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Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

**Submission: Improving the regulation of manufactured homes
and estates, caravan parks and camping grounds**

To Whom It May Concern

Attached is the submission from Moree Plains Shire Council relating to the Discussion Paper for 'Improving the regulation of manufactured homes and estates, caravan parks and camping grounds'.

Yours sincerely

A handwritten signature in black ink, appearing to read "Angus Witherby", written over a horizontal line.

Angus Witherby
Director Planning and Development

DEPARTMENT OF PLANNING AND ENVIRONMENT DISCUSSION PAPER

**IMPROVING THE REGULATION OF MANUFACTURED HOMES,
CARAVAN PARKS, MANUFACTURED HOME ESTATES AND
CAMPING GROUNDS**

**SUBMISSION BY
MOREE PLAINS SHIRE COUNCIL**

Contents

Introduction	3
1 The review.....	3
1.1 Approach to review.....	3
1.3 Key issues identified.....	3
1.4 Local Government Act review.....	3
2. Background	3
2.1 Forms of Development	3
3. Legislative Framework	4
4. Supporting Land Uses in the Right Locations.....	4
5. Simplify Approvals.....	5
5.1 Approvals outside caravan parks and estates.....	5
5.2 Movable Dwellings.....	6
5.3 New caravan parks and manufactured home Estates	6
5.4 Streamlining approvals to operate	7
5.5 Transitioning to a new approvals framework.....	7
5.6 Streamlining approvals through exempt and complying development	8
5.7 Introduction of a Guideline.....	8
5.8 Removal of concurrence from NSW Department of Planning and Environment.....	9
5.9 Definition of development types	9
6. Promote diversity of housing.....	10
6.1 Providing for a diversity of residential and tourist uses within parks	10
6.2 Seasonal and itinerant workers accommodation	10
7. Support for innovation in the current framework.....	10
8. Building standards and safety.....	10
8.1 Manufactured homes and the BCA.....	10
8.2 Critical stage inspections for manufactured homes	11
8.3 Fire safety standards in residential and tourist parks.....	11
8.4 Environmentally sensitive land	11
8.5 Ensuring compliance with certain standards	11
9. Other key planning issues	12
9.1 Affordable housing.....	12
9.2 Role of residential parks in seniors housing	12
9.3 BASIX	12
Conclusions	13

Introduction

This submission has been prepared by Moree Plains Shire Council. The submission reviews the discussion paper document and makes comment on those aspects that are relevant to this Council's experience. For convenience, the submission follows the same order review as the discussion paper. Note that comment is not necessarily made on each section however where comment is made this is referenced to the appropriate section and subsection.

Council is very pleased that this review is being undertaken as the current treatment of manufactured homes, in particular, continues to cause significant issues for Council.

1 The review

1.1 Approach to review

Council concurs with the approach outlined at Section 1.1 together with the proposed community and stakeholder benefits.

1.3 Key issues identified

In Council's view there is also a strong need to address the role of both manufactured homes and movable dwellings in the provision of detached housing within residential and rural areas.

1.4 Local Government Act review

Council considers that it is important that manufactured homes (in particular) be generally permissible wherever a dwelling is permissible and subject to the same planning regime. In this respect, suggestions to move control from the Local Government Act to the Environmental Planning and Assessment Act are supported.

2. Background

2.1 Forms of Development

Manufactured homes

Council concurs with the views expressed regarding manufactured homes, in particular their increasing role as a form of standard residential development. Importantly, they can offer very significant cost benefits which can significantly influence housing affordability. Council agrees that there is a general trend towards a better presentation from these types of dwellings and notes that in many respects local policy can address compatibility with streetscape/visual issues.

Caravan parks

It should be noted that caravan parks can and do provide for people using tents. This is a quite important element in some caravan parks particularly with a short-term tourist focus. A particular issue is that the regulatory regimes at present do not distinguish particularly well between shorter and longer term accommodation and also more ephemeral types of accommodation such as tents. Council submits that the review, in terms of forms of development, should also specifically cover movable dwellings and the current definition thereof.

