

This fact sheet sets out land use planning considerations relevant to **outbuildings** on land in Western Australia.

This fact sheet has been prepared to assist in interpreting the definition and treatment of outbuildings in planning instruments, particularly in the implementation of *State Planning Policy 7.3: Residential Design Codes Volume 1* (R-Codes) and the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations).

What is an outbuilding?

An outbuilding is defined by the R-Codes as “an enclosed non-habitable structure that is detached from any dwelling.” Based on this definition, an outbuilding requires a dwelling.

Outbuildings are also known as sheds, barns and workshops, with varying design, size and construction materials. They may be pre-constructed, transported to and then placed on land, and are capable of being adapted for various uses. For clarity purposes, this fact sheet refers to outbuildings where the R-Codes apply, and sheds in other circumstances.

Outbuildings / sheds are not always associated with residential development, and may be considered works associated with other land uses e.g. a light industry with a shed for storage and repairs. However, a shed with no dwelling and no other associated land use would be best described as ‘warehouse / storage’, as defined in the Regulations.

Do outbuildings require development approval?

In a residential setting, outbuildings are assessed against the R-Codes and local planning scheme. The R-Codes are applied in local planning schemes as if they were part of the scheme, and principally apply to residential zoned land. R-Code requirements and outbuilding standards may be applied to other zones if prescribed by the local planning scheme. Local planning policies can also provide exemptions from development approval, and be used to vary the R-Codes.

Exemption for requiring development approval under the deemed provisions

Under clause 61 of the deemed provisions of the Regulations, the erection or extension of an outbuilding is exempt from development approval where:

- the R-Codes apply, and the outbuilding satisfies the deemed-to-comply requirements
- the outbuilding is on the same lot as a single house or a grouped dwelling
- the outbuilding is not located in a place that is the subject of an order, a heritage agreement, or in the Register of Heritage Places under the *Heritage Act 2018*, or in a heritage area or on a heritage list under a local planning scheme
- the outbuilding is not located within a special control area or a bushfire prone area as designated by the Fire and Emergency Services Commissioner under the *Fire and Emergency Services Act 1998* (as amended), for which development approval may be required.

Clause 5.4.3 of the R-Codes sets out the outbuildings design principle and deemed-to-comply requirements. This is to protect the streetscape and visual amenity by requiring outbuildings to have a relatively small floor area, be low in height, and located away from view.

The deemed-to-comply requirements are satisfied if the outbuilding is – (1) not attached to a dwelling (2) non-habitable (3) maximum area 60m² (aggregate) or 10% of site (whichever is less) (4) maximum wall height of 2.4m (5) maximum ridge height of 4.2m (6) located behind street front setback (7) private open space requirements are met and (8) boundary setbacks achieved.

Other exemptions from development approval

A local government may add supplemental provisions to its scheme to set out exemptions from requiring development approval. This is typical for sheds in rural and rural residential areas. A local planning policy (LPP) can also provide exemptions and set out parameters in more detail.

Situations where a development approval is required

Where the R-Codes apply, development approval for outbuildings is required when:

1. there are no specific exemptions from development approval in the local planning scheme or a LPP
2. the deemed-to-comply requirements are not satisfied.

The proposed outbuilding would be assessed against the outbuildings design principle in the R-Codes - *"Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties."*

Where the R-Codes don't apply, development approval for a shed is required when:

1. there are no specific exemptions from development approval in the local planning scheme or a LPP
2. the shed is not associated with a dwelling.

Purpose of outbuilding

A shed structure is not an outbuilding if it is proposed on a lot without a dwelling. A land use must then be identified in the proposal consistent with the purpose of the proposed structure.

The 'warehouse / storage' use is the most suitable if the shed is not associated with a land use such as agriculture or light industry. Outbuildings and sheds are not land uses in themselves, therefore a land use needs to be established to determine whether it is permissible under the local planning scheme. For example, if a property has an approved or permitted use, the proposed shed may be applied for to store materials, equipment, plant associated with that use.

Where outbuildings are proposed to be separated from a dwelling by way of subdivision, there will often be a condition to demolish the separated outbuilding.

