SUBMISSION – CODE PHASE 2 AND 3

Thank you for the opportunity to comment on the proposed Code – Phase 2 - in relation to country SA and Phase 3 regarding Greater Adelaide.

The Australian Tiny House Association (ATHA) write this submission in relation to the whole of the Code. We note the proposed policy of the Code to apply in Phase 2 country areas is in principle the same policy as proposed for Adelaide in Phase 3.

Hence, this submission covers the Code as a whole.

ABOUT THE AUSTRALIAN TINY HOUSE ASSOCIATION

The Australian Tiny House Association (ATHA) formed in 2018 and is registered with Consumer Affairs Victoria (A0101783L). ATHA operates nationally and exists through the ongoing efforts of volunteers.

The goals of ATHA are:

- To gather and provide information regarding the building of and dwelling in tiny houses in Australia,
- To promote a healthy social and community environment conducive to tiny house building and dwelling,
- To educate and collaborate with members promoting tiny house quality and safety,
- To network with related government agencies, educational institutions, development organisations, and private industry to address these stated purposes, and
- To fund raise to support the above activities.

Volunteers of the ATHA SA Community
The ATHA community within SA is a network of individuals across the State with a shared interest in supporting South Australian’s to be housed affordably, safely and securely. Sharing ideas, opportunities, challenges and experiences is a regular part of the community dialogue.


ABOUT TINY HOUSES

A Tiny Homes on Wheels – ATHA SA Conference – November 2018

During this year, ATHA prepared a definition of Tiny Houses to provide a level of consistency in language being used. This definition is based on feedback from the ATHA General Committee, an Australian survey and international definitions and understandings. ATHA will review this definition in 12 months subject to the maturing of the tiny house sector.

The definition is “Tiny houses are moveable dwellings up to 50m2* that are suitable for residential use. Tiny houses can be largely grouped into two categories: on wheels or on skids.”

For this submission, TH (Tiny House) is used for TH generally, THOW for on tiny house on wheels or THOS for tiny house on skids.

ABOUT PLANNING SCHEMES

ATHA has recently prepared the ATHA Planning Template (Attached). This template aims to enable a level of consistency in planning schemes across Australia, acknowledging that each jurisdiction has a distinct system. With SA reforming the entire system, consideration of the national template in finalising the Code presents opportunity for SA to be on the leading edge.

We ask the Commission to review the Template in relation to the draft Code.
ATHA has commenced work reviewing the National Construction Code in relation to Tiny Houses on Wheels (THOW). ATHA accepts that tiny houses permanently attached or placed on ground are dwellings and are considered structures that need to meet the NCC.

There is uncertainty as to what the construction standard should be that a THOW should meet. ATHA holds a preliminary view that some form of variation to the NCC standards – prepared with regard to road registration standards – is needed.

Whilst there are reforms in the proposed Code that open the door for Tiny Homes – including Tiny Homes on Wheels – these reforms do not extend to the NCC.

The *Local Government Act 1999* provides head powers allowing councils to address issues of health, safety, amenity and environmental impact associated with ‘a caravan or vehicle as a place of habitation’. This Act is separate to the *Planning, Development and Infrastructure Act 2015*.

We ask the Commission to be aware of the need for reform of the NCC – prepared with regard to road registration standards - to enable THOW.

We advise that ATHA is commencing some work about possible reform of the NCC.

**PROPOSED CODE**

Noting our limited voluntary resources, we have reviewed the proposed Code in relation to the ATHA Planning Template, consulted and had discussions with ATHA SA members. These processes have informed our comments.

The map images are annotated from the online map tool. The intent is to show easily which types of Zones apply to what type of urban and regional areas.

We flag that this submission may be supplemented by a further submission as part of Phase 3 engagement closing late February 2020.
Kadina via On Line Map Viewer – Green boxes on legend are main residential zones

CBD to Peri Urban via On Line Map Viewer – Green boxes on legend are main residential zones
The following part uses a number of headings as per the DPTI Template for Submissions.
- Zones and Sub-zones

Peri Urban Zone

We note the Peri Urban Zone enables detached dwellings and workers accommodation. Both of which technically could be a tiny home on wheels. We note the reforms don’t change the position around who is a worker in relation to ability to occupy workers accommodation.

Providing the option for a detached dwelling to have associated ancillary accommodation on the same allotment in areas of primary production is a situation that is manageable in terms of impacts. Having ancillary accommodation associated with a dwelling on a farm could be used for farm workers, short term tourist accommodation, or general accommodation. Dual occupancy would manage risks around noise, amenity, risk of resident complaint contrary to primary production purpose, waste, parking and so on. It would provide increased accommodation options and potential diversification of income streams in areas of primary production.

The Peri Urban Zone proposes tourist accommodation and workers accommodation both be performance assessed subject to defined policies. An application for ancillary accommodation is performance assessed against all policies. Noting both tourist and workers forms of accommodation subject to assessment regarding defined policies, what are the actual risks associated with enabling ancillary accommodation via assessment against the same or similar defined policies?

The Peri Urban Zone should be amended to add Ancillary Accommodation within the Class of Development in Table 3 along with a list of defined policies (rather than all policies)

All Residential and Rural Type Zones

A review of the General Neighbourhood Zone identifies that ‘Residential Parks’ are Performance Assessed against all policies. It’s noted the Code nominates Retirement Facilities and Supported Accommodation as being assessed in relation to defined policies (rather than all policies). If the level of impact of a retirement village and supported accommodation can be assessed regarding a limited range of policies, it seems little justification for not extending a similar approach to ‘Residential Parks’. Likewise, ‘Caravan Parks’ should be considered for a similar adjustment.

