

POLICY REGISTER

LOCAL APPROVALS POLICY

Local Government Act 1993, Local Government (General) Regulations 2021 and Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021

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INTRODUCTION

What is the title of this Policy?

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

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 Council deals with applications for approval;
- (c) To encourage and assist effective participation of local communities in decision-making.
- (d) To make Council’s policies and requirements for approvals readily accessible to the public;
- (e) To assist Council to fully pursue its principles under Chapter 3 of the Act.
- (f) To apply common or consistent requirements and procedures to all types of approval.

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 (other than a local policy adopted since the last general election) 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 Warren 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.

What definitions apply?

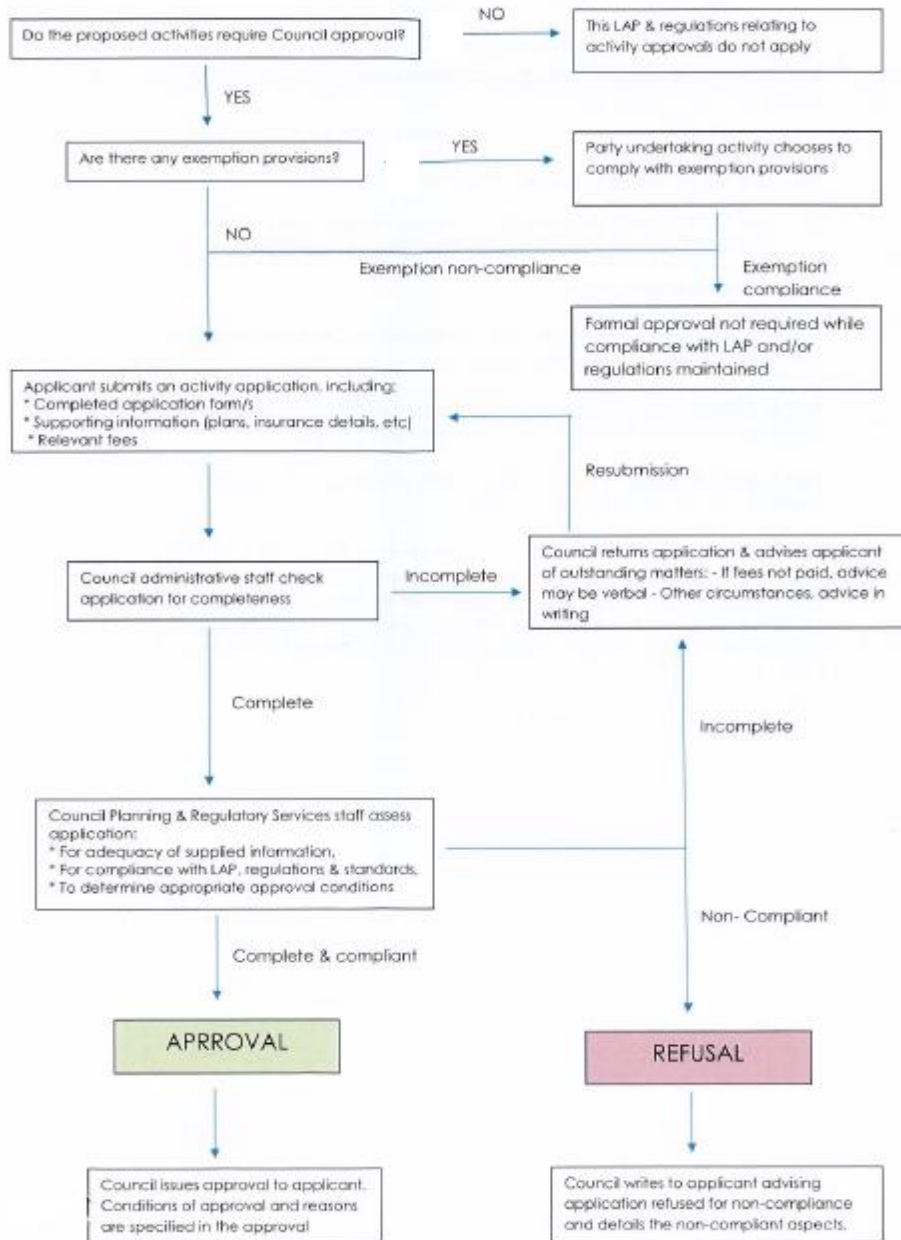
Expressions used in the Policy are defined in the Dictionary at the end of the Act (the “Act Dictionary”). A partial extract from that dictionary is included in Appendix A of this LAP.

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 Warren 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.

The policy is in three parts:

Part 1: Exemptions -outlines the circumstances in which a person is not required to obtain a particular approval.

Part 2: Criteria -is the criteria which must be considered when determining whether or not to grant approval to a particular activity.

Part 3: Other matters -includes information on the processing of an application and other relevant matters.

The exemptions outlined in this policy are given in the belief that those activities can function effectively without Council involvement provided that all appropriate guidelines are complied with by the operator. There are however other activities that require some degree of regulating and / or coordination. In these cases, an application and approval is required.

