



Reference: DLA:dla 15/0700

Contact: Donna Ausling

11 December 2015

Attention: Carlie Ryan
Team Leader, Housing Policy
NSW Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Ryan,

Re: Submission on Discussion Paper: Improving the Regulation of Manufactured Homes, Caravan Parks, Manufactured Home Estates & Camping Grounds

I refer to the abovementioned Discussion Paper that is presently on public exhibition. As requested, Liverpool Plains Shire Council provides the following feedback to assist the Department in its decision making processes:

General

Council concurs with the scope of the review and is in agreement that the current regulatory framework is in urgent need of re-evaluation. It is strongly agreed that the approvals framework is over complicated (and at times contradictory), is bureaucratic and can lead to poor planning outcomes. It is further agreed that more innovative approaches to housing diversity are required within a contemporised policy framework.

To assist in the Department's review of the contents of this submission, the questions throughout the Discussion Paper have been reproduced. Council's detailed response is provided below each item.

1. Do you agree with the proposed changes to the definitions?

The proposed definitions for a "Residential Park¹" and "Tourist Park²" are concurred with.

1. *Residential Park – A place that primarily provides accommodation for permanent residents on which moveable dwellings are installed, manufactured homes are installed and which may or may not include communal facilities and administration buildings.*
2. *Tourist Park – A place that primarily provides accommodation for tourists and visitors on which moveable dwellings are installed, manufactured homes are installed, and which may or may not include communal facilities and administration buildings.*



2. Should a threshold for permanent residents be set for Residential Parks? If so, do you agree with a 75% threshold?

The proposed 75% threshold is generally concurred with. It is recommended that the current provision contained within the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*, requiring the keeping of residents' records be retained in an appropriate format to enable the application of the provision to be monitored from both a compliance and emergency management perspective.

3. Would a zoning approach be appropriate for residential and tourist parks?

Due to the limited current and projected future demand for these development types, Council would be supportive of a zone-based approach i.e. as a particular defined land use within prescribed zone(s).

4. Should the permissibility of residential or Tourist Parks be mandated in certain zones or should a Council determine this based on their local strategic planning (option 2)? If option 1, what zones are appropriate?

Refer above commentary. A mandated approach under the SILEP would be acceptable to Council. Any variation to the standardised approach could be considered on a site-specific basis through a LEP schedule amendment approach.

5. Would these proposed changes make the permissibility of manufactured homes clearer and contribute to a simpler approvals process?

Like many other Local Government Areas (LGAs), Council has experienced a spike in demand for manufactured housing. This type of housing is becoming increasingly sophisticated due to advancement in technologies and design innovations. Greater certainty is required around the management of manufactured housing with the view of achieving consistency of application of development standards. In this regard, Council is supportive of:

- A specific definition for manufactured housing being included within the definition of a 'building' under the EP&A Act;
- Streamlining of approvals processes by removing the need for manufactured homes to be considered under both the LG Act and the EP&A Act.
- Allowing manufactured homes where a dwelling house (or other form of residential accommodation) is permissible in the LEP with the view of providing clear direction on appropriate locations for manufactured homes.

The above approach would be consistent with the current practical management of manufactured housing within many regional areas, including the Liverpool Plains Shire. The amendments would also serve to legitimise and clarify these current approaches.

6. *How long should caravans, campervans or tents be permitted to be used on land outside of parks and camping grounds without the need for Council approval?*

It is considered that the current sixty (60) day period is currently acceptable.

7. *How should the new framework facilitate the use of self-contained caravans and campervans?*

The amendment to the current approvals framework on page 31 of the Discussion Paper is concurred with. The proposed extension of the time period pertinent to exemptions from two (2) to three (3) days is concurred with.

8. *What provisions from SEPP 21 or SEPP 36 should be retained under the new framework?*

As detailed in the Discussion Paper, it is considered that the provisions of SEPP21 and SEPP36 are largely ineffective from a Policy perspective. The items for potential retention contained within Appendix A have been reviewed and are generally concurred with.

