

# Approval and operation of caravan parks, camping grounds and manufactured home estates

## Introduction

The following information concerns the approval and operation of caravan parks, camping grounds and manufactured home estates (MHEs) and the installation of manufactured homes and other types of moveable dwellings in those parks, grounds and estates in NSW.

The information is intended to assist councils, applicants, current and prospective owners and operators of caravan parks, camping grounds and MHEs, and persons wishing to install moveable dwellings in those parks, grounds or estates. The Department is currently investigating how regulation of the approval and operation of caravan parks or camping grounds and MHEs may be streamlined.

**Caravan parks** are an important provider of tourist and residential accommodation. Caravan parks mostly cater for both caravans and other moveable dwellings such as tents, relocatable homes, campervans or motorhomes.

There are around 900 caravan parks in NSW. The parks are located throughout the State and are found in the greatest numbers in coastal areas. The majority of the parks are privately operated on private land, some are owned and operated by councils and others are caravan parks on Crown Land. Most caravan parks include camp sites for tents and campervans plus there are many separate camping grounds.



**Manufactured Home Estates (MHEs)** are a contemporary form of medium density housing development comprising land leased communities in which the residents own or rent manufactured homes on dwelling sites leased from the estate.

Manufactured homes are a type of relocatable home<sup>1</sup>. They are constructed outside of caravan parks and MHEs, usually in a factory, in the form of one or more "major sections", which are then transported to and installed on a site and connected to services. Manufactured homes are self-contained and include at least one kitchen, bathroom, bedroom and living area and also include toilet and laundry facilities. Manufactured homes can often be purchased for less than \$200,000 and are seen as an important affordable housing option.

<sup>1</sup> "Relocatable home" and "major section" are defined in the Local Government (*Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings*) Regulation 2005. In summary, a relocatable home is a home that comprises one or more major sections, but does not include a tent, caravan or any moveable dwelling capable of being registered under the *Road Transport (Vehicle Registration) Act 1997*. In summary, a major section is a single portion of the home, being a portion that contains a total living space (excluding the living space in any associated structure) of at least 20m<sup>2</sup> that comprises all of the major components of that portion other than stoves, refrigerators and other whitegoods.

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## Approval of caravan parks and camping grounds

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The approval requirements for caravan parks and camping grounds are outlined below.

### Planning approval

Development for the purpose of caravan parks and camping grounds is regulated under local environmental plans (LEPs) and *State Environmental Planning Policy No 21 – Caravan Parks (SEPP 21)*. However, SEPP 21 does not apply to land that is not within a local government area or to land in the Western Sydney Parklands (as defined by the *State Environmental Planning Policy (Western Sydney Parklands) 2009*). Certain provisions<sup>2</sup> of SEPP 21 do not apply to land that is dedicated or reserved under the *National Parks and Wildlife Act 1974*.

The relevant LEP regulates whether caravan parks or camping grounds are permitted or prohibited on any particular land. However, *SEPP 21* overlays this by providing that on land where development for a caravan park or camping ground is permitted with or without consent under an LEP, that development may only be carried out with the development consent of the council.

*SEPP 21* requires a council to consider a range of social, economic and environmental matters in deciding whether to grant consent for development for a caravan park or camping ground. If the relevant LEP permits sites for long-term residence in a caravan park, then under the *SEPP*, the council must determine the number of sites (if any) that are suitable for long-term residence and the number of sites that are suitable for short-term residence (eg. for tourists). In determining any development application for a park or ground a council is also required to consider all relevant matters under section 79C of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

With limited exceptions, *SEPP 21* allows moveable dwellings to be installed in caravan parks and camping grounds without development consent being required (see clause 8(4A)).

## Approval to operate a caravan park or camping ground

An approval from the local council under s.68 of the *Local Government Act 1993 (LG Act)* is required to operate a caravan park or camping ground. An approval lapses after 5 years (or such shorter or longer time as the council may set) and therefore, the approval requires periodic renewal or extension if the caravan park or camping ground is to continue operating.

Before granting an approval to operate, a council must:

- consider the principles of ecologically sustainable development (as defined in *LG Act*)
- consider any criteria in any relevant local approvals policy<sup>3</sup> of the council
- be satisfied the operation of the park or ground will comply with the requirements of any relevant regulation.

**Note:** An applicant may lodge with their application an objection to any requirement of the relevant regulations or local approvals policy (see page 5 under “Objections under Section 82 of *LG Act*”).

