

Planning and Assessment

IRF20/4040

Gateway determination report

LGA	Wollongong
PPA	Wollongong City Council
NAME	Home Occupation, Home Business, Home Industry Housekeeping Amendment (0 homes, 0 jobs)
NUMBER	PP_2020_WOLLG_003_00
LEP TO BE AMENDED	Wollongong LEP 2009
ADDRESS	LGA wide
DESCRIPTION	LGA wide
RECEIVED	Received 11 August, Adequate 13 August 2020. Revised PP received 10 November.
FILE NO.	EF20/206519
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to address inconsistencies in the permissibility of *home occupations*, *home businesses* and *home industries* between the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP) and the Wollongong Local Environmental Plan (LEP) 2009.

1.2 Site description

The amendment will apply broadly across the LGA where a range of home-based employment land uses are considered appropriate as permissible (with or without consent) consistent with the Exempt and Complying development SEPP 2008.

1.3 Existing planning controls

A. The planning proposal applies to the below listed home based employment land uses in the respective land use tables for the below listed zones:

1. Permit *home occupations* in the R3, R4, B2, B3, B4 and B6 zones. Currently *home occupations* are prohibited in these zones under the Wollongong LEP 2009
2. Permit *home businesses* in the RU2, RU4, R1, R2, R3, R4, R5, E3, E4, B2, B3, B4 and B6 zones. Currently *home businesses* are prohibited in these zones under the Wollongong LEP 2009.

3. Permit *home industries* in the RU2, RU4, R1, R2, R3, R4, R5, E3 and E4 zones. Currently *home industries* are prohibited in these zones under the Wollongong LEP 2009.

B. The planning also seeks to amend Clause 5.4 '*Controls relating to miscellaneous permissible uses*' and apply a maximum floor area of 30 sqm to home occupations.

While the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP) does permit these land uses without consent within the zones in certain circumstances, Council wants to ensure that there is the ability to consider additional opportunities through a development application.

1.4 Surrounding area

The amendment will apply broadly across the LGA.

1.5 Summary of recommendation

Proceed with conditions – The proposal is to be updated to name in full the zones to which the proposed changes apply, to detail the social and economic impacts, and to discuss consistency with s9.1 Direction 3.3 - Home occupations.

2. PROPOSAL

2.1 Objectives or intended outcomes

Planning proposal seeks to resolve inconsistencies in the permissibility of home employment land uses between the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP) and the Wollongong Local Environmental Plan (LEP) 2009.

The planning proposal has the following intended outcomes:

- To broaden the permissibility of home occupations.
- To permit home business with consent in certain zones in the WLEP to enable Complying Development (for home business involving food production) or development consent (for home business involving skin penetration).
- To permit home industry with consent in certain zones in the WLEP to enable development consent to be issued.

To limit home occupations under the WLEP to 30m² (the same as home businesses).

2.2 Explanation of provisions

The Planning Proposal will make the following amendments to the Wollongong Local Environmental Plan 2009:

- Include home occupations as permitted without consent in the land use tables for the R3, R4, B2, B3, B4 and B6 zones.
- Include home businesses as permitted with consent in the land use tables for the RU2, RU4, R1, R2, R3, R4, R5, E3, E4, B2, B3, B4 and B6 zones.
- Include home industries as permitted with consent in the land use tables for the RU2, RU4, R1, R2, R3, R4, R5, E3 and E4 zones.
- Amend Clause 5.4 Controls relating to miscellaneous permissible uses, to include a subclause that specifies that home occupation has a maximum floor area of 30m².

The proposal is to be updated prior to community consultation to clearly identify the full zone names to which the proposed provisions will apply.

2.3 Mapping

No mapping is required to be amended/produced as part of this planning proposal.

3. NEED FOR THE PLANNING PROPOSAL

The Planning Proposal states that the proposed amendments are required as a consequence of inconsistencies identified between the Wollongong LEP 2009 and the Exempt and Complying Development SEPP.

