Department of Planning, Housing and Infrastructure

Practice Note

Approval to install prefabricated (manufactured and flat-pack) homes outside a caravan park or manufactured home estate

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Related	Replaces Planning Circular PS 21-016

Introduction

The purpose of this practice note is to clarify the approval requirements for the installation of two common types of prefabricated home on land that is not part of a caravan park or manufactured home estate (MHE). It also clarifies which types of prefabricated homes require a BASIX certificate and which do not.

'Prefabricated home' is not a term defined or used in the *Environmental Planning and Assessment Act 1979* (EP&A Act), the *Local Government Act 1993* (LG Act) or in regulations under either Act.

Types of prefabricated homes

The two types of prefabricated home covered by this practice note are:

- manufactured homes, and
- flat-pack kit homes.

What is a manufactured home?

Under the *Local Government Act 1993* (LG Act), 'Manufactured home' is defined as '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 Act 2013*.' This includes any associated structures that form part of the dwelling.

A manufactured home is a type of moveable dwelling.

- '*Moveable dwelling*' is defined in the LG Act as: '(a) any tent, or any caravan or other van or 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.'
- '*Major section*' is defined in the LG Regulation 2021 as 'a single portion of a manufactured home or relocatable home: (a) containing a total living space (excluding the living space contained in any associated structure) of at least 20 cubic metres, and (b) that comprises all the major components of that portion of the home, including the chassis or frame, the external and internal walls, the roof and ceilings, the floors, the windows and doors, the internal plumbing and wiring, the tiling, the kitchen, bathroom and laundry fittings (other than stoves, refrigerators, washing machines and other whitegoods) and the built-in cupboards and cabinets.'

- '*Associated structure*' is defined in the LG Act as: '(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 two moveable dwellings.'

The definition of 'building' in section 1.4(1) of the EP&A Act specifically excludes 'a manufactured home, a moveable dwelling or associated structure or part of a manufactured home, a moveable dwelling or associated structure'.

What is a flat-pack kit home?

Flat-pack kit homes are homes made of prefabricated parts. The parts in the kit are assembled on-site to form the home and may be combined with on-site construction work. Flat-pack kit homes are similar to manufactured homes in that both make use of mass-produced designs, and off-site construction. However, flat-pack kit homes are not comprised of one or more major sections.

Approval needed to install a manufactured home

Local Government Act 1993

The installation of a manufactured home or associated structure on land other than in a caravan park or MHE requires approval under section 68 of the LG Act, unless an exemption is provided under the LG Regulation 2021 or by a local approvals policy (LAP) of the council.

In applying for a section 68 approval to install a manufactured home or an associated structure on land, the applicant needs to submit with their application the plans and specifications referred to in section 79 of the LG Regulation 2021. The installation would have to comply with all the design, construction and installation requirements of Division 4 of Part 3 of that Regulation (except sections 133–136).

Installation

Installation of a manufactured home involves connecting together its major sections (and any associated structures that form part of the home) and attaching them to footings. It also includes connection of gas, electricity, telephone, water, sewerage and drainage.

See definition of 'installation' in section 4 of the LG Regulation 2021.

In applying the relevant provisions of Division 4 of Part 3 of the LG Regulation 2021 to the installation of a manufactured home or associated structure on land that is not in a caravan park or MHE, a reference in those provisions to a caravan park is taken to refer to the land on which a manufactured home or associated structure is to be installed. (See section 81(3) of the LG Regulation 2021.)

The requirements of Division 4 include that the home or associated structure must:

- be of a design certified by a practising structural engineer as structurally sound;
- be installed in accordance with the specifications in the engineer's certificate or such other specifications as are in the approval for the installation on the land; and
- have compliance plates attached.

These requirements are intended to ensure that the home meets relevant health, safety and amenity standards.

Environmental Planning and Assessment Act 1979

Development consent is required for the use of land in association with the installation of a prefabricated home (for land not being in a caravan park or MHE) if required by an environmental planning instrument (EPI),

for example, a local environmental plan. The specific type of development for which consent is required will differ depending on the circumstances. Any development type that refers only to the erection and/or use of some type of *building* will not include manufactured homes because (as noted earlier) those homes are excluded from the EP&A Act definition of 'building'.

A person (other than the Crown or a person acting on behalf of the Crown) may in the same development application apply for development consent and approval to install a manufactured home or associated structure. (See section 4.12(3) of the EP&A Act.)

If use of land associated with the installation of a manufactured home requires development consent under an EPI, a construction certificate is not required (and should not be sought) for that installation. This is because a construction certificate is only required for building work or subdivision work, and installation of a manufactured home is not erection of a building for the purposes of the EP&A Act.

Instead of requiring a construction certificate, certification by structural engineer/s and compliance plates are relied upon. (See sections 142 and 156–158 of the LG Regulation 2021.)

A principal certifying authority (PCA) is not required to be appointed in connection with the installation of a manufactured home, and an occupation certificate is not required before the home is occupied.

Approval needed to install a flat-pack kit home

Environmental Planning and Assessment Act 1979

The Department of Planning, Housing and Infrastructure considers flat-pack kit homes to be within the definition of building under the EP&A Act. This is because these homes are not prefabricated in one or more major sections. As such, a flat-pack kit home will require development consent for both the use of land, and the associated building work. A Development Application and construction certificate application will need to be lodged for the home (unless it may be erected as complying development in which case an application for a complying development certificate may be lodged instead).

A PCA must be appointed prior to the commencement of building work and the relevant critical stage inspections (as well as any additional inspections required by the PCA) of that building work must be carried out. (See section 6.5 of the EP&A Act and section 61 of the *EP&A (Development Certification and Fire Safety) Regulation 2021*.)

Unless a prescribed circumstance in section 52 of the of the *EP&A (Development Certification and Fire Safety) Regulation 2021* applies, initial occupation or use of the whole or part of a flat-pack kit home must not commence until the PCA has issued an occupation certificate in relation to the building or part.

Local Government Act 1993

The erection of a flat-pack kit home is not an activity requiring approval under section 68 of the LG Act and is not subject to the LG Regulation 2021.

Transportable homes and BASIX

BASIX certificate is not required for manufactured homes

A BASIX certificate is presently only required for residential development that involves the erection of a 'BASIX building', as defined in the EP&A Regulation (although not for relocation of a BASIX building – see below).

As a manufactured home is not within the definition of building under the EP&A Act, a BASIX certificate is not required for that type of home.

BASIX certificate is required for flat-pack kit homes that require development consent

A development application (or complying development certificate application) to install a flat-pack kit home must be accompanied by a BASIX certificate. This is because a flat-pack kit home is considered a type of 'building' under the EP&A Act.

Relocation of BASIX-affected buildings

When a BASIX building is moved from one site to another site it is exempt from the requirement for a BASIX certificate.

Further information

For more information about the approval process for the installation of transportable homes, contact your local council.

For further information about BASIX, visit the BASIX page on the NSW Planning website at: https://www.planningportal.nsw.gov.au/basix

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