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## SUBMISSION ON IMPROVING THE REGULATION OF MANUFACTURED HOMES, CARAVAN PARKS, MANUFACTURED HOME ESTATES & CAMPING GROUNDS DISCUSSION PAPER

The Caravan, Camping & Touring Industry & Manufactured Housing Industry Association of NSW (including Caravan & Camping Industry Association, Manufactured Housing Industry Association and Land Lease Living Industry Association) is this State's peak industry body representing the interests of caravan and holiday parks, manufacturers and retailers of recreational vehicles (RVs) (motorhomes, campervans, caravans, camper trailers, tent trailers, 5th wheelers and slide-ons) and camping equipment, residential land lease communities and manufacturers of relocatable and manufactured homes.

We currently have, as members, over 700 businesses representing all aspects of our industry. More than 400 are operators of holiday parks and residential land lease communities (residential parks, including caravan parks and manufactured home estates) in New South Wales.

The geographical breakdown of our park and residential land lease community members is:

Region	Number of Businesses
Far North Coast & Tweed	52
North Coast	68
New England (North Western NSW)	16
Manning/Forster	25
Newcastle & Hunter	51
Central Coast	36
Sydney & Surrounds	23
Leisure Coast (Illawarra and Shoalhaven)	48
South Coast (Eurobodalla and Sapphire Coast)	65
Central NSW	22
Murray & Riverina	22
Canberra & Snowy Mountains	15
Outback NSW	4

As an important stakeholder in the regulation of manufactured homes, caravan parks, manufactured home estates and camping grounds, we welcome this opportunity to respond to the Improving the Regulation of Manufactured Homes, Caravan Parks, Manufactured Home Estates & Camping Grounds Discussion Paper (Discussion Paper).

## 1 - INTRODUCTION

1. 1 Caravan and holiday parks are very important to the tourism economy. The caravan and camping industry continues to be one of the fastest growing domestic tourism sectors in Australia. New South Wales is Australia's favourite State for caravanning and camping, with a 35.3% share of visitor nights and a 33% share of visitors.
1. 2 In the last year New South Wales received over 2.2 million domestic caravan and camping visitors spending over 10 million nights in caravan and camping accommodation. This injected more than \$1.9 billion in economic value to New South Wales last year.
1. 3 Caravanning and camping also accommodates over 26% of the visitor holiday nights in Regional New South Wales making it a vitally important part of the tourism infrastructure and a key sector to assist in the Government's action plan to double overnight expenditure in New South Wales by 2020.
1. 4 Residential land lease communities (formerly known as residential parks, including caravan parks and manufactured home estates) also continue to grow in popularity, and include communities exclusively comprised of permanent residents, or those that have residential sites as well as tourist sites. Residents usually own their own manufactured home or moveable dwelling and lease the land (the site) from the operator. There are approximately 900 parks across New South Wales, with 495 residential land lease communities. The total number of residents is 33,912. There are 26 residential land lease communities within the Sydney metropolitan area. Of all residential land lease communities 95% are located in rural and regional New South Wales.<sup>1</sup>
1. 5 Residential land lease communities in Australia are a lifestyle choice for many people. In America, more than 20 million people live in land lease communities and enjoy the lifestyle, secure environment and financial benefits they afford.
1. 6 Part of the success of residential land lease communities is the quality and strict manufacturing standards of the homes themselves. Coming out of a factory with quality trimmings and appliances for kitchens, bathrooms, living and sleeping areas, manufactured homes now offer everything that's available in a suburban home for a price much lower than site-built housing.
1. 7 The affordability of manufactured housing is mainly attributable to the efficiencies of the factory process. The controlled environment and assembly-line techniques remove many of the problems of the site-built sector, such as poor weather, theft, vandalism and damage to building products and materials stored on site. As a result, manufactured homes are able to be built quickly which adds to their appeal. Also, factory employees are trained, scheduled and managed by one employer, as opposed to the system of contracted labour. Manufactured home builders also benefit from the economies of scale which result from being able to purchase large quantities of building materials and products. As a result, savings can be passed on to customers.

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<sup>1</sup> NSW Fair Trading, *Residential Land Lease Communities Profile of the Industry*, November 2015.

1. 8 Our Association broadly supports a reform of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 (LG Regulation) and associated Planning Policies to provide a more effective and supportive approvals process and to reduce red tape for these developments.
1. 9 First and foremost, we advocate that a State-wide regulatory scheme be maintained to ensure the continued growth of these sectors. This State-wide application has been an essential part of the regulatory scheme which was implemented in 1986 with the introduction of Ordinance 71 under the Local Government Act 1919. Our detailed submissions on the issues and questions raised in the Discussion Paper are set out below.

