



Establishment and/or Occupation of Temporary Homes Complaint Guide



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1.0 Introduction

There are a range of reasons why people want to live in a temporary home. To help understand what is permitted we have developed a guideline to help you.

Council has adopted local laws which provide the legal framework for 'good governance' within its region. Local laws provide for regulation of certain activities to manage unwanted impacts on the community. These activities are defined as 'Prescribed Activities' and it is an offence to undertake these activities without an approval.

The Gympie Regional Council Local Law No. 1 (Administration) 2011 ('the Local Law') provides that the "establishment or occupation of a temporary home" is a prescribed activity.

Please note that council compliance policies adopt an initial 'community resolution approach' for managing complaints between neighbours. Managing issues associated with the occupation of temporary homes by means of respectfully communicating within the neighborhood assists in maintaining harmonious relationships. This may also include third party mediation. Formal enforcement action taken by council is considered a last resort and can often result in breakdown of relationships and ongoing neighbour disputes.

This guideline has been developed to:

- resolve temporary home related concerns between neighbours without immediate Gympie Regional Council intervention; and
- provide a process to escalate the issue to a formal complaint where a remedy facilitated between neighbours is not practicable or fails.

In this guide:

'Establishment or occupation of a temporary home' is defined in the Gympie Regional Council Local Law No. 1 (Administration) 2011 as 'the erection, construction, installation, positioning or placement of a structure used or intended for temporary use as a place of residence'.

'Urban property' means a property of less than 4000m² that is entirely or mostly within the boundaries of a zone, other than the Rural zone or Industry Investigation zone, defined in the local government's planning scheme.

2.0 What is a permitted temporary home?

2.1 Approved temporary home

The intent of the local law is to provide an approval process for a temporary home to be established and occupied on a property during the construction of a permanent residence (Class 1a Building).

Temporary home approvals are granted for six (6) months on rural properties and three (3) months on urban properties. The Local Law provides opportunities to apply for extensions in three (3) month increments, where satisfactory progress has been made with the construction of the permanent residence on the property where the temporary home is located, however will not be completed within the initial approved time frame.

To apply for an approval for the occupation of a temporary home the applicant must hold a current development/building permit for the erection of a new permanent residence or conversion of an existing building or structure into a permanent residence at the nominated property.



Approvals are subject to the following conditions:

- The approval holder must comply with any applicable standards for the approved activities outlined in the Gympie Regional Council's *Subordinate Local Law No. 1 (Administration) 2011*; and
- Not cease construction of the permanent residence on the property for a period greater than three (3) calendar months; and
- Ensure the provision of the basic amenities required for living, such as kitchen facilities, bathing facilities, laundry, toilet, sleeping accommodation, wastewater disposal, refuse disposal, safe and adequate water supply; and
- Keep the temporary home in good order and repair; and
- Ensure the temporary home is not unsightly or unhygienic.

Council keeps a register of all prescribed activity approvals.

2.2 Temporary home that does not require an approval

An exemption for an approval exists for the use of a caravan as a temporary home on an urban property for a period of up to two (2) weeks in any eight (8) week period.

The exemption may allow the property owner to have visitors stay at their property or allow an absentee owner to attend their property for maintenance purposes. In these circumstances, the temporary home occupiers must have access to facilities (water supply, toilet, bathing and waste and wastewater disposal) to prevent public health risks, nuisance, and environmental impacts.

3.0 What is prohibited?

Unapproved occupation of a temporary home – a tent, a car, a caravan, a motor home or similar (e.g., tiny home not on wheels or on wheels fixed to the ground) in any other circumstances on private or council controlled property.

Class 10a buildings, for example a private garage, carport, shed, or similar (e.g., unapproved shipping container) are defined as non-habitable buildings as per the *Building Code of Australia (BCA)* and are not permitted to be used for residential purposes without approval from the Local Government (refer Section 119 of the *Building Act 1975*).

For enquires regarding the use of Class 10a buildings as temporary homes please contact council's Compliance Branch on 1300 307 800.

4.0 Resolution process between neighbours

4.1 Contact your neighbour

Don't assume that your neighbour is aware that the activity may be prohibited.