Manufactured home estates

Council is of the view that manufactured home estates need not necessarily be considered solely as medium density development. In this regard we suggest that this type of

development needs to incorporate all densities of housing where leasehold arrangements are in place. Council is aware of proposals that, for example, would constitute “residential” or “low-density residential” proposals.

Camping Grounds

There appears to be some overlap between camping Grounds and caravan parks as currently outlined. In particular where camping Grounds cater for campervans which is also seen as part of caravan park. Council recognises that there is an intrinsic issue with respect to definitions and both care and flexibility are required in describing the various forms of development.

3. Legislative Framework

This, as identified, is excessively complex. Further, in Council’s view there is a need to review both SEPP 21 and SEPP36 as it would appear that a single SEPP as part of a review of the Environmental Planning and Assessment Act would be the preferred path.

It is noted that the Residential (Land Lease) Communities Act 2013 may still need to sit “outside” the planning system as it goes instead to questions of tenure and operations.

With respect to land controlled under the National Parks and Wildlife Act 1974, it is submitted that the same framework of control should operate on these lands, as is the case with Crown Lands. This would provide consistency and equity, and ensure that all developments have the same controls across the state.

In terms of the Environmental Planning and Assessment Act (standard instrument) there is a clear need to refine/develop appropriate definitions. For example, most members of the public do not associate a park dominated by manufactured dwellings as a “caravan park”.

Overview of Changes

Council very strongly supports the proposed system of regulation which is simple, clear, and addresses the issues raised in this submission. It is noted that one facility needs to be able to be both a Residential Park and a Tourist Park if circumstances require.

4. Supporting Land Uses in the Right Locations

Council agrees that there has been a grey area around permanent versus tourist residents of caravan parks, and this this needs to be able to be managed. Inappropriate locations for permanent residents can include remoter areas but also land which, for example, is affected by flooding. Specific care needs to be taken with the flooding issue. In some cases, development can occur that takes into account the flood planning level; in others, ample time is available to relocate movable dwellings to safe ground. There is a role for local policy in addressing this issue, with guidelines provided by the state.

Definitions of Residential Park and Tourist Park

Council generally supports the definition of Residential Park, noting that the definition needs to clearly outline that with respect to movable dwellings and manufactured dwellings, the definition needs to be “and/or” for these two categories. We suggest consideration also be given to incorporating a wider range of ancillary facilities as suggested for Tourist Park.

Council has concerns about the definition of Tourist Park. This seeks to differentiate on length of tenure only. Some may not have any movable or manufactured dwellings at all.

It is unclear how campervans, tents and caravans fit in to the definition. For Tourist Park, Council submits that the definition needs to:

- Clarify that this is for short-term accommodation for tourists and visitors.
- Consider a guideline as to what short term might mean, e.g. "short term (generally not more than three months)"
- Provide that movable dwellings and/or manufactured dwellings may be (rather than are) installed
- Provide for other forms of temporary accommodation such as tents, caravans, campervans and the like.

A possible definition might be:

Tourist Park – A place that primarily provides short-term (generally up to three months) accommodation for tourists and visitors, whether in their own accommodation or accommodation provided by the tourist park, and which may include moveable dwellings and/or manufactured homes. A tourist park may or may not include communal facilities, administration buildings, service buildings (e.g. park shop) and caretaker facilities.

Council supports the use of Clause 5.4 for setting a threshold as to the percentage of movable or manufactured dwellings (minimum and maximum respectively) as providing for flexibility in the circumstances of different cases. For example, in an urban area there may be a case for 100% movable or manufactured dwellings, whereas in a beach side caravan park/camping ground, it may be 0%. Any standard clause should be able to address this percentage by zones, as required.

Notwithstanding the above, Council supports the ability to nominate, on a zone-by-zone basis where residential or tourist parks might be permissible.

In summary:

1. the definitions would benefit from further development as outlined
2. Thresholds should be able to be set (for permanent residents) under Clause 5.4, with the ability to distinguish between zones.
3. and 4. Zoning should not be via amendment to the Standard Instrument, but as part of a strategic review by Councils.

