

Shipping Container Policy

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1. INTRODUCTION AND BACKGROUND

In recent years, shipping containers have become more readily available for a variety of uses due to the increasing numbers of second-hand containers becoming available. These containers offer an affordable and secure method of storage and as well are being considered for other types of adaptation and development, including housing.

The NSW Land and Environment Court has confirmed that a shipping container is a 'building' which in cases, requires a development approval and a construction certificate. Dependent on its use, method of tie down and period of placement, it may also be considered to be a 'temporary structure'.

Whilst the use of shipping containers can provide an alternative to the construction of a traditional purpose-built shed or outbuilding, concern has been raised about the location and visual appearance of these structures. In particular, the potential to adversely impact on the residential amenity, scenic quality and character of an area.

Generally the community are unaware that, in most situations, Council approval is required to place a shipping container on land. Apart from being a legal requirement, not all land is suitable to house a shipping container and its use, location and context must be considered.

Currently Council's planning instruments make no reference to shipping containers including the requirements for obtaining approval and the matters that need to be considered before an approval might be granted.

The adoption of a policy for the placement and use of shipping containers means that Council is better able to influence, guide and control this type of development without reliance on resorting to enforcement powers including the issuing of Orders for their removal.

This policy is a direct response to these issues and provides information and guidelines for development. The policy will aid in protecting the existing scenic quality and amenity of the Council area for the benefit of the community and ensure that the potential for its future growth and development is not compromised by making the area a less attractive and enticing place to live.

2. OBJECTIVES

The objectives of this policy in relation to shipping containers, are to:

- a) Provide information, standards, guidelines and controls for their number, location, use, and duration;
- b) Identify when development approval is required and outline circumstances where an approval will be unlikely;
- c) Protect the visual quality and amenity of the Council area from the undesirable and inappropriate location and use of shipping containers;
- d) Ensure that the materials, construction and durability are appropriate for their location, use and duration;
- e) Ensure that the use and location are suitable for their context and will not detract from the scenic quality, amenity and character of a locality;
- f) Ensure that the community is aware of the additional measures that will be required to be implemented to manage their potential impacts;
- g) Ensure that neighbouring landowners and the community as a whole, have the opportunity to be involved in planning decisions that may affect them.

3. DEFINITIONS

building includes part of a building, and also includes any structure or part of a structure (including any temporary structure or part of a temporary structure), but does not include a manufactured home, moveable dwelling or associated structure within the meaning of the *Local Government Act 1993*.

Class 10a Building is a building defined under the National Construction Code as a non-habitable building being a private garage, carport, shed or the like.

Development has the same meaning as defined in the *Environmental Planning & Assessment Act 1979* (EP&A Act) and for the purposes of this policy also includes *building work* as defined in the EP&A Act.

Development approval means an approval issued by Murrumbidgee Council.

Maximum height is height measured from ground level to the highest part of the top of the shipping container. The maximum height that will be permitted under this policy, including any footings or supporting slabs is 3 metres.

Shipping Container means a purpose-built steel enclosure for the purpose of temporarily holding materials and goods for transport by road, rail or ship.

Temporary Structure includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

4. POLICY ENFORCEMENT

The Policy is made and will be enforced under the *Environmental Planning & Assessment Act 1979* and the *Local Government Act 1993*.

5. PUBLIC NOTIFICATION

Council will notify adjoining neighbours in relation to any development application received for the installation and use of a shipping container. Council also has the discretion to notify others who it feels may be potentially impacted by the proposal.

Where it is proposed to place a container on public land or where more than one container is proposed then the development application will be advertised for 21 days. Public submissions will be invited and Council will take these into consideration before deciding whether to a development application.

6. POLICY DETAILS

6.1 Shipping Containers Exempt from Council Approval

The approval of council is not required where the placement of a shipping container is contained wholly within the property boundaries of a site and complies with one or more of the following:

- The shipping container is *exempt development* because it complies with the provisions of 2.31 and 2.32 of Subdivision 16 for *Farm Buildings* under State Environmental

Planning Policy (Exempt and Complying Development Codes) 2008 - For a copy of or information about this Policy please contact Council;

- The shipping container is in the process of being loaded or unloaded and will not be on land for more than 14 days;
- The shipping container (empty or full) is used in conjunction with the operation of a transport depot, intermodal hub or other logistics related activity for which development approval has been granted;
- The shipping container is on site and used temporarily - less than 2 weeks - in conjunction with a lawful use;
- The shipping container is on the land and during the construction of a development;
- The shipping container is being utilised temporarily as part of an emergency, disaster or recovery relief campaign led by Council, a State Disaster Agency or Military.
- It is being installed on a temporary basis associated with a special event with written approval from Council and is to be maintained on site for no more than 7 days.

