DRAFT Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures

Why do we need a policy on sea containers?

Sea or shipping containers are increasingly seen as an alternative to constructing purpose built sheds or outbuildings on private land in residential, commercial and industrial areas of Bunbury. The draft Local Planning Policy has been prepared to provide guidance on the use of sea containers and other transportable or relocatable storage containers and structures with respect to:

- allowing unhindered use for industrial and port related activities in suitable locations where environmental and public health standards can be met;
- enabling temporary use for storage purposes in appropriate locations provided that they do not create a potential risk to public safety, detract from the streetscape, character and amenity or environmental values of the local area; and
- permitting them to be converted and used as outbuildings in residential, mixed use and commercial areas in a way that is sympathetic with dwellings.

Do I get to comment on the draft policy?

This is your opportunity to comment on the preparation of the draft Local Planning Policy, which will then be considered by Council. If you would like to make a submission, please complete the enclosed submission form and return it to the City of Bunbury or write to us by the close of business on 20 November 2015.
Is putting a sea container on my land considered to be development?

The Planning and Development Act 2005 defines the term ‘development’ as meaning 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;

This means that the placement, adaptation and use of sea containers (other than storing and using them for their intended purpose of shipping goods) is a form of development that must comply with the building standards of the Building Code of Australia (BCA).

When do I need development approval for a sea container or an outbuilding?

The development of an outbuilding, including a sea container, on a lot as part of a single house in the ‘Residential Zone’ is exempt from the need to obtain planning approval if it complies with the deemed-to-comply provisions of the Residential Design Codes (R-Codes).

The deemed-to-comply provisions of the R-Codes specify how large an outbuilding can be for it to be permitted without planning approval on residential land, which is set out in Part 5 of the R-Codes as follows:*
Where an outbuilding complies with the deemed-to-comply provisions of the R-Codes, it does not require an application for planning approval, but it will require a building permit if the structure is more than 2.4m in height or has a floor area exceeding 10m² under the Building Regulations 2012.

Under the new Planning and Development (Local Planning Schemes) Regulations 2015, outbuildings (including a sea container adapted and used as an outbuilding) will be exempt from the need to obtain planning approval for grouped dwellings as well as single houses, where they comply with the deemed-to-comply provisions of the R-Codes.

Clause 61 of the Regulations dealing with development for which development approval is not required under Schedule 2 – Deemed provisions for local planning schemes, states that:

“(1) Development approval of the local government is not required for the following works –

(d) the erection or extension of an ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house or a grouped dwelling if the R-Codes apply to the development and the development satisfies the deemed-to-comply requirements of the R-Codes...”
In the majority of circumstances, sea containers (when used as outbuildings) generally do not comply with the deemed-to-comply provisions of the R-Codes, as they typically exceed the maximum floor area (i.e. are at least 6m long by 2.4m wide). Consequently, in most cases sea containers would normally require an application for planning approval as well as a building permit.

**Figure 2: Standard dimensions for most common sized sea containers.**

<table>
<thead>
<tr>
<th>Length</th>
<th>Width</th>
<th>Height</th>
<th>Floor Area*</th>
</tr>
</thead>
<tbody>
<tr>
<td>12.19m (40ft)</td>
<td>2.44m (8ft)</td>
<td>2.59m (8ft 6 in)</td>
<td>29.74m²</td>
</tr>
<tr>
<td>6.05m (20ft)</td>
<td>2.44m (8ft)</td>
<td>2.59m (8ft 6 in)</td>
<td>14.76m²</td>
</tr>
<tr>
<td>3.10m (10ft)</td>
<td>2.44m (8ft)</td>
<td>2.59m (8ft 6 in)</td>
<td>7.56m²</td>
</tr>
</tbody>
</table>

* Measured externally, with some size variations between manufacturers and batches.

Regardless of the need for planning approval or not, the proposed Local Planning Policy will provide clear guidance for determining building permits. As such, in the absence of the need for planning approval, the implementation of the policy will largely be done through the building permit process (i.e. a certificate of design compliance is issued by a registered building surveyor for building plans, either privately or by the City of Bunbury, which is then followed by the granting of a building permit by the local government as the permit authority).

If a proposed outbuilding (including a sea container) for a single house does not satisfy the deemed-to-comply provisions of the R-Codes, then an application for planning approval will be required, which can be dealt with by the City of Bunbury as the permit authority by way of a simple ‘codes variation’ application. If a proposed outbuilding (or sea container) is for a grouped dwelling and does not satisfy the deemed-to-comply provisions of the R-Codes, then an application for planning approval is still required in addition to the building permit.