5. Simplify Approvals

5.1 Approvals outside caravan parks and estates

Council strongly agrees that there is a considerable degree of confusion around current definitions and permissibility. Although there is a range of quality (and many second-hand ones around) Council is of the view that the quality issue can be addressed by appropriate conditions. This requires that there be a DA "capture" to ensure this is achieved; either through a local DA or through a well-developed complying development provision that takes into account the context of the dwelling.

Council is of the view that from a functional point of view, movable and manufactured dwellings of the types described are dwellings although the current movable dwelling definition is far too broad; and should distinguish between structures capable of long-term habitation and those for temporary or ephemeral habitation.

Council strongly supports the option of having manufactured homes considered as a building under the EPAA. Further, no separate approval should be required under the Local Government Act, although a construction certificate should be required to verify BCA compliance. All manufactured homes and permanent-style movable dwellings should be permissible where a dwelling house is permitted. By defining these types of dwelling within the EPAA this would be achieved.

5.2 Movable Dwellings

As outlined above, Council supports a revision of this definition to address permanent/semi-permanent movable dwellings and temporary or ephemeral dwellings (e.g. tents). The general provisions relating to approval and non-approval for caravans and tents remain supported, noting concerns expressed regarding caravans and campervans being “installed”. It is agreed this should be clarified, and timeframes should be extended as suggested. This would need to be addressed in the EPAA Regulation.

It is agreed that there needs to be a somewhat more generous exemptions regime noting that the two day period could be extended to 5 days and the 60 day total in any 12 month period could be extended to 3 months.

In terms of the suggested improvements to the approvals framework, it is suggested that there would be significant benefit in separating out tents from caravans and campervans. Caravans and campervans as self-contained accommodation need to have the potential to be approved for short, medium or longer term accommodation depending upon needs, circumstances and merit.

5.3 New caravan parks and manufactured home Estates

It is agreed that the SEPPs should be repealed and that key provisions should be included in the Standard Instrument, a new SEPP and proposed guidelines. It is strongly suggested that considerable flexibility be provided in terms of the statutory controls with the guidelines providing a framework for addressing common issues and problems that arise with these types of uses, including locational aspects and the like.

The consolidation of the SEPP’s proposed in Appendix A is reviewed below.

SEPP 21

Aims and Objectives - agree with the proposed amendment

Land to which policy applies - agree with the deletion

Relationship to other EPI’s - agree with deletion

Definitions - refer to previous comments relating to definitions.

Application certain planning controls - Agree with the proposed amendment. Agree that camping needs to be separately defined.

Development consent required for caravan parks - Noting caravan parks would be addressed through the Standard Instrument it is agreed that a separate provision relating to development consent would not be required. Note earlier comments regarding land controlled by National Parks.

Subdivision for lease purposes - agree that this can be addressed in the standard LEP.

Matters to be considered - agreed this should be in the guideline. It is not considered necessary for consistence/compliance with the guideline to be a separate statutory head of consideration as this can already be accommodated under Section 79 C.

SEPP 36

Aims and objectives - agree with proposed amendment and deletion

Land to which policy applies - agree with the deletion

Relation to other EPI's - agree with deletion

Definitions - refer to previous comments relating to definitions.

Where development may be carried out - agree with deletion

Development consent required for manufactured home Estates - agree with deletion. Agree that matters for consideration should be addressed through guidelines.

Land to which policy applies - agree with deletion

Categories of excluded land - agree with deletion. Agree that provisions should generally be contained within the guideline, noting that any provisions in the Standard Instrument should be constrained to sites that are not within a zoning where residential development is permissible.

Dictionary - note previous comments relating to definitions. It is agreed that caravan park should be replaced by residential Park and tourist park definitions.

5.4 Streamlining approvals to operate

Whilst it is noted that there are industry concerns relating to the five-year approval limits and the need to re-apply it should also be noted that historically there have been significant issues with caravan parks that do not meet requirements and where there has been difficulty in achieving compliance. While, in principle, a development consent can provide an appropriate operating framework it is strongly agreed that there needs to be at the very least an ongoing inspection regime to address fire, health and safety issues. A performance based approach has merit, and can be addressed through a development consent. This could include a standard condition requiring compliance with guidelines as might be issued from time to time including a period for achieving such compliance. That being said, there are still reservations regarding self-regulation and the move to what, effectively, would be a complaints driven regime.

