



# BLAND SHIRE COUNCIL LOCAL APPROVALS POLICY

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Local Government Act 1993, Local Government (General) Regulations 2005  
and Local Government (Manufactured Home Estates, Caravan Parks, Camping  
Grounds and Moveable Dwellings) Regulation 2005

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## INTRODUCTION

### What is the title of this Policy?

This policy (“the policy”) is called the Bland Shire Council Local Approvals Policy 2014.

### What is the status of this Policy?

- (1) The Policy is a local approvals policy prepared and adopted under Section 158 of the Local Government Act 1993 (“the Act”).

### What are the General Aims of the Policy?

The Policy aims:

- (a) To have an integrated framework dealing with approvals
- (b) To ensure consistency and fairness in the manner in which the Council deals with applications for approval;
- (c) To encourage and assist effective participation of local communities in decision-making.
- (d) To make the Council’s policies and requirements for approvals readily accessible to the public;
- (e) To assist Council to fully pursue its charter under Section 8 of the Act.
- (f) To apply common or consistent requirements and procedures to all types of approval.

### When did the Policy commence?

The Policy commenced on [DATE].

**NOTE:** *This Policy was adopted by the Council on \*\*\*.*

## When have amendments been made to the Policy?

The Policy incorporates the amendments as listed.

<b>Status</b>	<b>Committee</b>	<...When was this approved...>		
	<b>Manex</b>	<...When was this approved...>		
<b>Date of Adoption/ Amendment</b>	<b>Revision Number</b>	<b>Minute Number</b>	<b>Previous Policy Number</b>	

## When will the Policy be revoked?

The Policy is automatically revoked at the expiration of 12 months after the declaration of the poll for that election, unless the Council revokes it sooner.

**NOTE:** Under Section 165(4) of the Act, automatic revocation of the policy occurs 12 months after the declaration of the poll for a Council election.

## Where does the Policy apply?

The Policy applies to all land within the Bland Shire local government area.

## To what approvals does the Policy relate?

The Policy applies to approvals for the following activities which are listed in the Table to Section 68 of the Act. These activities require **approval** from Council.

### Part A – Structures

1. Install a manufactured home, moveable dwelling or associated structure on land.

### Part B – Water supply, sewerage, and stormwater drainage work.

1. Carry out water supply work.
2. Draw water from a Council water supply or a standpipe or sell water so drawn.
3. Install, alter, disconnect or remove a meter connected to a service pipe.
4. Carry out sewerage work.
5. Carry out stormwater drainage work.
6. Connect a private drain or sewer with a public drain or sewer under the control of a Council, or with a drain or sewer which connects with such a public drain or sewer.

### Part C – Management of waste.

1. For fee or reward, transport waste over or under a public place.
2. Place waste in a public place.
3. Place a waste storage container in a public place.
4. Dispose of waste into a sewer of the Council.
5. Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility.
6. Operate a system of sewage management (within the meaning of section 68A).

#### **Part D – Community land**

1. Engage in a trade or business.
2. Direct or procure a theatrical, musical or other entertainment for public.
3. Construct a temporary enclosure for the purpose of entertainment.
4. For fee or reward, play a musical instrument or sing.
5. Set up, operate or use a loudspeaker or sound amplifying device.
6. Deliver a public address or hold a religious service or public meeting.

#### **Part E – Public roads**

1. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway.
2. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.

#### **Part F – Other activities**

1. Operate a public car park.
2. Operate a caravan park or camping ground.
3. Operate a manufactured home estate.
4. Install a domestic oil or solid fuel heating appliance, other than a portable appliance.
5. Install or operate amusement devices (within the meaning of the Construction Safety Act 1912).
6. Use a standing vehicle or any article for the purpose of selling any article in a public place.
7. Carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations.