We note one form of tiny house on wheel living is in a tiny park form. It seems reasonable to not add unnecessary barriers to this form of development in all residential zones obtaining planning consent.

We note the Residential Neighbourhood Zone does not envisage ancillary accommodation as performance assessed via limited provisions or via deemed to satisfy. Assuming this is an omission, we request ancillary accommodation be subject to DTS.

It also seems odd that Rural Living, Rural Settlement and Township Zones do not enable ancillary accommodation at least via performance assessment with limited provisions. We note that Kelley Jones observe ‘Of particular note for rural areas is the lack of any accepted development, deemed-to-satisfy and performance assessed criteria for ancillary accommodation (i.e. granny flats). Given the often-common desire for rural farming families to accommodate aging relatives on the same allotment as an existing dwelling, this omission appears to be an oversight.’ We concur.

1 Kelley Jones Making sense of the draft Planning and Design Code Part Six: Lower-Density Residential Development 27 November 2019
All residential zones add ‘Residential Park’ and ‘Caravan Park’ as subject to Performance Assessment against the same or very similar range of defined policies as Retirement Facilities and Supported Accommodation.

Ancillary accommodation be subject to DTS within the Residential Neighbourhood Zone.

Ancillary accommodation be at least via performance assessment with limited provisions in Rural Zones and Township Zones.

- Land Use Definitions

**Ancillary accommodation definition**

The proposed definition of Ancillary Accommodation ‘Means accommodation that: (a) is located on the same allotment as an existing dwelling; (b) contains no more than 1 bedroom or room or area capable of being used as a bedroom; and (c) is subordinate to and shares the same utilities of the existing dwelling.’

Kelledy Jones Lawyers have commented about ancillary accommodation and dwellings[^2]. Taking that analysis into account, we comment on as follows:

<table>
<thead>
<tr>
<th>Kelledy Jones</th>
<th>ATHA Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>This definition is welcomed as it appears to be intended to apply to granny-flats, dependent accommodation and other similar forms of development.</td>
<td>Supports proposal to enable ancillary accommodation via this definition. We note there is no size limit in the definition, noting that typical tiny houses on wheels are around 37sqm and the ATHA TH definition is up to 50sqm.</td>
</tr>
<tr>
<td>It is not clear, however, how the definition interacts with the definition of “dwelling”. Ancillary accommodation is not listed as being excluded from the definition of dwelling. Ancillary accommodation which includes a bathroom, kitchen and/or other elements of a self-contained residents can also be defined as a “dwelling”. This could cause difficulties in applying deemed-to-satisfy criteria where “ancillary accommodation” is deemed-to-satisfy but a dwelling is not. To overcome this issue, the definitions of ancillary accommodation and dwelling could be amended so that they exclude each other.</td>
<td>Support the need for legal clarity about ancillary accommodation in relation to other forms of accommodation. Including ‘dwelling’ as well as ‘workers accommodation’.</td>
</tr>
</tbody>
</table>

[^2]: LG Alert 3 October 2019
Another issue for consideration is whether the 1 bedroom limit is appropriate? This limit prevents ancillary accommodation containing a guest bedroom. The intent of the limit appears to be to ensure that ancillary accommodation cannot be easily rented as a dwelling for share-house tenants or families. If the limit stays, this will not prevent studies being used for a fold-out bed to accommodate guests. If however, the limit is considered unreasonable, an alternative could be a requirement that any second bedroom is kept to a certain floor area (so as to ensure it is a small bedroom only).

The proposed definition is ‘...no more than 1 bedroom or room or area capable of being used as a bedroom.’.

Most tiny homes including on wheels have a space capable of being used with a bed, but whether a ‘room’ is another matter. Likewise, most tiny homes main space is adaptable to also be slept in. Such main spaces are created to be adaptable, and innovative. ATHA would not want a definition to inhibit this innovation.

ATHA notes ‘mezzanine’ is proposed to be defined as ‘Means an intermediate floor within a building between building levels that is open to the floor below and does not extend over the whole floor space.’

ATHA requests that the definition be reviewed to not rule out the adaptable design approach of multiple use of spaces/rooms, as well as use of spaces that are similar to mezzanines, characteristic of tiny homes on wheels.

ATHA requests that a Practice Direction specifically cover the ‘bedroom or room or area capable of being used as a bedroom’ topic in order to avoid different interpretations in practice, such as between councils or planners.

We note the lack of specificity in the proposed definition ‘shares the same utilities of the existing dwelling’

Tiny homes on wheels may ‘share’ the same utilities of the existing dwelling, but the degree of sharing will be the question. At one end, a THOW may literally connect electricity, gas, water and sewer into the same services of the primary dwelling.

However, there will be degrees by which THOW ‘share’. An aspiration of many THOW owners is to be self-sufficient and ‘off grid’ which means the sharing with a primary dwelling may be say a weekly emptying of a compost toilet, a weekly emptying of bins, a connect via extension cord into ‘mains’ on cloudy days or at times when THOW has high power demand. Is this ‘sharing’ sufficient for a THOW to meet the definition of ‘ancillary’?

Many of these aspirations lead to sustainability outcomes that align with high level goals of the State Planning Policies.
The definition of sharing be legally reviewed to be as flexible as possible.
Guidelines, such as a Practice Direction, be developed in consultation with ATHA around acceptable methods or techniques that constitute ‘sharing’.

