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Carlie Ryan
Team Leader, Housing Policy
Department of Planning and Environment
GPO Box 39, Sydney NSW 2001

Re: Survey - Regulation of caravan parks, camping grounds, and manufactured home estates

Dear Carlie,

We thank the Department of Planning and Environment for the opportunity to participate in the review of the planning and approval process for manufactured homes and estates, caravan parks, and camping grounds in NSW.

Aspen, through its managed fund, Aspen Parks Property Fund, has been a leader in the provision of holiday and accommodation parks in Australia since the fund's establishment in 2004. Aspen currently owns 24 holiday and accommodation parks and 2 manufactured housing estates across Australia, nine of which are located in NSW.

We look forward to the outcomes of the review and attach our response for your consideration.

Yours faithfully

Brett Summers
Head of Asset Management

Survey: Regulation of caravan parks, camping grounds, and manufactured home estates

Please note it is not compulsory to answer all questions in the survey.

Supporting land uses in the right locations

The changing nature of caravan parks and manufactured home estates

1. Do you agree with proposed changes to definitions?

☐ Yes

☐ No

☒ other:

Whilst we agree with the differentiation of Tourist and Residential, we do not agree with the definition of Manufactured Homes. This proposed definition seeks to prevent on site construction which adds costs to the final dwelling (transport costs), reduces affordability and would diminishes local community benefit with construction likely taking place in a different location.

2. Should a threshold be set? If so, do you agree with a 75% threshold?

Yes, a threshold should be set as a numerical standard allows for some certainty, rather than the current constraint, which is at the discretion of council, per condition 10 of SEPP 21. However rather than setting the threshold to just Residential Parks, a threshold can be set to both. "Primarily" is used in the definition of both and could be considered as anything more than 50%. 50% (or essentially "more than 50%") can be considered acceptable based on historic practice. This would allow flexibility of operators to respond to market demands and alter the mix of their parks (up to 49%) without the time and cost of pursuing a DA. This would mirror the current system in South Australia which is considered effective.

3. Would a zoning approach be appropriate for these uses?

☒ Yes

☐ No

☐ other:

4. Should the permissibility of residential or tourist parks be mandated in certain zones (Option 1) or should a council determine this based on their local strategic planning (Option 2)?

If Option 1, what zones are appropriate?

Option 1, provides clarity from the outset of allowable uses and standards to be met to gain approvals. Mandating through the Standard Instrument LEP reduces the possibility of individual Council or local resident bias about Residential or Tourist Parks as an alternate housing option. Market acceptance and understanding of the quality and economics of manufactured housing estates is rapidly increasing, and accordingly, to achieve the affordability requirements that many local government areas face, Residential Parks should be considered where residential land uses are appropriate.

Simplify approvals

Approval of manufactured homes outside caravan parks and manufactured home estates

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

☒ Yes

☐ No

☐ other:

By including manufactured homes within the definition will then allow granny flats to be built by way of a manufactured home and take advantage of current EPA& A legislation which allows for them to be assessed within 10 days, otherwise the way it currently is, is someone wants to build a granny flat by way of a manufactured home they have to run the full process of a DA.

Approval of moveable dwellings

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?

The duration would be a function of the number of dwellings and proposed use. The current controls are considered appropriate and prevent non approved sites from operating in a commercial nature. Above a threshold, certain minimum safety requirements would be necessary, alongside a management plan, and consultation with neighbours.

With the rise of websites offering 'share economy' style services where people can camp on private land via an online booking system, it is important to note that these private residences do not legislatively require the same level of safety/fire infrastructure or management and thus can undercut traditional operators who incur, rates, licence fees and various taxes. This needs to be taken into account when considering the number and style of dwellings that can be placed outside of a tourist park.

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

No, we do not support the timeframe being extended. This increases the likelihood of free camping and severely disadvantages owners of caravan parks who pay rates, licence fees, taxes etc.

Facilitating the development of new caravan parks and manufactured home estates

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

The objectives should be clear and provide support for the development of both Tourist and Residential Parks, including metropolitan areas. The affordability solutions provided by Residential Parks should be emphasised and Councils encouraged to consider the land use as a viable and socially appropriate means of providing quality affordable housing. The exclusion of the Sydney Metropolitan area from SEPP 36 has created a negative stigma to Residential Parks/Manufactured Housing Estates and the Objectives and Matters for Consideration should seek to overturn these incorrect perceptions.