### **What definitions apply?**

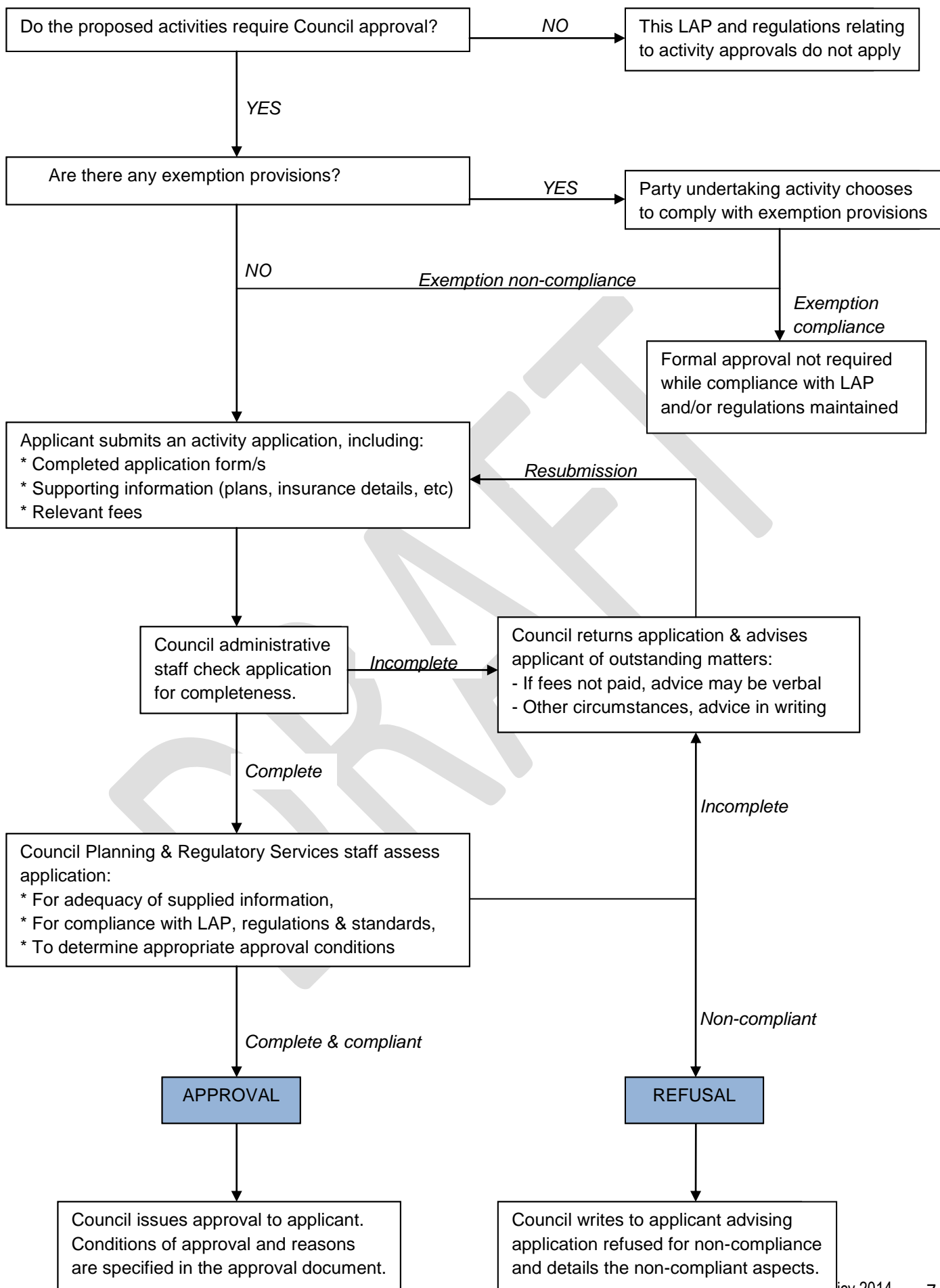
Expressions used in the Policy are defined in the Dictionary at the end of the Act (the “Act Dictionary”). A partial extract from that dictionary is included in Appendix A of this LAP.

### **What are the notes in the text?**

Notes in the text are explanatory notes, and do not form part of the Policy. They are provided to assist understanding.

### **How are applications processed?**

The flow chart below summarises how activity applications are processed by Bland Shire Council, and how this Local Approvals Policy (LAP) relates to such applications.



## What are other relevant documents?

The following documents are related, either directly or indirectly, to the Policy:

- (a) Local Government Act 1993 – particularly Chapter 7.
- (b) Local Government (General) Regulation 2005.
- (c) Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
- (d) Department of Local Government Practice Note 14 issued March 1996 titled Local Approvals Policies.

**NOTE:** *Parts of the practice note are out of date due to changes in legislation. For example Section 68 no longer deals with any building approvals.*

- (e) Other legislation may also be applicable, depending on the type of activity involved, for example the Protection of the Environment Operations Act 1997, the Environmental Planning and Assessment Act 1979, etc..

**NOTE:** *Section 163 of the Act provides that the Local Approval Policy is void if it is inconsistent with the Act or the regulations, to the extent of the inconsistency. Where a local approvals policy contains more onerous criteria than those prescribed by the Act or regulations, section 164 of the Act renders that portion of the policy void.*



## PART 1 - EXEMPTIONS FROM THE NECESSITY TO OBTAIN APPROVAL

### What exemptions are provided for under the Regulations?

The following activities may be exempt from the need to obtain prior approval of the Council. The relevant provisions of the Act or regulations may specify conditions applicable to exemptions and reference should be made to the relevant provisions before proceeding with the proposed activity.