9. *Are there additional controls that should be included in the new framework to facilitate the development of new tourist parks or Residential Parks?*

No additional controls have been identified. It is considered that the application of controls to facilitate development would be largely counter-productive. This is effectively demonstrated in the failure of both SEPP 21 and SEPP 36.

10. *Should new caravan parks, camping grounds and manufactured home estates be subject a one-off development consent rather than the existing approval to operate provisions?*

In reality, few regional Councils are policing or applying the Approval to Operate regime. The lack of application of the regulatory criteria has not produced any significant public health or community safety concerns. Consequently, it is considered that these requirements are largely redundant and thus should be removed. A 'one-off' consent pursuant to the provisions of the EP&A Act is considered satisfactory. The preparation and application of site management plans as required within the terms of the commensurate development approval may indeed be a more effective way to manage operational requirements and ensure effective site-specific outcomes that are cognisant of the local context.

11. *What other matters should be considered in camping grounds and primitive camping ground approvals? Should 'primitive camping grounds' be defined?*

Primitive camping grounds require specialised attention given the differing suite of needs and potential local impacts. In regional areas, there is often a strong desire expressed by communities to promote these types of activities with the view of capturing passing tourist trade and encouraging local investment. This, in turn, must be carefully balanced against environmental considerations including the management of waste (both human and non-putrescible); impact on surrounding land uses; and, ecological impacts as many primitive camping ground are located on lands of some environmental significance.

Primitive camping grounds are also a low cost option available to councils and community organisations (including local section 355 Committees) to encourage tourist patronage. They are thereby potentially an attractive community asset, particularly when strong partnerships can be developed between council(s) and community organisation in the collaborative management of these facilities.

It has been Council's experience that many freedom campers have an unrealistic expectation of the type of amenities and facilities provided. It is acknowledged that this observation is largely outside of the applied Policy context, however, it has served to influence financial expenditure on community assets, particularly in making local decisions about maintenance and upgrading of public assets.

Coupled with the above is often prevailing tensions between current caravan park operators and Councils in their capacity as asset-owners of primitive camping grounds. Investment in primitive camping grounds, albeit for maintenance or infrastructure upgrades, is frequently criticised by these operators. The operators (often rightly) perceive that these upgrades result in the primitive camping areas becoming a more attractive option for tourists given that they are often considerably cheaper (often free) and not subject to the same stringent regulatory controls. This frequently creates a dilemma for local councils, particularly those in inland regional areas, that are seeking to support their local operators but are also seeking to compete with other regions in the attraction of as many tourist dollars possible within a highly competitive and sometimes contracting market.

It is considered that there is a clear need to define primitive camping grounds. It would be also useful if primitive camping grounds were specifically addressed in the proposed Guidelines. In order to manage the competing demands, Council may elect to prepare a 'Primitive Camping Ground Strategy' which seeks to:

- Develop and deliver a series of actions to manage visitor expectations regarding the quality of facilities (for example through site-specific signage, tourist brochures, inclusion of information on social media sites such as Wikicamps etc);
- Identify and document Primitive Camping Grounds;
- Seek to partner with community organisations in the management of primitive camping grounds;
- Manage environmental impacts by ensuring that the length of stay is appropriately policed, ensuring waste receptacles are managed and monitoring load on onsite sewage management systems (OSMS) through a regular maintenance regime;
- Identify affected stakeholders (including existing caravan park operators) and consult and engage with them in a meaningful way in the development of the Primitive Camping Strategy to ensure that an effective approach to the competing interests can be developed; and
- Seek to align the Strategy with other bodies of work including Destination Management Plans, site specific Management Plans, and Tourism and Economic Development Strategies so that a clear line of sight exists.

12. Do you agree existing parks should no longer be required to obtain 'approval to operate'? Should regular Council inspections be required for these parks?

Council is in agreement that the approval to operate provisions should be removed.

13. What controls should existing parks be exempt from when being considered under the new framework?

The proposed exempt and complying framework within Table 2 on page 37 and Table 3 on page 39 is generally concurred with.