Consider contacting your neighbour about the issue. Making contact in person is a good start to a positive resolution. Introduce yourself to your neighbour and respectfully discuss your concerns. This may alleviate possible issues and make any conflict resolution easier.



4.2 Tips on managing conflict

(Department of Justice and Attorney-General)

- If there is no threat of physical violence, talking it out is the best solution. Face-to-face contact is better than letters and messages - and a good deal better than banging on walls, throwing things, or complaining about it to everyone else.
- Choose a good time to approach the other person so that neither of you is rushed.
- Think beforehand about what you want to say.
- Don't blame the other person for everything or begin with your opinion of what should be done.
- Don't be tempted to interpret the other person's behaviour. Don't say 'You're blocking my driveway on purpose, just to make me angry'. Instead, say 'When your car blocks my driveway, I get angry because it is difficult to get in or out'.
- Give the person a chance to tell you the other side of the story.
- Let the person know you are listening.
- Say that you're glad you're talking about the problem.

Remain positive and respectful while dealing with your neighbour.

4.3 Example letter to neighbour

If you are not comfortable approaching your neighbour, consider dropping a letter/note in their mailbox based on the example below.

Dear Resident

You may not be aware, but [INSERT ACTIVITY e.g., the occupation of a caravan,] is interfering with our amenity.

I am sending you this letter in the hope that you will be able to [example – stop occupying the caravan, remove the tent and camp equipment].

I will wait a while to see if the impact of the amenity has reduced before I consider further action.

I would prefer not to make a complaint to Council as I am trying to be a good neighbour, however it has genuinely become an issue for us.

Thank you in advance for trying to find a solution.

Your neighbour

4.4 Mediated discussion

If you have attempted talking to your neighbour and this has not worked or the situation has deteriorated too far, mediation facilitated by the *Queensland Government Wide Bay Dispute Resolution Centre* (DRC) may help.

Mediation involves attending a face-to-face meeting with your neighbour and one (1) or two (2) mediators. The mediators act as an impartial third party to guide you through a structured mediation process. They help you decide what you want to achieve and keep the discussion on track, ensuring both sides get a fair hearing.

The solution is one that you and your neighbour agree upon. It is not imposed on you by anyone else. When you reach an agreement, the mediators write it down and read it back to you so you're both clear about what you've agreed upon.

Mediation for neighbourhood disputes is free, completely confidential, and is independent of Council. You can arrange for mediation yourself or alternatively council can arrange this on your behalf. The DRC will call or email you to confirm the application and clarify information provided. The DRC will then review the application and if approved, a letter will be sent to the other party inviting them to mediation. The other party may or may not agree to mediation.

The contact details for the Wide Bay Dispute Resolution Centre are:

Phone: (07) 4120 6708 or 1800 681 109 (toll free outside Hervey Bay)

Email: drc.wb@justice.qld.gov.au

Fax: (07) 4120 6714

Postal address: PO Box 3340, Hervey Bay DC QLD 4655

Address: Level 1, Brendan Hansen Building, 50-54 Main Street, Pialba QLD 4655

Link to Neighbourhood Mediation Kit: <https://www.publications.qld.gov.au/dataset/17cb1543-c4af-495d-9412-f43f673dc79e/resource/050c6991-1e22-4933-b185-c92f770eb78a/download/neighbourhoodmediationkit.pdf>

If you require assistance in arranging mediation services, please contact council's Compliance Branch Department on 1300 307 800.

NOTE: If circumstances indicate that speaking with or writing to your neighbour or mediated discussion are not viable options, as per 5.0, residents may lodge a formal complaint with council.

5.0 Lodge a formal complaint with council

Where communication between neighbours fails to achieve a satisfactory resolution or is not practicable, a formal complaint may be lodged with council via council@gympie.qld.gov.au, Customer Contact Centre on 1300 307 800 or www.gympie.qld.gov.au – Report an Issue.

Council Officers will contact you to discuss the complaint and may require you to document evidence using the template contained within this guide (refer to 6.0 - Evidence Gathering).

To assist Council to investigate the matter, it is important to provide as much detail as possible regarding the impact of the occupation of the temporary home.

