

This fact sheet sets out land use planning considerations relevant to tiny houses in Western Australia.

It seeks to assist the treatment of tiny houses in planning instruments, particularly in the implementation of the Residential Design Codes Volume 1 (R-Codes) and the Planning and Development (Local Planning Schemes) Regulations 2015 (P&D Regulations). It also explains the point of difference between buildings and structures regulated under planning and building legislation versus caravans and park homes regulated under the *Caravan Parks and Camping Grounds Act 1995*.

What are tiny houses?

Tiny houses is an umbrella term in the context of this fact sheet which encompasses habitable structures and vehicles that are smaller than typical residential dwellings, and may be pre-fabricated for placement on-site. This includes both wheeled and un-wheeled variants.

Tiny houses present some challenges for decision-makers due to variations in regulatory approval requirements. This depends on the house's configuration and whether it is classified as a caravan or park home, or a building.

How can I tell if my tiny house is a caravan or a building?

As defined under the *Caravan Parks and Camping Grounds Act 1995*, the distinguishing feature of a caravan is that it is a vehicle. A vehicle is defined in the *Caravan Parks and Camping Grounds Act 1995* S. 5(1) as;

"means a conveyance (other than a train, vessel or aircraft) capable of being propelled or drawn on wheels".

The State Administrative Tribunal in *Henville and City of Armadale* [2018] established that vehicles and buildings are mutually exclusive; a tiny house cannot be both a building and a caravan simultaneously.

If a tiny house is a vehicle and fitted for habitation, it will be classified as a caravan. A vehicle must be a means of transportation, not just capable of being moved (Appendix 1).

If a tiny house is not a vehicle, it is classified as a building and subject to regulation under building and planning legislation.

While many tiny houses on wheels are designed differently to conventional caravans, under the State's legislative framework they may qualify as a caravan and would then be regulated under the *Caravan Parks and Camping Grounds Act 1995* and the *Caravan Parks and Camping Grounds Regulations 1997*.

Can I convert my caravan into a building?

If a caravan is modified to have the wheels removed and is no longer classified as a vehicle then it will cease to qualify as a caravan and need to meet the relevant requirements for a building under building and planning legislation.

The construction, erection, assembly or placement of a building is considered to be building work that will generally require a building permit under the *Building Act 2011*. Habitable buildings need to comply with applicable building standards being the relevant National Construction Code (NCC) requirements.

However, some caravan designs may require substantial modification to comply with the NCC for use as a building.

You should consult with the relevant local government for the relevant approvals required specific to your particular circumstances.

I want to park a caravan on my property so someone can live in it temporarily. Can I do this and what approvals do I need?

If a tiny house is classified as a caravan, it is regulated by the *Caravan Parks and Camping Grounds Act 1995* and the *Caravan Parks and Camping Grounds Regulations 1997*, does not require a building permit and does not generally require a development approval. However, written approval may be required from the local government as outlined below.

Under the *Caravan Parks and Camping Grounds Regulations 1997*, the use of caravans is generally restricted to licenced caravan parks. However, the Regulations (r.11, r11A and r11B) provide for a person to 'camp' in a caravan on a property that they own or have a legal right to occupy:

- For up to five nights, with the landowner's consent;
- For up to 24 months, with the written approval of the local government; or
- For up to 24 months, with the written approval of the Minister for Local Government.

As a condition of local government or Minister for Local Government approval, the relevant land must be suitable for camping with respect to health, safety and access to services (e.g. water supply, sewage and power). Some local governments may have local laws that provide additional restrictions or requirements.

The *Caravan Parks and Camping Grounds Act 1995* is administered by the Department of Local Government, Sport and Cultural Industries, which can provide further advice with respect to this legislation and its application.

Any building or structure associated with a caravan (e.g. a patio) may require development approval unless exempt under the P&D Regulations or the relevant Local Planning Scheme. In addition, a building permit may be required.

I want to put a caravan on my property so someone can reside in it permanently. Can I do this and what approvals do I need?

Under the *Caravan Parks and Camping Grounds Regulations 1997* (r. 10), a caravan cannot be occupied on a property outside of an approved caravan park or camping ground on a permanent basis.

When is a tiny house a park home? Can I have a park home on my property?