## 2 - CHANGES TO THE LEGISLATIVE FRAMEWORK

2. 1 Subject to further amendment of key definitions, exempt and complying development and our input on the development of a Guideline, we generally support the proposal for the current dual system of approvals to be streamlined and incorporated into the planning system as illustrated in Figure 1 of the Discussion Paper.
2. 2 As indicated in our May 2015 preliminary submission, unfortunately the industry has been severely limited in its growth as a result of inappropriate regulation and land use restrictions. These are the result of successive restrictive, rather than enabling, Government legislation.
2. 3 The limitations of the planning regime include the State Environmental Planning Policies (SEPP21 – caravan parks and SEPP36 – manufactured home estates) and the Local Government Act 1993, the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 (LG Regulation) and the Environmental Planning and Assessment Act 1979 (EP&A Act).
2. 4 Enabling regulation must recognise the significance of the provision of the affordable housing options in residential land lease communities and tourism opportunities in caravan and holiday parks for the people of New South Wales.
2. 5 However, in the development of the Guideline we ask that industry be given the opportunity to review and consult on a draft before any provisions are adopted.

## 3 - SUPPORTING LAND USES IN THE RIGHT LOCATIONS

3. 1 We understand the desire to ensure that caravan parks and manufactured home estate land uses are located in the right areas and provide certainty and clarity to councils, developers and owners.
3. 2 However, the proposal to replace the terms 'caravan park' and 'manufactured home estate' with the terms 'Residential Park' and 'Tourist Park' and the application of a 75% threshold for residential parks does not take into account the many parks with a 50/50 or 60/40 split between long term and short term sites, as well as those parks that have long-term casual occupants under the Holiday Parks (Long-term Casual Occupation) Act 2002.

3. 3 Like any business, parks should be able to alter their business models to respond to changing markets. We support the concept of operators being able to alter sites within a threshold limit without the need for a development application, provided site coverage remains compliant. However, we are concerned that the proposal put forward in the Discussion Paper is too limited.

**Discussion Question 1: Do you agree with the proposed changes to the definitions?**

3. 4 We see no issues with the definition of a "Tourist Park." However, the word "accommodation" needs to be removed from the definition of "Residential Park" and, following recent legislative change in New South Wales,<sup>2</sup> the correct terminology to use for "Residential Park" is now "Residential Land Lease Community."
3. 5 Residential land lease communities are not in the business of providing "accommodation." The manufactured homes or moveable dwellings are generally owned by their occupants who have a site agreement which gives them a tenancy over a dwelling site from the operator of the community.
3. 6 Further, under the Age Discrimination Act 2004 a reference to the provision of "accommodation" would have negative consequences for residential land lease communities that have age restriction policies.
3. 7 A more preferable definition would be:

"Residential Land Lease Community" – A place that primarily provides dwelling sites for permanent residents on which moveable dwellings and manufactured homes are installed and which may or may not include communal facilities and administration buildings.

3. 8 Please see below for our submissions on other definitions proposed in the Discussion Paper.

**Discussion Question 2: Should a threshold for permanent residents be set for residential parks. If so, do you agree with a 75% threshold?**

3. 9 The proposed terms 'Residential Park' and 'Tourist Park' and the application of a 75% threshold for residential parks does not take into account the many parks with a 50/50 or 60/40 split between long term and short term sites, as well as those parks that have long-term casual occupants under the Holiday Parks (Long-term Casual Occupation) Act 2002. Perhaps a third category is required to fill this gap.
3. 10 As an example, park membership of our Association is divided into 3 classes, defined as follows:

**Tourist Park Class**

A caravan park in which at least seventy five percent of the sites are approved as short term sites or as camp sites.

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<sup>2</sup> Residential (Land Lease) Communities Act 2013

Manufactured Home Community Class (land lease community)

A caravan park in which at least seventy five percent of the sites are approved as long-term sites, and at least seventy five percent of the occupied sites are occupied by manufactured homes, and includes a manufactured home estate.<sup>3</sup>

General Caravan Park Class

A property used for the placement of caravans (or of caravans and moveable dwellings), and which is currently approved to operate as a caravan park that is not a tourist park or a residential land lease community.

3. 11 We are comfortable with the concept of a Residential Land Lease Community "primarily" providing dwelling sites for permanent residents equating to a threshold of 75%, as opposed to a determination of a threshold by a local council.

Discussion Question 3: Would a zoning approach be appropriate for Residential and Tourist Parks?

Discussion Question 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?

3. 12 We continue to advocate for the preservation of State-wide regulation. Page 3 of Circular No. 86/39, on the introduction of Ordinance 71, by the Department of Local Government on 30 October 1986 states: "Fundamental to the new licensing system is its uniform application. This involves State-wide application based on a code of standards which is given effect through the new Ordinance (section 289G [of the Local Government Act 1919])."
3. 13 As the inconsistent approach to these types of developments by local councils is a major issue to be addressed in the review, the proposal for local councils to apply their own numerical standards or thresholds in light of regional plans and local strategies, and for parks and manufactured home estates (residential land lease communities) to be regulated through LEPs, is not the appropriate solution.
3. 14 The preferable industry approach is:
- a) Option 1 – the permissibility of Residential Land Lease Communities and Tourist Parks<sup>4</sup> to be mandated in certain zones, and
  - b) The restrictions in SEPPs 21 and 36 removed with an ability to apply for and be granted a Site Compatibility Certificate from the Department of Planning.
3. 15 Site compatibility certificates were introduced as an additional planning safeguard. The SCC mechanism is established under the State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP). In 2007 the Seniors Housing SEPP was gazetted and introduced the use of SCCs.