SECTION 68 LOCAL GOVERNMENT ACT

A person may carry out an activity specified below only with the approval of Council, except if an exemption is granted under the legislation.

Part A -Structures or places of entertainment

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

Part B - Water supply, sewerage & 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 s.68A).

Part D - Community land

1. Engage in a trade or business
2. Direct or procure a theatrical, musical or other entertainment for the 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
6. Repealed
7. Use a standing vehicle or any article for the purpose of selling any article in a public place
8. & 9. Repealed
10. Carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations.

In some cases, consent may be required under the Local Government Act and the Roads Act. Where both Acts apply, a single approval will be issued.

EXEMPT WORKS AND ACTIVITIES

There are already some works and activities that you can do without the need to apply for approval provided that they meet certain criteria and standards. These works and activities are listed in a wide range of documents and include:

1. Environmental Planning & Assessment Act

The Environmental Planning & Assessment Act allows various exemptions.

These include:

- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for building works and other activities on private land such as landscaping.
- State Environmental Planning Policy (Infrastructure) 2007 for works undertaken by public authorities such as the construction of school rooms through to the installation of street furniture, playground equipment, etc.
- Council's Local Environmental Plan also provides exemptions for specified activities within certain zones that can be carried out without development consent such as bush regeneration.

2. Local Government Act

The Local Government (General) Regulation 2005 and the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 also specifies works or activities that are exempt.

This policy forms part of the exemptions under the Local Government Act. It lists further works and activities that may under certain circumstances be carried out without requiring the approval of Council.

GENERAL AIMS

The policy applies to activities and works in the Warren Shire Local Government Area. The general aims of the policy are:

- To provide an integrated framework for dealing with applications for approval with clear guidelines.
- To apply common and consistent requirements and procedures for the relevant types of approvals.
- To ensure consistency and fairness in the manner in which Council deals with applications for approval.
- To make Council's policies and requirements for approvals readily accessible and understandable to the community.

In accordance with s.165 of the Local Government Act, this Local Approvals Policy (other than a policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

PART 1 – EXEMPTIONS

Legislative Exemptions

The Local Government (General) Regulation 2005 and the Local Government.

(Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 lists some activities that are exempt from the need for Council approval.

The Regulations specify conditions applicable to exemptions and reference should be made to the relevant provisions before proceeding with the proposed activity.

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

Conditional Exemptions

Clause 74 Installation of a relocated house or associated structure on a dwelling site within a caravan parks and camping grounds, provided the structure is designed, constructed and installed in accordance with the relevant provisions of the Regulations, 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 77(a) Installation of not more than 2 caravans, campervans or tents on any land, so long as they are not occupied for more than 2 days at a time and are not occupied for more than 60 days (in total) in any single period of 12 months, or

Clause 77(b) Installation of not more than one caravan or campervan on land occupied by the owner of the caravan or campervan in connection with that owner's dwelling house, 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, or

Clause 77(c) Installation of a caravan or campervan on pastoral or agricultural land, so long as it is merely occupied seasonally by persons employed in pastoral or agricultural operations on the land.

Local Government (General) Regulation 2005

Exemptions – Transport waste (C1 activity)

Clause 48(a) The transporting of waste over or under a public place for fee or reward if:

- The activity is licensed under the Protection of the Environment Operations Act 1997, or
- The activity is being carried out in the Sydney metropolitan area as defined in Part 3 (Interpretive provisions) of Schedule 1 of the Act, or
- The waste is being transported through the area of the Council and is not being collected or deposited in that area.

Exemptions – Place waste in a public place (C2 activity)

Clause 48(b) The placing of waste in a public place, if done in accordance with arrangements instituted by the Council. Refer to criteria outlined in Part 1: Local exemptions.

Exemptions – Install, construct or alter a waste treatment device (C5 activity)

Clause 48(e) The installation, construction or alteration of a waste treatment device, if that installation, construction or alteration is done:

- under the authority of a licence in force under the Protection of the Environment Operations Act 1997, or
- in a vessel used for navigation, or
- in a motor vehicle registered within the meaning of the Road Transport Act 2013 and is used primarily for road transport.

Exemptions – Operate a system of sewage management (C6 activity)

Clause 48(f) Operation of a system of sewage management is limited to an action carried out:

- under the authority of a licence in force under the Protection of the Environment Operations Act 1997, or
- in a vessel used for navigation, or in a motor vehicle registered within the meaning of the Road Transport Act 2013 and is used primarily for road transport.

Clause 47 Despite the other provisions of this Regulation, a person who purchases (or otherwise acquires) land on which any sewage management facilities are installed or constructed may operate a system of sewage management without the approval required under s.68 of the Act for the period of 3 months after the date on which the land is transferred or otherwise conveyed to the person (whether or not an approval is in force, as at that date, in relation to the operation of a system of sewage management on that land). Further, if the person duly applies, within the period of 2 months after the date on which the land is transferred or otherwise conveyed to the person, for approval to operate the system of sewage management concerned, the person may continue to operate that system of sewage management without approval until the application is finally determined.