The *Caravan Parks and Camping Grounds Act 1995* define a park home (**Appendix 1**). For a tiny house to be classified as a park home it must:

- be a vehicle;
- be designed and fitted for habitation.

The *Caravan Parks and Camping Grounds Regulations 1997* extend the regulatory framework for park homes and say that they are a caravan in respect of which a vehicle licence is not required under the *Road Traffic (Vehicles) Act 2012* section 4, because it could not be drawn by another vehicle on a road solely due to its size.

Clause 9 of these regulations also prescribe that park homes may only be occupied in a caravan park licenced under the Act, with park home parks being defined as a type of caravan park where only park homes are permitted, and not caravans and camps.

If a tiny house is classified as a park home, the *Caravan Parks and Camping Grounds Regulations 1997* (r. 33) will require it to comply with certain requirements in the Building Code of Australia (Volume 1 and 2 of the NCC).

How are tiny houses classified in planning schemes?

The regulation of buildings under local planning schemes depends on what the intended land use is. Depending on the context and nature of the development, and the local planning framework, a tiny house could be classified as uses such as:

- Single house;
- Ancillary dwelling (e.g. granny flat);
- Grouped dwelling;
- Workforce accommodation;
- Short-term rental accommodation;
- Repurposed dwelling (e.g. converted shipping container or donga);
- Second-hand dwelling (e.g. relocated cottage).

Appendix 1 provides definitions for these uses, although definitions in some local planning schemes may vary.

Do tiny houses require development approval?

For a tiny house (excluding caravans and park homes) to be exempt from the requirement for development approval both the proposed land use and associated works must be exempt. Otherwise, development approval is required.

Schedule 2 of the P&D Regulations (deemed provisions for local planning schemes) cl. 61 (1)(a) sets out works which are exempt from development approval. In addition to this, local governments can provide further works exemptions via local planning policies or 'supplemental provisions' in a local planning scheme.

The land use associated with the tiny house must also be exempt under cl. 61 (2). This includes temporary uses existent for less than 48 hours, or a longer period in any 12-month period as agreed by the local government (cl. 61(2)(f)) or uses that are listed as a 'P' (permitted) use under a Local Planning Scheme.

If a tiny house is located in a bushfire prone area, it must comply with the additional requirements of State Planning Policy 3.7 - Planning in Bushfire Prone Areas and Part 10A of the deemed provisions.

Is development approval required for a tiny house on R-Coded land?

On R-Coded land, if a building is classified as a single house, single bedroom dwelling or an ancillary dwelling, it may be exempt from development approval under the deemed provisions (cl. 61 (1)(a) item. 7). To be exempt, it must comply with the relevant deemed-to-comply provisions in the R-Codes and any other requirement in the scheme (e.g. bushfire controls or special control areas).

If the local government wishes to extend exemptions for single houses and ancillary dwellings under the R-Codes to non-R-Coded land, this can be done through a provision in the local planning scheme. Schedule 1 of the P&D Regulations (model provisions for local planning schemes), cl. 25(4)(b) provides for the R-Codes to apply to other zones.

Is an ancillary dwelling a land use?

Similar to outbuildings, ancillary dwellings are often permitted 'as of right' where there is a single house and where the R-Codes apply, provided that the development complies with the R-Codes. However, many schemes list ancillary dwellings as separate land uses as a means of extending this right to other zones, such as rural zones, where houses are contemplated.

Is there a minimum size and building standard for tiny houses?

The applicable building standards for a house, is generally Volume Two of the NCC, as published by the Australian Building Codes Board (ABCB), which requires a building to be classified according to its purpose and comply with all the appropriate requirements for its classification.

The classification of a building is determined by the purpose for which it is designed, constructed or adapted to be used.

More information on building classification can be found on the ABCB website.

The NCC is a performance based document which allows the option to follow prescriptive deemed to satisfy provisions or develop a performance solution specific to the proposal to meet relevant Performance Requirements.

The NCC does not set any minimum room sizes and it may be possible for a dwelling as small as 20m² to comply with building standards, however it would need to be carefully designed.

Prospective purchasers of prefabricated tiny houses need to ensure the product specifications are compliant with the NCC prior to purchase or installation.