A relevant regulation for caravan parks, camping grounds and MHEs is the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 (LG Regulation 2005)*, which sets standards for:

- the design, construction, maintenance and operation of MHEs, caravan parks and camping grounds
- the design, construction and installation of manufactured homes and other moveable dwellings
- promotion of the health, safety and amenity of the occupiers of those dwellings.

*The LG Regulation 2005* requires that each dwelling site in a caravan park must be specified in the approval as either a “short-term site” or a “long-term site”. Short-term sites are those sites on which moveable dwellings ordinarily used for holiday purposes are installed, while long-term sites are mostly used for long-term residence (often as a person’s principal place of residence).

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<sup>2</sup> The requirements in clause 8 of SEPP 21 for development consent for caravan parks does not apply to land dedicated or reserved under the *National Parks and Wildlife Act 1974*. Use of caravans, campervans and tents on those lands is regulated under that Act.

<sup>3</sup> A local approvals policy (LAP) may specify the following: the circumstances in which a person would be exempt from the need to obtain a particular approval of the council for activities governed by the *LG Act*; the criteria which a council must take into consideration in determining whether to give or refuse an approval under the *LG Act*; and other matters relating to approvals.

An applicant (other than the Crown) can make a development application to the council, in which they apply for both development consent under the *EP&A Act* and approval under the *LG Act* to operate a caravan park or camping ground. This is an alternative to making two separate applications.

### **Installing various types of moveable dwellings in caravan parks or camping grounds**

Unless otherwise specified by the *LG Regulation 2005* or a local approvals policy, approval of the council is required to install a manufactured home, moveable dwelling or associated structure<sup>4</sup> in a caravan park or camping ground.

However, under the *LG Regulation 2005*, installing a tent on a camp site in a camping ground, or installing a campervan on a dwelling site in a caravan park or on a camp site in a camping ground, does not require prior approval of the council under the *LG Act* if the installation has the agreement of the holder of the approval to operate the park or ground.

Installation of a relocatable home, associated structure (eg. garage, car port or verandah), caravan, tent or annexe on a dwelling site in a caravan park also does not require the prior approval of the council providing it is designed, constructed and installed in accordance with the relevant provisions of the *LG Regulation 2005* and the approval holder for the park agrees to the installation. The *LG Regulation 2005* sets out the requirements for installing a relocatable home or associated structure in a caravan park or camping ground at Part 3 Division 4.

Prior approval of the council is required to install a relocatable home, rigid annexe or associated structure on a dwelling site in a caravan park or camping ground if the home, annexe or structure is of more than one storey, or if the installation is on land which is flood liable and the approval holder has been notified by the council in writing that the land is flood liable.

Included in requirements of the *LG Regulation 2005* are that a relocatable home must be of a design certified by a practising structural engineer to be structurally sound (clause 143 refers), that compliance plates, specifying the matters referred to in clause 159, must be attached to an accessible part of the home, and that within 7 days after the completion of the installation of the home, the approval holder for the park or ground must give the council written notification of the installation (clause 160 refers).

<sup>4</sup> Under the *LG Act* associated structure means:

- (a) a carport, garage, shed, pergola, verandah or other structure designed to enhance the amenity of a moveable dwelling and attached to or integrated with, or located on the same site as, the dwelling concerned, or
- (b) a separating wall between 2 moveable dwellings.

### **Temporary caravan parks and camping grounds**

Under the *LG Regulation 2005* a caravan park or camping ground operated for up to 6 weeks solely in connection with use of the land for a sporting, recreational or cultural event, is not subject to the operating requirements (eg. in respect of site sizes, servicing and provision of permanent amenities) the Regulation sets for other parks and grounds (see clause 73(3)).

However, development consent and approval to operate are still required for the temporary park or ground. Relevant requirements of Divisions 4 and 5 of Part 3 of the Regulation concerning relocatable homes associated structures, caravans, tents and annexes in caravan parks and camping grounds also still apply.

The matters for consideration specified in clause 10 of *SEPP 21* are relevant to development applications for temporary caravan parks and camping grounds.

Including temporary caravan parks and camping grounds in the requirement for development consent and prior council approval to operate ensures that there will be assessment of whether the proposed park or ground will provide adequately for the health, safety and amenity of its occupiers, and whether the likely on-site and off-site impacts of the proposed use are acceptable.

There are orders provisions in the *EP&A Act* which a council may, depending on the circumstances, be able to use to address unauthorised use of land for a caravan park or camping ground. Further, a person who operates a caravan park or camping ground without having obtained an approval under Part 1 of Chapter 7 of the *LG Act* required for that activity, would be guilty of an offence (see section 626 of the *LG Act*).



