FACT SHEET

Establishment or Occupation of Temporary Accommodation

Council's *Subordinate Local Law No. 1, Schedule 9A*, provides for owners or occupiers of an existing dwelling located on private property to allow family or friends to occupy temporary accommodation on the property for up to six months in a twelve-month period, under certain conditions. Under the authorising Local Law, **temporary accommodation** is defined as a caravan and excludes other structures such as tents and tiny homes.

How does the Local Law affect you?

An owner or occupier allowing family or friends to stay in temporary accommodation on their property for up to six months in a twelve-month period, without rental payment, is a type of prescribed activity that requires an approval issued by Council under the Local Law. The activity is subject to conditions, as follows:

General

- The owner or occupier of the property must notify council within 7 days of the commencement of the temporary accommodation activity via completion of the prescribed form and certify that they will comply with the relevant conditions.
- There must be a permanent residence on the property that is and remains occupied whilst the temporary accommodation is being resided in on the property and the temporary accommodation must have adequate means of waste disposal and sanitation.

Position of caravan or recreational vehicle

- The temporary accommodation must be situated on the property in accordance with property boundary setback requirements outlined in Council's Planning Scheme.
- The temporary accommodation must not be fixed to the premises or any existing structure on the property and must not be designed for permanent attachment to the premises.

Sanitary and laundry facilities

- The occupants of temporary accommodation must have access to sanitary and laundry facilities and potable water from the permanent residence located on the property.
- No waste material, including grey water, can be deposited on site during occupation, or left on site after departure.
- If the temporary accommodation is fitted with sanitary or laundry facilities, all waste from these must be contained within the temporary accommodation structure and regularly collected for appropriate disposal.

Temporary Accommodation attributes

- The temporary accommodation must be fitted with wheels and be maintained in good working order and repair.
- The temporary accommodation must be maintained in a clean, tidy, sanitary, and hygienic condition.
- The temporary accommodation must be used as a place of temporary residence by no more than the number of persons it is designed to accommodate.
- A tent or tiny home is not considered temporary accommodation.

How does this interact with other laws and requirements?

Occupiers of temporary accommodation under this provision of the Subordinate Local Law must abide by the same laws relating to noise and amenity as other residents.

It remains the obligation of the property owner or occupier to ensure they meet all legislative and statutory requirements, such as the *Residential Tenancies and Rooming Accommodation Act 2008*.

Additionally, the Queensland Fire and Emergency Service recommends that temporary accommodation is fitted with photoelectric smoke alarms. Further information can be found at www.qfes.qld.gov.au – 'Caravan Fire Safety'.

What must be provided to Council

An application for approval must be accompanied by:

(a) a site plan illustrating:
    a. the location of the temporary accommodation;
    b. the location of the other buildings on the site; and
    c. the location of neighbouring buildings;
(b) if the applicant is not the owner - the written consent of the property owner;
(c) the details of the relationship between the applicant and property owner;
(d) the details of the proposed period of stay;
(e) the reasoning for use of the temporary accommodation;

(f) confirmation that there is no commercial arrangement, or other consideration (rent), that passes between the applicant and the property owner in exchange for use by the applicant of the temporary accommodation;
(g) details of the type of caravan proposed to be used for the temporary accommodation and the condition of the temporary accommodation;
(h) details of the number of persons to be accommodated in the temporary accommodation;
(i) the proposed floor plan of the temporary accommodation, including details of the proposed fit out of the kitchen, bathroom, toilet, and laundry;
(j) intended method of water supply for the temporary accommodation; and
(k) intended method of disposal of waste material, including blackwater and greywater generated from the use of the temporary accommodation.

