



# Shifting landscape for the Tiny House on Wheels

***A recent Queensland ruling offers some hope to the continued Tiny House movement in Australia, but for now it needs to be understood in the context of this particular tiny house in the Brisbane City Council local government area.***

Recently, the Queensland Building and Development Dispute Resolution Committee (the Committee) heard an appeal against an enforcement notice issued by the Brisbane City Council (Council) regarding the siting of a Tiny House on Wheels (THOW) on an inner city

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PHOTOS BY THE TINY HOUSE COMPANY

residential allotment. Council contended that the THOW had been erected on the site without a development permit for building works. Thorough consideration of the matter led the Committee to form 'the view that the THOW does not constitute building works as defined under the Queensland Building Act 1975 and accordingly the Enforcement Notice issued by the Council should be set aside'.

## **Background of appeal**

A little bit of history first. Prior to installation, the THOW owners sought advice from Council regarding the legitimacy of setting up a THOW on residential land owned by a third party (the Site). The Site contained an existing dwelling and was located within an inner city suburb of Brisbane. The advice they received from Council confirmed that living in a caravan in a backyard in Brisbane is legal, provided that no public nuisance is caused and the occupants have appropriate access to toilet and refuse disposal facilities.



The THOW was subsequently positioned at the rear of the long narrow lot. Following a complaint from a neighbour, a council compliance officer came to inspect the THOW and determined that it would require a building permit for a Class 1A Habitable Structure (as defined in the Building Code).

When the Enforcement Notice arrived from the Council, the lot owners and the THOW owners engaged us (ESC Consulting) to lodge an appeal via the Building and Development Dispute Resolution Committee process on the grounds that the THOW is a road registered moveable dwelling (more specifically a caravan), is located on the site in a non-permanent capacity and does not constitute building works.

## Appeal decision

The Committee formed the view that though the THOW can perhaps be differentiated from a caravan by its robust structure and use of construction materials that are more akin to a regular house, there is no intention that the THOW would become fixed to the Site.

Accordingly they determined that the THOW is neither a building or a structure as defined under the Queensland *Building Act 1975* but rather has the features of a moveable dwelling (see below).

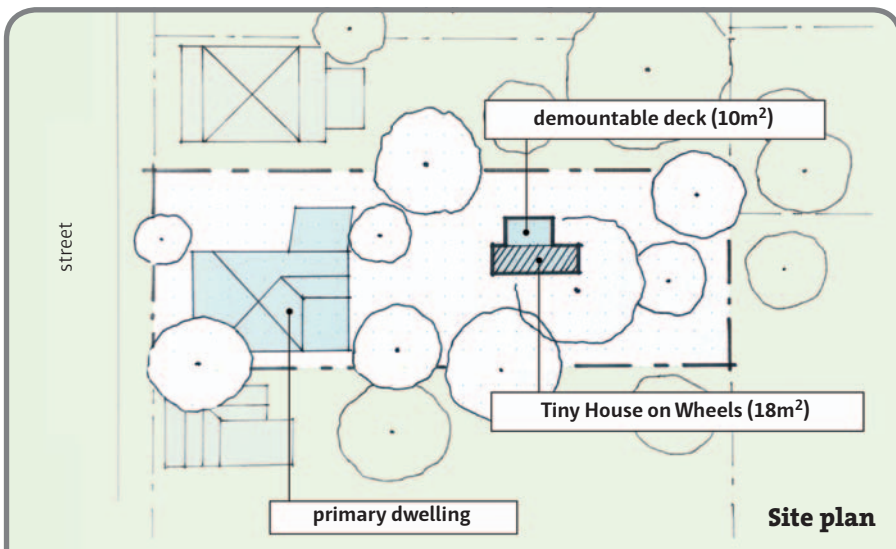
The following factors informed this view:

- The THOW was manufactured in a factory and was not built or assembled on the Site.
- The THOW is built on a dual axle trailer with wheels and a towbar, is registered as a trailer with the Queensland Department of Transport and Main Roads and can easily be relocated.
- The THOW is supported on the Site with concrete blocks on compacted ground. The blocks are not footings and the THOW simply rests on its own weight (i.e. not physically fixed at all). As such, the concrete blocks are not designed to give the impression of permanence or immovability.
- The timber deck attached to the THOW can be dismantled relatively easily because it is not built on footings, but placed on moveable blocks so that it is resting on its own weight. This is

similar in intent and use to the annexe attachments on more traditional caravans.

- Though the connection of greywater and the composting toilet via a hose and rubble pit causes the THOW to be affixed to the land, the degree of annexation was deemed modest due to the fact that it would be a very simple and quick process to disconnect the greywater and composting toilet hose. Further the composting toilet facility would be able to be easily removed and transported with the THOW for relocation.
- Electrical connection to the THOW is via an extension lead from the dwelling on the Site.
- Water is connected to the THOW via a garden hose.
- The different ownership of the Site and the THOW.