5.5 Transitioning to a new approvals framework

Noting the concerns expressed above, it is suggested that any changed regime should commence operation at the lapse date of an existing approval to operate. While noting that a number of existing parks would not be compliant with the new guidelines it is suggested that there should be a process whereby progressive upgrading over time should be encouraged. This is particularly the case when ensuring that caravan parks changing expectations through time.

It is agreed that Clause 5.4 would be an appropriate method of handling variations and it is also considered reasonable that parks be required to seek development consent at the expiry of their current approval to operate.

It is noted that existing use rights might trigger under the new definition framework. It is considered reasonable that the constraints on existing use rights operate in such circumstances noting the ability to include the use within the schedule of additional uses of land within the Standard Instrument if there is a good case for increases in floorspace and intensification.

5.6 Streamlining approvals through exempt and complying development

There is some potential for exempt and complying development to be utilised noting that the definitional issues and standards around exempt and complying development tend to be quite limiting.

Manufactured homes outside of Parks and Estates

As discussed earlier, manufactured homes outside parks and Estates should be considered under the same planning framework as any other dwelling. This will ensure a consistent approval regime. The suggested possible approval framework set out in Table 2 appears appropriate.

Manufactured homes within residential and tourist parks

It is agreed that manufactured homes have changed in character and accordingly should, as a general principle, be subject to development consent in the same way as other types of residential accommodation. It is noted that development consent routinely required for both shortstay and permanent residential accommodation of other types. With respect to conversion from short stay too long stay and vice versa this could operate without the need for development consent provided that the overall relevant percentages achieved the LEP standards. A modification to the development consent by way of a variation to those standards could be considered where appropriate, if the standards were not able to be achieved in the circumstances of the case.

This would avoid the outcome where development approvals were required to identify each and every site as either short or long stay and would simply refer to the maximum percentage of short or long stay sites (as might be appropriate) which would need to be met under the terms of a development approval. In this respect Option 2 is supported.

Table 3 is supported as an appropriate approval framework.

5.7 Introduction of a Guideline

It is agreed that the current Regulation is inflexible and fails to cater for innovative or non-typical proposals that, of themselves, may have considerable merit. Demonstrating compliance can be complex. A number of the controls also assume a certain type or style of development and are numerically based rather than performance-based.

It is agreed that a guideline that is conceptually similar to the Apartment Design Guide would be appropriate. It is strongly agreed that such a guideline should be performance-based in nature.

Comments are provided below regarding Appendix B.

With respect to Appendix B and as noted above there is an opportunity to move to a much more straightforward set of performance guidelines which avoid excessive and unnecessary prescription but which detail instead the outcome is to be sought. In this respect it is submitted that simply mapping across the current Regulation with minor editing would be insufficient.

If manufactured home Estates are to be considered as simply another form of residential development then it is submitted that there is a strong argument that a detailed set of guidelines may not be required for many proposals given that SEPP 65 and its associated Design Guide has clear “triggers” in terms of scale/scope of the development. This suggests that while there may be a set of common principles detailed guidelines might only be put forward as a matter to be considered under a SEPP once certain thresholds of size or area are met.

5.8 Removal of concurrence from NSW Department of Planning and Environment

There has been a general trend over many years to reduce concurrence requirements. Is agreed that the concurrence requirement should be dropped.

5.9 Definition of development types

As previously indicated, the terms tourist Park and residential Park have a value subject to comments made as to the detail of those definitions. Similarly camping would benefit from a differentiation between long-term and short-term sites.

The proposed approach to the definition of manufactured home is noted however it is submitted that consideration should be given to not defining a manufactured home as a planning term although including these within the definition of “building” is very strongly supported. As previously discussed it is submitted that further consideration of the term movable dwelling should be given.