A certificate of design compliance with a statement regarding compliance with the NCC must be signed by a registered building surveyor and issued by either a building surveying contractor or local government before a building permit is granted. Accordingly, you may wish to liaise with the relevant building surveyor regarding the building classification and compliance with the NCC.

The NCC can be downloaded free of charge from the ABCB website www.abcb.gov.au

The State register of building surveyors can be found here: [Find a registered building surveyor | Department of Mines, Industry Regulation and Safety \(commerce.wa.gov.au\)](#)

You should also check with the relevant local government for any additional requirements under other legislation they may administer.

Can a shipping container or a 'donga' be a dwelling?

Yes, provided it can be modified to meet the requirements of the NCC.

Local governments may define these dwellings as a 'repurposed dwelling', which usually requires a development approval. Local governments may also establish scheme provisions or local planning policies to deal with potential amenity issues.

If the repurposed dwelling definition is not listed in the relevant local planning scheme, a suitably modified shipping container or 'donga' would be categorised under the most applicable land use definition, which is usually a single house.

Are there any other issues to consider when contemplating a tiny house?

Other considerations include:

- costs of meeting the planning, building and environmental requirements;
- services required (e.g. power, effluent disposal, potable water, waste management) and associated upkeep costs;
- upfront and maintenance costs associated with off-grid services;
- building maintenance;
- building lifecycle;
- bushfire risk and management requirements;
- energy efficiency requirements;
- health requirements (e.g. sanitation);
- pedestrian and vehicular access to the tiny house;
- consumer protections laws (**Appendix 2**); and
- financing arrangements, including lending capability.

People interested in building a tiny house are advised to speak with the local government in the first instance.

What are some community interests for tiny houses?

In preparing this Fact Sheet, a range of case studies and development proposals were reviewed. They were considered against the existing legislative and regulatory framework for tiny houses and discussed with proponents. Stakeholders expressed a desire for tiny houses on wheels to be capable of being approved for permanent habitation outside of caravan parks, including:

- the ability for tiny houses on wheels to be regulated by other means beside the Caravan Parks and Camping Grounds Regulations 1997;
- the ability for tiny houses (including those on wheels) to be approved without complying with some aspects of the National Construction Code (e.g. ceiling height, loft bedrooms, ladders, washing machines in kitchen areas and energy efficiency requirements, mobility and access requirements); and
- a simplified means of getting approval to locate tiny houses in different locations; and

The current regulatory framework cannot accommodate these expectations.

APPENDIX 1: DEFINITIONS

The following definitions are contained in the relevant legislation and regulations. These may differ from definitions present in older Local Planning Schemes, however as Schemes are progressively updated, these 'model' definitions are typically applied.

Ancillary Dwelling

Self-contained dwelling on the same site as a dwelling which may be attached to, integrated with or detached from the dwelling (R-Codes Appendix 1).

Generally, ancillary dwellings are limited to a floor area of 70m² as stated in the R-Codes.

Building

Any structure whether fixed or moveable, temporary or permanent, placed or erected on land, and the term includes dwellings and structures appurtenant to dwellings such as carports, garages, verandas, patios, outbuilding and retaining walls, but excludes boundary fences, pergolas and swimming pools (R-Codes Appendix 1).

Caravan

A vehicle that is fitted or designed for habitation, and unless the contrary intention appears, includes an annexe (*Caravan Parks and Camping Grounds Act 1995 s. 5 (1)*).

Caravan Park

Means an area of land on which caravans, or caravans and camps, are situated for habitation (*Caravan Parks and Camping Grounds Act 1995 s. 5 (1)*).

Dwelling

A building or a portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on permanent basis by a single person, family or no more than six persons who do not comprise a single family (R-Codes Appendix 1).

Grouped Dwelling

A dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above or below another, except where special conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey strata with common property (R-Codes Appendix 1).

NCC

National Construction Code (NCC), comprising the Building Code of Australia (BCA) being Volumes One and Two of the NCC and Plumbing Code of Australia (PCA) which is Volume Three.

Park Home

Park home means a vehicle of a prescribed class or description that is fitted or designed for habitation (*Caravan Parks and Camping Grounds Act 1995 s. 5 (1)*).