**How many sea containers can I have on my land?**

The maximum number of sea containers permitted on a lot, strata or survey strata lot is:

- One (1) sea container up to 6m long in the Residential Zone, Education Zone, Public Purposes Reserve and Parks and Recreation Reserve;
- One (1) sea container up to 12m long in the City Centre Zone, Shopping Centre Zone and Development Zone – Residential;
- Two (2) sea containers up to 12m long in the Mixed Business Zone and Rural Zone; and
- Unlimited number and size of sea containers in the Industry Zone.
Can I convert sea containers into dwellings?

Figure 3: Example of adaptive reuse of sea containers as a house.

The draft Local Planning Policy does not affect or apply to the adaptive reuse of sea containers for the purposes of a habitable building such as a dwelling.

Sea containers may be converted and adaptively reused for habitation as a dwelling or mixed use development, either permanently or for short-term accommodation, where:

- a dwelling is a permitted land use in the zone;
- it can be demonstrated that the proposal complies with the development standards and requirements for a dwelling under the Residential Design Codes (R-Codes);
- it can be demonstrated that the proposal meets the provisions of a Class 1, 2, 3 or 4 building under the Building Code of Australia (BCA); and
- it will not detrimentally impact upon the amenity of the local area in which the development is to be located.

Once a sea container has been modified to a habitable standard in accordance with a Class 1, 2, 3 or 4 building under the BCA, then it is no longer considered to be a ‘sea container’ for the purposes of the Local Planning Scheme.
Figure 4: Example of a design for the adaptive reuse of a sea container as an ancillary dwelling.

Janzen 2012

Figure 5: Example of a design for the adaptive reuse of a sea container as an ancillary dwelling.

Janzen 2012
Can I convert sea containers into other types of buildings?

Figure 6: Example of adaptive reuse of sea containers for a commercial building.

As the same as for housing, the draft Local Planning Policy does not affect or apply to the adaptive reuse of sea containers for the purposes of a commercial building such as a shop or an office for professional or commercial purposes. Sea containers can therefore also be converted and adaptively reused for occupation as a commercial or industrial development, where it can be demonstrated that the proposal:

- complies with the development standards and requirements of the Town Planning Scheme; and
- meets the provisions of a Class 5, 6, 7, 8 or 9 building under the Building Code of Australia (BCA).

As with residential dwellings, once a sea container has been adapted to an occupiable standard in accordance with a Class 5, 6, 7, 8 or 9 building under the BCA, then it is no longer considered to be a ‘sea container’ for the purposes of the Local Planning Scheme.
How does this affect my land in the Industry Zone?

Figure 7: Sea containers purpose designed for the shipping and transportation of goods in bulk.

Air Parcel Express Inc. (APX)

Under clause 8.3 of the draft Local Planning Policy sea containers (where not adapted and used as Class 7b or Class 10a buildings in accordance with the BCA) will not be permitted as permanent fixtures and used for the purposes of storage in any zone, except for the Industry Zone, or on heritage listed premises or premises located within a heritage area unless the sea container:

(a) is being temporarily used in conjunction with approved building works for the term of the building permit in accordance with clause 6.1 of this Local Planning Policy; or

(b) has temporary development approval granted in accordance with clause 72 ‘Temporary development approval’ of ‘Part 9 – Procedure for dealing with applications for development approval’ of ‘Schedule 2 — Deemed provisions for local planning schemes’ under the Planning and Development (Local Planning Schemes) Regulations 2015.”

The adaptive reuse of sea containers on land included in the ‘Industry Zone’ is therefore exempt from the need for planning approval, but may still require a building permit where they do not comply with the exemptions listed in the table in Schedule 4 under clause 2 of the Building Regulations 2012 and are not being used in accordance with clause 6.1 of the draft Local Planning Policy.
The note given under clause 8.4 of the draft Local Planning Policy seeks to further clarify this accordingly:

“Note: The number and size of sea containers and other similar transportable / relocatable storage containers or structures permitted on land in the Industry Zone or Development Zone - Industrial is not limited by this Local Planning Policy.”

When don’t I need a building permit or planning approval?

A building permit is required for any building or structure not listed in the table in Schedule 4 under clause 2 of the Building Regulations 2012, which deals with the kinds of building work for which a building permit is not required (i.e. construction, erection, assembly or placement of a freestanding Class 10a building that has a floor area exceeding 10m² or more than 2.4m in height).

Section 6 of the draft Local Planning Policy also sets out further exemptions from the need for development approval:

“6.1 … sea containers and other similar transportable / relocatable storage containers or structures may be temporarily located on a lot, strata or survey strata lot without the prior development approval of the local government where:

(a) fully enclosed within a building and entirely screened from view from any residential premise, public street or public open space; or

(b) the loading or unloading of a sea container is for the purposes of shipping, provided that the container does not remain on site for longer than 14 days and is not located within the road reserve; or

(c) the storage of sea containers (empty or full) is in conjunction with the operation of an approved transport depot, port facility or port related activity; or

(d) a current building permit has been issued and the sea container is solely used for the storage of building materials, plant, machinery or equipment in conjunction with the approved building works;”
Figure 8: Example of adaptive reuse of sea containers for a commercial building.