Please note that Clause 81 of the Local Government (General) Regulation 2005 states that:

- (1) *If a person is exempt (because of a local approvals policy) from the requirement to obtain approval for an activity, the exemption is subject to the condition that the activity comply with the standards referred to in clauses 31, 51, and 55,..(Refer Appendix B)*
- (2) *However, the activity must so comply only to the extent that the provisions (and the standards to which they refer) would apply to the activity if the activity had not been the subject of an exemption under the local approvals policy.*
- (3) *However, if the local approvals policy specifies, as the circumstances (or as part of the circumstances) for the exemption, that the activity is carried out in such part of an area, or such an area, as is specified in the policy, subclauses (1) and (2) do not apply to the activity.*
- (4) *Subclause (3) does not prevent a local approvals policy from specifying compliance with one or more of the standards referred to in subclause (1) as part of the circumstances for an exemption under section 158 (3) of the Act.*

### A1 activity - Manufactured or moveable homes

ACTIVITY	REGULATION
Installation of moveable dwellings and associated structures in <b>caravan parks and camping grounds</b> , provided the site is not liable to flooding and the installation occurs with the consent of the holder of the approval to operate the caravan park or camping ground concerned.	Clause 74 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
Installation of not more than one caravan or campervan on land <b>occupied by the owner of the caravan or campervan in connection with that owner's dwelling-house</b> , so long as it is used for habitation only by the owner or by members of the owner's household and is maintained in a safe and healthy condition.	Clause 77(b) of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
Installation of <b>a caravan or campervan on pastoral or agricultural land</b> , so long as it is merely occupied seasonally by persons employed in pastoral or agricultural operations on the land.	Clause 77(c) of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Installation of a caravan, campervan or tent on Crown reserves or on <b>land that is reserved or dedicated under the Forestry Act 1916.</b>	Clause 78 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
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### *C1 activity – Transport waste*

ACTIVITY	REGULATION
<p>The transporting of waste over or under a public place for fee or reward if:</p> <ul style="list-style-type: none"> <li>• The activity is licensed under the Protection of the Environment Operations Act 1997, or</li> <li>• The waste is being transported through the area of the Council and is not being collected or deposited in that area.</li> </ul>	Clause 48(a) of the Local Government (General) Regulation 2005

### *C2 activity – Place waste in a public place*

ACTIVITY	REGULATION
The placing of waste in a public place, if is done in accordance with arrangements instituted by the Council.	Clause 48(b) of the Local Government (General) Regulation 2005

### *D5 activity – Use of a loudspeaker or amplifying device on community land*

ACTIVITY	REGULATION
A loudspeaker or sound amplifying device may be set up, operated or used on community land without the prior approval of the council if it is done in accordance with a notice erected on the land by the council or if it is done in the circumstances specified, in relation to the setting up, operation or use (as the case may be), in Part 1 of the local approvals policy applying to the land.	Clause 49 of the Local Government (General) Regulation 2005

### *F1 activity – Operation of a public car park*

ACTIVITY	REGULATION
A public car park may be operated without the prior approval of the council if approval for its erection or operation has already been given by the council in connection with another approval or development consent and the car park complies with any applicable conditions of that approval or development consent.	Clause 66 of the Local Government (General) Regulation 2005

## What exemptions are provided for under this LAP?

By virtue of this Local Approvals Policy, a person, company or organisation is exempt from the need to obtain a particular approval of the Council in the circumstances specified below, in addition to any exemptions available under the regulations.

### *D1 activity – Trade or business on community land*

Activity/Organisation	Exemption Criteria
<p><b>Non-profit community based organisation</b></p>	<p>Exemption from approval to <b>engage in a trade or business on community land (Activity D1)</b> is available to a <b>non-profit community based organisation</b> in the circumstances specified below:</p> <ul style="list-style-type: none"> <li>(a) The proposed activity does not conflict with any other previously booked on the same land.</li> <li>(b) The activity occurs either:               <ul style="list-style-type: none"> <li>(i) On a Crown Reserve, with the prior written consent of the Reserve Trust and in accordance with any leases or licences that may be necessary for the use of the land; OR,</li> <li>(ii) On freehold land owned by Council with the prior written consent of the Council.</li> </ul> </li> <li>(c) The area of operations must be maintained in a clean, tidy and attractive state at all times.</li> <li>(d) If food is being sold, then the ‘food business’ must be registered with the NSW Food Authority.</li> <li>(e) The party undertaking the activity must ensure that Council staff have full access, on demand, to all buildings, structures and documents associated with any exemption claimed under this policy so that compliance with the conditions of exemption can be verified.</li> <li>(f) The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000 that covers the activities involved and the context in which they will be undertaken.</li> <li>(g) Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken, under the provisions of this exemption.</li> </ul>