## Some other relevant legislation

The *Residential Parks Act 1998* sets out requirements regarding the rights and responsibilities of residential park owners and persons who under a residential tenancy agreement occupy a residential site in a caravan park or MHE as their principal place of residence. The *Residential Tenancies Act 1987* applies to other residential tenancy agreements under which residential premises consist of a moveable dwelling. The use of holiday vans for long-term casual occupation for holiday purposes in caravan parks is subject to the *Holiday Parks (Long-term Casual Occupation) Act 2002*. The Office of Fair Trading has responsibility for day-to-day administration of these three Acts.

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## Approval of Manufactured Home Estates (MHEs)

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Approval of MHEs is similar to that for caravan parks and camping grounds. However, MHEs are subject to a different State Environmental Planning Policy. There are also some differences in requirements under the *LG Regulation 2005*. For example, that Regulation sets a larger minimum dwelling site size for MHEs than for caravan parks, and manufactured homes and associated structures in MHEs require a certificate of completion from the council following the giving of notice of completion of installation by the holder of the approval to operate.

### Planning approval

Development for the purposes of MHEs is regulated by *State Environmental Planning Policy No 36 – Manufactured Home Estates (SEPP 36)*, and applicable LEPs.

*SEPP 36* applies to land in the local government areas outside the Sydney Region. Under the SEPP this includes the local government areas of Gosford and Wyong. *SEPP 36* makes development for a MHE permissible with the development consent of the council on any land on which development for a caravan park may be carried out except land dedicated or reserved under the *National Parks and Wildlife Act 1974*, Crown reserves or specified categories of excluded land (see below regarding Schedule 2 to *SEPP 36*).

To establish whether or not a MHE is a permissible development on any particular land, it will be necessary to examine the relevant LEP. For those councils whose local government areas (or part thereof) are not covered by *SEPP 36*, or in those



circumstances where *SEPP 36* does not apply, development for the purpose of MHEs is governed by the relevant LEP or Part 5 of the *EP&A Act*.<sup>5</sup>

Under *SEPP 36*, the council must be satisfied of the following matters before granting consent for development for a MHE:

- adequacy of provision of reticulated water and sewerage, drainage and electricity;
- adequacy of transport services;
- accessibility to residents of community facilities and services; and
- that the development will not adversely affect any conservation area, heritage item, or waterway or land with special landscape, scenic or ecological qualities (being an area, item, waterway or land identified in an applicable environmental planning instrument).

The council must also consider the cumulative impact of the proposed development and any other MHEs in the locality, any relevant guidelines issued by the Director General of the Department of Planning and the provisions of the *LG Regulation 2005*. As with development for caravan parks and camping grounds, the council must also consider the matters under section 79C of the *EP&A Act* as relevant.

Schedule 2 to *SEPP 36* excludes a number of categories of land from operation of that Policy. The categories relate, amongst other things, to land identified in an environmental planning instrument (eg. LEP or SEPP) as being within an open space, environmental protection, scenic protection or rural zone, and land identified in an environmental planning instrument or planning strategy as being environmentally sensitive (eg littoral rainforest or wetland).

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<sup>5</sup> It is noted that LEPs which adopt the provisions of the Standard Instrument (Local Environmental Plans) Order 2006 do not include MHEs as a land use. Where *SEPP 36* does not permit MHEs on the subject land and the relevant LEP does not include MHEs as a land use, development for purposes of a MHE will be governed by Part 5 of the *EP&A Act*.

## Approval to operate a MHE

The *LG Act* requires approval of the council (under section 68) to operate a MHE. As with the approval of caravan parks and camping grounds those approvals are required to be time-limited and there is provision for the approvals to be for extended or renewed. Under the *LG Act*, the same matters for consideration apply to the operation of a MHE as apply to the operation of a caravan park or camping ground and the *LG Regulation 2005* also applies to MHEs.

An applicant (other than the Crown) for a MHE can make a development application to the council, in which they apply for both development consent under the *EP&A Act* and approval under the *LG Act* to operate a MHE (instead of making two separate applications).

## Installation of manufactured homes and associated structures in MHEs

Unless otherwise specified in the *LG Regulation 2005* or in a local approvals policy, *LG Act* approval of the council is required to install a manufactured home in a MHE (although SEPP 36 provides that development consent is not required).