As part of these investigations, Council Officers may attend the subject property to inspect the temporary home and to discuss the concerns of affected residents with the occupiers.



Should you choose to lodge a complaint anonymously, please note that whilst the complaint will be recorded, your complaint may not be actioned depending upon the level of information provided.

Furthermore, if a complaint has been lodged anonymously on council's database, due to privacy reasons council is unable to provide information in respect of whether an investigation into the matter has been undertaken or provide any updates, even if you were the original customer.

Council will seek cooperation from the occupiers of the temporary home in the first instance, before taking any enforcement action. If enforcement action is required, council will allow a reasonable timeframe for the occupier of the temporary home to seek alternative accommodation.

Please note that council is committed to the privacy principles of the *Information Privacy Act 2009*.

To protect confidentiality, council will ensure that the details of the customer, the occupier of the temporary home, and the details of the investigation and related decisions will be kept confidential.

You will be advised of the outcome of the investigation as appropriate.

6.0 Evidence Gathering

If council's initial intervention does not achieve the desired outcome, you will be required to provide sufficient evidence of a suitable quality and submit to council for consideration prior to any further action being taken.

6.1 Why is evidence required?

Before enforcement action can commence for a contravention of *Local Law No. 1 (Administration) 2011*, council must be satisfied that there is sufficient evidence of a suitable quality provided to determine that:

- the contravention is caused by an unlawful activity undertaken at the subject property; and/or
- the duration of occupation is outside of permitted time frames allowed as per *Local Law No. 1 (Administration) 2011* (refer to 2.0 – What is a permitted temporary home); and/or
- the temporary home is being occupied in a manner that interferes with the amenity of surrounding neighbourhood and/or is causing a nuisance due to:
 - the number of people attending the property, vehicles and associated noise; and/or
 - the appearance of the site is unsightly impacting visual amenity; and/or
 - inadequate facilities for water supply, ablutions, waste storage and removal; and/or
 - the views of any other affected neighbours in relation to amenity.

6.2 What additional evidence may be required?

You may be required to provide any of the following to assist council in their investigations.

6.2.1 Photographs or video recordings of the temporary home

Ensure images are only taken from publicly accessible places or from your own property.



6.2.2 Completing a temporary home complaint form and diary

These are documents in which you record information about the time, frequency, and duration of the temporary home occupancy, with specific detail related to activity, which is necessary to substantiate continued occupancy including, however not limited to, people sleeping in the temporary home, cooking activity and eating meals etc.

Important points to note are:

- The more detailed the information, the better.
- The diary should be maintained for a minimum period of two (2) weeks and up to a maximum period of one (1) month.
- The diary should be detailed enough to be presented as supporting documentation to other verifiable evidence such as photographs and witness statements.

Once council receives the completed complaint form and a diary, an Environmental Health Officer will contact you to discuss the proposed course of action. Please note that any ensuing investigation will require your further assistance and may require you to appear in court to provide evidence of the offence.

6.2.3 Providing a witness statement

A witness statement is an extremely important piece of evidence. It is an opportunity for you to set out clearly how the occupancy of the temporary home affects your life and how it interferes with your daily activities and amenity (noise from the generator, unsightly state of the temporary home and surrounds), as well as providing the details noted in the complaint diary.

Council is unlikely to proceed with enforcement action in the absence of a witness statement that details the impact of the temporary home occupancy on you.

A council officer will invite you to provide a statement, when required.

The statement will include such information as:

- a description of the temporary home and the impact of the use such as nuisance noise, unsightliness;
- reasonable proof that the temporary home is being occupied e.g., a person is sleeping in a caravan (*Note: a person using a caravan for other purposes may not contravene the Local Law No. 1 (Administration) 2011 e.g., a family member of the property owner may be using the caravan as a study room*);
- times of the day or night the temporary home is being occupied, frequency and duration of the occupation;
- details of how occupation of the temporary home is unreasonably disrupting or inhibiting the activities you ordinarily carry out in your residence and on your property;
- identifying the times and locations of any photographs or videos taken; and
- any other matters you consider relevant to your complaint.