14. Is it appropriate that existing parks are considered under the new framework when lodging a development application for expansion or reconfiguring?

It is considered appropriate for any amendments to development consents to be considered within the new framework.

15. What are your views on the proposed approach for exempt and complying development?

Refer commentary in item 13.

16. Should anything else be categorised as exempt, complying or development assessment?

Council has no additional commentary to provide in this regard.

17. Do you agree with the controls proposed for inclusion within a Guideline (as outlined in Appendix B)?

The controls proposed within a Guideline, and as outlined in Appendix B, are generally concurred with.

18. Are there any specific controls where a performance-based approach would be better suited than the prescriptive approach?

Council is supportive of a performance-based approach with limited prescriptive standards.

19. Is it appropriate to remove concurrence provisions and manage variations as part of the development application process?

It is considered that the current concurrence provisions should be removed in favour of the management of variations as part of a DA process. The current concurrence arrangements do little to value-add to the process and increase the complexity of the approvals framework. The concurrence arrangements also contribute to processing delays.

20. Do you agree with the proposed approach reducing duplication and providing greater clarity in the definitions?

It is agreed that the definitions require streamlining. Greater clarity is also required.

21. Should sites be maintained for tourist uses in a Residential Park and vice versa?

It is considered appropriate for tourist sites to be maintained within Residential Parks, particularly within rural and regional areas.

22. If so, should a threshold be set to provide for a mix of uses?

A pre-determined threshold need not be established, this should be ultimately at the discretion of the local government authority in consultation with the accommodation provider.

23. If so, what should the threshold be or should this be set by individual councils?

Refer commentary above.

24. What controls should be in place to manage short-term housing for seasonal or itinerant workers?

It is not considered that the Discussion Paper effectively encapsulates nor addresses the challenges of managing short-term housing for itinerant workers, particularly in respect of workforce housing for the resources sector in mining camps. Your attention is drawn to the following recent case law in this regard:

Graincorp Operations v Liverpool Plains Shire Council [2012] NSW LEC143

Graincorp v Liverpool Plains Shire Council [2013] NSWCA171

Mac Services Group v Mid Western Regional Council [2014] NSW LEC1072

In Graincorp [2012] and Mid Western [2014] the Court found that the temporary workforce housing was an innominate land use – neither residential, nor a tourist allied activity. This observation is concurred with by our Planning team. Following these judgements, some regional areas have sought to clarify the definition of workforce housing in their LEPs via the application of local provisions. In reality, these provisions have been less than ideal and have had limited impact. Undoubtedly, this is predominantly due to the fact their relevance and scope of application has continued to be clouded due to the uncertainty surrounding the court judgements (innominate land use v residential use) and the lack of a corresponding clear definition within the SILEP framework. For this reason, any commensurate definitions pertaining to transient and work-force housing require careful attention and consideration as part of this review process.

In respect of mining camps specifically, planning staff are supportive of the concept of temporary accommodation options on the basis that they are within, or are in direct proximity to residential areas. It is considered that these types of itinerant accommodation options effectively relieve upward pressure on local housing markets. They also assist in addressing housing affordability issues and managing the chasm between the upper and lower ends of the socio-economic spectrum (which are frequently evident in the regional context and most particularly within rural remote areas). The location of such developments on the residential fringe or within residential areas also ensures that there is effective integration between the residents of the camps in their local communities. This assist in ensuring residents are not socially isolated and gives current (often struggling) rural/regional communities a chance of maximising economic benefits through capturing spend and leveraging off current (local) service providers.

25. Within camping grounds and caravan parks, should long-term structures, including glamping, be required to meet different controls to shorter-term structures like tents?

It is considered that long term structures require more detailed attention and should be regulated in the same manner as “Temporary Structures” are under clause 94A of the *Environmental Planning and Assessment Regulation 2000*.

Clause 94A: Fire safety and other considerations applying to erection of temporary structures

(1) This clause applies to a development application for the erection of a temporary structure.