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<sup>3</sup> **Manufactured home estate** means a manufactured home estate approved under Section 68 F (3) of the Local Government Act 1993 or, if the property is not within New South Wales it is subject to any relevant regulation similar to manufactured home estate regulation in New South Wales.

<sup>4</sup> Including any third classification adopted, i.e. general caravan park.

Importantly, the Department of Planning Site compatibility certificates guide (April 2009) at page 3 provides that a SCC for a new seniors housing development recognises that it is broadly compatible with the surrounding environment and locality – and can now proceed to the lodgement of a development proposal, usually with the local council. The Department must consider a series of criteria covering environmental, resources, servicing and infrastructure and local impacts before making a decision.

3. 16 An SCC stating that particular land is suitable for the development of homes for seniors housing would avoid the lengthy process of a rezoning application, if it was available.

Presently, a proposal could not proceed if the land was intended to be developed as a residential land lease community because the SCC relates only to land that is being developed under the Seniors Housing SEPP (Housing for Seniors and People with a Disability SEPP). Section 5 (3) (d) of the Retirement Village Act specifically excludes Residential Parks (now Residential Land Lease Communities) from the definition of a retirement village.

3. 17 It is our view that the availability of a mechanism such as a SCC would be supportive of the continued development of residential land lease communities and tourist parks in New South Wales.

#### 4 - APPROVAL OF MANUFACTURED HOMES OUTSIDE CARAVAN PARKS AND MANUFACTURED HOME ESTATES

4. 1 We agree that the lack of clarity on the planning permissibility of manufactured homes outside caravan parks and manufactured home estates creates confusion for councils and people wishing to purchase a manufactured home to place on residential land as an alternative to a traditionally constructed site-built home. This results in councils tending to have different approaches for approval and some councils not allowing these types of dwellings at all because they have adopted the terminology from the Standard SEPP.
4. 2 The manufactured housing industry has the potential to play an important role in housing affordability not only for older Australians, but also young families, first home buyers and people living in remote locations. A planning regime that clarifies the permissibility of manufactured homes and removes confusion for councils is the key to unlocking this potential.

[Discussion Question 5: Would these proposed changes make the permissibility of manufactured homes clearer and contribute to a simpler approvals process?](#)

4. 3 It is our view that there needs to be certainty around approvals of manufactured homes and a streamlining of the regulatory framework to enable people to easily utilise the benefits of manufactured homes as their principal or secondary dwelling. We support the proposal to include manufactured homes within the definition of a building under the EP&A Act and remove the need for manufactured homes to be approved under both the LG Act and the EP&A Act. However, we must ensure that if manufactured homes are to be classified as buildings and be subject to the Building Code of Australia then there is recognition that they will continue to be regarded as

relocatable. They must not, on their placement on a site in a community or a park, become fixtures.

4. 4 The inclusion of manufactured homes within the definition of a 'building' would greatly benefit the manufactured housing industry and the people of New South Wales at a time when housing affordability is a critical issue.
4. 5 We agree that these changes would certainly assist in making the permissibility of manufactured homes clearer and contribute to an effective approvals process by removing confusion for councils. This would also remove the current restrictions and limitations on manufactured homes being placed on Greenfield sites.

## 5 - APPROVAL OF MOVEABLE DWELLINGS

5. 1 The Discussion Paper notes that the continued use of the current exemptions from council approval is supported for "moveable dwellings" both inside and outside of parks and camping grounds.
5. 2 However, the time permitted for use outside of camping grounds or parks is proposed to be extended from two days to allow for long weekends and school holidays. Feedback is also sought on how the new framework should adequately provide for and facilitate the use of "self-contained" campervans and caravans.

[Discussion Question 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?](#)

5. 3 Our position is there should be no change to the time permitted for use of "moveable dwellings" outside of parks and camping grounds to allow for long weekends, and in particular school holidays.
5. 4 RV tourism is already well catered for in the planning regime and the tourism sector, and any such change would decimate and destroy the caravan and camping industry. Weekends, long weekends and school holidays are the peak times for these important tourism businesses, most of which are small businesses.<sup>5</sup>
5. 5 As stated above, in the last year caravan parks in New South Wales accommodated 2.2 million people, who stayed 10 million nights and generated more than \$1.9 billion in economic value. Most importantly, caravan parks accommodated 26% of holiday visitor nights to our regional and rural areas of the State, making caravan parks very important small businesses in regional towns.
5. 6 And there is still room to grow. Every night there are around 50,000 short term and camp sites available across our commercial park network. The national occupancy rate is 54%, and 73% of our parks and camping grounds offer facilities to accommodate large RVs.
5. 7 As such, there is no shortage of existing sites to accommodate RV tourists, including free sites. Although caravan parks and camping grounds already offer very affordable prices (on and off season) there is a range of compliant, free and low cost camping

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<sup>5</sup> We note that corporate interest in tourist parks and residential land lease communities has increased in recent years, however the majority of these businesses are still operated as small businesses.



already available to freedom campers. These include national parks, state forests, and primitive camping grounds (generally showgrounds and reserves) throughout New South Wales.