Dock to Home 2014

Do I need an occupancy permit for a sea container?

Regulation 43 of the Building Regulations 2012 states that an occupancy permit is not required for any of the following:

- a Class 1 or Class 10 building, including a sea container adapted and used as a dwelling or outbuilding building, under the Building Code of Australia (BCA);
- building work for which a building permit is not required;
- a temporary office, shed or sanitary facility used by a builder in connection with building work carried out on the land on which the office, shed or sanitary facility is located.

Will I need a demolition permit to remove a sea container from my land?

Regulation 42 of the Building Regulations 2012 states that a demolition permit is not required for the demolition of a Class 10 building or incidental structure, including a sea container adapted and used as an outbuilding, if:

- the floor area of the building does not exceed 40 m²; and
- the demolition work will not adversely affect the safety and health of the occupants or other users of the building or incidental structure or of the public.
However, a demolition permit is required at the end of the use or life of a sea container that has been modified for adaptive reuse as a Class 1 to 9 building (i.e. a dwelling or commercial building) where this involves demolition work on site – otherwise it could reasonably be regarded as being removable, with the requirement to reinstate the surface of the site to its former condition with a suitable landscaping treatment.

How will the local government enforce the policy?

A sea container requires a building permit when it does not comply with the exemptions given under the Building Regulations 2012 and requires planning approval when it does not comply with the deemed-to-comply provisions of the Residential Design Codes (R-Codes), as outlined above. The relevant provisions of clause 8.4 of the draft Local Planning Policy sets out the guidelines that must be given due regard when preparing or determining an application for a building permit and/or an application for planning approval. However, implementation of the draft Local Planning Policy if adopted by Council will not be retrospective.

References:


What is the process for making an application for the adaptive reuse of a sea container as an outbuilding?

The following simple process summarises the steps that apply to proposals to adaptively reuse a sea container as an outbuilding (i.e. Class 7b or Class 10a buildings) where it complies with both the Residential Design Codes (R-Codes) deemed-to-comply requirements and the standards of the Building Code of Australia (BCA).

Key documents used for the design and assessment of sea container proposals include the following:
- Building Code of Australia (BCA)
- Residential Design Codes (R-Codes)
- Local Planning Policy: Minor Structures (including Outbuildings)
- DRAFT Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures.

![Flowchart diagram showing the process for making an application for the adaptive reuse of a sea container as an outbuilding.](image-url)
The following process summarises the steps that apply to proposals that comply with the standards of the Building Code of Australia (BCA), but may necessitate minor variations to some of the Residential Design Codes (R-Codes) deemed-to-comply requirements (e.g. for an outbuilding with reduced setbacks as part of a single house).

Key documents used for the design and assessment of sea container proposals include the following:
- Building Code of Australia (BCA)
- Residential Design Codes (R-Codes)
- Local Planning Policy: Minor Structures (including Outbuildings)
- DRAFT Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures.

1. **Application for Building Permit**
   - Emailed or lodged with City of Bunbury for pre-lodgement advice / validation of application / payment of fee

2. **Planning & Building Administrative Technical Officer**
   - May need neighbour consultation

3. **Assessment of Building Plan**
   - If development complies with BCA standards
     - Certificate of Design Compliance Issued by Permit Authority
   - If only minor variations are proposed to the R-Codes deemed-to-comply requirements
     - Planning Approval (Codes Variation) granted
     - Building Permit granted
The following process summarises the steps that apply to proposals that comply with the standards of the Building Code of Australia (BCA), but does necessitate significant variations to the Residential Design Codes (R-Codes) deemed-to-comply requirements.

**Key documents used for the design and assessment of sea container proposals include the following:**
- Building Code of Australia (BCA)
- Residential Design Codes (R-Codes)
- Local Planning Scheme
- Local Planning Policy: Minor Structures (including Outbuildings)
- DRAFT Local Planning Policy: Sea Containers and Transportable or Relocatable Storage Containers and Structures.

**Steps:**
1. **Application for Planning Approval**
2. **Application for Building Permit**
3. **Certificate of Design Compliance**
   - Issued by private Building Surveyor
4. **Planning & Building Administrative Technical Officer**
   - Emailed or lodged with City of Bunbury for pre-lodgement advice / validation of application / payment of fee
5. **Assessment of Planning Application**
6. **Assessment of Building Plan**
7. **If development complies with BCA standards**
8. **May need Council approval**
9. **Neighbour consultation and/or public advertising**
10. **If proposed alternative solutions of the development demonstrates compliance with the R-Codes design principles**
11. **Certificate of Design Compliance**
    - Issued by Permit Authority
12. **Building Permit granted**
13. **Planning Approval granted**