

Frequently Asked Questions



Ancillary accommodation, caravans and moveable housing

Like all states and territories in Australia, South Australia is facing a shortage of affordable housing for both rent and purchase. The state is also experiencing a rapid increase in single person households. As such, a diverse range of housing is required by the community.

Recent legislative and policy changes are making it easier to build smaller, secondary accommodation. But they still need planning and building approval to ensure occupants enjoy a safe place to live in harmony, considering proximity to neighbours.

We hope this document is helpful in unpacking the rules that apply to these forms of structures.

Ancillary accommodation

Q – What is ancillary accommodation?

A – Ancillary accommodation is accommodation that:

- is located on the same site as an existing dwelling and is ancillary to that dwelling
- can be (but need not be) self-contained
- contains no more than 2 bedrooms or rooms or areas capable of being used as a bedroom.

Under the new definition, ancillary accommodation can be (but does not need to be) self-contained. Previously, ancillary accommodation was not permitted to be self-contained.

Q – What are some common terms used for ancillary accommodation?

A – Ancillary accommodation can be referred to with common terms such as:

- granny flats
- tiny homes
- modular, studios or demountables
- caravans or tiny homes on wheels.

Ancillary accommodation is always secondary to the dwelling on the same allotment.

If the allotment is vacant, the structure cannot be defined as ancillary accommodation (it will most likely will be defined as a dwelling), as it is the primary or only structure on the allotment.

Q – Does the construction of ancillary accommodation require development approval?

A – The construction of ancillary accommodation requires development approval under the *Planning, Development and Infrastructure Act 2016* (the PDI Act). This includes planning and building approval.

Q – Why do I need both planning and building approval for ancillary accommodation?

A – Planning approval is required to ensure the ancillary accommodation is appropriately sited so it doesn't negatively impact on neighbours.

Building approval is required as it is considered a Class 1a habitable structure under the National Construction Code (NCC). It is important that occupants live in a safe environment, connected to wastewater facilities, water and electricity. Minimum fire and structural provisions will apply under the NCC.

Q – Who can live in ancillary accommodation?

A – There are no limitations or restrictions on who can occupy ancillary accommodation. [State Planning Commission Practice Direction 12 \(Conditions\) 2020](#) prohibits conditions being placed on approvals for ancillary accommodation that prevent it from being leased, rented or occupied.

The government has also legislated that it is no longer an offence to fail to comply with an existing condition on an approval that prevents ancillary accommodation from being leased, rented or occupied (see regulation 3A(4) of the *Planning, Development and Infrastructure (General) Regulations 2017*).

Caravans and Tiny Homes on Wheels (THOWs)

There are different requirements for caravans and THOWs (or other forms of moveable housing).

Q – Does the use of a caravan require development approval?

A – A caravan that is being occupied on vacant or unused land or where the caravan is permanently fixed to the land will require development approval. The parking of a caravan on land used for residential purposes by a person who is an occupant of a dwelling situated on that land does not require development approval (provided the caravan or motorhome is “parked” on (and not fixed to) the land).

The occupation of a caravan parked on land used for residential purposes (ie. land containing a dwelling) will not usually require development approval on the basis that the occupation of the caravan is ancillary to the dwelling.

Council has powers under section 254 of the *Local Government Act 1999* to make an order refraining a person from using a caravan as a place of habitation if the caravan presents a risk to the health or safety of an occupant, is causing a threat of damage to the environment or is detracting significantly from the amenity of the locality.

Q – Am I able to live in a caravan/temporary accommodation on my property if my home has been damaged by a flood or fire?

A – Where a dwelling or part of a dwelling has been damaged by a flood or fire, a caravan or other temporary structure may be used as accommodation by the owner of the land provided it is used for a period not exceeding 2 years, or used until a new dwelling is able to be occupied in accordance with the PDI Act, whichever comes first.

Q – What is a THOW (Tiny House on Wheels)?

A – THOWs are a reasonably recent form of accommodation. THOWs refer to small scale sized accommodation buildings (usually on wheels and moveable) that contain features such as a kitchen, bathroom and living area that can be used for accommodation. THOWs are most commonly a dwelling, but they can also be used for tourist accommodation or ancillary accommodation.

Unlike caravans, which are more readily moveable and intended to be used for short term accommodation; THOWs appear to be promoted as permanent / semi-permanent residential accommodation. There is increasing interest in THOWs as a form of accommodation due to their relative affordability, perceived simplicity and ease of movement.

Q – Does the use of a THOW or other moveable housing require development approval?

A – The occupation of a of a THOW (or any other form of moveable housing) will require development approval unless it is being used for ancillary accommodation and where it does not involve building work.

Q – When is ‘building work’ triggered for a THOWs or caravan?

A – Building work is typically triggered for a THOW or caravan where any of the following applies:

- there is a level of permanency and/or connection of the THOWs or caravan to the ground (such as being mounted on stumps, piers or footings)
 - pipework (such as drains and/or water lines) connect the THOWs or caravan to services located on the site
 - permanent or semi-permanent structures are attached to the THOWs or caravan (such as a deck, pergola or verandah).
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Q – Do I need development approval each time I move a THOW or other moveable housing?

A – Each time a THOW or moveable housing is placed or relocated on land, it will usually require development approval under the PDI Act.

Q – What are the Statutory Approval processes for a THOW and other moveable housing?