	<p>(h) Bland Shire Council retains the right to issue a written revocation of an exemption status for any failure to comply with the terms of the exemption requirements. A written appeal can be lodged with Council against any decision to revoke an exemption.</p>
<p><b>Owner operated business at a community event</b></p>	<p>Exemption from approval to <b>engage in a trade or business on community land (Activity D1)</b> is available to an <b>owner operated business or stall</b> in the circumstances specified below:</p> <p>(a) The activity is undertaken in conjunction with a community event, such as the West Wyalong Show or Events West Wyalong activity.</p> <p>(b) The party undertaking the activity is registered with the organisers of the community event.</p> <p>(c) The activity occurs either:</p> <ul style="list-style-type: none"> <li>(i) On a Crown Reserve, with the prior written consent of the Reserve Trust and in accordance with any leases or licences that may be necessary for the use of the land; OR,</li> <li>(ii) On freehold land owned by Council with the prior written consent of the Council.</li> </ul> <p>(d) The area of operations must be maintained in a clean, tidy and attractive state at all times.</p> <p>(e) If food is being sold, then the 'food business' must be registered with the NSW Food Authority.</p> <p>(f) The party undertaking the activity must ensure that Council staffs have full access, on demand, to all buildings, structures and documents associated with any exemption claimed under this policy so that compliance with the conditions of exemption can be verified.</p> <p>(g) The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000 that covers the activities involved and the context in which they will be undertaken.</p> <p>(h) Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken, under the provisions of this exemption.</p> <p>(i) Bland Shire Council retains the right to issue a written revocation of an exemption status for any failure to comply with the terms of the exemption requirements. A written</p>

	appeal can be lodged with Council against any decision to revoke an exemption.
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*D4 activity – For a fee or reward, play a musical instrument or sing on community land*

Activity/Organisation	Exemption Criteria
	<p>Exemption from approval to, <b>for a fee or reward, play a musical instrument or sing on community land (Activity D4)</b> is available in the circumstances specified below:</p> <ul style="list-style-type: none"> <li>(a) The activity is undertaken in conjunction with a major community event such as the West Wyalong Show or Events West Wyalong activity.</li> <li>(b) The party undertaking the activity is registered with the organisers of the community event.</li> <li>(c) The activity occurs either: <ul style="list-style-type: none"> <li>(i) On a Crown Reserve, with the prior written consent of the Reserve Trust and in accordance with any leases or licences that may be necessary for the use of the land, OR,</li> <li>(ii) on freehold land owned by Council with the prior written consent of the Council.</li> </ul> </li> <li>(d) The activity must not be offensive or cause disturbance.</li> <li>(e) The activity must not obstruct the flow of vehicle traffic or pedestrian flows.</li> <li>(f) The area of operations must be maintained in a clean, tidy and attractive state at all times.</li> <li>(g) The party undertaking the activity must ensure that Council staff have full access, on demand, to all buildings, structures and documents associated with any exemption claimed under this policy so that compliance with the conditions of exemption can be verified.</li> <li>(h) The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000 that covers the activities involved and the context in which they will be undertaken.</li> <li>(i) Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly</li> </ul>

	<p>undertaken, under the provisions of this exemption.</p> <p>(j) Bland Shire Council retains the right to issue a written revocation of an exemption status for any failure to comply with the terms of the exemption requirements. A written appeal can be lodged with Council against any decision to revoke an exemption.</p>
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***D5 activity- Set up, operate or use a loudspeaker or sound amplifying device on community land***

Activity/Organisation	Exemption Criteria
	<p>Exemption from approval to <b>set up, operate or use a loudspeaker or sound amplifying device on community land (Activity D5)</b> is available in the circumstances specified below:</p> <p>(a) The activity is undertaken in conjunction with a community event such as the West Wyalong Show or Events West Wyalong activity.</p> <p>(b) The activity occurs either:</p> <ul style="list-style-type: none"> <li>(i) On a Crown Reserve, with the prior written consent of the Reserve Trust and in accordance with any leases or licences that may be necessary for the use of the land, OR,</li> <li>(ii) on freehold land owned by Council with the prior written consent of the Council.</li> </ul> <p>(c) The activity must not be offensive or cause significant disturbance outside the venue.</p> <p>(d) The party undertaking the activity must ensure that Council staff have full access, on demand, to all buildings, structures and documents associated with any exemption claimed under this policy so that compliance with the conditions of exemption can be verified.</p> <p>(e) The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000 that covers the activities involved and the context in which they will be undertaken.</p> <p>(f) Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken, under the provisions of this exemption.</p> <p>(g) Bland Shire Council retains the right to issue a written revocation of an exemption status for any failure to comply</p>

	with the terms of the exemption requirements. A written appeal can be lodged with Council against any decision to revoke an exemption
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*F7 activity – Selling in a public place*