Exemptions – Use of a loudspeaker or amplifying device on community land (D5 activity)

Clause 49 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. Refer to criteria outlined in Part 1: Local exemptions

Exemptions – Domestic oil or solid fuel heating appliance (F4 activity)

Clause 70 A domestic oil or solid fuel heating appliance (other than a portable appliance) may be installed without the prior approval of the council if details of the appliance are included in plans and specifications for the relevant building approved under Part 4A of the Environmental Planning and Assessment Act 1979.

Exemptions – Operation of a public car park (F1 activity)

Clause 66 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.

Exemptions – Amusement devices (F5 activity)

Clause 71 Amusement devices not required to be registered under the Work Health and Safety Regulation 2001 may be installed or operated without the prior approval of the council.

Clause 75 A small amusement device may be installed or operated without the prior approval of the council if:

- the ground or other surface on which the device is to be or has been erected is sufficiently firm to sustain the device while it is in operation and is not dangerous because of its slope or irregularity or for any other reason, and
- the device is registered under the Work Health and Safety Regulation 2011, and
- the device is to be or has been erected and it is or is being operated in accordance with all conditions (if any) relating to its erection or operation set out in the current certificate of registration issued for the device under that Regulations,
- there exists for the device a current log book within the meaning of Chapters of that Regulation, and
- in the case of a device that is to be or is installed in a building, fire egress is not obstructed, and
- there is in force a contract of insurance or indemnity for the device that complies with clause 74 (see below).

In the Regulation, small amusement device means an amusement device that is designed primarily for the use of children 12 years of age or under and includes such amusement devices as mini-Ferris wheels, battery operated cars and miniature railways but, in the case of rotating amusement devices, includes only those devices that have a maximum rotation of 14 revolutions per minute.

Clause 74 It is a condition of an approval to install or operate an amusement device that there must be in force a contract of insurance or indemnity that indemnifies to an unlimited extent (or up to an amount of not less than \$20,000,000 in respect of each accident) each person who

would be liable for damages for death or personal injury arising out of the operation or use of the device and any total or partial failure or collapse of the device against that liability.

Local Exemptions

In addition to the exemptions available under the Local Government (General) Regulation 2005 and by virtue of this Local Approvals Policy, the following activities under s.68 of the Local Government Act are exempt from the need to obtain a particular approval of the Council in the circumstances specified below.

s.68 Part B – Water supply, sewerage & stormwater

Stormwater work

(s.68 Item B5) Stormwater work is exempt from the need for approval provided that it complies with the following criteria:

Criteria

Only for work on a single lot associated with a single residential dwelling. For the repair or replacement of existing stormwater drainage lines including guttering and downpipes.

Drainage lines must be connected to the street gutter, an approved inter allotment drainage system, an absorption trench (depending on the fall of the land) or an approved stormwater collection and disposal system.

The land surrounding any structure must be graded to divert surface water to the street or other stormwater disposal system, and clear of existing and proposed structures and adjoining premises. No construction is permitted over a drainage channel or drainage depression. Drainage work is to comply with AS/NZS 3500.3 - Stormwater Drainage.

Advice

Any variation to the above will require Council consent. Separate approval is required for the removal of any tree or for any works within the road reserve (such as opening the road for utility services).

s.68 Part C - Waste

Commercial waste

(s.68 Item C2 & C3) In accordance with the exemption given in Clause 48(b) of the Local Government Act, the placement of a commercial waste storage container in a public place is exempt from the need for approval provided that they comply with the following criteria:

Criteria

Associated with business within B2 zones: Must relate to an existing approved and lawful use. Maximum of one 240 litre bin and only where the internal waste collection area is not accessible to the collection agency. Must be placed immediately adjacent to the premises. If the bin is placed beyond the user's property, prior consent is required from the adjacent owner. Must be located so as to not disturb traffic flow, impede or endanger pedestrian movement, restrict driver sight lines or vehicle access. Must not be offensive nor contain hazardous, liquid or clinical waste. May only be placed in a public place for the purposes of collection by a waste contractor and must be removed as soon as possible after servicing to the internal storage area. In the event of service disruption, containers must be brought inside until the service can be provided. Waste oil drums are not permitted to be stored or placed in the public place at any time. Collection must be undertaken by a registered waste collection agency and occur from within the subject premises. Commercial waste must be collected and disposed of by a commercial contractor. Waste cannot be removed from the premises to be

disposed of in a street litter bin. The area where the container is placed for collection must be kept cleaned. All waste containers must be vermin proof and cleaned on a regular basis without causing stormwater pollution. Uncontained waste for example plastic bags and loose cardboard boxes are not permitted to be placed next to or on top of containers in the public place.

Advice

Any variation to the above will require Council consent. Individual commercial waste generators are responsible for the handling and storage of waste generated in their premises to meet public health, safety and environmental requirements. They are also responsible for the costs involved with approved collection and disposal procedures.