Without a dwelling, a shed by itself takes on a warehouse / storage land use, which is not usually permitted in a residential zone.

Scheme provisions for outbuildings / sheds

The deemed provisions, R-Codes and LPP are the primary instruments used to regulate outbuildings and sheds. Provisions may be inserted that provide guidance for non-residential zones if development control and/or exemptions are required. Provisions could address matters such as location, size, design, materials, appearance, and/or amenity considerations.

When WAPC approval is required to vary the R-Codes in a LPP

LPPs are the most flexible instrument to govern the development of outbuildings / sheds. Clause 7.3.2 of the R-Codes also allows a local government (with approval of the Western Australian Planning Commission) to vary the deemed-to-comply requirements for outbuildings through a LPP.

A LPP can vary the R-Codes outbuildings deemed-to-comply requirements other than requirements 1 and 2 (that it's not habitable and is associated with a dwelling), which is reflected in the outbuilding definition.

When requesting WAPC approval for variations to the R-Codes in a LPP, the proposal needs to: outline the need for the variation specific to that locality or region; be consistent with the objectives and design principles; and, be capable of implementation as part of the ongoing building approval process.

Reasons to vary the R-Codes may include: the needs of a locality or region; expectations and needs of residents; climate; lifestyle; desired built form; and, to provide for orderly and proper planning outcomes.

Variations may provide more flexibility, or set more stringent requirements. For example, an outbuilding's maximum wall height requirement may be impractical for items proposed to be stored and a variation could provide for a greater height.

When WAPC approval is not required

LPPs that provide development exemptions or guidance in other zones, and/or addresses visual impact/amenity do not require WAPC approval. For example, visual impacts could be avoided or managed by directly locating behind a dwelling; taking advantage of landform; requiring design, scale, construction materials and finishes to be sympathetic to the built or landscape character; providing for screening materials including existing or planted trees and vegetation.

Local governments could have a LPP that deals with outbuildings. The WAPC only determines the parts of a LPP that sets variations to the R-Codes, leaving flexibility for the local government elsewhere in the LPP.

Temporary habitation of outbuildings

A shed cannot be characterised as an outbuilding if there is no association with a habitable dwelling on the same lot.

However, an outbuilding may be part of a development proposal that includes a dwelling, with the outbuilding intended to be constructed first, to store the materials/equipment for the dwelling construction. As there is a risk that the outbuilding may be constructed and used without a dwelling, conditions of development approval may be required to control the timing of construction to ensure that the outbuilding is developed in association with the dwelling and not before.

While some local governments have allowed people to live in sheds while dwellings are constructed, this is a breach of building legislation unless they have been converted to a habitable standard (class 1), as sheds are classified as class 10 structures, which are non-habitable.

Regulation 11(2)(c) of the *Caravan Parks and Camping Grounds Regulations 1997* provides for occupation of one caravan on site for up to year, which may be considered in conjunction with a development application. Such use may be linked to conditions such as; having a building permit for the dwelling; a statutory declaration acknowledging that use of the caravan is temporary; ensuring there is suitable provision made for water supply and effluent disposal; and the caravan being located within an outbuilding.

Temporary uses are also considered under section 61 of the deemed provisions, which could also be used for a caravan.

Are shipping containers outbuildings?

As a shipping container is a structure that is typically enclosed and not used for habitable purposes, it falls within the definition of an outbuilding. The two most common sizes of shipping containers are typically referred to as 20 and 40 footers.

Shipping containers & the R-Codes	Internal length	Internal width	Internal height	Internal floor area
20	5.9m	2.35m	2.4m	13.86m ²
40	12.03m	2.35m	2.4m	28.27m ²
R-Code deemed to comply	Silent	Silent	Wall height 2.4m	60m ² or 10% of lot

Depending on the dimensions and placement of a shipping container, it may be capable of meeting the deemed-to-comply requirements of the R-Codes. If a local government has concerns about the appearance of this kind of outbuilding or shed, the solution is to introduce scheme provisions or a LPP that deals with visual impacts including design, materials and finishes.

Where a shipping container does not meet the definition of an outbuilding under the R-Codes or an applicable LPP, it will require development approval against the most applicable land use under the local planning scheme.