Activity/Organisation	Exemption Criteria
<p><b>Non-profit community based organisation</b></p>	<p>Exemption from approval to <b>use a standing vehicle or any article for the purpose of selling any article in a public place (Activity F7)</b> is available to a <b>non -profit community based organisation</b> in the circumstances specified below:</p> <ul style="list-style-type: none"> <li>(a) The organisation provides written notification to Bland Shire Council at least one week prior to the event. Notifications must include details of the date, time and nature of a proposed activity. They can be made by fax (6972 2266), e-mail (council@blandshire.nsw.gov.au) or letter (General Manager, Bland Shire Council, P.O. Box 21, West Wyalong NSW 2671).</li> <li>(b) The proposed activity does not conflict with any other previously booked in the same town.</li> <li>(c) If the activity occurs on a footpath, then a minimum 3m width of footpath must remain available for pedestrian use at all times.</li> <li>(d) If the activity occurs on a footpath then all trading tables, displays and equipment must be located adjacent to buildings.</li> <li>(e) The area of operations must be maintained in a clean, tidy and attractive state at all times.</li> <li>(f) Trading can only take place at the front of a business or home where the occupier of that business or home has given their consent for the activity.</li> <li>(g) If food is to be sold, then the ‘food business’ must be registered with the NSW Food Authority.</li> <li>(h) The party undertaking the activity must ensure that Council staff have full access, on demand, to all buildings, structures and documents associated with any exemption claimed under this policy so that compliance with the conditions of exemption can be verified.</li> </ul>



	<p>(i) The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000 that covers the activities involved and the context in which they will be undertaken.</p> <p>(j) Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken, under the provisions of this exemption.</p> <p>(k) Bland Shire Council retains the right to issue a written revocation of an exemption status for any failure to comply with the terms of the exemption requirements. A written appeal can be lodged with Council against any decision to revoke an exemption.</p>
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## **PART 2 - CRITERIA COUNCIL MUST CONSIDER WHEN DETERMINING APPLICATIONS**

### **General Matters for Consideration under Regulations**

The regulations to the Local Government Act 1993 prescribe a number of matters that must be considered by Council when dealing with an activity application, as detailed under the respective headings below.

### **B1, B4 and B5 Activities- water supply, sewerage and stormwater drainage**

Clause 13 of the Local Government (General) Regulation 2005 specifies matters that must be taken into consideration by Council, as follows:

- The council must not approve an application for an approval allowing water supply, sewerage or stormwater drainage work to be carried out unless it is satisfied that the activity as proposed to be carried out will comply with any applicable standards set out or referred to in Part 2 of Schedule 1 and with any other applicable standards or requirements set out or referred to in this Regulation.

Clause 15 of the Local Government (General) Regulation 2005 specifies matters that must be taken into consideration by Council, as follows:

- (1) This clause applies to the following activities:
  - a) carrying out water supply work,
  - b) drawing water from the council water supply or a standpipe,
  - c) installing, altering, disconnecting or removing a water meter connected to a service pipe,
  - d) carrying out sewerage work,
  - e) carrying out stormwater drainage work.
  
- (2) In determining an application for the purposes of section 68 of the Act for an approval to do any of the activities to which this clause applies, the council must have regard to the following considerations:
  - a) the protection and promotion of public health,
  - b) the protection of the environment,
  - c) the safety of its employees,



- d) the safeguarding of its assets,
- e) any other matter that it considers to be relevant in the circumstances.

Part 2 of Schedule 1 of the Local Government (General) Regulation 2005 specifies mandatory standards for water supply, sewerage and stormwater drainage work, including that such works must comply with the New South Wales Code of Practice—Plumbing and Drainage (also known as the Plumbing and Drainage Code of Practice).