5. 8 Our Association was also a participant to the Legislative Council Inquiry into Tourism in Local Communities as referenced on page 31 of the Discussion Paper. We understand that RVs with on-board facilities such as showers, toilets and waste water holding tanks are contributing to the popularity and practice of free or 'freedom' camping. Freedom campers argue that they don't need the facilities in commercial caravan parks and camping grounds and therefore they shouldn't have to stay there. However, they do at some point need to refuel, restock and dispose of waste.
5. 9 We are not against freedom camping. In fact, we believe it's important that a full range of services and experiences be available in the caravan and camping sector, so that it can continue to appeal to a broad and growing market. RV tourism is a terrific way for people to experience the best of New South Wales and Australia.
5. 10 However, camping should only occur in areas designed for this purpose and which comply with all relevant planning and operational regulations, intended specifically to ensure the preservation of the environment, regulate local business operations and protect the safety of visitors.
5. 11 If RV tourists are to stay in an area for an extended period of time, then for the sake of their own safety, and the preservation of the environment, they should be required to stay in an approved area that has been designed with the proper facilities to manage this extended use.
5. 12 Please find attached for your reference our position paper on Freedom Camping and Public Access Dump Points<sup>6</sup>. In it we outline in further detail the issues associated with freedom camping, which would be amplified by a change to the current exemptions.

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

5. 13 Any new framework to facilitate the use of "self-contained" caravans and campervans would also detrimentally affect the caravan and camping industry and be counterproductive to encouraging the ongoing development of valuable tourism infrastructure.
5. 14 Notwithstanding this, "self-contained" recreational vehicles do not warrant separate regulatory treatment and such a framework is unworkable from the point of effective compliance and enforcement.

**Grey Nomads and the truth about "self-contained" RVs**

5. 15 As at January 2015 there were 586,585 registered RVs in Australia.
5. 16 The vast majority of these (90%) are made up of caravans (including camper trailers, tent trailers, etc) where the largest percentage of these continues to be in the 500 – 900 kg category, with 73% weighing less than 1.5 tonne.

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<sup>6</sup> 2015.



5. 17 These RVs are not 'big rigs' and they are not "self-contained" as they have no grey water storage.
5. 18 A small 10% of total registered RVs are campervans and motorhomes with around 58,000 registered throughout the whole of Australia. Small campervans are also not "self-contained". Only larger motorhomes have the potential to be self-contained, and they make up less than 10% of total registered RVs.<sup>7</sup>
5. 19 Grey nomads in what are (incorrectly) understood by the public to be "self-contained" RVs are therefore only a very small segment of RV tourism.

Very few RVs are actually self-contained

5. 20 In order to be considered a "self-contained" vehicle, a caravan, motorhome or other RV must have the capability and capacity to stay for the period intended without external input but not limited to power or water, and to take with it everything it brings in safely and securely.
5. 21 As such, a "self-contained" vehicle must have the capability to generate its own power, have sufficient holding tanks for water and waste (both grey and black water as well as rubbish), storage for food, and all other goods required for its length of stay. As can be seen from the statistics for registered RVs in Australia, there are very few units that are actually "self-contained" and there are very few RVs that are capable, due to weight restrictions, of even becoming "self-contained."
5. 22 Further, "self-contained" RVs still require their tanks to be filled (fresh water) and the grey water (shower and sink) emptied into a suitable waste facility and the black water (toilet waste) emptied into suitable sewerage facilities. Therefore, approved and properly managed facilities need to be available to RVs that are staying in an area for an extended period of time.

Councils have no power to verify self-contained RVs

5. 23 Without the cooperation of the RV owner, there is no way of verifying if an RV is truly "self-contained" and due to limited resources such inspections are unlikely to be undertaken by council rangers or other local authorities anyway.
5. 24 In some regional areas, local councils have approved camping on council land by 'self-contained RVs.' One example is Wilks Park in Wagga Wagga. Wagga Wagga City Council resolved to transform Wilks Park into a Primitive Camping Ground in late 2012 and under the conditions of consent for the camping ground, 'self-contained' vehicles are permitted to use Wilks Park as a short stay stopover point, at no cost, for a maximum period of 72 hours.
5. 25 However, we continue to receive reports that RVs which are not 'self-contained' (as understood in that particular approval) continue to stay on the site and the 72 hours period is frequently breached. Council maintains that it monitors the area, but compliance and enforcement resources are limited.

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<sup>7</sup> BDO, *Caravan and Campervan Data Report*, 7 December 2015

5. 26 Despite the lack of resources, which is a problem across all local governments, there is a fundamental flaw with an approval such as this: councils have no power to enter private RVs and verify that they are self-contained.

5. 27 In light of these issues, it is not appropriate, nor possible, for the new framework to facilitate the use of "self-contained" caravans and campervans.

## 6 - FACILITATING THE DEVELOPMENT OF NEW CARAVAN PARKS AND MANUFACTURED HOME ESTATES

6. 1 We strongly support a review of SEPP 21 – caravan parks and SEPP 36 – manufactured home estates to facilitate the development of new caravan parks and manufactured home estates.

6. 2 As stated in our May 2015 preliminary submission these SEPPs have been formulated in the same terms as traditional housing. This does not reflect the normal operation of properties zoned as residential land lease communities (residential parks) that have traditionally started in 'fringe' locations. Nor has any consideration been given to 'affordability'. Planners argue that caravan parks and manufactured home estates should be located in close proximity to health and transport systems. No consideration has been given to alternative means of providing these services, or access to them.