Additional criteria for the granting of approval

For all approvals, the additional criteria are that:

(a) an existing dwelling house is situated on the property and will remain on the property whilst the use of the temporary accommodation is undertaken;

(b) where necessary, adequate screening of the temporary accommodation will be implemented to ensure reduced impact on visual amenity;

(c) an adequate source of water will be available to the temporary accommodation;

(d) adequate means of waste disposal and sanitation will exist to ensure that reasonable standards of health and hygiene can be maintained;

(e) the proposed temporary accommodation has a toilet, shower, laundry tub, kitchen sink and hand basin;

(f) the temporary accommodation will be suitable for occupation on a temporary basis;

(g) separation and set back distances between the proposed placement of the temporary accommodation and property boundaries will comply with the local government's planning scheme;

(h) the applicant is able to demonstrate current hardship that requires the use of the temporary accommodation as a place of residence on private property;
Example for subparagraph (h)
The applicant does not own a home or hold a lease for a residential premises in which they can reside.
(i) the applicant is able to demonstrate that they are either a family member or close friend of the owner of the property on which the temporary accommodation is required; and
(j) the temporary accommodation will not detrimentally affect the amenity of neighbouring properties or create an unreasonable nuisance in the opinion of an authorised person.

Conditions that must be imposed on approvals

The conditions that must be imposed on approvals are that the approval holder must—

(a) ensure that the existing dwelling house situated on the property will remain on the property during the term of the approval;
(b) ensure that the sanitary and laundry facilities are only used in the existing dwelling or in the temporary accommodation;
(c) not dispose of, and ensure that no other person disposes of, any blackwater and/or greywater from the use of the temporary accommodation on the ground or in any other way, other than as lawfully permitted for the disposal of such blackwater or greywater;
(d) ensure that the temporary accommodation remains moveable at all times and must not be permanently affixed to the ground or other structure;
Example:
The wheels of the caravan must not be removed, so that the caravan can be removed when required.
(e) ensure that the condition of the temporary accommodation is appropriately maintained to prevent deterioration and keep it in good order and repair;
(f) ensure that the temporary accommodation is not, and does not become, unsightly or unhygienic;
(g) ensure that the separation and set back distances between the approved placement of the temporary accommodation and property boundaries is maintained as specified in the approval;
(h) ensure that there is no commercial arrangement, or consideration, which passes between the applicant and the property owner for the applicant to use the temporary accommodation;
(i) provide all evidence reasonably requested by an authorised person to enable the authorised person to be satisfied that there is no commercial arrangement or other consideration that passes between the approval holder and the property owner for the use of the temporary accommodation, when requested throughout the term of the approval;

(j) ensure that only the person, or persons, including the specified number of people, approved pursuant to the approval stay in the temporary accommodation;
(k) ensure that only the temporary accommodation approved by the local government and specified in the approval is used on the property;
(l) ensure that the period approved for the temporary accommodation to be used on the property is only used for that period;
(m) ensure that on the expiry of the approval, the temporary accommodation is removed from the property on which it was located;
(n) ensure that any lighting used in or as part of the temporary accommodation is angled or shaded in such a manner so that the light does not cause an unreasonable nuisance in the opinion of an authorised person; and
(o) ensure that the temporary accommodation does not detrimentally affect the amenity of neighbouring properties or create an unreasonable nuisance, including noise and odour, in the opinion of an authorised person.

Conditions that will ordinarily be imposed on approvals

The conditions that will ordinarily be imposed on approvals are that the approval holder must—

(a) ensure that water intended for use for domestic purposes is from an approved water source;
(b) maintain an adequate and continuous supply of water to all toilet, bathroom, kitchen, laundry and drinking water facilities that form part of the temporary accommodation;
(c) maintain all water supply connections in accordance with applicable legislative requirements; and
(d) any other condition the local government considers is reasonably necessary to ensure the protection of public health, safety and/or amenity is maintained by the approval holder in using the temporary accommodation.

Activities that do not require approval under the Local Law

1) An approval under the authorising local law is not required for establishment or occupation of a **temporary home**—

(a) for less than 2 weeks in any 52-week period if the temporary home is established on a vacant allotment and occupied by the owners of the allotment; or

(b) for less than 4 weeks in any 52-week period if—
i) the temporary home is sited on an allotment occupied by an existing dwelling house; and
ii) the temporary home is located to the rear of the existing dwelling house.

2) However, subsection (1) applies only if no waste materials, including grey water, are deposited on site during occupation, or left on site after departure.

Note: a temporary home is separately defined under the authorising Local Law and is different from temporary accommodation.

Further information

For more information, contact Council on 1300 308 461 or visit **www.msc.qld.gov.au.**