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### C3 Activity - Place building waste storage container on a road

Clause 27 of the Local Government (General) Regulation 2005 specifies matters that must be taken into consideration by Council, as follows:

*In determining an application for approval to place on a road a building waste storage container, the council is to take into consideration any requirements or guidelines relating to the location, size and visibility of building waste storage containers that are notified to the council from time to time by the Roads and Maritime Service.*

### C5 Activity- sewage management facilities

Clause 29 of the Local Government (General) Regulation 2005 specifies matters that must be taken into consideration by Council, as follows:

- (1) In determining an application for approval to **install, construct or alter a sewage management facility**, the council must take into consideration the matters specified in this clause.
- (2) Environment and health protection matters

The council must consider whether the proposed sewage management facility (or the proposed sewage management facility as altered) and any related effluent application area will make appropriate provision for the following:

- a) preventing the spread of disease by micro-organisms,
- b) the prevention of the spread of foul odours,
- c) preventing contamination of water,
- d) preventing degradation of soil and vegetation,
- e) the discouragement of insects and vermin,
- f) ensuring that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises concerned,
- g) the re-use of resources (including nutrients, organic matter and water),
- h) the minimisation of any adverse impacts on the amenity of the land on which it is installed or constructed and other land in the vicinity of that land.

- (3) Guidelines and directions

The council must consider any matter specified in guidelines or directions issued by the Director-General in relation to the matters referred to in subclause (2).

Refer to Council's Onsite Effluent Disposal in Non- Sewered Areas Policy. Please note that this policy should be read in conjunction with Chapter 19 of Council's Development Control Plan 2012.

### E1 & E2 Activities - applications relating to public roads

Clause 50 of the Local Government (General) Regulation 2005 specifies matters that must be taken into consideration by Council, as follows:

- In determining an application for an approval under Part E of the Table to section 68 of the Act the council must take into account the provisions of the Roads Act 1993 and any relevant standards and policies of public authorities applying to the use of the road.

Criteria relating to sandwich boards, outdoor dining, the sale of items and use of footpath are within Chapter 13 of Council's Development Control Plan 2012. Erection of awning over a road will be considered by way of a development application only.

## **F1 Activity – operation of a public car park**

Clause 53 of the Local Government (General) Regulation 2005 specifies matters that must be taken into consideration by Council, as follows:

In determining an application for approval to operate a public car park the council is to take the following matters into consideration:

- a) the Roads and Traffic Authority's views about the application,
- b) the effect of the car park on the movement of vehicular traffic and pedestrian traffic,
- c) whether the number of vehicles proposed to be accommodated is appropriate having regard to the size of the car park and the need to provide off-street parking facilities within the car park for the temporary accommodation of vehicles,
- d) whether the means of ingress and egress and means of movement provided or to be provided within the car park are satisfactory,
- e) whether there will be adequate provision for pedestrian safety and access for people with disabilities,
- f) whether the internal design of parking facilities and system of traffic management are satisfactory,
- g) whether, in the case of a car park that is a building, adequate ventilation is provided or to be provided,
- h) the Occupational Health and Safety Act 2000, and the regulations made under that Act, as regards the safety of persons who will be employed at the proposed car park or of persons who will go there,
- i) whether there will be adequate provision for the management of stormwater and the minimisation of stormwater pollution.

## **F2 Activity – operate a caravan park or camping ground**

The Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 contains mandatory requirements for the operation of a caravan park and camping ground. As a result, Council will evaluate all relevant activity applications to ensure that:

- a) Supporting plans and documents clearly demonstrate an intention to comply with the requirements of the regulation.
- b) Where such an intention is not demonstrated, an assessment will be made of whether it is feasible for the applicant to comply and hence whether it is appropriate to issue a conditional approval or hold the application pending the supply of the necessary information.

## **General matters for Consideration under this LAP**

Under the terms of this Local Approvals Policy, the following matters must be considered in addition to any matters prescribed by the regulations for the respective activity applications.

## **D1, & F7 Activities – Trade or business on community land or use standing vehicle for selling any article in a public place**

This section applies to applications for approval to engage in a trade or business on community land (D1 activity) and to use a standing vehicle or any article for the purpose of selling any article in a public place (F7 activity).

For all applications relating to the trading or selling on community land, public roads or public places, Council will consider the following matters in connection with the respective applications:

- (1) If food is proposed to be sold by a business, which business has been registered with the NSW Food Authority.
- (2) The potential for interference with pedestrian or vehicle traffic.

- (3) The potential for conflict with any other activity previously approved in the same town.

**NOTE:** *Under the Trade Practices Act 1974 Council cannot refuse to issue an approval on the basis that an activity competes with existing businesses, as that would be anticompetitive. However Council can refuse to consent to an activity that does not comply with this L.A.P. or unreasonably interferes with an aspect of public amenity.*

- (4) Whether any items proposed to be sold may constitute a danger to the public.

## **PART 3 - OTHER MATTERS RELATING TO APPROVALS**

### **Refund of fees**

In certain circumstances where an application is not fully processed by Council, an applicant may be eligible for the refund of activity application fees. Refund requests must be made by the applicant in writing.