Commenting in more detail on the proposals in Table 4:

It is agreed that caravan park and manufactured housing estate should be replaced by definitions of residential Park and tourist Park noting previous comments on the detail of these definitions. It is agreed that consideration should be given to a threshold. If such a threshold is included in the definitions it is essential, however, that manufactured homes be permissible anywhere a dwelling is permissible.

The proposed definitions around “camp site” are generally supported noting previous comments that tents should be considered differently to campervans and caravans.

The proposed definition of “building” is supported noting comments on movable dwelling.

In terms of “movable dwelling” as previously outlined “tent” should be separately defined and are not included within this definition as it is of a fundamentally different character and nature.

“Relocatable home” - this definition could be deleted.

“Major section” - It is unclear why this definition is required. In essence both of this definition and “installation” are no different to the processes used to relocate conventional dwellings which are often subdivided into pieces for transport and then reassembled.

6. Promote diversity of housing

6.1 Providing for a diversity of residential and tourist uses within parks

It is submitted that there may well be circumstances within which 100% of sites should be either tourist or residential. Similarly, there are circumstances where a mixture of the two would be appropriate and where limits on either tourist or residential sites (as an overall proportion) would be appropriate. In this respect it is not considered necessary to provide a guideline as to percentages. Councils should be able to set thresholds based on factors such as land use zone and individual circumstances.

6.2 Seasonal and itinerant workers accommodation

Council has incorporated appropriate provisions within its LEP. These respond to the particular short-term accommodation needs within the Shire which are driven by the needs of seasonal secondary processing facilities and also of agriculture. Caution is expressed regarding a standard state-wide approach to this issue. It is submitted that there is the ability to implement this through a local provision as required and that the guidelines do not need to address this.

7. Support for innovation in the current framework

It is agreed that the current framework is quite restrictive. A move to a refined statutory framework together with performance-based guidelines is considered to be a better approach in terms of facilitating innovation. In this regard the guidelines should take care not to assume certain physical solutions to the issues of provision of short and long-term accommodation.

It is strongly agreed that manufactured homes should be able to be used for all forms of residential accommodation. It is noted that there are current limitations in terms of ensuring appropriate building and safety standards are met for some forms of accommodation. The BCA provides an effective framework for considering the majority of short and long-term accommodation where this is provided by way of relatively permanent structures which can include containers, manufactured homes and the like.

No particular control is seen as necessary with respect to caravans and campervans in terms of these issues.

It is noted that semi-permanent structures including “glamping” are currently problematic from a control perspective. For example, if treated as permanent structures significant difficulties can arise in bushfire prone areas or flood prone areas. In these situations it is submitted that it is feasible to consider such structures as “disposable” in the event of a natural hazard. The focus should therefore be on safety of occupants rather than, necessarily, protection of the structure.

8. Building standards and safety

8.1 Manufactured homes and the BCA

It is submitted that NSW should align with other jurisdictions and require manufactured homes to meet the relevant BCA controls. In this regard it is noted that the BCA is performance-based and that alternative solutions could be implemented for a particular type and style of manufactured home.

8.2 Critical stage inspections for manufactured homes

It is suggested that methods of manufacture and appropriate standards can be implemented at the time of manufacture to ensure intrinsic BCA compliance. This may not require inspection of individual manufactured homes if multiple examples of identical homes are being produced to set specifications. In other words there may be an option for “type approval” to be considered.

The main elements with respect to critical stage inspections for Local Government relates to the installation and assembly process on-site to ensure that this is undertaken to an appropriate standard. As with other dwellings this could be by Council or a private certifier. Whilst the number of inspections requires some consideration it is suggested that as a minimum a footing inspection prior to installation of the main elements; a structural inspection once the main elements have been joined and a final inspection prior to occupancy should be sufficient.

8.3 Fire safety standards in residential and tourist parks

Current fire safety standards tend to assume a certain density. There are circumstances where, for example, there may be a very wide separation between individual dwelling units and the provision of fire hoses and/or hydrants may not be necessary provided adequate on-site water storage is available.

It is considered that there needs to be an assessment of the overall fire safety through an appropriately qualified fire engineer at the time of initial approval and that requiring annual Fire safety certificate would be a useful means of ensuring ongoing compliance.