(2) In determining a development application to which this clause applies, a consent authority is to take into consideration:

(a) *whether the fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and*

(b) *whether the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.*

26. How can the new planning framework provide opportunities for emerging forms of development that vary from traditional housing?

The new planning framework can provide new opportunities for emerging forms of development by clarifying and streamlining the approvals processes. For example, removing the need for manufactured homes to be considered under both the LG Act and the EP&A Act, clearly stating what may be required to be certified by an engineer as being structurally sound and that critical stage inspections (frames, wet areas etc) may be undertaken by appropriately qualified and experienced engineers and/or Building Certifiers.

27. Are there any provisions of the BCA that are not appropriate for manufactured homes?

It is considered that all of the provisions of Volume Two of the BCA are, in the first instance, appropriate for manufactured homes. That is, a manufactured home would be assessed against all relevant provisions of the BCA prior to a “building” approval being issued for it to be installed.

28. Should the process for design certification by a structural engineer continue? Should there be any other requirements?

It is considered that a structural engineer should continue to be involved in the certification process in the manner detailed in the response to question 26.

29. Should manufactured homes be subject to any mandatory inspections during installation?

Manufactured homes should be subject to mandatory inspections during both construction and installation. Inspections that cannot be undertaken on the site where the manufactured home is to be installed, due to it being constructed remotely (in some situations a considerable distance away), such as frames and wet areas could be carried out by a structural engineer or a building certifier. The engineer or certifier would need to provide written confirmation that the works inspected have been undertaken to a satisfactory standard. The remaining inspections,

being footings and final, could be carried out by the certifying authority appointed to issue written confirmation that the manufactured home can be occupied.

30. What fire safety controls should Residential and Tourist Parks be required to meet?

Fire hydrants should be required to be installed in the "streets" in locations that allow adequate coverage to be provided to each "site".

AS 3786 compliant smoke detectors should be installed into each manufactured home.

31. Would requiring Residential and Tourist Parks to submit an Annual Fire Safety Statement be an effective way to check if essential fire safety measures have been met?

Yes.

It is considered that requiring Residential and Tourist Park operators to submit an Annual Fire Safety Statement would be an effective way to manage the maintenance of essential fire safety measures.

32. What controls should apply to Tourist and Residential Parks located on flood prone or bushfire prone land?

Residential and Tourist Parks located on flood prone land should be required to comply with the flood panning requirements of each local council where the parks are situated. That is, the Parks should be assessed in the same manner as a residential subdivision on flood prone land would be.

Residential and Tourist Parks located on bushfire prone land should be required to comply with the requirements of Planning for Bushfire Protection.

33. What would be the most effective and efficient enforcement approach?

The most effective and efficient enforcement approach would be to regulate Residential and Tourist Parks under the Notice and Order provisions of the *Environmental Planning and Assessment Act 1979*.

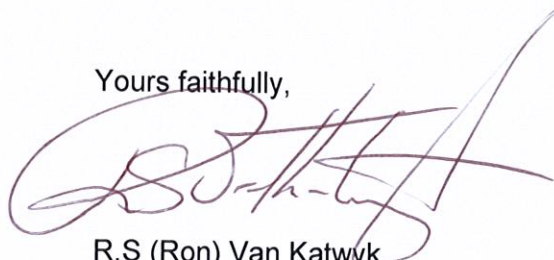
Conclusion and Recommendations

In conclusion, Council is very supportive of the review of the current legislation and statutory arrangements and considers that it is well overdue. Significant economic development opportunities exist within a well-managed caravan and camping system – this is clearly evidenced in New Zealand, for example. The clarification of the requirements surrounding the management of manufactured housing is also welcomed.

I thank you for providing the opportunity to provide comment on this important initiative.

In the interim, should you require any additional information or assistance in relation to this submission, you are invited to contact Ms Donna Ausling on (02) 6746 4537 or email lpssc@lpssc.nsw.gov.au.

Yours faithfully,



R.S (Ron) Van Katwyk
ACTING GENERAL MANAGER