### **When does an approval or exemption lapse?**

#### **Approvals**

An approval under Section 68 of the Local Government Act 1993 or Section 92 of the Environmental Planning and Assessment Act 1979 lapses five years after the date from which the approval operates, unless:

- (1) *The approval states otherwise; or,*
- (2) *The activity has been physically substantially commenced within the meaning of the applicable act.*

*An extension of an approval may be granted if:*

- (1) *A request is received by Council in writing prior to the date on which the approval would have lapsed; and,*
- (2) *Council determines that the approval should be extended.*

#### **Exemptions**

Any exemption under this Local Approvals Policy, or the regulations, has no effect unless all the specified conditions of the exemption are met. Any breach of the conditions would mean that the exemption provisions no longer apply to the activity or activities involved.

Exemption provisions within the Local Approvals Policy cease to have effect once the policy lapses.

#### **Reference**

- Practice Note No.14 – Local Approvals Policies (DLG)
- Local Government Act 1993
- Local Government (General) Regulations 2005
- and Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
- Draft Walgett LAP 2013

- Model Local Approvals Policy 1996

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## APPENDIX A - Dictionary

The dictionary below represents a partial extract from the dictionary of the Local Government Act 1993 and should be read in conjunction with this Local Approvals Policy.

**approval** means an approval that is in force under this Act.

**building** includes part of a building and any structure or part of a structure, but does not include a moveable dwelling or associated structure or part of a moveable dwelling or associated structure.

**community land** means land that is classified as community land under Division 1 of Part 2 of Chapter 6.

**council** means the council of an area, and includes an administrator.

**dwelling**, in Division 1 of Part 8 of Chapter 15, means a building or part of a building used as a place of dwelling.

**entertainment** includes:

(a) amusement provided by means of any ride or device or by any other means (such as pin-ball machines and video games), and

(b) an exhibition, sporting event or contest,

but does not include amusement provided by means of an approved gaming machine within the meaning of the *Gaming Machines Act 2001*, and does not include anything that is declared by the regulations not to be entertainment for the purposes of this definition.

**erection**, in relation to building, includes any structural work and any alteration, addition or rebuilding.

**fittings**, in relation to any premises connected to a water main or sewer, means all apparatus (other than pipes or fixtures) used or intended to be used in connection with the conveyance of water to, or of permitted discharges from, the premises.

**licensed premises** means premises the subject of:

(a) a licence under the *Liquor Act 1982*, or

(b) a certificate of registration under the *Registered Clubs Act 1976*,

that are used or intended to be used for the purpose of providing entertainment.

**manufactured home** means a self-contained dwelling (that is, a dwelling that includes at least one kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling:

(a) that comprises one or more major sections, and

(b) that is not a registrable vehicle within the meaning of the *Road Transport (Vehicle Registration) Act 1997*,

and includes any associated structures that form part of the dwelling.

**moveable dwelling** means:

(a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or

(b) a manufactured home, or

(c) any conveyance, structure or thing of a class or description prescribed by the regulations for the purposes of this definition.

**operational land** means land that is classified as operational land under Division 1 of Part 2 of Chapter 6.

**place of public entertainment** means:

- (a) a drive-in theatre, or
- (b) an open-air theatre, or
- (c) a theatre or public hall, or
- (d) licensed premises.

**premises** means any of the following:

- (a) a building of any description or any part of it and the appurtenances to it,
- (b) land, whether built on or not,
- (c) a shed or other structure,
- (d) a tent,
- (e) a swimming pool,
- (f) a ship or vessel of any description (including a houseboat),
- (g) a van.

**public car park** means any premises used for the purpose of accommodating vehicles of members of the public on payment of a fee, but does not include a pay parking space under the *Road Transport (Safety and Traffic Management) Act 1999* prescribed by the regulations.

**public entertainment.**

- (a) means entertainment to which admission may ordinarily be gained by members of the public on payment of money, or other consideration, as the price or condition of admission and an entertainment does not cease to be a public entertainment merely because:
  - (i) some (but not all) persons may be admitted to the entertainment otherwise than on payment of money, or other consideration, as the price or condition of admission, or
  - (ii) such payment, or other consideration, is demanded as the charge for a meal or other refreshment, or for any other service or thing, before admission to the entertainment is granted or as the charge for the entertainment after admission to the entertainment has been granted, and
- (b) includes a public meeting.
- (c) (Repealed)

**public meeting** means an assembly held for a public purpose to which admission may ordinarily be gained by members of the public (whether or not on payment of money, or other consideration, as the price or condition of admission), but does not include an assembly held for the purpose of religious worship only.