Further the objectives should support the new Residential (Land Lease) Communities Act and provide the approval framework for the development of Residential parks. This land lease model (Residential parks) has been identified as a mechanism to provide affordable accommodation and should be supported with an appropriate approval framework that encourages development with appropriate controls.

Further we agree with the examples noted in Appendix A of the discussion paper, however where it states that "these provisions are no longer required as the location of Parks will be regulated through the LEPs" this provision may be constrained from being able to function as intended unless some other provisions are incorporated such as permitting manufactured homes where dwelling houses are allowed in the respective zone.

With limited exceptions, SEPP 21 allows moveable dwellings to be installed in caravan parks and camping grounds

without development consent being required (see clause 8(4A)). This should remain.

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 will likely defeat the purpose of this current review which is to provide clarity and simpler approval processes to develop Tourist and Residential Parks.

It should be emphasised that if a zoning approach is incorporated, whilst it will be beneficial to have permissibility mandated through the LEP, its imperative that clarity is provided that MHEs are permitted in any zone that permits dwelling houses. Other appropriate compliance provisions already exist under the EP&A Act to ensure that MHEs for instance can't be developed on RU land where dwelling houses are permitted. For instance this is mandated through "dwelling house entitlements".

Streamlining approvals to operate for existing caravan parks, camping grounds and manufactured home estates

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

- ☒ Yes
☐ No
☐ other:

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

Yes, 'primitive camping grounds' should be defined providing greater certainty and clarity to the industry.

Transitioning existing estates, parks and camping grounds to a new approvals framework

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?

The current requirement to seek renewals of a park's approval to operate is time consuming and unnecessary whilst also posing business continuity and insurance risk where delay of processing of applications pushes beyond expiration dates. We do agree that regular (maximum annually if previously compliant) council inspections should be undertaken to ensure compliance. We would expect would want consistency across Council's in respect to minimum standards and would want these to apply to all commercially owned and public sector Parks to ensure a level playing field for all operators. This will ensure safety and quality within the industry.

However, If under this proposed change of inspection an owner attempts to seek development approval for something minor, the new framework should not then attempt to rely on, or take advantage of that application by conditioning the applicant with extensive conditions in an attempt to ensure compliance with the now prevailing standards.

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

Controls for existing parks should remain consistent with current requirements. It unreasonable to expect operators to incur negative financial or regulatory impact due to a change in legislation.

Furthermore in section 5.9 the discussion paper it details how the definitions would be clarified and streamlined. If the proposed definition of a Manufactured Home will make it clear that MHs comprise one of more major sections that are constructed and assembled away from site then the concern about them not being removed from site is unfounded and the current legislation governing them should be left as-is. If the new Guidelines are still going to require houses to be built off site then the Guidelines should respect the existing legislation that they can be built without a specific development approval. If an approval is going to be required, and there is a concern that they will never be removed from the site then the Guidelines should allow for conventional construction to take place on site such as in QLD.

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

☐ Yes

☐ No

☒ other:

Only in the instance of substantial expansion or reconfiguration and the controls should apply to the expansion or reconfigured areas only.

Streamlining approvals through exempt and complying development

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

Applying Complying Development requirements to the installation of Manufactured Homes is not supported and will add to the time and cost to bring this product to the market, which will negatively impact on the affordability of this housing type.

Clarity on the process to convert sites is supported and the proposed Option 2 of only requiring a Development Consent where the conversion exceeds a nominated threshold is our supported position. This will allow operators to respond to market drivers.

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

Staff accommodation, carports, verandas and sheds as long as they meet the requirements for separation and set back.

The introduction of a Guideline

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

☒ Yes

☐ No

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

approach?

Removal of the need for concurrence from the NSW Department of Planning and Environment

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

☒ Yes

☐ No

☐ other:

Currently, Section 82 of the Local Government Act provides a mechanism for exemption of a particular standard found in the Act or its Regulations. If utilised and approved by the Minister for Local Government it enables the Council to approve a variation to a standard.

For many parks separation happens to be the standard that needs to be varied. This standard is 2.5m separation for moveable dwellings on short term dwelling sites and the 3m separation for moveable dwellings on long term dwelling sites. As long as an objection can still be mounted for any standard and in particular the separation standards, then variations under a DA should be acceptable.

Definitions of development types

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

☐ Yes

☒ No

☐ other:

We have two issues with the proposed definitions.

The proposed definition of Manufactured Home seeks to specifically prohibit construction on site. Whilst this is currently prohibited in the regulations, Section 82 of the Local Government provides a relaxation mechanism should circumstances support. The restriction of manufacturing offsite adds cost to the final dwelling via transportation costs and impacts affordability. It also diminishes the benefit to the respective local community with construction often taking place in a different location.