Residential park definition

The Code defines Residential Park ‘Means a residential park operating under the regulatory framework of the Residential Parks Act 2007.’ It excludes caravan or tourist park.

The Residential Parks Act 2007 defines ‘residential park means an area of land used or intended to be used in either or both of the following ways:

(a) as a complex of sites of dwellings in respect of which rights of occupancy are conferred under various residential park tenancy agreements, together with common area bathroom, toilet and laundry facilities and other common areas;

(b) as a complex of sites in respect of which rights of occupancy are conferred under various residential park site agreements, together with common areas (which may, but need not, include bathroom, toilet and laundry facilities);’

Noting that the ATHA Planning Template envisages a park has three or more tiny houses, THOWs in the form of a tiny village meet the intent of a ‘Residential Park’.

We request that the definition be reviewed to ensure tiny houses on wheels in a tiny village form are able to fit within the Residential Park definition.

Caravan and tourist park definition

The Code defines Caravan and tourist park ‘Means land used to provide short-term accommodation in caravans, recreational vehicles (RVs) cabins, tents and other similar demountable forms of shelter in a managed setting.’. It excludes Residential Park.

The ATHA Planning Template envisages a park has three or more TH. It should be possible that THOW in the form of a tiny park for short term use meet the intent of a ‘Caravan and Tourist Park’.

We request that the definition be reviewed to ensure tiny houses on wheels in a tiny village form are able to fit within the Caravan and Tourist Park definition.

Workers Accommodation Definition

The Code defines Workers accommodation ‘Means premises used to accommodate workers on a temporary basis while they carry out employment:

(a) on the same site as the workers’ accommodation;

(b) in mining or petroleum extraction;

(c) in seasonally intensive rural activities such as fruit picking, pruning, animal shearing, meat processing or similar; or
(d) in road and/or railway infrastructure construction.’ It includes Mining camp; Road workers camp; Shearing quarters; Railway workers camp; but excludes tourist accommodation.

We note this definition envisages workers accommodation associated with road and/or railway infrastructure construction. This definition should be updated to other forms of infrastructure construction, for example, energy infrastructure

Amend workers accommodation definition to read (d) in infrastructure construction.

Tourist Accommodation, Transportable Dwellings and Cabins

This Zone has ‘PO 1.1 The provision of tourist accommodation in non-permanent structures largely in the form of caravan and camping sites, cabins and transportable dwellings, complemented by permanent buildings for tourist accommodation in appropriate locations and a range of associated facilities to enhance experiences for travellers.’

The Code defines ‘Tourist accommodation’ ‘Means premises in which temporary or short-term accommodation is provided to travellers on a commercial basis.’. Theoretically, a THOW could be tourist accommodation, with examples existing in SA.

‘Transportable dwelling’ and ‘Cabin’ mentioned in this Zone are not defined.

Use of terms ‘transportable dwelling’ ‘cabin’ ‘caravan’ should be reviewed within the Code. The goal should be to provide policy clarity through careful drafting. There are degrees of temporary and permanency and terminology should be reviewed.

- Administrative Definitions

(refer Mezzanine comment under ancillary accommodation)

Design in Rural Areas General Policy and Design in Urban Areas General Policy

These policies apply for Ancillary Accommodation in the various Zones where such accommodation is envisaged subject to these ‘Deemed to Satisfy’ provisions.

<table>
<thead>
<tr>
<th>Code Auxiliary Development</th>
<th>ATHA Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>PO 16.1 Residential ancillary buildings and structures sited and designed to not detract from the streetscape or appearance of buildings on the site or neighbouring properties.</td>
<td>Consistent with ATHA Planning Template</td>
</tr>
</tbody>
</table>

DTS / DPF 16.1 Residential ancillary buildings and structures:
(a) are not being constructed, added to or altered so that any part is situated:
   i. in front of any part of the building line of the dwelling to which it is ancillary; or
   ii. within 900mm of a boundary of the

Consistent with ATHA Planning Template
<table>
<thead>
<tr>
<th>Condition</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>allotment with a secondary street (if the land has boundaries on two or more roads);</td>
<td>THOW are not garages or carports</td>
</tr>
<tr>
<td>(b) in the case of a garage or carport, the garage or carport is setback at least 5.5m from the boundary of the primary street;</td>
<td>Not inconsistent with ATHA Planning Template</td>
</tr>
<tr>
<td>(c) not exceeding 7m or 50% of the site frontage (whichever is the lesser) when facing a primary street or secondary street;</td>
<td>THOW are invariably not located or built as such literally on a boundary.</td>
</tr>
<tr>
<td>(d) if situated on a boundary (not being a boundary with a primary street or secondary street), a length not exceeding 10m unless: i. a longer wall or structure exists on the adjacent site and is situated on the same allotment boundary; and ii. the proposed wall or structure will be built along the same length of boundary as the existing adjacent wall or structure to the same or lesser extent;</td>
<td>THOW are invariably not located or built as such literally on a boundary.</td>
</tr>
<tr>
<td>(e) if situated on a boundary of the allotment (not being a boundary with a primary street or secondary street), all walls or structures on the boundary not exceeding 45% of the length of that boundary;</td>
<td>THOW are invariably not located or built as such literally on a boundary.</td>
</tr>
<tr>
<td>(f) will not be located within 3m of any other wall along the same boundary unless on an adjacent site on that boundary there is an existing wall of a building that would be adjacent to or abut the proposed wall or structure;</td>
<td>Not inconsistent with ATHA Planning Template</td>
</tr>
<tr>
<td>(g) have a wall height or post height not exceeding 3m above natural ground level;</td>
<td>(g) appears to apply irrespective of whether the 3m high wall is on the boundary, 0.9m from the boundary (the NCC distance), 2m from the boundary or 20m from the boundary. A common approach for THOW to meet road regulation standards is to build a THOW – including roof – to a maximum height of 4.3m. It could be envisaged that the wall height could be 3m or higher.</td>
</tr>
<tr>
<td>(g) be amended to apply 3m wall height on the boundary, 3.5m wall height a distance of 1m from the boundary and 4m wall height a distance of 2m from the boundary</td>
<td></td>
</tr>
<tr>
<td>(h) have a roof height where no part of the roof</td>
<td>Not inconsistent with ATHA Planning Template.</td>
</tr>
</tbody>
</table>
is more than 5m above the natural ground level; and