In addition, it will be easier for council to be satisfied that a temporary home is being unlawfully occupied if evidence from other adjoining or neighbouring residents is also provided to council. This will corroborate and strengthen the evidence overall.



7.0 Appendices

7.1 Temporary home compliant form

PURPOSE OF FORM: This form will be used to assess the extent of the problem and guide council's investigation. Please add a separate statement if there is insufficient space on this form.

Complaint Reference No. (provided to you by Customer Service): CRM # _____

Address of the property with temporary home:

Section 1

Complainant's Details

Full Name: _____

Residential Address: _____

_____ Postcode: _____

Phone No.: _____ (Home) _____ (Work)

Best contact time: _____ am / pm

Email: _____

Do you give permission for your details to be released to the alleged source – if required?

Yes No

Have you previously raised this matter with council?

Yes No

If yes, provide details (including any complaint reference numbers, if available):

Details of Subject Property Owner/Occupier (if known)

Individual's Name: _____

Company/Business Name: _____

Address: _____

_____ Postcode: _____

Phone No.: _____ (Home) _____ (Work)

Best contact time (if known): _____ am / pm

What type of premises?

Residential Commercial/Industrial

Have you spoken to this person/company/business about the problem?

Yes No

If yes, provide details (including any complaint reference numbers, if available):

Section 2

Provide a brief description of the problem (e.g., an occupied caravan at my neighbour's property located at is unsightly or is causing a nuisance from ...)

Section 3

Provide specific details regarding the occupation of the temporary home.

When are you impacted (dates/times)?

How long does it last for?

How often does it occur (i.e., multiple times a day, weekly etc.)?

When did you first notice the occupation of the temporary home?

Section 4

Describe when the occupation of the temporary home is most annoying to you and why?

Where in your property are you affected?

Have you kept a complaint diary prior to lodging a formal complaint to council? (i.e., record of dates / times the occupation of the temporary home has occurred and how it has affected you).

- Yes (If yes, please enclose a copy of this diary)
- No (If no, please complete the enclosed complaint diary over the next two (2) weeks (or another timeframe as specified by an authorised person). Please also submit any supporting documentation, photographic and/or audio-visual evidence, if available, that may assist council investigations.



Other details and additional comments:

By lodging this formal complaint with Gympie Regional Council, I acknowledge:

- i) I may be requested to submit audio-visual evidence to Gympie Regional Council to substantiate any complaint for this matter to be progressed further.
- ii) Without the submission of audio-visual evidence of a suitable quality to substantiate my complaint, council may not be in a position to take action against the person permitting the occupancy of the temporary home.
- iii) Council may conduct a survey of other residents in the neighbourhood to corroborate my complaint. In the event that my complaint is not corroborated by an independent party residing in the neighbourhood or by a council officer by conducting surveillance of the area, council may not be able to take further action in relation to the matter.
- iv) I am prepared to act as a witness in any legal action instigated by council against the person conducting the alleged unlawful activity. I am prepared to attend a Magistrate Court to do so.

Section 5

Declaration for Complaint Form

I acknowledge by virtue of s110A(6C)(c) of the *Justices Act 1886* that:

This written statement by me dated ____/____/____ is true to the best of my knowledge and belief; and I make it knowing that, if it were admitted as evidence, I would be liable to prosecution if I stated in this statement anything that I knew to be false.

Name in Full (printed): _____

Signature: _____

Contact Email: _____



7.2 Temporary home complaint diary

Privacy Notice: In using this form you are providing personal information such as name and contact details. This information will be used only for the purpose stated above and will only be accessed by persons who have been authorised to do so. Your personal information is handled in accordance with the Information Privacy Act 2009.

PURPOSE OF FORM: This form will be used to assess the extent of the problem and guide council's investigation. Please add a separate statement if there is insufficient space on this form.

Complaint Reference No. (provided to you by Customer Service): CRM # _____

Address of the property with temporary home: _____

DATE	START TIME	FINISH TIME	TYPE OF ACTIVITY - Laundry, cooking, ablutions (showering, bathing, etc.), sleeping	ADDITIONAL DETAILS - Number of persons attending the property e.g., vehicles, registration numbers etc. Persons and vehicles identified as staying overnight.