The current definition of Short Term site does not cover Annuals and needs to be reconsidered.

Clause 73 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations, 2005, defines the occupation provisions applying to caravan parks and camping grounds and identifies that 'a person must not be permitted to stay in a moveable dwelling that occupies a short-term site or camp site for a total of more than 150 days in any 12 month period, unless the moveable vehicle is a holiday van and the person is the owner of that holiday van'. With respect to holiday vans owned by the occupant the maximum stay is 180 days. Where will these occupation provisions be reflected in the new legislation as all that is noted in the discussion paper is 90 days?

Promote diversity of housing

Providing for a diversity of residential and tourist uses within parks

21. Should sites be maintained for tourist uses in a residential park and vice versa?

☐ Yes

- ☒ No
☐ other:

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

- ☐ Yes
☒ No
☐ other:

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

A threshold or requirement to have a minimum number of tourist sites is strongly opposed within a Residential Park. Requiring tourist sites in a residential park will create increased management costs with little to no matching revenue increase. This will result in increased site fees to residents to ensure the financial viability of the park. Furthermore, for a pure residential park, a requirement of 10% tourist sites would be a conflicting land use with the expectation of residents that they reside with like-minded individuals.

Seasonal and itinerant workers accommodation

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

In order to be consistent with the current Clause 73 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations, 2005, then consideration should be given to occupation being for no more than 150 days in a 12 month period

Measures should also be put in place to ensure these categories do not fall under the residential tenancy act. If this is unavoidable, then there should be some mechanism (such as a break in continuous tenure) restricting the availability of the RTA to be used as a tool to gain permanent residency.

Industry innovation

Support for innovation in the current framework

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?

- ☐ Yes
☒ No
☐ other:

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

Simplified approval process reducing cost and time to deliver housing. Clear performance criteria for design but not mandated, providing flexibility for approvals to be achieved.

Building standards and safety

Manufactured homes and the Building Code of Australia (BCA)

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

We have not conducted a full comparison to the BCA standards, but reiterate that manufactured homes provide a

quality lifestyle option for residents seeking affordability. Whilst we concur that fire, structural, health, amenity and sustainability measures are appropriate and required, such measures should reflect the simpler design and scale of this dwelling type and not add unnecessary cost which will impact the affordability of the dwelling to the final homeowner.

Although not specifically stated in the current regulations it is evident that the reasons for the 2.5m and 3m dwelling setbacks relate to safety (fire), amenity and privacy. We believe flexibility can be introduced here if BCA standards are applied. If it can be proved that the BCA standards are met then convention separation distances reflecting those of houses of 900mm from the boundary (1.8m) total separation should be considered.

Critical stage inspections for manufactured homes

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

The current process is considered appropriate.

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

Not during installation as this will add further time and cost and impact the affordability of the final dwelling. The manufacturer provides a warranty to the final resident which provides protection. If there are concerns or experiences of manufacturers not honouring their warranty then a certification process could be considered. This certification should allow for appropriately qualified persons (i.e. engineer etc.) to provide one or two inspections at major fabrication milestones. Private certifiers/qualified people will allow for minimal disruptions and account for the possible different manufacturing to final destination issues.

☐ Yes

☐ No

☒ other:

Fire Safety Standards in Residential and Tourist Parks

30.What fire safety controls should residential and tourist parks be required to meet?

The current issues of fire controls predominately relate to historical requirements and many parks being built to these standards. There is ambiguity as to the applicable fire controls that these parks should now be meeting and the timeframe for parks to provision the significant capital required to meet these requirements. Clarity on the standards and timeframes to meet these standards is required.

It should also be noted that in many cases tourist and residential parks are located in remote areas with no current access to mains supply of water. To upgrade these parks with the same fire infrastructure as metropolitan parks is cost prohibitive to keep operating the park. There needs to be consideration of the cost to park owners and flexibility provided in how the risk is diminished. Adopting a performance based approach is recommended.

31.Would requiring residential and tourist parks submit an Annual Fire Safety Statement be an effective way to check essential fire safety measures have been met?

If the proposed removal of Approval to Operate licences occurs then submission of an annual fire statement would be appropriate.

☒ Yes

☐ No

☐ other:

Environmentally sensitive land

32.What controls should apply to tourist and residential parks located on flood prone or bush fire prone land?

Current controls are considered appropriate.

Ensuring compliance with certain standards

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

For major breaches the proposed transferring to assessment under the EP&A Act is considered appropriate.

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