(i) if clad in sheet metal, is pre-colour treated or painted in a non-reflective colour.

<table>
<thead>
<tr>
<th>PO 16.2 Ancillary buildings and structures do not impede on-site functional requirements such as private open space provision, car parking requirements or result in over-development of the site.</th>
<th>Not inconsistent with ATHA Planning Template.</th>
</tr>
</thead>
<tbody>
<tr>
<td>DTS / DPF 16.2 Ancillary buildings and structures do not result in: (a) less private open space than specified in Design in Urban Areas Table 1 – Outdoor Open Space; (b) less on-site car parking than specified in Transport, Access and Parking Table 1 - Off-street Car Parking Requirements; and (c) the total roofed floor area of all existing or proposed ancillary building(s) or structure(s) exceeding 60m²</td>
<td>Not inconsistent with ATHA Planning Template.</td>
</tr>
</tbody>
</table>

Note the average size of a THOW is 37m² and ATHA’s definition of THOW is around 50m².

The question arises – which is not only associated with THOW – is what structures constitute ancillary buildings. Is a garage under the main roof ‘ancillary’? Is a pergola or carport attached to the ‘main dwelling’ ancillary? Clarity – perhaps through a practice direction – is requested about this. It is important that the intent to enable ancillary structures – including TH, THOW or THOS, up to about 60m² is not inadvertently thwarted.

**Transport, Access and Parking Overlay**

Table 1 – General Off-Street Car Parking Requirements proposes no additional parking as being necessary when ancillary accommodation provided. This is presumably on the basis of each site sharing parking.

We note this should in most situations be appropriate and enable parking and potentially vehicles to be shared.

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3 Tiny House Planning Resource ESC Consulting 2017
Tiny Homes on Wheels Not Losing Approval Status when Move and then Return

The ATHA Planning Template envisages ‘Should development approval be granted for a single tiny house, which then moves away from the property, then moves back to the same location, the development approval is still valid.’

We note existing use rights apply for approximately two years after a use has ceased.

We request that this matter in respect to tiny homes on wheels be commented on as specifically applying to THOW within a practice direction.

DNA Test

The DNA test is a way of referring to a past and probably current practice by some planning authorities to condition the use of a dwelling to be by ‘family’ members. This raises the question as to who is ‘family’ and whether, for example, this extends to 3rd cousins, twice removed.

The ATHA Planning Template does not envisage the ‘DNA’ test being part of the basis for approving a tiny home. We support such a test not being part of the Code.

ATHA requests that a Practice Direction about the intent of ancillary accommodation specifically speak against the DNA test.

PLANNING INFORMATION

We take this opportunity to advise that a range of information is available for planners seeking more information about tiny houses. Alongside the 2019 ATHA Planning Template (attached separately), the Tiny House Planning Resource is a key resource, being commended by the Planning Institute of Australia (Queensland) in 2018.

SUMMARY

In summary, the Australian Tiny House Association requests:

1. The Commission review the attached ATHA Planning Template in relation to the draft Code.
2. The Commission be aware of:
   a. the need for reform of the NCC – prepared with regard to road registration standards - to enable THOW.
   b. that ATHA is commencing some work about possible reform of the NCC.
3. The Peri Urban Zone be amended to add Ancillary Accommodation within the Class of Development in Table 3 along with a list of defined policies (rather than all policies).
4. All residential zones add ‘Residential Park’ and ‘Caravan Park’ as subject to Performance Assessment against the same or very similar range of defined policies as Retirement Facilities and Supported Accommodation.
5. Ancillary accommodation be subject to DTS within the Residential Neighbourhood Zone. Ancillary accommodation be at least via performance assessment with limited provisions in Rural Zones and Township Zones.
6. The creation of ‘Ancillary accommodation’ definition within the SA Planning System continue, subject to refinement based on these comments:
   a. Definition be reviewed to:
      i. Enable the adaptable design approach of multiple use of spaces/rooms, as well as use of spaces that are similar to mezzanines, characteristic of tiny homes on wheels,
      ii. Have legal clarity in relation to other forms of accommodation, including ‘dwelling’ as well as ‘workers accommodation’,
   b. Be accompanied by Guidelines, such as a Practice Direction, prepared in consultation with ATHA around:
      i. the ‘bedroom or room or area capable of being used as a bedroom’ topic in order to avoid different interpretations in practice, such as between councils or planners.
      ii. acceptable methods or techniques that constitute ‘sharing’ in relation to the proposed Ancillary Accommodation definition including “… shares the same utilities of the existing dwelling”.
7. The Residential park definition be reviewed to ensure tiny houses on wheels in a tiny village form are able to fit within the Residential Park definition.
8. The Caravan and tourist park definition be reviewed to ensure tiny houses on wheels in a tiny village form are able to fit within the Caravan and Tourist Park definition.
9. The Workers accommodation definition be widened to apply to a broad range of infrastructure via being amended to read (d) in infrastructure construction.
10. The Code be reviewed regarding use of terms ‘transportable dwelling’ ‘cabin’ ‘caravan’. The goal should be to provide policy clarity through careful drafting. There are degrees of temporary and permanency and terminology should be reviewed.
11. The Design in Rural Areas General Policy and Design in Urban Areas General Policy regarding ancillary development be reviewed about:
   a. wall heights located a distance between the boundary and approximately 2 metres from the boundary. It is noted whilst most THOW won’t site on a boundary, given road registration enables up to 4.3m height, THOW walls could be envisaged to be 3m or higher.
   b. What range of structures are considered ‘ancillary’.
12. Tiny Homes on Wheels not lose Approval Status when moved and then returned, and that this be commented on as specifically applying to THOW within a Practice Direction.
13. A Practice Direction about the intent of ancillary accommodation specifically speak against the DNA test.