DATE	START TIME	FINISH TIME	TYPE OF NUISANCE- (e.g., noise from customers, dust from carparking)	WHERE AND HOW IT AFFECTED ME - (e.g., in the lounge room, unable to hear the television)

Declaration for Complaint Diary

I acknowledge by virtue of s110A(6C)(c) of the *Justices Act 1886* that:

This written statement by me dated ____/____/____ is true to the best of my knowledge and belief; and 2. I make it knowing that, if it were admitted as evidence, I would be liable to prosecution if I stated in this statement anything that I knew to be false.

Name in Full (printed): _____ Signature: _____

Contact Email: _____

7.3 Frequently asked questions

Q Why do I have to complete the temporary home complaint form and diary?

- A Council Authorised Persons are required to review complaints to determine validity prior to carrying out an investigation. The completion of the temporary home complaint form and diary provides full details for assessment and validation of the complaint.

Q How do I complete the diary?

- A Please record the date that the problem occurs, the time at which it starts and finishes, the type of problem i.e., noise from work or vehicles. The final column is there for you to provide additional details about the activity.

Q Will the person who I complained about be told it was me who complained?

- A Council policy is not to reveal the details of complainants. We often find that the person being complained about usually has a good idea who has complained about them, but we will not confirm their suspicions. However, should council proceed with legal action, your testimony will reveal your identity.

Q What happens after I have completed and returned the temporary Home complaint form and diary?

- A A Council Authorised Person will assess the details and decide if the complaint is justified. If the officer determines that the complaint is not valid, a 'rejection notice' stating the reasons for rejecting the complaint will be issued. This notice includes an appeal process if you are not satisfied that council has rejected the complaint.

Where a valid complaint is received, the officer will contact the owner or occupier of the property where the temporary home is located, inform them of the complaint with a request to comply with the local law. After this contact, you will again be requested to keep a diary of the events for a further two (2) week period. If after this time you feel that the problem has been resolved the complaint will be closed. If you still feel that you are experiencing a concern, the officer will conduct further investigations to determine if the non-compliance continues. If sufficient evidence confirms non-compliance, an advisory letter will be issued to the property owner / occupier in the first instance. Council's preference is to work with the property owner/occupier to achieve compliance within a deemed reasonable timeframe. Should the property owner/occupier not cooperate with council to achieve compliance within a designated timeframe, the matter will escalate to the issue of a compliance notice.

Q What happens after a compliance notice has been served?

- A The compliance notice provides a specified time period (usually 30 days) for the recipient to comply with the requirements of the notice. At the expiry of the time period, an officer will carry out further investigation to determine compliance.

Q What happens if the occupancy continues after a compliance notice has expired?

- A Once the compliance notice has expired council officers will continue with the legal process of gathering further evidence and a determination will be made on action required to enforce compliance. A penalty infringement notice may be issued and/or court proceedings may be commenced.





Q Will I have to give evidence if the case goes to court?

A Before a decision is made to commence court action, council must be satisfied that there is sufficient evidence to be confident that a Magistrate will make a finding that the offence is proven beyond a reasonable doubt. Your testimony as well as the diary that you have been keeping is considered to be essential evidence to increase the likelihood of successful court action.

Q Are there any other ways of solving the problem rather than continuing with the complaint and possible legal action?

A We believe it is important for people to discuss the problem with each other so possibly have a chat with your neighbour as they may be unaware that they are causing you distress. A formal dispute resolution service is available to people who would like somebody to help them discuss the issues together. The dispute resolution service is run by Queensland Government Wide Bay Dispute Resolution Centre (DRC) may help and they can be contacted on (07) 4120 6708.

Q How long can it take for the problem to be resolved?

A It is not possible to estimate how long it will take to resolve a problem. Timeframes depend on a range of factors including:

- your submission of information about the alleged breach
- officer caseloads and investigation complexity
- the cooperation of person permitting the occupation of a temporary home on their property
- statutory notice periods
- gathering of evidence to corroborate the complaint
- availability of court hearing times.

Resolution may be achieved in a just a matter of weeks if the person cooperates with council or may be many months if the matter proceeds to the Magistrates Court.

