

SHELTER NSW SUBMISSION

Planning for caravan parks, manufactured homes, and manufactured-home estates

Submission to Department of Planning and Environment

We provide these comments in response to the Department's discussion paper, 'Improving the regulation of manufactured homes, caravan parks, manufactured home estates and camping grounds', of November 2015.

Our organization supports the aim of the review to simplify the approvals system for, remove inappropriate regulatory barriers on, and generally respond to the changing nature of, residential parks and tourist parks in New South Wales.

In particular, we support placing primary responsibility for regulation of land-use and development assessment for these accommodation sectors within the framework of the *Environmental Planning and Assessment Act*. We do so because most of the matters are relevant to this Act with its broad role, rather than to a particular sphere of government, and because consolidation into a single framework could allow for greater transparency and consistency and for a better compliance regime.

The Department's discussion paper rightly recognizes the paradox of traditional caravan parks having become places for longer-term accommodation at more affordable prices than the 'mainstream' homeownership market, and at the same time the trends in the market to favor more glamorous models and retirement-village like models. It also recognizes the structural tension between long-term stays and tourist uses, especially in desirable coastal locations, in a situation where there has been little new development of caravan parks or manufactured-home estates in the past few decades under the aegis of *State Environmental Planning Policy 21* and *State Environmental Planning Policy 36*.

It is not clear how many new residential parks would be encouraged to be developed by the changes proposed — though it is important that any regulatory barriers to location of manufactured homes be removed. It is possible that the market would continue to prefer high-end (i.e. more profitable) uses rather than facilities that could accommodate lower-income households, especially households who rent dwellings rather than own them. We also note that most nongovernment providers of social housing consulted by the Department during the review showed little interest in managing these sorts of dwellings (p.65).

Proposed simplification of the regulatory system

[KEY ISSUE QUESTIONS 1, 10, AND 12] The discussion paper suggests that the planning system (the *Environmental Planning and Assessment Act 1979* and environmental planning instruments and other mechanisms authorized by that Act) provide the framework, and processes for regulation of land-uses, consents and standards (as summarized in Figure 1 on page 30). We support that approach on ground of simplicity. The primary mechanism for approvals and compliance should be through the development application process (a one-off development consent, subject to variation by application to the consent authority), not approval of operators. Matters related to service standards by operators are best left to the *Residential (Land Lease) Communities Act 2013*, which indicates the responsibilities of operators (s.37, s.38), the rules of conduct for operators (s.54), and associated matters. Existing parks should be transitioned to the new system when and if an operator applies for expansion or reconfiguring of the park.

[KEY ISSUE QUESTIONS 4 AND 8] Moreover, within this framework, it makes sense to give local governments the role of determining the location of residential parks and tourist parks based on their local strategic planning (as per Option 2 on page 24), because this would allow for more flexibility. However, we note that SEPP 36 (Schedule 2) currently excludes certain lands as potential locations for manufactured-home estates, on various environmental grounds, including unsuitability of the land for such housing. In most of the categories of exclusion indicated in SEPP 36's Schedule 2, the local council is the key actor in identifying whether the land is suitable, (implicitly) within a local strategic-planning framework. Those exclusions should be *retained* in a new improved SEPP (that would replace SEPP 36 and SEPP 21), to provide a reference point for council's local environmental plans on this matter.

[KEY ISSUE QUESTIONS 1 AND 2] The discussion paper suggests that the regulatory framework would have greater certainty and clarity if the types of 'estates' or 'parks' were classified not by type of dwelling but by primary purpose — accommodation for permanent residents ('residential parks') or accommodation for tourists and visitors ('tourist parks'). We support the proposed changes to the definitions. However we have no set position on what the threshold should be (e.g. 75% as proposed) that would activate one classification over another.

[KEY ISSUE QUESTIONS 5 AND 15] The discussion paper suggests there be clearer and simpler approvals process for manufactured homes outside of parks and estates (p.28), and we support this. We note that where such dwellings are to be used as 'secondary dwellings' under the *State Environmental Planning Policy (Affordable Rental Housing) 2009*, they could be considered as complying development (discussion paper, p.37). It is a logical extension of this situation that manufactured homes developed in circumstances other than as secondary dwellings also be treated as complying development (under the *Exempt and Complying Development Codes SEPP*) as suggested (on page 37).

[KEY ISSUE QUESTION 15] The discussion paper presents 2 options to consider for a new process for conversion of sites within a park from short-term to long-term uses (and the reverse). We believe this to be a sensitive matter because the number of sites for a particular purpose is relevant to the relative proportions and therefore whether a park is to be classified as a 'residential park' or a 'tourist park' (depending on the threshold). Given concern by permanent residents about the loss of permanent sites through non-transparent and unilateral processes at the moment, and the risk of loss of people's security and loss of affordable housing, we suggest the

more cautious option should be taken: this is option 1 (page 39) — to require development consent for conversion of sites from short- to long-term (or vice versa).

[KEY ISSUE QUESTION 17] The discussion paper suggests that key design and building controls and standards from the two SEPPs and the Local Government Regulation be transferred to a Guideline. The model indicated is the *Apartment Design Guide* associated with SEPP 65. While there is merit in this, we note that the discussion paper seems to present different visions on whether there would be a SEPP from which a Design Guideline could ‘hang’. On page 41, the discussion paper suggests the Guideline could be enabled by the *Environmental Planning and Assessment Regulation* or the *Standard Instrument—Principal Local Environmental Plan*; this accords with the proposed system indicated in Figure 1 on page 20. Yet on page 33, there is mention of ‘a new improved SEPP’. In the case of apartment buildings, there is both a SEPP and a Guideline, and the authority of the Guideline derives from the SEPP. We suggest that there could be a case for a ‘new improved SEPP’ (as opposed to not having any SEPP), because some of the matters covered by the current instruments are more substantive than design, for example, the matter of excluded land (to which we referred above, on page 2 of this submission). Further, there are issues around housing choice, specifically affordable housing, which we discuss below, that would be more appropriate for a SEPP than a Design Guideline.

Loss of affordable housing

The closure of caravan parks and associated loss of affordable housing have been a recurrent issue in research and advocacy in recent years (e.g. A Marks, *Residents at risk: stories of ‘last resort’ caravan park residency in NSW*, St Vincent de Paul Society NSW, 2008; J Eastgate, J Hunter and H Wallace, *Marginal tenures: the national picture — a policy paper on boarding houses, caravan parts and other marginal housing tenures*, National Shelter, 2011). Part of the impact of natural, market processes has been a loss of existing sites and dwellings for affordable rental by households (residents who do not own a caravan or manufactured home in residential parks). We suggest that if there is to be a new, improved SEPP replacing SEPP 21 and SEPP 36, it should have provisions that reflect (as appropriate) Part 3 of the *State Environmental Planning Policy (Affordable Rental Housing) 2009*, that is, provisions that kick-in when there is a change of use of the land to another use and also when there is a change from a ‘residential park’ to a ‘tourist park’. In particular we **recommend** inclusion of provisions that specify a relevant range of factors for a consent authority to consider during development assessment of a proposed change of use or change of type of park, and a system for contributions for affordable housing — akin to clauses 50(2) and 51 of the Affordable Rental Housing SEPP — as compensation for loss of any affordable housing following a consent.

As far as are aware, only Gosford Council has an environmental planning instrument that seeks to mitigate the loss of caravan parks and manufactured-home estates (*Gosford Local Environmental Plan 2014*, clause 7.5), and for too long this approach (that began in previous iterations of that council’s main EPI) has not been incorporated into state-government policies in this field.