CONCLUSION

In conclusion, ATHA considers tiny houses have a role in SA’s housing future. And that role should be considered as well around their potential to grow SA’s small business sector.

Please consider and respond to our requests so together we can ensure the clear consistent application of the code by councils and thus provide the security and assurances businesses and would be Tiny House dwellers require to financially invest in this unique housing product.

We advise we are prepared to speak to our submission and would value the opportunity for dialogue with the Commission or the Department. If you have any questions, please contact us via admin@australiantinyhouseassociation.org.au

Peter Willems  SA Lead, Australian Tiny House Association

David Bailey  FPIA, Volunteer, Australian Tiny House Association

Attached Separately - ATHA Planning Template

Attachment A – Tiny House Code Analysis Table
<table>
<thead>
<tr>
<th>Type of Tiny Houses</th>
<th>Tiny House as Detached Dwelling</th>
<th>Tiny House as Ancillary Accommodation</th>
<th>Tiny House Village</th>
<th>Tiny House Park</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>e.g. as a dwelling on its own site</td>
<td>e.g. backyard lease, accessory dwelling, granny flat</td>
<td>Many tiny houses sharing one Lot. 'Land lease' is one model</td>
<td>Akin to Caravan Park</td>
</tr>
<tr>
<td></td>
<td>Image - four tiny houses, each on own site</td>
<td></td>
<td>Image – five tiny houses sharing one site</td>
<td>Image – eight tiny houses in a caravan park</td>
</tr>
</tbody>
</table>

**SA Planning System Definition**

- 'detached dwelling'
- New 'ancillary accommodation'
- Probably group dwellings or a residential park, or if for aged care, as aged care
- As a caravan or tourist park

**Comment**

- Could be a THOW or a THOS
- Could be a THOW or a THOS
- Could be a THOW or a THOS
- Could be a THOW or a THOS

**General Neighbourhood Zone**

- Approval via Deemed to Satisfy.
- Approval via Deemed to Satisfy
- Design in Urban Areas DTS 16.1 and 16.2
- If located on the site of a heritage place, in an area identified in the Code as heritage, bushfire, flood risk, aircraft noise, near airport, river murray, wetlands, coastal, then not DTS, rather 'performance assessed'
<table>
<thead>
<tr>
<th>Neighbourhood Zone</th>
<th>Planning Template</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peri Urban Zone</td>
<td>ATHA Planning Template</td>
<td>Zone consistent with above 450m² in template. Potentially allows as DTS or Performance Assessed on lots &lt;450m². Allows 3 TH on one lot above 450 m², at a max density of 1 TH per 100m². 70% open space 1 visitor space /2 TH dwgs</td>
</tr>
<tr>
<td>Residential Neighbourhood</td>
<td>Housing Diversity Neighbourhood Zone</td>
<td>Approval via Deemed to Satisfy</td>
</tr>
<tr>
<td>Suburban Greenfield Neighbourhood</td>
<td>Suburban Masterplanned Neighbourhood</td>
<td>Approval as Workers Accommodation</td>
</tr>
<tr>
<td>Suburban Neighbourhood</td>
<td>Caravan and Tourist Park Zone</td>
<td>Performance Assessed</td>
</tr>
</tbody>
</table>
Tiny House Local Planning Policy Template

Background

<table>
<thead>
<tr>
<th>Last Updated</th>
<th>Document Version</th>
</tr>
</thead>
<tbody>
<tr>
<td>November 2019</td>
<td>V1.3</td>
</tr>
</tbody>
</table>

This is a local planning policy template document produced by the Australian Tiny House Association Planning Working Group.

Each local government area will have different opportunities and constraints, and this template can be used to add your own unique local ‘flavour’ while retaining consistency regarding the Australia-wide assessment of these unique dwellings.

**What is the Australian Tiny House Association?**
The Australian Tiny House Association (ATHA) was founded in 2018 and is a non-profit association advocating for the legalisation of tiny houses on wheels (THOW) all over Australia. The ATHA Planning Working Group is made up of a team of professionals with experience working within the planning or building and construction industries who have prepared this template constantly considering common local government requirements in regards to tiny houses as a relatively new housing type as well as land use.

**How do I use this template?**
This template is a guidance document only and can be provided by tiny house advocates to local government, or used by local government planning and building officers to support the legal approval of tiny houses in their local area.