6. 3 The restrictions prescribed by the SEPPs have meant that virtually no new caravan parks or manufactured home estates have opened since these planning instruments were enacted. Clause 3 excludes the Sydney region and Schedule 2 allows councils to prohibit manufactured homes estates on a number of grounds.

[Discussion Question 8: What provisions from SEPP 21 or SEPP 36 should be retained under the new framework?](#)

[Discussion Question 9: Are there additional controls that should be included in the new framework to facilitate the development of new Tourist Parks or Residential Parks?](#)

### SEPP 21

6. 4 In reference to Appendix A of the Discussion Paper, proposals for SEPP 21, we note the following:

#### Aims and Objectives

6. 5 We agree with the proposed amendment, subject to our submissions to Discussion Questions 1 and 2.

#### Land to which this policy applies

6. 6 We agree that these provisions are no longer required if the location of parks will be regulated through LEPs. However, please refer to our submissions in response to Discussion Questions 3 and 4.

Relationship to other EPIs

6. 7 We agree that these provisions are no longer required if the location of parks will be regulated through LEPs. However, please refer to our submissions in response to Discussion Questions 3 and 4.

Definitions

6. 8 We agree with the proposed amendments, subject to our submissions to Discussion Questions 1, 2 and 20.

Application of certain planning controls

6. 9 We agree with the proposed amendment, subject to our submissions to Discussion Questions 1 and 2. We welcome input on any amended definition of "camping."

Development consent required for caravan parks

6. 10 We agree with the removal of these provisions, subject to our submissions to Discussion Questions 1, 2, 20 and our input on the development of the Guideline.

Subdivision of caravan parks for lease purposes

6. 11 We agree with the proposed amendment, subject to our input on the development of the Guideline.

Matters to be considered by councils

6. 12 We agree with the proposed amendment, subject to our submissions to Discussion Questions 1, 2 and 20, section 9.2 Role of residential parks in seniors housing and our input on the development of the Guideline.

SEPP 36

Aims and strategies

6. 13 We agree with the proposed amendment, subject to our submissions to Discussion Questions 1 and 2 and our input on the development of the Guideline.

Land to which this policy applies

6. 14 We agree that these provisions are no longer required if the location of manufactured home estates (residential land lease communities) will be regulated through LEPs. However, please refer to our submissions in response to Discussion Questions 3 and 4.

Relationship to other EPIs

6. 15 We agree that these provisions are no longer required if the location of manufactured home estates (residential land lease communities) will be regulated through LEPs. However, please refer to our submissions in response to Discussion Questions 3 and 4.

## Definitions

6. 16 We agree with the proposed amendments, subject to our submissions to Discussion Questions 1, 2 and 20.

Where development for the purposes of a manufactured home estate may be carried out

6. 17 We agree that these provisions are no longer required if the location of manufactured home estates (residential land lease communities) will be regulated through LEPs. However, please refer to our submissions in response to Discussion Questions 3 and 4.

## Development consent required for manufactured home estates

6. 18 While we do not have any issue with the approval requirements for manufactured homes being regulated through the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, in relation to LEPs please refer to our submissions in response to Discussion Questions 3 and 4.

## Subdivision of manufactured home estates

6. 19 We take the heading reference in the Discussion Paper "land to which this policy does apply" to be an error and agree that the provisions in clause 8 of SEPP 36 are no longer required if the subdivision of manufactured home estates (residential land lease communities) will be regulated through LEPs. However, please refer to our submissions in response to Discussion Questions 3 and 4 and note that we support a continuation of the provisions that allow for subdivision for lease purposes.

## Categories of excluded land

6. 20 We support the land exclusions identified in Schedule 2 no longer applying, however, please refer to our submissions in response to Discussion Questions 3 and 4.

## Dictionary

6. 21 We agree with the proposed amendments and removal of the definition of "Sydney region", subject to our submissions to Discussion Questions 1, 2 and 20.

## 7 - STREAMLINING APPROVALS TO OPERATE FOR EXISTING CARAVAN PARKS, CAMPING GROUNDS AND MANUFACTURED HOME ESTATES

7. 1 We agree that requiring park or estate owners to seek permission for approval to operate every five years (or in some cases every 12 months) is not only time consuming but also an unnecessary regulatory burden. We also note that many local councils do not have sufficient resources to adequately manage the process, leaving a number of parks without an approval to operate for extended periods of time and thereby jeopardising their existing exemptions, viability and insurances.

[Discussion Question 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?](#)

7. 2 We strongly support the proposal to discontinue the requirement to seek an 'approval to operate' as outlined in the LG Regulation and for parks and residential land lease communities to only require a one-off development approval under the EP&A Act.
7. 3 We also support the proposal for key development and design standards from the LG Regulation to be included in a Guideline, and amended as per a performance based approach, and for council or private certifier inspections to guard against ongoing fire or safety issues.