Domestic waste

(s.68 Item C2 & C3) In accordance with the exemption given in Clause 48(b) of the Local Government (General) Regulation 2005, the placement of a domestic waste storage container in a public place is exempt from the need for approval provided that they comply with the following criteria:

Criteria

Garbage

Domestic waste must be contained in waste storage containers and only placed in a public place for the purposes of collection by the Council or agents acting on their behalf.

Uncontained waste for example plastics bags and loose cardboard boxes are not permitted to be placed next to or on top of containers in a public place.

Waste storage containers should be put out for collection the night before the scheduled collection and must be removed from the public place as soon as possible on the day of collection and stored on private property. Waste storage containers must be placed immediately in front of resident's properties located at an approved service pick up point. Lids of waste storage containers must remain closed, and the container surrounds be kept tidy at all times.

Bulky waste for household items:

Only for general household items scheduled for a clean-up with the Council can be placed in a public place two days before the collection is scheduled to take place as specified or directed by the Council. General household items must be stored on the nature strip in a neat pile, not exceeding 1 cubic metre. The items must not block any road or footway and must not endanger pedestrian or vehicle traffic or the environment. Items must be capable of being lifted by 2 people. Loose items must be bagged or bundled together to prevent littering and hazards. Bulky waste must be placed immediately in front of the resident's property and kept clear of paths and driveways. Rejected general household items must be removed promptly by the resident.

Advice

Any variation to the above will require Council consent.

Bulk bin / skip

(s.68 Item C3)

In accordance with the exemption given in Clause 48(b) of the Local Government (General) Regulation 2005, the placement of a bulk bin / skip bin container in a public place is exempt from the need for approval provided that it complies with the following criteria:

Criteria

Must be associated with a single residential dwelling development. Can only be located on the road reserve where constraints are such that the container cannot be kept within the property boundary of the site. Not on a classified road. Maximum container size of 2.5 cubic metres. Only one container can be stored at any one time at the property frontage. Must be located so as to not disturb traffic flow, impede or endanger pedestrian movement, restrict driver sight lines or vehicle access or impede public utility access or drainage pits. Must be in place for a period no more than 5 days and not more than 2 occasions in any one year. Must not be used for putrescible waste, dangerous or hazardous waste. Must be secured to prevent waste being dislodged by wind and other forces including animals. Bulk bin must be: light in colour; have reflectors or warning lights on outer corners and covered outside working hours and during transport; bear legibly the name, address and all hour's phone number of the owner/supplier. All requirements of the Work Health and Safety Act 2011, as administered by Safe Work NSW must be met.

Advice

Any variation to the above will require Council consent. This section does not apply to shipping containers. Shipping containers require approval. Council reserves the right to order the removal of any waste container, if such container, or the activity associated with it in the opinion of Council, causes a nuisance. Specific arrangements are required for the removal and disposal of asbestos.

s.68 Part D – Community Land

Street stalls for political purposes

(s.68 Item D1) Street stalls for political purposes are exempt from the need for approval provided that they comply with the following criteria:

Criteria

Not within 5 metres of a bus stop, pedestrian crossing, taxi stand or intersection. If located outside any shop must have the permission of the shop owner. The organisation conducting the stall must display a sign on the stall, not on the footpath, indicating its name. No other signage will be permitted. The stall must not obstruct or inconvenience pedestrian or vehicular traffic by maintaining a minimum accessible path of travel of 2.5 metres.

Advice

Any variation to the above will require Council consent. For details on political signage refer to State Environmental Planning Policy No.64: Advertising and Signage. Political signs for election campaigns are regulated under the Parliamentary Electorate and Elections Act 1912.

Busking or street theatre

(s.68 Item D2 & D4)

Busking or street theatre is exempt from the need for approval provided that it complies with the following criteria:

Criteria

Only in B2 Zones: Local Centres. Not within 5 metres of a bus stop, pedestrian crossing, taxi stand or intersection. Must not occur in any area adjacent to an educational establishment or place of public worship or in any park or reserve. Must retain a minimum of 2.5 metres of footpath for public movement. The activity must not obstruct or hinder the passage of

pedestrians or vehicles nor create any nuisance or offensive noise. The performance must not involve the use of dangerous materials and implements nor include drawing or marking the footpath or affixing any matter or structure to the footpath paving. If located outside any shop must have the permission of the shop owner. Must not use a public address, sound system or amplified equipment. Performers may receive voluntary donations from the audience but may not solicit funds. Performers may only perform in one location for a maximum of 2 hours. Performers may subsequently relocate to another location that is at least 200 metres away. Performers are not permitted when special events are in progress (unless approval given as part of the event). Performers must not advertise goods for sale or associate themselves with such advertising in conjunction with their performance, other than recordings consisting of the performers own work.

Advice

Any variation to the above will require Council consent. Approval is required to sell their own works (see Part 2: Selling Articles in a Public Place).

Use of loudspeaker or sound amplifying device

(s.68 Item D5)

In accordance with the exemption given by Clause 49 of the Local Government (general) Regulation 2005 the use of a loudspeaker or sound amplifying device is exempt from the need for approval provided that it complies with the following criteria:

Criteria

Only for major events such as fairs / festivals or sports events that have the approval of the Council. Must not create a nuisance or cause offensive noise.