All the areas highlighted yellow are references to legislation that needs to be checked against the legislation in your State or local government area. Feel free to add, remove or modify sections as needed.

If you have any questions about this policy template you are more than welcome to contact your ATHA State Lead who can provide advice or direct you to a committee member who can assist.
<table>
<thead>
<tr>
<th>Local Planning Policy</th>
<th>Relevant Delegation: Planning or Development Services</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>
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**Purpose**
This policy is to provide guidance for tiny houses on wheels (herein referred to as tiny houses), considered dwellings with a floor area of 50m² or less which are built on a wheeled trailer base and able to be transported but can remain fixed to a site for extended periods of time. This policy is proposed to:

- Identify the circumstances where a tiny house or tiny house community may be permitted
- Provide a simple framework which tiny houses can be assessed against
- Outline standard requirements for all tiny houses to comply with related regulations
- Clarify the standard of building required for tiny houses on wheels should refer to *Vehicle Standards Bulletin 1* in the absence of a classification for tiny houses in the National Construction Code.

**Application of Policy**
This policy applies to all development on land zoned and reserved under the [Local Government] Local Planning Scheme.

**Statutory Authority / Legal Status**
This Policy has been prepared under and in accordance with [Insert relevant state planning act/regulation/policy e.g. Planning and Development Act 2005 (WA), Planning and Environment Act 1987 (VIC).]

**Policy Provisions**

1. **Tiny House Definition**
A THOW is a habitable dwelling of no more than 50m² which is built on a wheeled trailer base, constructed of domestic grade materials and finishes, and is permanently habitable. A tiny house cannot (and is designed not to) be moved under its own power and is designed and built to look like conventional dwelling.

   In the context of this policy a retrofitted bus, van or truck, wagon, retrofitted sea container, caravan, tent, yurt, non-retrofitted vehicle or ‘donga’ transportable or park home, is not a tiny house.

   Please note the definition of a tiny house does not relate to permanently fixed tiny homes on foundations. A tiny sized house on fixed foundations is already permitted under the *National Building Construction Codes*.

2. **Development Approval Requirements**
A tiny house is subject to the following requirements:
a) Development Approval is required for all tiny house dwellings, except where considered compliant with all elements of this policy and the local planning scheme, and therefore exempt from development approval.

b) A tiny house on one titled lot will be considered a single house.

c) A tiny house on a lot with an existing dwelling will be considered an ancillary dwelling and is permitted on a lot greater than 450m².

d) Three or more tiny houses on one titled lot will be considered a Tiny House Community (see Part 6) and requires development approval.

e) Should development approval be granted for a single tiny house, which then moves away from the property, then moves back to the same location, the development approval is still valid.

f) Should development approval be granted for a single tiny house, which then moves away from the property and is replaced with a different tiny house, development approval may be required except where exempt as per section 3a.

3. A Single Tiny House on a Private Lot

Development approval may be granted for one tiny house on a residential or rural property provided the proposal meets the following:

   a) Complies with setbacks, height and lot coverage requirements for that zone (refer also Table 1 – Tiny House Setback Requirements).

   b) External fixtures, utilities and facilities such as aerials, satellite dishes, pipes or other external fixtures situated so they are not visually obtrusive and where possible located out of view from the primary street or any public area.

   c) Has access to at least one dedicated car-parking bay per tiny house or can demonstrate access to public transport within an 800m walking distance.

   d) Is not located within the riparian zone of a waterway, within a floodplain or in a flood prone area.

   e) Contains or is connected to an appropriate effluent disposal system, to the satisfaction of the [Local Government] Environmental Health Services.

   f) Has access to a source of electricity, which may include an off-grid solar system.

   g) Has access to potable water.

   h) Additional fixed structures such as a deck, outbuilding, carport, or patio may be permitted provided within maximum site cover and minimum open space requirements for that zone. Any additional structures should not exceed the height of
the tiny house\textsuperscript{1}.

\textit{i)} If in a bushfire prone area, the applicant is to provide a Bushfire Attack Level (BAL) assessment of the proposed tiny house site and demonstrates the design meets the applicable BAL standards as per AS3959.

\textbf{Table 1 – Tiny House Setback Requirements}

<table>
<thead>
<tr>
<th>Deemed – to - comply</th>
<th>Design Principles</th>
</tr>
</thead>
<tbody>
<tr>
<td>\textbf{Residential Zone}</td>
<td>Where a setback variation is sought the applicant must demonstrate:</td>
</tr>
<tr>
<td>Setback in accordance with [insert applicable document]</td>
<td>a) Appropriate screening shall be provided should the proposal have a reduced setback or is viewable from a public area to the satisfaction of the [Local Government].</td>
</tr>
<tr>
<td></td>
<td>b) That the proposal will not result in the removal of significant trees or stands of established vegetation.</td>
</tr>
<tr>
<td>\textbf{Rural Zone}</td>
<td>Where a setback variation is sought the applicant must demonstrate:</td>
</tr>
<tr>
<td>Compliant with setbacks in accordance with the Local Planning Scheme</td>
<td>a) The proposal does not detract from rural amenity or existing views of significance;</td>
</tr>
<tr>
<td></td>
<td>b) Where there is an existing dwelling the tiny house is located behind the building setback;</td>
</tr>
<tr>
<td></td>
<td>c) Appropriate screening shall be provided should the proposal have a reduced setback or is viewable from a public area to the satisfaction of the [Local Government].</td>
</tr>
</tbody>
</table>

\textsuperscript{1} For more information on recommended dimensions for transporting tiny house on the road, see Appendix 3 – Roadworthy Design of this policy for more information.
c) That the proposal will not result in the removal of significant trees or stands of established vegetation.

