

LOCAL APPROVALS POLICY

STRATEGIC POLICY

Responsible Department: Cabonne Services

Responsible Section: Development Services

Responsible Officer: Department Leader - Development Services

Objective

Prior approval of council is required for the carrying out a number of activities under section 68 of the NSW Local Government Act 1993 (the Act) including the installation of a manufactured home, moveable dwelling or associated structure on land. Other activities require approval but are not covered by this policy.

Introduction

This policy is called the Cabonne Council Local Approvals Policy and is made under section 158 of the NSW Local Government Act. This policy is automatically revoked at the expiration of 12 months after the declaration of the poll for that election (section 165 of the Act). The purpose of this policy is to supplement provision of the Act and the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 (the Regulation) by:

Part 1: Specifying the circumstances in which a person would be exempt from the necessity to obtain a particular approval of council;

Part 2: Specifying the criteria which council must take into consideration in determining whether to give or refuse an approval of a particular kind; and

Part 3: Specifying other matters relating to approvals.

Policy

The Policy seeks to:

- a) Specify the circumstances (if any) in which a person would be exempt from the necessity to obtain a particular approval from council.

- b) Specify the criteria that council staff will take into consideration in determining applications for approval under the Act; and
- c) Specify any other matters relating to the approvals process under the Act.

This draft policy has been prepared for public exhibition. In the event of an inconsistency between this policy and the Act or associated regulations, the Act or regulations shall prevail to the extent of the inconsistency. This policy applies to all land within the Cabonne Council Local Government Area.

Exemptions

The following exemptions apply:

Activity	Exemptions
Install a moveable dwelling or associated structure on private land, to accommodate for a period of four (4) years, a person or persons displaced because of a natural disaster	Exemptions as listed in Appendix 1 – Manufactured home estates, caravan parks, camping grounds and moveable dwellings

Criteria to be considered in determining an application.

The following criteria will be taken into consideration in determining an application:

Activity	Exemptions
Install a moveable dwelling or associated structure on private land, to accommodate for a period of four (4) years, a person or persons displaced because of a natural disaster	Criteria as listed in Appendix 1 – Manufactured home estates, caravan parks, camping grounds and moveable dwellings

Other matters relating to approvals.

Applications of other activities

Applications for all other activities (as described in the table of section 68 of the Act) not listed in this policy are to be on approved form available on council's website and will be assessed in accordance with section 89 of the Act.

Lodgement of an application

Applications must be made on the approved form and accompanied by the information required on the form. Any application which is unclear or illegible may be returned to the applicant.

The relevant fees, charges and security deposits listed in the council's Schedule of Fees and Charges must be paid at the time of lodgement.

Variation to criteria

In determining an application, council staff may choose to vary any of the criteria referred to in this policy on a case by case basis whilst having regard to the merit of the individual circumstances and the purpose of the policy and legislation.

Determination

Once determined, a notice will be issued advising whether the application has been refused, approved or approved with conditions. The period of approval will vary depending on the type of activity or work undertaken. If works have not commenced or the activity has not occurred during the nominated time, then the approval may lapse. In such cases, and depending on the circumstances, an applicant can seek to lodge a new application or alternatively request to modify/extend an existing application.

Review of determination

A determination can be reviewed under section 100 of the Act. A request to review must justify the reasons for review and be made in writing within 28 days of council's determination. Fees as listed within council's Schedule of Fees and Charges may apply. The determination of a review is final.

Records of approvals

A record of approvals is required to be kept under section 113 of the Act. The record of approvals is available without charge for public inspection at the office of council during ordinary office hours.

Modification or revoking of approval.

An approval may be revoked or modified in any of the following circumstances:

- a) If the approval was obtained by fraud, misrepresentation or concealment of facts
- b) For any cause arising after the granting of the approval which, had it arisen before the approval was granted, would have caused council not to have granted the approval (or not to have granted it in the same terms)
- c) For any failure to comply with a requirement made by or under the Act relating to the subject of the approval
- d) For any failure to comply with a condition of the approval.

References

Local Government Act 1993

History

Minute No.	Summary of Changes	New Version Date
Draft	This Local Approvals Policy would allow emergency housing pods to remain on properties beyond their two-year lease to support the transition of recipients into permanent accommodation following the floods within the Cabonne Council LGA in 2022	To be confirmed

Appendix 1 – Moveable dwellings and associated structures

Purpose

To extend the two-year exemption period to allow persons displaced because of a natural disaster to stay in a moveable dwelling on private land without approval to:

- a) Enable recipients, who have experienced delays to the rebuilding of a dwelling, to remain in emergency accommodation located on their property while rebuild works are finalised.

Exempt Criteria

An exemption to seeking approval to extend the two-year time limit under the Regulation to remain dwelling within a moveable dwelling and / or associated structure placed on private land applies under this policy when:

- a) The installed moveable dwelling and any associated structure, placed on private land, is maintained in a safe and healthy condition,
- b) Evidence of progress towards the construction of a replacement dwelling is provided within 3 years of installation of the moveable dwelling and /or associated structure, and
- c) The installed moveable dwelling and / or associated structure, located upon private land, is removed within four (4) years after it was installed.

The following conditions apply if the above criteria are met:

- a) A person displaced due to a natural disaster may install a moveable dwelling and / or associated structure for a period of 4 years.

Council may order the removal of the moveable dwelling or associated structure at any time if such a dwelling, or the activity associated with it, is considered to cause a nuisance or danger to the public or person it is accommodating.

If the exemption criteria provided by the policy cannot be met, consent is required from council.

Criteria to be considered in determining an application.

As no approval is to be granted, there is no criteria for consideration.

Other matters relating to approval.

Other conditions may be imposed as deemed appropriate.