**Discussion Question 11: What other matters should be considered in camping grounds and primitive camping grounds approvals? Should 'primitive camping grounds' be defined?**

7. 4 A "primitive camping ground" is currently defined in the LG Regulation as "a camping ground that is specified in its approval as being a primitive camping ground."
7. 5 Planning Circular 10-019 Illegal Camping states "special provision is made in the LG Regulation 2005 for operating 'primitive camping grounds'. This type of camping ground is generally remote from urban areas, and under the Regulation is required to have only a limited range of facilities. Requirements include that the ground must be provided with a water supply, toilet and refuse disposal facilities as specified in the approval for the ground." Such firefighting facilities as may be specified in the approval are also to be provided.
7. 6 Despite this, clause 132 of the LG Regulation has led to the establishment of "primitive camping grounds" in a number of showgrounds around regional New South Wales. Due to their size, showgrounds are easily able to comply with the maximum number of "a mean average of 2" caravans, campervans or tents, for each hectare and are able to confine camping activities to a particular area of the showground.
7. 7 Our position is that the definition of "primitive camping ground" should be amended to remove this unintended consequence and clearly reflect their purpose as set out in clause 101 (1) of Ordinance 71. That is, a specification that they are "in areas remote from other developments (including caravan parks and camping grounds)."<sup>8</sup>

**8 - TRANSITIONING EXISTING ESTATES, PARKS AND CAMPING GROUNDS TO A NEW APPROVALS FRAMEWORK**

**Discussion Question 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?**

8. 1 As submitted in response to Discussion Question 10, we support the proposal to discontinue the requirement to seek an 'approval to operate' as outlined in the LG Regulation and for parks and residential land lease communities to only require a one-off development approval under the EP&A Act.
8. 2 We also support the proposal for council or private certifier inspections to guard against ongoing fire or safety issues.

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<sup>8</sup> The wording in clause 101(1) of the original Ordinance 71, 1986.

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

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

8. 3 In removing the 'approval to operate' requirement, we support the following proposals for existing residential land lease communities, parks and camping grounds:
- a) Existing parks, residential land lease communities, and camping grounds to be deemed approved under the EP&A Act,
  - b) Existing parks, residential land lease communities and camping grounds should not be required to comply with controls that are additional to the controls they currently operate under, and
  - c) There should be flexibility in meeting controls such as setbacks, size of sites and separation distances by the application of a performance-based approach.
8. 4 In relation to point c), we expect that this issue will be resolved by the proposal for key development and design standards from the LG Regulation to be included in a Guideline, and amended as per a performance-based approach.
8. 5 However, we are concerned by the proposal that a development application under the new framework would be required when an existing facility was seeking to expand or reconfigure. Without preservation of existing use rights, this may cause a reluctance of parks and communities to invest in and redevelop new areas for fear of losing their existing exemptions.
8. 6 We agree that the status of existing approvals will need to be made clear in the new framework and look forward to continued consultation on the development of appropriate transitional provisions.

## 9 - STREAMLINING APPROVALS THROUGH EXEMPT AND COMPLYING DEVELOPMENT

Discussion Question 15: What are your views on the proposed approach for exempt and complying development?

Discussion Question 16: Should anything else be categorised as exempt, complying or development assessment?

Manufactured homes outside of parks and estates

9. 1 We support the proposal for manufactured homes installed outside of parks and residential land lease communities to be subject to exempt and complying development provisions, as outlined in Table 2 on page 37 of the Discussion Paper, in order to provide for a fast track complying development process.

## Manufactured homes within Residential and Tourist Parks

9. 2 The Discussion Paper notes that since the introduction of the current system, which allows for the installation of single story manufactured homes without the need for approval from council, manufactured homes have changed as technology and construction methods have advanced:

“Today, manufactured homes are more likely to be higher quality and more permanent structures....It may be appropriate that an assessment, either through the development application or complying development process, be undertaken prior to construction on site within these parks.”

9. 3 We disagree with this summation and do not support a change to the current development classification. Modern manufactured homes that are built in a factory and transported to a site remain transportable after installation. It is arguable that higher quality construction materials are extending the life of these products and thereby reducing the need for relocations (as opposed to preventing them).
9. 4 In relation to the issue of shifting between long term and short term sites, as stated above, parks and residential land lease communities should be able to alter their business models to respond to changing markets and we support the concept of operators being able to alter sites within a threshold limit without the need for a development application, provided site coverage remains compliant, as outlined in Option 2 on page 39 of the Discussion Paper.
9. 5 As such, in keeping with the objective to simplify the approvals pathway and reduce red tape for these developments, we submit that the following should comprise exempt and complying development within Residential Land Lease Communities and Tourist Parks:

### Exempt Development

9. 6 All things on a dwelling site:
- Option 2 – switching between long term and short term sites and vice versa where the threshold is not exceeded (i.e. remaining as either a Tourist Park or a Residential Park<sup>9</sup>).
  - Altering the size of sites, provided site coverage remains compliant and the park or community's original approval and applicable threshold is not impacted (for example, an ability to reconfigure 10 small sites in an older park into 8 larger sites).
  - New manufactured homes on existing long term or short term sites. The proposal that manufactured homes be complying development would add delay and cost.