4. Tiny House Community Development

A Tiny House Community is a collection of three or more tiny house dwellings with an individual floor area of no greater than 50m² located on the same parent lot, or strata lot with shared common property. A tiny house community may be located in a residential or rural zone with consideration to the following provisions:

a) A Tiny House Community consists of three or more tiny houses parked on the same parent lot, or on a strata lot with shared common property.

b) A lot which accommodates a Tiny House Community is permitted to be on a lot size 450m² or greater, with a maximum density of one tiny house per 100m².

c) A Tiny House Community may include portable tiny house and fixed buildings, and provide shared facilities, for example:
   i. kitchen
   ii. common room or dining area
   iii. toilets or shower facilities
   iv. communal vegetable garden
   v. kitchen, barbeque or recreational and leisure areas
   vi. co-working spaces, studio, workshop or shed
   vii. managed parkland and open space
   viii. caretakers dwelling.

d) Total site cover is not to exceed minimum open space requirements as outlined in the [Insert relevant Local Planning Scheme or policy].

e) A tiny house community in a rural zone is to comply with setbacks, height and lot coverage requirements for that zone. Where there is no applicable site coverage provided a minimum of 70% open space is to be applied.

f) Where a tiny house community is located within a [e.g. landscape protection zone, significant landscape overlays] the applicant must demonstrate that amenity and views of significance are maintained.

g) All tiny house community proposals must include a Tiny House Community Management Plan outlining the following:
   i. ongoing management of communal facilities
ii. location of letterboxes, bin storage and collection areas, bike racks, lighting for communal areas, directional signage and a minimum of one 10m² storage shed per dwelling.

iii. maintenance of communal facilities (such as vehicular access ways and landscaping)

iv. noise management

v. waste management

vi. traffic management and provision of sufficient parking, and

vii. if in a bushfire prone area the provision of a bushfire management statement/plan and emergency evacuation plan.

h) Communal facilities require management by a Board or caretaker which oversees the funding, maintenance and management. The Board or caretaker also have the responsibility of maintaining the common property including vehicle accessways, parking bays, landscaping and other essential infrastructure.

i) Parking to be provided in accordance with the [Local Planning Scheme].

j) Crossovers are minimised and where vehicular access is provided the driveway is constructed and drained to the satisfaction to the [insert local government].

k) Every tiny house must have access to a suitable source of power, potable water and effluent disposal to the satisfaction of the [insert local government]. Essential utilities can be provided through shared or common property.

l) The proposal does not result in excessive clearing of vegetation and high quality landscaping is provided.

m) The applicant is required to submit an application for development approval as a ‘Use Not Listed’ which allows the City to make special provisions for a specific use or combination of uses where the provisions of the zoning table are not sufficiently sensitive or comprehensive to apply to a land use.

n) The site may contain a space where visitors can bring their own tiny house to park onsite.

5. Tiny Houses for Short Term Tourism Accommodation

Development approval for a tiny house may be granted for short term tourism accommodation and classified as a single house, ancillary dwelling, or part of a tiny house community with consideration of the following criteria:

a) Development approval may be granted for a ‘Use Not Listed – Short Term Tiny House Tourism Accommodation’.

b) Development approval for short term use may be granted for ‘Use Not Listed – Short Term Tiny House Agricultural-Tourism Seasonal Accommodation’ where, for example, a farmer may provide accommodation for workers throughout the picking season; after which they may be moved elsewhere and return the following year.

Note: any agritourism accommodation is to be complementary to existing agricultural uses and managed so as not to cause land-use conflicts with neighbouring agricultural properties. These risks are to be addressed in a Management Plan that identifies likely conflicts and recommends ongoing management solutions.

c) The site may contain a space where visitors can bring their own tiny house to park onsite.

6. Environmental Protection
As tiny houses are a ‘temporary’ structure able to be moved within 24 hours, tiny houses should not result in the clearing of native vegetation. Where vegetation removal is unavoidable the applicant shall submit a landscape plan showing where replacement vegetation is to be planted.

A tiny house proposal will not be supported where in the opinion of the local government the development would result in the removal of significant trees and vegetation, or adversely impact existing waterways, soil stability or ecosystem functions.

7. Unauthorised Parking of a Tiny House
Parking of a tiny house for permanent habitation is not permitted in the following locations:
   a) Road Verge
   b) Crown Land
   c) State or City Owned Park, Reserve or Public Open Space
   d) National Park
   e) Industrial zones (subject to council consideration)

Should the local government receive a complaint in writing regarding the unauthorised parking of a tiny house for permanent habitation without development approval the City is entitled to take compliance action. Should the unauthorised tiny house continue to be parked on the property and permanently inhabited without valid development approval these actions shall constitute contravention of the Local Planning Scheme.

8. Other Matters to be considered
   a) Impact on neighbourhood amenity
   b) Whether it meets the objectives of that zone
   c) Road Transport Authority (RTA) vehicle regulations
   d) Environmental Health regulations
   e) The National Building Construction Codes
   f) Engineering certification
g) BAL construction standard

9. Relationship to Commonwealth Legislation
This policy should be read in conjunction with:

   a) List Commonwealth legislation e.g. *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*

10. Relationship to State Legislation and Policy
This policy should be read in conjunction with:

   a) List relevant state legislation or policy

11. Relationship to Local Planning Scheme
This policy is a planning policy prepared, advertised and adopted pursuant to [Part X of Local Planning Scheme No. X]. The policy augments and is to be read in conjunction with the provisions of the [Local Government X Local Planning Scheme Part X – Local Planning Policy Framework].

