house.   Note—Bed and breakfast, farm stay, home-based child care or a dog day-care facility may include use of the rest of the site (i.e. these uses are not restricted to operating within an enclosed structure). |
| AO1.2  Development is subordinate to the primary use of the dwelling as a private residence. |
| AO1.3  Development is conducted by one or more of the permanent residents (either the owner-occupiers or the legitimate residential tenants) of the dwelling. |
| AO1.4  Development if conducted:   1. in a dwelling house, has a maximum of 1 non-resident employee on site at any time; 2. in a dual occupancy or multiple dwelling, has no non-resident employees on site at any time. |
| AO1.5  Development:   1. comprises a maximum of 50m2 or 30% of the total floor area of the dwelling, whichever is the lesser, except where a bed and breakfast, farm stay, home-based child care or dog day-care facility; 2. does not involve the sale of or hiring out of materials, goods, appliances or vehicles, stored outside of the maximum floor area allowable for home-based business use. |
| AO1.6  Development does not involve storage or display of goods or waste visible from outside the dwelling. |
| AO1.7  Development only involves the display of signs, if:   1. required by law to identify a registered business; 2. no greater than the minimum size identified in an applicable local law, or if no minimum size is identified, no greater than 0.6m2. |
| PO2  Development ensures that the hours of operation for the home-based business are controlled so that the use does not adversely impact the amenity of a nearby sensitive use. | AO2  Development ensures that work and visitors associated with the home-based business are limited to the hours of 8am to 6pm Monday to Saturday, except where work comprises office activities such as bookkeeping and computer work.  Note—Bed and breakfast, farm stay, home-based child care or a dog day-care facility may operate outside these hours (i.e. these uses are not restricted to operating within the time frames specified above). |
| PO3  Development is of a nature and scale which does not result in noise emissions that exceed the following criteria:   1. LAeq,adj,15min emitted from the home-based business is not greater than the rating background level plus 3 at a sensitive use; 2. where LAeq,adj,15min is the A-weighted equivalent continuous sound pressure level during a 15 minute measurement time, determined in accordance with the methodology described in the Noise impact assessment planning scheme policy.   Note—Rating background level is to be determined in accordance with the methodology described in the Noise impact assessment planning scheme policy.  Note—A noise impact assessment report prepared in accordance with the Noise impact assessment planning scheme policy can assist in demonstrating achievement of this performance outcome. | AO3.1  Development is conducted wholly within an enclosed structure.  Note—Bed and breakfast, farm stay, home-based child care or a dog day-care facility may include use of the rest of the site (i.e. these uses are not restricted to operating within an enclosed structure). |
| AO3.2  Development ensures that delivery vehicles are restricted to between 8am to 6pm Monday to Saturday, excluding public holidays. |
| AO3.3  Development does not generate noise that is clearly audible and creates a disturbance within a sensitive use including a dwelling or its associated balconies/patios.  Note—Except where a home-based child care service. |
| AO3.4  Development does not involve an industry. |
| PO4  Development generates no greater load upon utilities servicing the site than would reasonably arise from a residential use on the site. | AO4  Development:   1. has a source of power which does not exceed a total connected load of 2.0kW; 2. places a demand on any reticulated water supply of not more than 3L per day per m2 of the floor area related to the business and does not decrease head (pressure) to less than fire-fighting standard; 3. where in areas not serviced by reticulated water and/or sewerage, does not impose any additional loadings than provided for by existing on-site water supplies and household wastewater treatment and disposal systems; 4. does not involve the discharge of trade waste, being waterborne waste from business, trade or manufacturing premises, other than waste that is a prohibited substance, human waste or stormwater, to the reticulated sewerage service; 5. places demand on reticulated sewerage services which does not impose any greater hydraulic or nutrient loadings on systems than 1 equivalent tenement. |
| PO5  Development:   1. generates vehicular and pedestrian traffic of a volume no greater than reasonably expected in the surrounding residential area; 2. only uses and has any visits by, vehicle types reasonably expected in the surrounding residential area. | AO5  Development:   1. does not involve more than 1 person waiting at or near the premises at any time (excluding the permanent residents or a non-resident employee);   Note—Bed and breakfast, farm stay, home-based child care or a dog day-care facility may involve more than 1 person waiting at or near the premises at any time, providing the persons waiting are not additional employees.   1. does not involve more than 1 customer-related motor vehicle being parked on the site or in the streets that the site has frontage to, at any time excluding a business related vehicle belonging to the permanent residents or a non-resident employee;   Note—Bed and breakfast, farm stay, home-based child care or a dog day-care facility may involve more than 1 business-related motor vehicle parked at or near the premises at any time, providing the motor vehicles do not belong to any additional employees.   1. involves a maximum of 1 visit per day of delivery vehicles with a capacity of up to 2.5t; 2. does not involve the use of or visits by, vehicles with a capacity over 2.5t. |
| PO6  Development must not compromise the safety of the neighbourhood and its residents. | AO6  Development does not store or use flammable and combustible liquids on site for the conduct of the home-based business in amounts greater than what is permitted for a residential dwelling under AS 1940-2004 The storage and handling of flammable and combustible liquids. |
| PO7  Development ensures that the nature and scale of the home-based business does not result in vibration, odour, dust, other air pollutants, light, glare or radio or electrical emissions that cause unreasonable impacts on the occupiers of nearby sensitive uses.  Note—The matters considered in assessing unreasonable impacts include the characteristics, nature, amount, intensity, frequency and duration of the emissions and whether the emissions could be reasonably expected in the area. | AO7  Development does not adversely impact upon the amenity of the residential neighbourhood by:   1. emitting vibration, odour, dust or other air pollutants, light or glare that is detectable and disturbing within a sensitive use; or 2. causing radio or electrical interference. |
| PO8  Development does not contaminate land or pollute water. | AO8  Development does not involve an industry. |
| If for a bed and breakfast or farm stay | |
| PO9  Development providing bed and breakfast or farm stay provides acceptable levels of privacy and amenity for residents in adjoining or nearby dwellings. | AO9  Development involves:   1. no more than 6 paying guests accommodated at any one time; 2. the total number of residents and paying guests does not exceed 10 persons at any one time; 3. serving of meals only to paying overnight guests. |
| PO10  Development ensures paying guests are accommodated for a short-term stay and the dwelling is not the usual residence of the guest. | AO10  Development involves guests staying for a maximum of 14 consecutive nights. |
| If outside a sewered area  Note—Sewered area is defined in the *Plumbing and Drainage Act 2002* and means a service area for a sewerage service under the *Water Supply (Safety and Reliability) Act 2008*. | |
| PO11  Development ensures that effluent disposal and treatment minimise odour and impacts on the natural environment. | AO11  Development provides an on-site effluent treatment system that is adequately sized to effectively treat effluent from the dwelling house and any additional persons occupying the premises as paying guests in a farm stay.  Note—This requirement is in addition to any requirements for effluent disposal for any rural activity undertaken on the development site. |

Editor’s note—For a proposal to be accepted development subject to compliance with identified requirements, it must meet all the identified acceptable outcomes of this code and any other applicable code. Where it does not meet all identified acceptable outcomes, the proposal becomes assessable development and a development application is required. Where a development application is triggered, only the specific acceptable outcomes that the proposal fails to meet need to be assessed against the corresponding assessable acceptable outcomes or performance outcomes and relevant overall outcomes. Other identified acceptable outcomes that are met are not assessed as part of the development application.