8.4 Environmentally sensitive land

It is submitted that as a fundamental principle wherever permanent sites are part of a caravan park that these sites should be treated in exactly the same way as other dwellings with respect to natural hazards such as flood and bushfire. It is recognised that this would not necessarily address “legacy” issues however that is no different to other residential areas which were developed before current-day standards.

With respect to shortstay sites, it is considered that comprehensive emergency evacuation plans should be required at the conclusion of the current operating license period as part of a development application for continued ongoing operation of the park.

Noting the particular vulnerability of caravan parks as compared to other more traditional forms of residential development there is, we submit, a case for a careful and thorough review of each site as part of its initial DA post transition period.

8.5 Ensuring compliance with certain standards

It is agreed that there has been inconsistency regarding enforcement and that historically a number of operators have been well short of desirable standards. It is also noted that there are a number of “legacy” sites which are not operating under any formal approvals. The proposals set out in this submission requiring a DA at the end of the current operation approval period would ensure that all sites are brought under the effective planning control.

With respect to enforcement, it is submitted that it is highly desirable that measures other than formal orders be available as part of an appropriate compliance and enforcement regime. It is agreed that utilising the current compliance provisions under the EPAA would be appropriate.

9. Other key planning issues

9.1 Affordable housing

it is strongly agreed that caravan parks provide an important element of affordable housing. It is also noted that progressive upgrading can, at times, limit housing choices for more marginalised people. In this regard provisions whereby people can obtain secure tenure of leasehold sites and provide their own living unit offer an important opportunity; noting that an adequate living unit may be somewhat lesser in size and quality than more modern manufactured homes or movable dwellings. The reality is that this is largely a market-driven phenomena noting that even when parks are provided by Oak authorities there is still the need for these to operate on a full commercial basis in terms of making effective use of an asset. As with legislation surrounding boarding homes and the like significant care needs to be taken to ensure that private owners are not unduly penalised to achieve social policy outcomes. It is agreed that community housing providers may well be able to be part of a solution in terms of developing, operating and managing a range of residential Park facilities. While it is noted that this is currently outside the self-perceived remit of most community housing providers, the development of appropriate incentives could encourage their entry into this market.

It is submitted that a very significant area of improvement in affordability comes through the use of manufactured homes as standalone conventional dwellings on single allotments together with small-scale multiunit developments undertaken in the same way. In the case of Moree Plains, a new manufactured home (two-bedroom) located on an existing block of land could achieve a profitable price point of \$120,000 as compared to a general entry-level older property in the order of \$175-\$195,000. This represents a very significant improvement in affordability.

9.2 Role of residential parks in seniors housing

It is agreed that this is a highly complex area. In particular, the mandated provision of a range of services and facilities together with tight locational criteria can significantly affect affordability. That being said, it is acknowledged that it is important for people to have access to the key services and facilities that they need for a secure life. Accessibility standards can be a major issue particularly as they relate to some existing developments but also new developments where costs of providing full accessibility are high and the intrinsic design of a number of manufactured homes makes internal compliance difficult. Council supports the development of consistent and coherent policy across housing generally that does not distinguish between construction type.

9.3 BASIX

It is noted that no specific recommendations are made regarding BASIX at this stage. It is considered that there is some potential benefit in introducing an appropriate BASIX regime particularly in terms of issues such as thermal performance and energy efficiency which can largely be addressed as part of the manufacturing process. Noting that BASIX requirements can vary by area, it is also noted that most manufacturers have a defined “footprint” area that accommodates the majority of their sales. It is considered that there is a potential path for addressing this issue and with the fundamental principle that moveable dwellings should meet the same environmental and suitability performance and traditionally constructed dwellings.

Conclusions

Council appreciates the opportunity to have input into the review and commends the Department for producing a thorough discussion paper that addresses the key issues. Council is happy to provide feedback on the suggestions that might come forward at the current review process.

The key issues of concern to Council are:

- To ensure that dwellings are treated consistently with respect to approval regimes
- To provide a flexible approach to managing tourist and residential parks that acknowledges the number of legacy operations and the need for adaptability through time
- Ensuring a consistent compliance and safety regime.