12. Relationship to Local Planning Policies
This policy has due regard to, and should be read in conjunction with the [City/Shire of X] other local planning policies, in particular:

   a) List relevant Local Planning Policies

13. Relationship to other State Planning Development Control policies/regulations.
This policy has due regard to, and should be read in conjunction with State planning policies/regulations and positions statements. Of particular relevance to this policy are:

   a) List relevant State Planning Policy e.g. Government Sewerage Policy 2019

If there is a conflict between this local planning policy and the Scheme, then the policy shall prevail.

14. Relationship to Local Laws

To be read in conjunction with:

   a) List relevant Local Law

This Tiny House Planning Policy Template has been produced by the Australian Tiny House Association. Questions relating to this policy can be sent to admin@australiantinyhouseassociation.org.au

An FAQ sheet will be made available on the [www.australiantinyhouseassociation.org.au](http://www.australiantinyhouseassociation.org.au)
Appendix 1 - Definitions

Associated structures – includes any approved outbuilding, patio, pergola, carport, pool, water tank, bridge, sewer, gas, and electricity or water infrastructure.

Clearing - the removal of a significant tree or vegetation. Includes ringbarking, cutting down, topping, removal, and injuring or wilful destruction of native vegetation. It can also include keeping of horses or livestock in native vegetation without prior approval, and includes excessive or unnecessary clearing for fire mitigation.

Development – As per the [insert planning legislation] development means the development or use of any land, including —
   a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;
   b) the carrying out on the land of any excavation or other works;
   c) in the case of a place to which a Conservation Order made under section 59 of the Heritage of Western Australia Act 1990 applies, any act or thing that —
      (i) is likely to change the character of that place or the external appearance of any building; or
      (ii) would constitute an irreversible alteration of the fabric of any building.

A tiny house is considered to be a structure on the land that impacts the built form, character and amenity of an area, as well as increasing population density. Therefore development approval for a tiny house may be issued in accordance with the [insert planning legislation].

Permanently fixed – the term permanently fixed means any building or structure permanently fixated to a foundation slab or any other means of support, excluding where it is elevated on a base attached to functional wheels for transport and can be moved within 24 hours.

Permanently habitable – means permanently occupied by and owner or tenant for more than three consecutive months, which excludes short term accommodation uses for tourism purposes.

Tether – secured to the ground, permanent hardstand or purpose-built slab with stands, pegs, chains to a fixed anchor, a grounding wire, and by enclosing the exterior with a permanent skirt.

Tiny House - A THOW is a habitable dwelling of no more than 50m² which is built on a wheeled trailer base, constructed of high quality materials and finishes, and is permanently habitable. A THOW cannot (and is designed not to) be moved under its own power and is designed and built to look like conventional building structure.

In the context of this policy a retrofitted bus, van or truck, wagon, retrofitted sea container, caravan, tent, yurt, non-retrofitted vehicle or ‘donga’ transportable or park home, is not a tiny house. Please note the definition of a tiny house does not relate to permanently fixed tiny homes.
on foundations. A tiny sized house on fixed foundations is already permitted under the *National Building Construction Codes*. Any dwelling on ‘skids’ is considered a transportable home under the *National Building Construction Codes*.

**Residential lot** - a lot zoned urban under the [insert reference to State Scheme/Framework] and residential under the Local Planning Scheme.

**Rural Lot** – a lot zoned rural under the [insert reference to State Scheme/Framework].

**Short term accommodation** – accommodation used for tourism purposes occupied by a visitor up to three consecutive months within any 12 month period.
Appendix 2 – Examples of Tiny Houses

Image 1. Cottage style tiny house
Image 2. Modern style tiny house

Image 3. Wagon style tiny house
Image 4. Tiny house connected to utilities with vegetative screening

Image 5. Tiny house community – tourism accommodation with communal area
Image 6. Tiny house community - tourism accommodation
Appendix 3 - Explanatory Notes

**Water Catchment and Public Drinking Water Source Area**
A tiny house community development within a water catchment area may require dual approval from the catchment authority.

A tiny house community in a Public Drinking Water Source Area shall not be approved without the endorsement of the [insert government agency e.g. Department of Water and Environmental Regulation].

**Bushfire Prone Areas**
A tiny house community is considered a vulnerable land use and requires the preparation and continuous update of a Bushfire Management Plan and Evacuation Plan if in a Bushfire Prone Area.

**Noise**
Noise generated from the development is not to exceed reasonable levels as outlined in the [insert legislation e.g. Environmental Protection (Noise) Regulations 1997 (WA)].

**Roadworthy Design**
Applicants should refer to the technical requirements of the Vehicle Standards Bulletin 1, which can be found at: https://www.infrastructure.gov.au/vehicles/vehicle_regulation/bulletin/vsb1/vsb_01_b.aspx#anc_11

The tiny house should at minimum meet the standards outlined in Vehicle Standards - Bulletin 1.

Should the tiny house be constructed at greater dimensions than listed in the Vehicle Standards Bulletin 1 then additional road safety requirements may be compulsory, including but not limited to an oversize permit, pilot vehicle, wide load signage, lights, or limited hours of movement. For questions regarding road transport please contact the Department of Infrastructure, Transport, Cities and Regional Development.