A – As THOWs are an emerging product, there is a risk that they are not designed to meet statutory requirements under the PDI Act. A THOW that is used as a dwelling does require development approval and will need to meet requirements of the Planning & Design Code (Planning Consent) and NCC (Building Consent):

Planning Consent

A THOW will typically require a Planning Consent where there is a change of land use and/or where there has been building work. It is therefore subject to assessment against the provisions of the Planning & Design Code. The context in which a THOW is proposed will be important in determining its suitability.

Typically, dwellings need to be designed to maintain the amenity and character of the locality in which they are located. A typical tiny home may not readily meet these requirements. You should check with your relevant council to find out more.

The planning system provides the greatest certainty for THOWs where proposed as ancillary accommodation. This form of development is supported in neighbourhood type zones (ie. residential), subject to prescribed design requirements that can be readily achieved.

The use of THOWs as short term accommodation may be associated with a Caravan and Tourist Park or Supported Accommodation.

Building Consent

THOWs will usually involve 'building work' and in such cases will require a Building Consent pursuant to the PDI Act. THOWs must achieve a Building Class 1a classification under the NCC or where in the form of short-term accommodation, Class 1b.

It is important that occupants live in a safe environment, are connected to wastewater facilities, water and electricity. Minimum fire and structural provisions will apply under the NCC.

A concern for consumers is that many of the tiny home products offered in the market do not comply with Class 1 occupancy requirements under the NCC. Where the minimum requirements of the NCC are not met, the consumer may have difficulty in obtaining Building Consent.

General

Q – What does it mean if development approval is required?

A – The PDI Act provides that no development may be undertaken unless the development is an approved development. A development application may be lodged at the relevant local council or online via the PlanSA portal.

Q – Is there a penalty for not obtaining development approval?

A – There is a maximum penalty of \$120,000 for undertaking development without approval or undertaking development contrary to an approval that has been issued.

If you have undertaken development that requires approval but have not sought that approval, you should contact the relevant local council as soon as possible.

Q – What if the use of a caravan, THOW or moveable housing results in excessive noise or unsightly conditions?

A – If excessive noise or unsightly conditions arise because of the use of a caravan or moveable housing and it amounts to a 'local nuisance', action may be taken under the *Local Nuisance and Litter Control Act 2016* (the LNLC Act). This may not result in the removal of the caravan, THOW or moveable housing, but may address the local nuisance.

The LNLC Act does specify that certain noises are not local nuisances. These include noise principally consisting of music or voices, or both, resulting from an activity at domestic premises, as well as certain noise from vehicles.

Under the *Local Government Act 1999* (the LG Act), a council may also order a person to refrain from using a caravan or vehicle as a place of habitation if its use:

- presents a risk to the health or safety of an occupant; or
- causes a threat of damage to the environment; or
- detracts significantly from the amenity of the locality.

Such an order may be made under the LG Act to the owner or occupier of the land or a person apparently occupying the caravan or vehicle.

The EPA website lists [contacts for various categories of noise](#).

Q – Will my local council charge additional rates under the *Local Government Act 1999* if I rent out an additional dwelling (ancillary accommodation, a caravan or moveable housing)?

A – Under the LG Act, council rates may be assessed against any piece or section of land subject to separate ownership or occupation (for example, an additional dwelling that is separately leased or licenced, as opposed to separately titled).

Accordingly, a council may charge rates on additional dwellings if it has determined to assess rates on the basis of occupation. However, such decisions must be made fairly and in accordance with principles and practices that apply on a uniform basis across the area of the council.

However, as rates are calculated on the basis of property valuations, even if a council does not charge rates based on occupation, the value of any additional dwellings may be included in the capital value of the land which may impact the rates imposed.

As individual councils make decisions about rates within their area, it is recommended to contact the council and/or refer to its rating policy to determine the specific rating arrangements that apply to an additional dwelling.

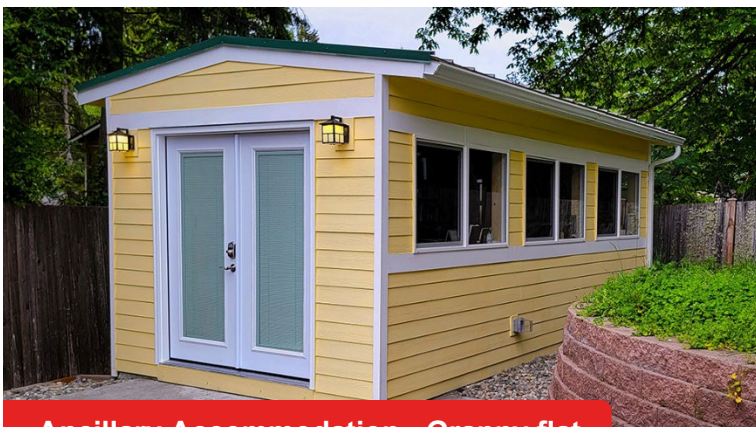
Examples of Ancillary Accommodation, Caravans, THOWs and moveable housing



Ancillary Accommodation



Ancillary Accommodation - Demountable



Ancillary Accommodation - Granny flat



Caravan



Caravan fixed to land



Tiny house on wheels

Where to go for more information

If you are contemplating this form of structure, in the first instance please contact your local council.

You can also visit www.plan.sa.gov.au.