

Policy

SMRC Local Approvals Policy

Responsible department	Strategy	Document Register ID	250.2022.101.1
Policy owner	Team Leader Strategic Planning	Review date	21/07/2024
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Legislation, Australian Standards, Code of Practice	Local Government Act 1993 No 30 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2021		
Aim	This Policy aims to extend the two year exemption period to allow persons displaced as a result of a natural disaster to stay in a moveable dwelling or associated structure on private land without approval. This enables recipients who have experienced delays to their rebuild to remain in accommodation on their property while rebuilds are finalised.		

1 Overview

The prior approval of Council is required for the carrying out of a number of activities under section 68 of the Local Government Act 1993 (the Act) including:

- a) Installation of a manufactured home, moveable dwelling or associated structure on land.

Other activities require approval, but are not covered by this Policy.

2 Introduction

This Policy is called The Snowy Monaro Regional Council Local Approvals Policy (the Policy) and is made under section 158 of the 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.

The Policy seeks to:

- Specify the circumstances (if any) in which a person would be exempt from the necessity to obtain a particular approval from Council.
- Specify the criteria that Council staff will take into consideration in determining applications for approval under the Act; and
- 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 Snowy Monaro Local Government Area.

3 Exceptions

The following exemptions apply:

Activity	Exemptions
Install a moveable dwelling or associated structure on private land to accommodate a person who has been displaced as a result of a natural disaster for a period of 4 years.	Exemptions as listed in Appendix 1 – Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings

4 Criteria to be Considered in Determining an Application

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

Activity	Criteria
Install a moveable dwelling or associated structure on private land to accommodate a person who has been displaced as a result of a natural disaster for a period of 4 years.	Criteria as listed in Appendix 1 – Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings

5 Other Matters Relating to Approvals

5.1 Application 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 the approved form available on Council's website and will be assessed in accordance with section 89 of the Act.

5.2 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.

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

5.3 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.

5.4 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.

5.5 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 apply. The determination of a review is final.

5.6 Record 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.

5.7 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.

Appendix 1 – Movable Dwellings and Associated Structures

6 Purpose

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

- a) Enable recipients who have experienced delays to their rebuild to remain in accommodation on their property while rebuilds are finalised.

7 Exempt Criteria

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

- a) The installed movable dwelling or associated structure 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 or associated structure; and
- c) The installed relocatable home or associated structure on private land is removed within 4 years after it is 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 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, approval is required from Council.

8 Criteria to be Considered in Determining an Application

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

9 Other Matters Relating to Approvals

Other conditions may be imposed as deemed appropriate.

10 Related Documents

This procedure should be read in conjunction with the following documents:

Documentation

250.2018.493.1 Section 68 Application Form A – Ancillary Activities

Variation

Council reserves the right to review, vary or revoke this policy and should be reviewed periodically to ensure it is relevant and appropriate.