Advice

Any variation to the above will require Council consent.

Preaching and religious services

(s.68 Item D6)

Preaching and religious services are exempt from the need for approval provided that they comply with the following criteria:

Criteria

Not within 5 metres of a bus stop, pedestrian crossing, taxi stand or intersection. Must not occur in any park or reserve, tourist location or any area adjacent to residential premise. Must not occur in any area adjacent to an educational establishment or place of public worship (unless permission given from the occupant). Must retain a minimum of 2.5 metres of footpath for public movement. The activity must not cause nuisance, offense or obstruction. If located outside any shop must have the permission of the shop owner. Not to include a public address system or the like nor cause offensive noise. Any variation to the above will require Council consent.

PART 2 - CRITERIA

Part 2 of the Local Approvals Policy focuses on the considerations and criteria applied by Council in determining whether to give or refuse an approval of a particular kind of activity under s.68 of the Local Government Act 1993 or where required under the s.125, 138 or 139A of the Roads Act 1993. In order to achieve the objectives of the policy in terms of creating an atmosphere which provides for activities which do not adversely impact on the amenity of residents and visitors, the following requirements outlined in s.89 of the Local Government

Act will be taken into consideration in the assessment of all applications. In determining an application, the council:

- 1) In determining an application, the council:
 - (a) must not approve the application if the activity or the carrying out of the activity for which approval is sought would not comply with the requirements of any relevant regulation, and
 - (b) must take into consideration any criteria in a local policy adopted under Part 3 by the council which are relevant to the subject-matter of the application, and
 - (c) must take into consideration the principles of ecologically sustainable development.
- 2) If no requirements are prescribed for the purposes of 1(a) and no criteria are adopted for the purposes of 1 subsection (b), the council in determining an application:
 - (a) is to take into consideration, in addition to the principles of ecologically sustainable development, all matters relevant to the application, and is to seek to give effect to the applicant's objectives to the extent to which they are compatible with the public interest.
- 3) Without limiting subsection 2, in considering the public interest the matters the council is to consider include:
 - (a) protection of the environment, and
 - (b) protection of public health, safety and convenience, and
 - (c) any items of cultural and heritage significance which might be affected.

The Local Government (General) Regulation 2005 and the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 prescribe a number of matters that must be considered by Council when dealing with an application. Legislative considerations and criteria have been paraphrased within this part. Reference should be made to the relevant Regulation for specific details. Local considerations and criteria have also been referenced in this part for the following activities:

- Construction waste
- Onsite sewage systems
- Commercial recreation activities
- Pavement art
- Ceremonies (weddings, naming, christening)
- Use of a crane
- Banners / temporary signs
- Clothing bins
- Use of footpath by shopkeepers
- Community events (fairs / festivals/ markets)
- Selling articles in a public place (mobile food vending, street stalls, other street vending)
- Footpath dining

A single approval will be issued where consent is required under both the Local Government Act 1993 and the Roads Act 1993.

Legislative Considerations

The Local Government (General) Regulation 2005 and the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 prescribe a number of matters that must be considered by the Council when dealing with an application. Reference should be made to the Regulations for specific details.

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

Consideration criteria – operate a caravan park or camping ground (F2 Activity)

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.

Local Government (General) Regulation 2005

Consideration criteria – stormwater drainage (B5 Activities)

Clause 15 In determining an application for an approval 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 stormwater drainage work, including that such works must comply with the Plumbing Code of Australia.

Consideration criteria – place building waste storage container on a road (C3 Activity)

Clause 27 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 Services.

Consideration criteria – install, construct or alter sewage management facilities (C5 Activity)

Clause 29 In determining an application for approval to install, construct or alter a sewage management facility, the council must take into consideration the following matters: 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 microorganisms,
- (b) preventing the spread of foul odours,
- (c) preventing contamination of water,
- (d) preventing degradation of soil and vegetation, discouraging insects and vermin,
- (e) 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,
- (f) the re-use of resources (including nutrients, organic matter and water),
- (g) 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.

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 above.

Clauses 43 & 44 In determining an application for an approval to operate a system of sewage management the Council will consider the any matter specified in the guidelines or directions issued by the Director General in relation to the environment and health protection matters referred to above.

Note: These matters are also considered on applications for the installation of a greywater treatment system. Systems must however be accredited by NSW Health.

Consideration criteria – applications relating to public roads (E1 & E2 Activities)

Clause 50 In determining an application for an approval under Part E of the Table to s. 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.

Consideration criteria – operation of a public car park (F1 Activity)

Clause 53 In determining an application for approval to operate a public car park the council is to take the following matters into consideration: the Roads and Maritime Service's views about the application,

- (a) the effect of the car park on the movement of vehicular traffic and pedestrian traffic,
- (b) 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,
- (c) whether the means of ingress and egress and means of movement provided or to be provided within the car park are satisfactory, 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 Work Health and Safety Act, 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,
- (d) whether there will be adequate provision for the management of stormwater and the minimisation of stormwater pollution.