As stated above, the appeal of manufactured housing is attributable to the efficiencies of the factory process but also the fact that manufactured homes are able to be built and installed quickly. These benefits should be preserved by

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<sup>9</sup> Including any third classification adopted, i.e. general caravan park.



allowing these developments to remain exempt development, reflecting the existing process.

- New and replacement ensuites on existing short term sites.
- New and replacement associated structures on existing long term or short term sites.
- Relocatable homes, generally called cabins and used for tourist purposes. We are satisfied that the definition of manufactured home as proposed in this submission will, if adopted, include cabins. However, we would like to be satisfied that any proposed definition delivers that outcome. We do not agree that the definition proposed in the Discussion Paper does that.
- All other things listed as exempt development in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

#### Complying Development

##### 9. 7 Things outside a dwelling site:

- New and replacement camp kitchen.
- New and replacement amenities block.
- New and replacement recreation facilities.
- New and replacement swimming pool.
- Café/restaurant.
- All other things listed as complying development in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

#### Development Application

##### 9. 8 We support the proposal for development requiring development consent as set out in Table 3 on page 39 of the Discussion Paper.

#### 10 - THE INTRODUCTION OF A GUIDELINE

10. 1 We agree that the prescriptive controls in the current LG Regulation are hindering innovation and site sensitive design in parks and residential land lease communities. Difficulties in achieving strict adherence to these controls, coupled with delays in obtaining approvals to operate, cause ongoing frustration and uncertainty for operators.

10. 2 The development of a Guideline, with standard conditions of consent and flexibility under a performance-based approach, would go a long way to alleviating these issues and promoting industry development.

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

10. 3 We support the controls proposed for inclusion within a Guideline as outlined in Appendix B, subject to the following:

Part 2 Manufactured home estates and manufactured homes

- a) Division 3, Subdivision 4:
  - i. Clause 31 Telephone lines should be removed. This can be dealt with under responsibilities to provide telecommunications infrastructure and the National Broadband Network.

Part 3 Caravan parks, camping grounds and moveable dwellings

- a) Division 3, Subdivision 7:
  - i. Clause 123 Information to be given to prospective occupiers should be removed. Provisions for information are now available in the Holiday Parks (Long-term Casual Occupation) Act 2002, the Australian Consumer Law in Schedule 2 of the Competition and Consumer Act 2010 and the Residential (Land Lease) Communities Act 2013.
- b) Division 3, Subdivision 8:
  - i. Clause 130 Car washing bay should be removed. This requirement should be dealt with in accordance with an assessment of local environmental risks.
- c) Division 4, Subdivision 1:
  - i. Clause 135 Relocatable homes to be constructed and assembled off-site should be removed. This is incorporated into the new definition of "manufactured home" in these submissions.

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

10. 4 There are specific controls in the current LG Regulation where a performance-based approach would be better suited than the current prescriptive approach. These include:

Part 2 Manufactured home estates and manufactured homes

- a) Division 3, Subdivision 2:
  - i. Clause 17 Setbacks of community buildings
  - ii. Clause 18 Setbacks of dwelling sites from road frontage
  - iii. Clause 19 Use of buffer zones.
- b) Division 3, Subdivision 5:
  - i. Clause 34 Fire Hydrants.
- c) Division 4, Subdivision 1:
  - i. Clause 44 Setbacks for manufactured homes
  - ii. Clause 47 Site boundary arrangements.

- d) Division 4, Subdivision 3:
  - i. Clause 64 Fire and smoke alarms.

### Part 3 Caravan parks, camping grounds and moveable dwellings

- a) Division 3, Subdivision 2:
  - i. Clause 88 Setbacks of community buildings
  - ii. Clause 89 Setbacks of dwelling sites and camp sites from road frontage
  - iii. Clause 90 Use of buffer zones
  - iv. Clause 91 Separation distances.
- b) Division 3, Subdivision 5:
  - i. Clause 110 Construction of shower blocks and toilet blocks (particularly the reference to brick or concrete masonry block in clause 110 (1) (a)).
- c) Division 3, Subdivision 6:
  - i. Clause 113 Washing machines
  - ii. Clause 119 Construction of laundry blocks (particularly the reference to bring or concrete masonry block in clause 119 (a)).
- d) Division 3, Subdivision 7:
  - i. Clause 122 Register of occupiers
- e) Division 3, Subdivision 8:
  - i. Clause 128 Fire hydrants
  - ii. Clause 129 Fire hose reels.
- f) Division 4, Subdivision 1:
  - i. Clause 138 Setbacks for relocatable homes.
- g) Division 4, Subdivision 3:
  - i. Clause 156 Fire and smoke alarms.
- h) Division 5, Subdivision 1:
  - i. Clause 161 Setbacks for tents, caravans and associated structures and annexes.

## 11 - REMOVAL OF THE NEED FOR CONCURRENCE FROM THE NSW DEPARTMENT OF PLANNING AND ENVIRONMENT

### [Discussion Question 19: Is it appropriate to remove concurrence provisions and manage variations as part of the development application process?](#)

- 11.1 Particularly in the context of older parks, we agree that the requirement for concurrence from the NSW Department of Planning and Environment in objections to vary the controls in the LG Regulation adds another unnecessary layer of regulatory complexity and delays the approval process.
- 11.2 As such, we support the proposal for the development and design standards to be included in a Guideline for council to implement and consider variations as part of the development application process and the need for concurrence removed.