For these reasons, the Committee concluded that the Enforcement Notice issued by the Council should be set aside (the decision was handed down on 15 November 2016).



PLANS: ESC CONSULTING

## Moveable dwelling

A key premise of the grounds of appeal centred on establishing that the THOW fits the definition of a 'moveable dwelling', more specifically a 'caravan'. The appeal team referred to two pieces of relevant legislation to support this premise:

1. The Queensland *Residential Tenancies and Rooming Accommodation Act 2008* (RTRAA) which states under Section 7(1) that a 'caravan' is a trailer (a) designed principally for residential purposes; and (b) designed to be attached to and towed by a self-propelled vehicle; and (c) that, as originally designed, was capable of being registered under a law of the State about the use of vehicles on public roads; and
2. The Brisbane City Council Local Law (Caravan Parks and Relocatable Home Parks) 2000 where 'caravan' means a trailer or motor vehicle designed and/or adapted and/or used for human habitation and includes any annex attached to it.

## Where to from here?

The recent THOW decision has sent a ripple through the planning community. Brisbane City Council is currently reviewing its approach to the phenomena of Tiny Homes, not just in terms of regulations but also in the broader context of alternative housing options for Brisbane.

There is still work to be done. We advocate the development of a 'fit for purpose' regulatory framework, which embraces adaptive housing innovation without compromising safety and amenity. The grounds of appeal we led demonstrated an example of this and established a foundation for further development. We are currently pursuing negotiations with Council to develop a relevant and flexible framework to regulate THOWs.

We believe there is real potential for this affordable housing model to play a small, niche role in supplying some of the 'missing middle' and are actively working to facilitate balanced planning and community outcomes.

While a promising precedent has been established at the Queensland state level in regards to clarifying that the THOW at

the centre of the appeal is not a building or a structure and does not require a building permit as a Class 1A habitable structure, the legislative environment is still highly uncertain.

Individual local councils vary widely in how they regulate the practice of siting and residing in a caravan on residential land. We encourage all prospective Tiny House enthusiasts to carry out their due diligence investigations on a case by case basis to ensure they are fully aware of the planning and statutory requirements which may apply within their local government area.

We would like to acknowledge the following contributors to this great outcome: Lara Nobel, Andrew Carter, Greg Thornton and Julian Warburton of The Tiny House Company; Lara Nobel, Andrew Carter and the landowners for having the courage to test the system with the THOW; the Committee members for conducting a fair and non-confrontational hearing and Brisbane City Council for opening the door to further discussions on how to integrate THOWs into the housing mix. ♦

*Rikki Pieters and Valerie Bares are directors of ESC Consulting, a boutique consultancy providing environmental, sustainability and community services to the property development industry in Queensland.*

*Andrew Carter and Lara Nobel, owners of THOW, are also founders of The Tiny House Company, along with Greg Thornton.*



## Links & resources

### ♦ ESC Consulting

Committed to working openly and in cooperation with all project stakeholders to ensure the quickest path to a 'best-for-project' result.

0435 083 346, 0400 798 298  
www.esconsulting.com.au

### ♦ The Tiny House Company

High-end design and construction of compact, fully functioning, transportable tiny houses at an affordable, flexible and low-impact scale.

07 3276 8227  
www.tinyhousecompany.com.au

## Composting toilet

Supporting documentation was provided to the Committee regarding the composting toilet to assist them with their determination in establishing whether the siting of the THOW on the land was temporary or permanent.

The composting toilet installed in the THOW is the *Nature Loo Classic 750*, which consists of the following main parts:

- The pedestal unit installed inside the bathroom;
- The in-service composting chamber installed under the floor beneath the pedestal;
- The out-of-service composting chamber (also under the floor);
- A vent pipe; and
- An absorption trench.

This has been installed in the THOW in accordance with the manufacturer's instructions, which are compliant with *AS/NZS 1546.2 On-site domestic wastewater treatment units – Waterless composting toilets*.

When on-site, the composting chamber sits loosely on the ground (no fixings required) but it is designed to travel inside the THOW. All other components of the system (except the absorption trench) are permanently fixed to the THOW (not the site) and are also designed to travel with the THOW.

For the absorption trench, the PVC and agricultural drainage pipes are placed loosely in gravel and can be removed easily by hand. All connections are designed for easy connection/disconnection and the whole system can be pulled apart by hand in around 30 minutes without the need for excavation or special tools.

To ensure the health and well-being of neighbours, the vent pipes and absorption trench are positioned well clear of neighbouring properties.

### ♦ Ecoflo Wastewater Management

Manufacturer and supplier of waterless composting toilets and greywater systems.

1300 138 182, www.ecoflo.net.au