Additionally defined as:

A caravan in respect of which a vehicle licence is not required under the *Road Traffic (Vehicles) Act 2012* section 4, because it could not be drawn by another vehicle on a road due to its size, is a vehicle of a prescribed class or description for the purposes of the definition of "park home" in section 5(1) of the Act (*Caravan Parks and Camping Grounds Regulations 1997 r. 4(1)*).

Park Home Park

Means a caravan park at which park homes, but not any other caravans or camps, are situated for habitation (*Caravan Parks and Camping Grounds Regulations 1997 r. 3*).

Repurposed Dwelling

Means a building or structure not previously used as a single house which has been repurposed for use as a dwelling.

Second-Hand Dwelling

Means a dwelling that has been in a different location, and has been dismantled and transported to another location, but does not include a new modular home or transportable dwelling.

Single Bedroom Dwelling

A dwelling that contains a living room and no more than one other habitable room that is capable of use as a bedroom (R-Codes Appendix 1).

Single House

A dwelling standing wholly on its own green title or survey strata lot, together with any easement over adjoining land for support of a wall or for access or services and excludes dwellings on titles with areas held in common property (R-Codes Appendix 1).

Vehicle

A conveyance (other than a train, vessel or aircraft) capable of being propelled or drawn on wheels (*Caravan Parks and Camping Grounds Act 1995* s. 5 (1)).

Additionally defined as:

Every conveyance, not being a train, vessel or aircraft, and every object capable of being propelled or drawn, on wheels or tracks, by any means (*Road Traffic (Administration) Act 2008*).

Works

In relation to land, means:

- a) any demolition, erection, construction, alteration of or addition to any building or structure on the land; and
- b) the carrying out on the land of any excavation or other works; and
- c) in the case of a place to which a protection order made under the *Heritage Act 2018* Part 4 Division 1 applies, any act or thing that:
 - i. is likely to damage the character of that place or the external appearance of any building; or
 - ii. would constitute an irreversible alteration to the fabric of any building (Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 cl.1).

APPENDIX 2: CONSUMER PROTECTION

Are there other laws which protect my purchase of a tiny house?

Under the Australian Consumer Law, products and services that consumers buy come with automatic guarantees that they will work and do what they're supposed to do. These are called consumer guarantee rights. Products and services that are normally bought for personal or household use are covered by consumer guarantees.

These rights apply to tiny houses and other recreational vehicles, such as caravans. They are separate to any manufacturer's warranty.

If a tiny house fails to meet one or more of the consumer guarantees, consumers can ask the business they bought the caravan from - the supplier - for a remedy, either a repair, replacement or refund.

The remedy depends on whether the failure is minor or major. A minor failure is generally easily fixed and does not stop the consumer from using the tiny house. A major failure is generally something that makes the caravan unfit for use. When a major failure occurs, the consumer has the right to ask for their choice of replacement or refund.

Consumer guarantees may apply even after the manufacturer's warranty expires

Tiny houses are expensive consumer goods, which consumers expect to use for many years.

It is reasonable for a consumer to expect that a new tiny house won't develop a major defect for several years of use. However, some manufacturers' warranties may only be one to 2 years.

If a consumer buys a tiny house with a major defect, they may be entitled to a refund or replacement under the consumer guarantees – even after the expiry of any warranty.

Are there protections during the sales process?

Suppliers must be honest and truthful in any statements they make to consumers. They must not make misleading or deceptive statements. This includes statements about repairs, replacements and refunds under consumer law or warranties. Any opinion that the consumer is not entitled to a remedy must be based on a thorough assessment of the failure.

Suppliers must not accept payment under certain conditions

If a supplier knows they won't be able to supply a tiny house within the timeframe quoted or within a reasonable timeframe they **must not** accept payment.

When a supplier accepts payment for goods, they must supply the tiny house within the period quoted or a reasonable timeframe.

This responsibility doesn't apply if suppliers are genuinely trying to meet delivery times and:

- the failure was due to events beyond their control; and
- the business used reasonable care or caution to avoid the failure.

Suppliers are expected to be **proactive** and **accurate** in communicating any delivery delays to consumers. The same applies to any delays to repairs.

Suppliers must not engage in unconscionable conduct.

Suppliers must not engage in [unconscionable conduct](#). This means avoiding behaviour that may be considered:

- harsh;
- oppressive; or
- beyond hard commercial bargaining.

This responsibility also applies to manufacturers in their engagement with suppliers.