Roads Act 1993

Consideration criteria - street vending Section 139F

When considering whether to grant, extend or transfer a street vending consent, or other consent under this Division permitting the use of a structure in, on or over a public road not in a built-up area, for the purpose of selling any article or service, the roads authority must comply with guidelines relating to street vending jointly issued by Roads and Maritime Services and the Office of Local Government.

Local Considerations

In addition to the legislative considerations, the following criteria for the activities specified are considered in determining whether to give approval. Where an activity is not specified then the provisions of s.89 of the Local Government Act [1993](#) are considered.

s.68 Part C - Waste

(Construction waste)

(s.68 Item C3 LGA) As a general rule building material and construction waste must be contained within the site; consideration will only be given where this is not possible. Onsite sewage systems

(s.68 Item C5 LGA) In addition to the criteria listed in the Local Government (General) Regulations 2005, the Council in considering an application to install and operate an onsite sewage system will reference the detailed criteria in Council's Development Control Plan (DCP). Reference to the DCP is required. An approval is issued every 5 years.

s.68 Part D - Community land

Commercial recreation activities

(s.68 Item D1 LGA) The following criteria will be considered in determining an application for recreation activities undertaken by professional operators for commercial gain.

Criteria

Recreation and tourism uses are permitted only in or locations considered acceptable to the type and scale of use. All requirements of Work Health and Safety Act 2011 must be met which includes assessment of risks related to the use / activity. Evidence of public liability insurance specifically indemnifying and listing Warren Shire Council on the policy as an interested party is required. The policy must be held in the name of the applicant.

Advice

Approvals are for 12 months after which time a new application is required. Fees are not refundable. Applications must include information on the type of activity being carried out and an assessment of risk.

Recreation and tourism use on private land will require the submission of a development application.

Ceremonies

(s.68 Item D6 LGA) The following criteria will be considered in determining an application to hold a ceremony in a public place.

Criteria

For wedding, naming or christening ceremonies and only for the ceremony not the reception. The area to be used must remain accessible by the public. It is not to be roped off. Vehicles must be parked in parking areas, vehicles will not be permitted in parks /reserves unless prior arrangement and approval has been obtained. No amplification of any kind is to be used including loud hailers and / or megaphones. The site is to be kept clean and tidy. The use of confetti or the like is not permitted.

Advice

An approval is issued only for the nominated day of the event. Should the event not proceed a new application is required.

s.68 Part E - Public Roads

Use of crane

(s.68 Item E1 LGA) The following criteria will be considered in determining an approval for the use of a crane over public land.

Criteria

Must be located within the boundaries of the property otherwise a Roads Act 1993 approval will be required. Must ensure the safety of the public and the protection of property. The effect that the enclosure of the portion of the road over which the goods will be lifted will have on pedestrian movements in the vicinity of the proposed enclosure, and whether adequate provision has been made for pedestrian access to nearby premises. The effect that the enclosure of the portion of the road over which the goods will be lifted will have on vehicular parking in the vicinity of the proposed enclosure. The period during which it is proposed to keep the public place enclosed. Footway surfaces must be maintained in a safe condition.

Advice

An approval is issued only for the nominated day / period. Should the work not proceed a new application is required. Application forms are available from Council. Application and use fees apply. Cranes heavier than 60 ton must have a transport permit issued by Roads and Maritime Services.

Banners / temporary signs

(s.68 Item E2 LGA) The following criteria will be considered in determining an application for a temporary banner in a public place.

Criteria

Only in designated locations and for community events or public notices. Must be safely constructed and secured to prevent a public hazard. Banners are to be no greater than 5 metres x 900mm. Banner approval is for no longer than 2 weeks at a time, at intervals not less than 6 months. Banners are to be of a durable material. Banners are to be clear and legible and of a professional nature.

Advice

An approval is issued only for the nominated period. Applications must be made at least 14 days in advance or earlier to ensure availability. Banners over the highway require the approval of the Roads and Maritime Services.

Clothing bins

(s.68 Item E2 LGA) The following criteria will be considered in determining an application to install clothing bins in a public place.

Criteria

Clothing bins are to be installed in a manner to minimise any risk to persons or property. No more than 2 bins to be located together. Each bin is to clearly bear the name and telephone number of the organisation and all information as required by legislation under the Charitable Fundraising Act 1991. Any graffiti is to be removed within 1 week for non-offensive graffiti and the next day for offensive / obscene graffiti.

Bins are to be placed on a solid level or near level foundation in an upright position with a secured method to prevent bins from being tipped over. There must be adequate space in close proximity to each bin for patron parking. Bin locations must be open to the public view and where necessary well illuminated to discourage vandalism and rubbish dumping. Clothing

and other goods left in and around the bin shall be the responsibility of the organisation. The area around the bin shall be cleaned of any discarded clothing or other material at least weekly. Should Council need to clean the area around any bin then Council's costs will be met by that organisation. Evidence of Public Liability Insurance is required as bin owners written acceptance of responsibility for any damage done to any public road, kerb, footway or landscaping from the placement, use and servicing of the bin.