Council has indicated that a planning proposal is the only mechanism to amend the LEP and address these inconsistencies.

The Department supports Council's intentions to remove any inconsistencies between its LEP and the SEPP and agrees with Council's assessment that a planning proposal provides the only mechanism in which to achieve the desired consistency with the relevant state planning policy.

4. STRATEGIC ASSESSMENT

4.1 State

The LEP seeks to ensure consistency with State Environmental Planning Policy (SEPP) Exempt and Complying Development. This is seen as a positive outcome.

4.2 Regional / District

The planning proposal is not inconsistent with the applicable Illawarra Shoalhaven Regional Plan and will facilitate greater opportunities for working from home.

4.3 Local

Council has noted the proposal's consistency with its Wollongong Community Strategic Plan 2028 in that it will meet the objective "Local employment opportunities are increase with a strong local economy" under the community goal "We have an innovative and sustainable economy"

The Department notes the consistency with the Community Strategic Plan and acknowledges that given the intended outcomes of the proposal, it is unlikely to be inconsistent with any other applicable local planning strategies.

4.4 Section 9.1 Ministerial Directions

The proposal is considered consistent with all applicable section 9.1 Directions. It is however noted that Council has not commented on the consistency of the proposal against section 9.1 Direction 3.3 Home Occupations.

The Department considers this direction to be directly relevant to the proposal, and recommends Council update the proposal to address this prior to community consultation. The proposal is consistent with this Direction because it seeks to permit home occupations to be carried out in dwelling houses without the need for development consent.

4.5 State environmental planning policies (SEPPs)

The proposal seeks to align the provisions of the Wollongong LEP 2009 with the State Environmental Planning Policy (SEPP) Exempt and Complying Development. This is considered a positive outcome.

The proposal is not inconsistent with any other SEPPs.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The proposal has not addressed social impacts. The Department considers that the social outcomes of the planning proposal are positive. The proposal seeks to avoid confusion and complexity in the development process by ensuring that the LEP is consistent with the State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2008 and to allow greater opportunities for home-based employment.

It is recommended that Council update the planning proposal to address social impacts prior to community consultation.

5.2 Environmental

The proposal notes that any impacts on the environment are unlikely.

The Department agrees that given the intended outcomes and proposed changes to the LEP contained within the planning proposal and as businesses will be home based, few environmental impacts are foreseen.

5.3 Economic

The proposal has not addressed the economic impacts of the proposal.

The Department considers that the economic outcomes of the planning proposal are positive. The proposal seeks to avoid confusion and complexity by ensuring that the LEP is consistent with the State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2008 and to allow greater opportunities for home-based employment.

It is recommended that Council update the planning proposal to address this matter prior to community consultation.

5.4 Infrastructure

The provision or funding of state infrastructure is not considered relevant to this planning proposal

6. CONSULTATION

6.1 Community

Council has proposed a community consultation period of a minimum of 28 days including hard copies in Council's administration building and relevant libraries, on Council's website, and letters to relevant state agencies and other authorities.

The Department generally supports the consultation proposed by Council.

6.2 Agencies

Council has not identified specific agencies to be consulted.

Given that the proposal seeks only to amend the LEP to ensure consistency with an existing SEPP, consultation with Government agencies is not considered required.

7. TIME FRAME

Council has proposed a 12-month timeframe for completion of the LEP.

The Department considers this timeframe appropriate given the scale of the proposal and allowing sufficient time to overcome any unforeseen delays in the process.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested the Department issue authority for Council's General Manager to exercise plan making delegations.

The Department supports the requested delegation of plan making delegations noting the minor nature of the planning proposal in ensuring the LEP is consistent with an existing state planning policy.

9. CONCLUSION

The planning proposal is supported to proceed with conditions.

10. RECOMMENDATION

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to address the following matters:
 - a) to include the full zone names (rather than abbreviations only) to which the proposed provisions will apply;
 - b) address social and economic effects; and
 - c) address Section 9.1 Direction 3.3 Home occupations
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority to make this plan.



24/11/20

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