However, prior approval of the council is not required to install a manufactured home or associated structure on a dwelling site in a MHE if the home or structure is designed, constructed and installed in accordance with the *LG Regulation 2005* and the holder of the approval to operate the MHE has agreed to the installation. The requirements for the design, construction and installation of manufactured homes and associated structures in a MHE are in Part 2 of Division 4 of the Regulation.



Approval under the *LG Act* is required to install manufactured homes or associated structure of more than one storey and for installations on land which is flood liable (if the approval holder has been notified by the council in writing that the land is flood liable).

Included in requirements of the *LG Regulation 2005* are that a manufactured home must be of a design certified by a practising structural engineer to be structurally sound (clause 51 refers), and that compliance plates, specifying the matters referred to in clause 67, must be attached to an accessible part of a manufactured home, an associated structure forming part of a manufactured home and an associated structure comprising a free-standing garage. Requirements regarding notice of completion of installation (clause 68) and certificates of completion (clause 69) are also included.

## Installation of moveable dwellings outside caravan parks, camping grounds and MHEs

The *LG Regulation 2005* also regulates the installation of moveable dwellings elsewhere than in a caravan park, camping ground or MHE (eg. see clauses 77-82).

Further information about the installation of relocatable homes outside caravan parks, camping grounds and MHEs may be found on the Department's website in planning circular *PS 06-018*.

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## Objections under Section 82 of LG Act

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Under section 82(1) of the *LG Act* an applicant for an approval to operate a caravan park or camping ground, to operate a MHE or to install a manufactured home, moveable dwelling or associated structure on land (or an applicant for an amendment to an approval for any of those activities) may lodge with their application an objection that:

- the regulations or a local approvals policy relating to the operation of the activity for which approval to operate has been sought do not make appropriate provision with respect to that activity, or
- that compliance with any provision of the regulations or policy is unreasonable or unnecessary in the particular circumstances of the case.

The applicant must specify the grounds for the objection.

Sections 82(3) (regarding objections related to the regulations) and Section 82(3A) (regarding objections related to a local policy) provide that if the council is satisfied that the objection is well founded, it may, in determining the application, direct that particular provisions of the regulations or policy are not to apply, or are to apply with specified modifications, to the relevant activity, or may direct that other requirements are to apply.

If the objection relates to the regulations, the council may only make such a decision with concurrence under section 82(3) of the *LG Act*.

The Director General of the Department of Planning has been delegated<sup>6</sup> the power to determine requests for concurrence under section 82(3) of the *LG Act* in respect of approval of the operation of caravan parks or camping grounds, the operation of MHEs and the installation of manufactured homes, moveable dwellings or associated structures on land. This delegation extends to the determination of section 82(3) concurrence requests in respect of approval of amendments to approvals for any of the above three activities.

**Requests by councils for the concurrence of the Director General of Planning under section 82(3) of the *LG Act* in respect of any of the above three activities should be addressed to The Director General, Department of Planning, GPO Box 39 Sydney 2001.**

The following information and documents should be submitted with those requests:

- Identification of the activity applied for (i.e. to operate a caravan park or camping ground, operate a MHE, or install a manufactured home, moveable dwelling or associated structure on land);
- A property description of the land on which the activity is proposed to be carried out;
- The name and address of the applicant;
- The date on which the associated application under section 75 or section 106 of the *LG Act* was lodged;
- A copy of the plans and specifications submitted by the applicant with their application;
- A copy of council's (or, where applicable, its delegate's) report on its consideration of the applicant's *LG Act* section 82(1) objection; and
- A statement of the direction/s the council proposes to give under section 82(3) of the *LG Act* in determining the application.

**Note that a section 82 objection can not be made in association with an application under section 107 of the *LG Act* for renewal or extension of an approval for an activity. This is because a renewal or extension under section 107 can not change the terms of the approval.**

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### Contact details for enquiries

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Enquiries in relation to planning and *LG Act* requirements relevant to any particular proposal to establish, expand or reconfigure a caravan park, camping ground or MHE should in the first instance be directed to the local council.

Enquiries of a general nature about the regulation of caravan parks, camping grounds and MHEs under the *EP&A Act* and *LG Act* may be made to the Department of Planning on (02) 9228 6311 (telephone). Please note that the Department does not provide legal advice in relation to specific cases.

General enquiries about the requirements of the *Residential Parks Act 1998*, *Residential Tenancies Act 1987* and the *Holiday Parks (Long-term Casual Occupation) Act 2002* may be made to the NSW Office of Fair Trading (OFT). The General Enquiry Line for OFT is 13 32 20.

**Important note:** This advisory sheet does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this publication.

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<sup>6</sup> Under section 745 of the *LG Act*.