Advice

Approvals are for 2 years. Application forms are available on www.warren.nsw.gov.au. Fees may apply. Applications must include a site plan in scale showing the location of each bin, vehicle parking arrangements and any adjoining buildings.

Use of footpath by shopkeepers

(s.68 Item E2 LGA) The following criteria will be considered in determining an application by a shopkeeper for the use of the footpath outside the premises for the display of goods for sale.

Criteria

A 2.5 metre wide unobstructed section of footpath is to be maintained at all times. In some instances, this distance may be reduced where the applicant can demonstrate that there is an accessible path of travel and that there will be no increased impact on pedestrian access when the goods are in place. Goods displayed must relate to the business conducted at the premises; be contained within the property side boundary; extend no further than 700mm from the shopfront and located so as not to obstruct any doorway. All goods and / or display stands shall be secured to prevent them from being moved by wind or other forces and finished with no part protruding beyond the main body of the stand with no sharp corners or trip hazards. All goods and / or display stands must be removed from the footpath when premises are closed. The area is to be maintained in a clean condition at all times. Waste generated is to be disposed of via the host premises and not into the gutter or street bins. Evidence of public liability insurance specifically indemnifying and listing Warren Shire Council on the policy as an interested party is required. The policy must be held in the name of the applicant. An application for the use of the footpath in locations adjacent to a classified road will only be considered after the applicant has obtained the written approval of the Roads and Maritime Services.

Advice

Approvals are for 12 months after which time the approval will be renewed. Application and occupation fees apply. Fees are not refundable. The application must include a plan drawn to scale showing pedestrian areas, property boundaries and structures. Include details on the type of goods for sale. Approvals may be transferred to a new proprietor upon notification to Council and production of the appropriate public liability insurance cover.

s.68 Part F - Other activities

Community events (s.68 Item F7 LGA) (s.139A Roads Act) The following criteria will be considered in determining an application to hold a community event such as a fair, festival or market in public places.

Criteria

For a maximum period of 72 hours. Must be undertaken by or on behalf of a public authority, institution, organisation of Council, non-profit organisations, registered charity or School. Must be carried out on:

- Public road; or
- Land designated as being a Special Use; or
- Land zoned as Public Recreation

All temporary structures must:

- Be structurally sound and capable of withstanding the loadings imposed on it.
- Comply with any Safe Work NSW requirements.
- Incorporate adequate safety provisions in the event of fire or another emergency.

All temporary food premises shall comply with the Food Act 2003 and the NSW Food Authority Food Handling Guidelines for Temporary Events'. Adequate sanitary facilities are to be provided for patrons, employees and organisers as follows:

Toilet facilities (Minimum) for events where alcohol is not available:

	Males			Females	
Patrons	WC	-Urinals	-Hand Basins-	WC-	Hand Basins
< 500	1	2	2	6	2
< 1000	2	4	4	9	4
< 2000	4	8	6	12	6

Toilet facilities (Minimum) for events where alcohol is available:

	Males			Females	
Patrons	WC-	Urinals-	Hand Basins-	WC -	Hand Basins
< 500	3	8	2	13	2
< 1000	5	10	4	16	4
<2000	9	15	7	18	7

Figures may be reduced for events of shorter duration:

Less than 4 hours 70%

4 to 6 hours 75%

6 to 8 hours 80%

8 hours plus 100%

Organisers are required to provide a unisex toilet for the disabled.

Adequate waste receptacles are to be provided to cater for the event and arrangements made with an authorised waste removal contractor to service the event. Parking of vehicles is to be managed so as not to cause a nuisance to surrounding properties / areas. All essential fire safety measures associated with any building, tent or marquee used for the event are to be fully operational.

Noise level emissions are not to cause offensive noise and must comply with the Noise Guide for Local Government and the Protection of the Environment Operations Act 1997. All requirements of Work Health and Safety Act 2011 must be met which includes assessment of risks related to the event.

Advice

An approval is issued only for the nominated day/s of the event. Should the event not proceed a new application is required. Street festivals, fairs and other special events organised by community groups require the submission of an application to Council at least 16 weeks prior to the date or in the case of road closures at least 20 weeks prior. Fees apply. If the event will have an impact on road traffic, then compliance with the NSW Government Special Events Manual will be necessary. The Manual is available through the Roads and Maritime Services (www.events.nsw.gov.au)

It is the responsibility of the event coordinator to provide instructions on food handling arrangements to all groups.

It is responsibility of the event coordinator to provide instructions on full clean up arrangements to all groups. A waste management plan may be necessary and liaison with Council about the arrangements may be required.

Any appropriate licences / permits / approvals from relevant government agencies must be submitted to Council prior to any approval being issued by Council.