**public place** means:

- (a) a public reserve, public bathing reserve, public baths or public swimming pool, or
- (b) a public road, public bridge, public wharf or public road-ferry, or
- (c) a Crown reserve comprising land reserved for future public requirements, or
- (d) public land or Crown land that is not:

- (i) a Crown reserve (other than a Crown reserve that is a public place because of paragraph (a), (b) or (c)), or
- (ii) a common, or
- (iii) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
- (iv) land that has been sold or leased or lawfully contracted to be sold or leased, or
- (e) land that is declared by the regulations to be a public place for the purposes of this definition.

**public reserve** means:

- (a) a public park, or
- (b) any land conveyed or transferred to the council under section 340A of the *Local Government Act 1919*, or
- (c) any land dedicated or taken to be dedicated as a public reserve under section 340C or 340D of the *Local Government Act 1919*, or
- (d) any land dedicated or taken to be dedicated under section 49 or 50, or
- (e) any land vested in the council, and declared to be a public reserve, under section 37AAA of the *Crown Lands Consolidation Act 1913*, or
- (f) any land vested in the council, and declared to be a public reserve, under section 76 of the *Crown Lands Act 1989*, or
- (g) a Crown reserve that is dedicated or reserved:
  - (i) for public recreation or for a public cemetery, or
  - (ii) for a purpose that is declared to be a purpose that falls within the scope of this definition by means of an order published in the Gazette by the Minister administering the *Crown Lands Act 1989*, being a Crown reserve in respect of which a council has been appointed as manager of a reserve trust for the reserve or for which no reserve trust has been established, or
- (h) land declared to be a public reserve and placed under the control of a council under section 52 of the *State Roads Act 1986*, or
- (i) land dedicated as a public reserve and placed under the control of a council under section 159 of the *Roads Act 1993*,

and includes a public reserve of which a council has the control under section 344 of the *Local Government Act 1919* or section 48, but does not include a common.

**public road** means a road which the public are entitled to use.

**road** includes:

- (a) highway, street, lane, pathway, footpath, cycleway, thoroughfare, bridge, culvert, causeway, road-ferry, ford, crossing, by-pass and trackway, whether temporary or permanent, and
- (b) any part of a road and any part of any thing referred to in paragraph (a), and
- (c) any thing forming part of a road or any thing forming part of any thing referred to in paragraph (a).

**temporary structure** includes:



- (a) a booth, tent or other temporary enclosure, whether or not a part of the booth, tent or enclosure is permanent, and
- (b) a mobile structure.

***theatre or public hall*** means any building or part of a building that is used or intended to be used for the purpose of providing public entertainment or conducting public meetings.

**waste** means:

- (a) effluent, being any matter or thing, whether solid or liquid or a combination of solids and liquids, which is of a kind that may be removed from a human waste storage facility, sullage pit or grease trap, or from any holding tank or other container forming part of or used in connection with a human waste storage facility, sullage pit or grease trap, or
- (b) trade waste, being any matter or thing, whether solid, gaseous or liquid or a combination of solids, gases and liquids (or any of them), which is of a kind that comprises refuse from any industrial, chemical, trade or business process or operation, including any building or demolition work, or
- (c) garbage, being all refuse other than trade waste and effluent,

and includes any other substance defined as waste for the purposes of the *Protection of the Environment Operations Act 1997*, and a substance is not precluded from being waste merely because it is capable of being refined or recycled.

## **APPENDIX B – Standard Conditions**

### **Local Government (General) Regulation 2005**

#### **Division 4 Approvals relating to management of waste Subdivision 3 Conditions of approvals**

##### **31 Compliance with standards**

(1) It is a condition of an approval referred to in item 4 of Part C of the Table to section 68 of the Act (Dispose of waste into a sewer of the council) that:

- (a) the activity approved, and
- (b) any building or work associated or carried out in connection with the activity,

complies with any applicable standards established by any regulation in force under the Act or the [Environmental Planning and Assessment Act 1979](#).

(2) It is a condition of an approval referred to in item 5 of Part C of the Table to section 68 of the Act (Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility) that:

- (a) the activity approved, and
- (b) any building or work associated or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by or under the Act.

#### **Subdivision 3 Public car parks**

##### **51 Compliance with standards—approvals relating to public roads**

It is a condition of an approval referred to in Part E of the Table to section 68 of the Act that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by any regulation in force under the Act or the [Environmental Planning and Assessment Act 1979](#).

#### **Subdivision 3 Public car parks**

##### **55 Compliance with standards**

It is a condition of an approval to operate a public car park that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by any regulation in force under the Act or the [Environmental Planning and Assessment Act 1979](#).