6.2 Shipping Containers as Complying Development

The Inland Code of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 allows some farm buildings to be carried out in RU1, RU2, RU3, RU4, RU5 and R5 zones. Where a farm building constituting a shipping container meets Subdivision 7 of that Code then a Complying Development Certificate (CDC) can be issued for a shipping container on submission of a CDC application (Contact Council for a copy of the Policy or to obtain information about this part of the Policy).

6.3 Shipping Containers that require Council Approval

For those shipping containers not identified as being exempt in Section 6.1, complying development in Section 6.2 or prohibited in Section 6.4, a development application must be lodged and approved by Council prior to the installation or use of a shipping container.

Development applications lodged shall include photos of the shipping container, a site plan drawn to scale, a statement of environmental impacts and a list of the measures to be implemented to ensure potential visual, siting, amenity and nuisance impacts will be appropriately mitigated and managed. This shall include measures to control and manage drainage.

Where a construction certificate is not required, a structural engineers certificate (AS1170) for the container and its tie down shall be submitted with the development application or alternatively will be required to be provided prior to its placement on site.

Shipping containers requiring Development Approval must comply with the guidelines set out in this policy.

Additionally, any area where a shipping container is proposed to be adapted for use as a food and drink premises as provided for in Section 6.10 of this Policy.

6.4 Shipping Containers that are Prohibited

Shipping containers are generally not recommended in the following zones and locations:

- RU5 – Village zone*
- E1 – National Parks and Nature Reserves zone.
- E3 – Environmental Management zone.
- W1 – Natural Waterways zone.
- W2 – Recreational Waterways zone.
- Land containing or in proximity to items of Environmental Heritage and land within Heritage Conservation Areas;
- Road Reserves.
- Land fronting the Newell Highway, Sturt Highway and Kidman Way that does not meet the setback requirements outlined for a specific zone in this policy.

* See section dealing with *food and drink premises*

6.5 General Development Standards for Shipping Containers (all zones)

The following general development standards apply to all shipping containers:

1. They must comply with the criteria specific to the zone of the property and meet the requirements of the National Construction Code-Building Code of Australia;
2. They must be in a good condition, durable, and painted to complement the existing built and natural environment or as specifically required by the Council;
3. They are not to be located within a front or side setback, including a secondary street frontage;
4. They must be provided with a means of exit whereby persons within the container can exit should it be closed from the outside, or alternatively be fitted with an internally operated alarm that is to be maintained and regularly tested;
5. They are to be free of major rust or rot and be in a structurally stable condition;
6. They must be maintained for the life of the development;
7. They must be installed and tied-down to a concrete slab, plinth, footings or foundations capable of supporting the combined weight of the container/carriage and its contents. The method of tie-down, foundation bearing capacity and slab/foundation design must be certified by a practicing structural engineer. Where foundations are used in place of a concrete slab, a hardstand surface such as compacted gravel (or the like) must be used;
8. If shipping containers are used for the storage of chemicals, this use must comply with the Code of Practice published by Safe Work New South Wales;
9. Shipping containers are not permitted to be used for or in conjunction with any permanent advertising signs, unless the advertising sign is of a temporary nature associated with its use;

10. Shipping containers shall not be located over any easements, septic tanks, drains or other infrastructure;
11. Containers must not be stacked;
12. Additional works or measures other than those already mentioned to properly address any amenity issues arising from the location of a shipping container may be required by Council. This will be based on the circumstances of the case and may include cladding the shipping container, installation of specific landscape screening or the employment of a false roof or blades so as to minimise the visual appearance of the development;
13. In the unlikely case where a shipping container is permitted in an urban area such as a residential or commercial precinct then additional measures may be required to enhance the development. For example structural modifications or adaptations may be required if the design, purpose and use of the container warrants it including incorporation of decks and the like to contribute to the visual quality and use.

6.6 Industrial Zoned Areas

The establishment of shipping containers on land zoned for industrial purposes shall comply with the following requirements:

1. Maximum of two (2) per property.
2. Is not located in an area reserved for car parking.
3. Is not located in an area reserved for landscaping.
4. Is not forward of the building line.
5. Is not visible from and is satisfactorily screened from any road adjoining the subject property.
6. Is not located closer than 0.9 metres from the side and rear boundaries subject to other specific setback requirements of the Policy and fire separation requirements of the National Construction Code- Building Code of Australia.
7. Meets the fire separation and fire safety requirements of the National Construction Code.
8. Containers must comply with the general standards within this Policy.