Such permits may include some or all of the following:

- Permits from the Safe Work in regard to amusement devices and fireworks displays.
- Approval from the Police in regard to the consumption of alcohol.
- Approvals from Roads and Maritime Services / Police in regard to proposed road closures.
- Events or ceremonies held on land that become an annual and or otherwise regular occurrence will require a development application for temporary use.
- Temporary structures may require development consent. Reference to the State Environmental Planning Policy (Temporary Structures) is required.

Selling articles in a public place

(s.68 Item F7 LGA)

(s.139A Roads Act) The Council is unlikely to approve the selling of articles in a public place other than in the following circumstances. In determining an application consideration will be given to the relevant criteria.

Criteria

Mobile vending:

All vehicles must be registered as per the requirements of the Motor Traffic Act.

Must not operate as a roadside stall or to sell food to the public on any site that requires development consent for that use.

No additional flashing or rotating lights, except those required under Motor Traffic legislation are permitted.

The vehicle is not permitted to operate within 50 metres of any retail food outlet selling a similar food product if that outlet is open.

The vehicle is not permitted to use chimes or like devices to attract attention between the hours of 8pm and 8am or to operate within 90 metres from any hospital, churches in service or schools during school hours.

The vehicle is not permitted to trade on main roads and through streets with a speed limit of greater than 50km/h unless deemed safe by Warren Shire Council.

Not to trade in locations where motorists are forced to park on kerbside land, where parking / standing restrictions apply. The vehicle is not to create a traffic hazard, obstruction or dangerous situation. Not permitted to operate during hours of darkness. Litter bins are to be provided by the operator for the convenience of customers. Wastewater is to be contained with the vehicle for later disposal to the sewerage system. The vehicle must display a sign requesting patrons not to loiter around the vehicle. The vehicle must be made available for inspection by a Council Environmental Health Officer for a health clearance certificate prior to the issue of approval. Mobile vending in locations adjacent to a classified road will only be considered after the applicant has obtained the written approval of the Roads and Maritime Services.

Criteria

Street stall:

For the sale of goods or services by non-profit community groups. Limited to 1 street stall on any one day in the same township. Limited to no more than one stall per month in any township per community group. The name of the organisation must be prominently displayed on the stall, not on the footpath. No other signage is permitted. Must have the consent of the business or organisation outside which the stall is to be situated. A 2.5-metre-wide unobstructed section of footpath is to be maintained at all times. In some instances, this distance may be reduced where the applicant can demonstrate that there is an accessible path of travel and that there will be no increased impact on pedestrian access when the stall is in place. Must not hinder the passage of pedestrians or create a nuisance or objectionable noise. The immediate surrounding area is to be left in a clean and tidy condition and kept clear of hazards. Street stalls involving the selling of food must comply with the requirements of the NSW Food Safety Regulations.

Advice

Mobile vending:

Approvals are for 12 months after which time a new application is required. Application fees apply. Fees are not refundable. Mobile food vending vans must be registered with the Council. Annual inspection fees apply.

Street stalls:

An approval is issued only for the nominated day of the event. Should the event not proceed a new application is required. Applications must be made at least 14 days in advance or earlier to ensure availability. Booking application forms and details are available from Council.

An individual or group carrying out these activities should be aware that they are to exercise good risk management practices at all times so as to avoid injury or loss to others.

PART 3 - OTHER MATTERS

Part 3 of the Local Approvals Policy covers other matters, mostly administrative, relating to the processing of an application.

The application process is primarily established by legislation and whilst it can vary according to the type of works / activities proposed there is a fundamental process that is followed. This process is outlined below.

Lodgement of an application

Most applications or bookings have a specific form and/ or guide designed to assist in the lodgement of the application. Depending on the type of work or activity, fees may apply and where these are required, they must be paid at the time of lodgement.

Assessment of an application

In assessing the more complex applications, additional information may be needed. Where this is the case, Council will contact the applicant within 21 days of receipt of an application. Due to the nature and type of works / activities requiring approval under the Local Government Act and the Roads Act are not generally notified.

Applications can be amended by the applicant prior to determination provided that the variation is minor.

Requirements for Advertisement of Activity to the Public

In relation to public advertisement requirements for activities listed in this Policy please refer to Warren Shire Council's Community Awareness Policy.

Determination

Once determined a notice will be issued advising whether the application has been approved or refused. The period of approval will vary depending on the type of activity or work undertaken. If works have not commenced or where the activity is not held 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 s.100 of the Local Government Act. A request to review must justify the reasons for review and be made in writing within 28 days of Council's determination. Fees apply. The determination of a review is final.

Record of approvals

A record of approvals is required to be kept under s.113 of the Local Government Act. This record is available to the public.

Enforcement action

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 the 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 this Act relating to the subject of the approval;
- (d) for any failure to comply with a condition of the approval.

Reference should be made to Council's Local Orders Policy and Enforcement Policy for details on enforcement processes and actions.

NOTE

- Approvals/consents may be required for certain other activities under the provision of separate legislation, particularly in regard to the erection of other buildings which is controlled by the provisions of the Environmental Planning and Assessment Act.
- Any applications involving the preparation of food, the operation of a temporary food premise must comply with the NSW Food Code.