6.7 Large Lot Residential, Public and Private Recreation Zoned Areas

The establishment of shipping containers in relation to the R5 – Large Lot Residential, RE1 – Public Recreation and RE2 – Private Recreation zones shall comply with the following requirements:

1. Maximum of one (1) per property.
2. Container must not be located closer than 5 metres from the side and rear property boundaries or the relevant building envelope.
3. Containers in the R5 Large Lot Residential zone must be for domestic storage only.
4. Containers in the RE1 – Public Recreation and RE2 – Private Recreation zones must be for recreational storage only.

5. The container shall be screened and maintained from public view via landscaping and not visible from a public road.
6. Containers must comply with the general standards within this Policy

6.8 Primary Production and Forestry Zoned Areas

The establishment of shipping containers in relation to RU1 – Primary Production and RU3 – Forestry zoned land shall comply with the following requirements:

1. Containers must not be located closer than 10 metres from any side or rear boundary.
2. Are not to be located within a front or side setback, including a secondary street frontage and must be setback at least 100 metres from the Newell Highway, Sturt Highway and Kidman Way.
3. The container must be used for domestic, agricultural or forestry storage purposes only.
4. No more than three (3) shipping containers shall be located within close proximity to each other to avoid the accumulation of shipping containers in the one location.
5. Containers are to be used as a Class 10a building as defined in the National Construction Code.
6. Containers must comply with the general standards within this Policy

Note:

There is no limit on the maximum number of shipping containers permitted on land in the RU1 – Primary Production and RU3 – Forestry zoned land with each request considered on a case by case basis.

6.9 Infrastructure Zoned Areas

Development for the purposes of installing shipping containers within the SP2 – Infrastructure zone will be considered on a case by case basis.

Development within this zone must comply with the general development standards outlined in Section 6.5 of this policy.

6.10 Food and Drink Premises

Development for the purposes of installing a suitably adapted shipping container to be used as a food and drink premises will be considered on its merits.

The next photo illustrates the type and the required quality of an adapted shipping container that may potentially be approved by the Council. Any approval would be subject to the container being suitably designed, embellished and located. Architectural treatment through incorporation of additional features to improve the visual quality and the established setting in which it is placed will be required.



Example of an adapted shipping container of a suitable quality to be used as a food and drink premises.

The requirements are:

1. Installation within a zone or precinct that permits such development with consent;
2. Minimum setbacks-10m front and rear and 5m side;
3. 3m depth timber floor deck at frontage for at least the length of the container with inclusion of timber balustrade and/or other design elements to enhance and showcase the structure from the street ;
4. No fascia or wall signage apart from a sandwich board;
5. Maximum of two (2) teardrop banner flags;
6. Associated separated shaded outdoor alfresco dining area with appropriate stylised durable furniture to a standard approved by the Council and compliant with any adopted alfresco dining standards;
7. Each side of the container is to be provided with a landscaping strip with minimum dimensions of 5m (l) x 3m (w) lawn or artificial turf areas. The setback area around the alfresco dining area is to be suitably landscaped which can include planter boxes;
8. Materials employed shall be durable and maintained for the life of the development;
9. The development will be considered as a Class 6 building under the Building Code of Australia and the development assessment process will consider the requirements of the BCA in relation to the proposal noting that no sanitary facilities will be permitted within the adapted shipping container;
10. A five (5) year period for the development shall be applied after which the development will be required to seek further development approval for the continuation of the development. This will ensure that ongoing development is being appropriately maintained and is of a suitable quality.

7. APPLICATION REQUIREMENTS

When an application is made to Council to establish a shipping container on land the following is required:

1. Completed application form.

2. Payment of the relevant application fee in accordance with Council's fees and charges applicable at the time of application.
3. A site plan showing the proposed location of the shipping container in relation to boundary setbacks, vegetation, effluent disposal areas and associated buildings on-site.
4. Elevation drawings or specifications detailing the height and dimensions of the shipping container including finished height above ground level;
5. For adapted or modified shipping containers for any other purpose then storage architectural features and structural elements shall be incorporated into the design to provide visual interest and to improve the design quality and local amenity
6. A Statement of Environmental Effects and mitigation measures as described earlier in this Policy.
7. Photos of the container to be installed.
8. External finishes including proposed colour of shipping container and any cladding.

8. LEGISLATION

- Local Government Act 1993
- Environmental Planning & Assessment Act 1979
- Jerilderie Local Environmental Plan 2012
- Murrumbidgee Local Environmental Plan 2013
- Jerilderie Development Control Plan 2013

9. REVIEW AND AVAILABILITY

This policy may be reviewed and amended at any time at Murrumbidgee Council's discretion or following any legislative changes.

This policy is available on Council's website: www.murrumbidgee.nsw.gov.au