## 12 - DEFINITIONS OF DEVELOPMENT TYPES

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

12. 1 On the whole, we support the need for the definitions of the various forms of development to be clarified and streamlined. However, we have some concerns with the proposed definitions to be amended and included in the planning system. These concerns, and our proposed amendments, are set out below:

Residential Park

12. 2 We reiterate our submissions in response to Discussion Question 1 and propose the following amended definition of "Residential Park":

Residential Land Lease Community means a place that primarily provides dwelling sites for permanent residents on which moveable dwellings and manufactured homes are installed and which may or may not include communal facilities and administration buildings.

Tourist Park

12. 3 Subject to our other submissions we have no issues with the proposed definition of "Tourist Park".

Camping Ground

12. 4 We seek to establish consistency with the definition of "primitive camping ground" in terms of permissibility of caravans in a camping ground. The term "caravan park" should also be removed to maintain consistency with the other proposals in the Discussion Paper.

12. 5 Further, we note that a definition of "towable recreational vehicle" has recently been adopted into the Motor Dealers and Repairers Regulation 2014 (MDRR), which may assist in this review to further reduce duplication and account for caravans and other types of towable recreational vehicles without having to relist each type of unit.

12. 6 In the MDRR a "towable recreational vehicle" means "a trailer equipped with living space or sleeping facilities, or both, and includes a caravan, fifth wheeler, pop-top caravan, camper trailer or tent trailer". Campervans are considered a type of "vehicle" in the Motor Dealers and Repairers Act 2013 (MDRA) and larger versions of these units are generally referred to as motorhomes.

12. 7 We therefore propose the following amended definition of "camping ground" and suggest the adoption of the definition of "towable recreational vehicle":

Camping ground means an area of land that has access to communal amenities and on which motorhomes, campervans, towable recreational vehicles or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short-term use, but does not include a Tourist Park or Residential Land Lease Community.

## Camp site

12. 8 If the proposed definition of “camp site” were adopted it would mean that no provision would be made for camp sites in Residential Land Lease Communities or Tourist Parks because they would not be considered a “camping ground.” There needs to be an allowance for camp sites in all development types to take account of existing developments and in order to meet consumer demand in future developments.

12. 9 For this reason, and the others stated above, we propose the following amended definition of “camp site”:

Camp site means an area of land within a Residential Land Lease Community, Tourist Park<sup>10</sup> or camping ground on which motorhomes, campervans, towable recreational vehicles, tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed.

## Short-term and long-term site

12. 10 We are concerned by the inconsistencies in the proposed definitions of “short term site” and “long term site” and the term “site” could be misleading in terms of other areas of land within a park.

12. 11 The purpose of a 90 days time limit is also unclear. This does not accord with the time limits in the current LG Regulation applicable to short-term sites<sup>11</sup> and, despite discussions in our recent 24<sup>th</sup> November 2015 meeting with the NSW Department of Planning, the Residential Tenancies Act 2010 makes no reference to “90 days”.

12. 12 Further, a resident’s (home owner or a tenant) use of a long-term site and their status as a resident is effected immediately and continues until the site or tenancy agreement is terminated in accordance with the Residential (Land Lease) Communities Act 2013 Act or the Residential Tenancies Act 2010.

12. 13 It is our proposal that the following amended definitions of “short term site”, “long-term site” and “site”, using the existing and proposed definitions, be adopted:

Short-term site means a dwelling site within a Residential Land Lease Community or Tourist Park<sup>12</sup> on which a moveable dwelling or a manufactured home that is used for holiday purposes may be installed.

Long-term site means a dwelling site within a Residential Land Lease Community or Tourist Park<sup>13</sup> on which a moveable dwelling or a manufactured home that is ordinarily used for residential purposes may be installed.

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<sup>10</sup> Further amendment will be required should a third classification, i.e. general caravan park, be adopted.

<sup>11</sup> Clause 73 (1) (b) “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” and clause 73 (1) (c) “the owner of a holiday van that occupies a short-term site or camp site must not be permitted to stay in the holiday van for a total of more than 180 days in any 12 month period.”

<sup>12</sup> Further amendment will be required should a third classification, i.e. general caravan park, be adopted.

<sup>13</sup> Further amendment will be required should a third classification, i.e. general caravan park, be adopted.

Dwelling site means an area of land within a Residential Land Lease Community or Tourist Park<sup>14</sup> that is a short-term site or long-term site.

#### Building

12. 14 Subject to our other submissions we have no issues with the proposed definition of "building".

#### Manufactured home

12. 15 The use of the words "form part of" in the definition of manufactured home for associated structures is problematic as this concept has been open to interpretation by councils.
12. 16 Further, associated structures are excluded from the definition of "building". These are not generally built in the factory. Accordingly, to ensure clarity about what is and isn't built in the factory, we proposed the following amended definition of "manufactured home":

Manufactured home means a building used for human habitation (whether or not self-contained) that comprises 1 or more major sections that are each constructed and assembled away from the site and transported to the site for installation, but does not include a moveable dwelling.

12. 17 Despite the new definition of manufactured home, it is important to preserve the current flexibilities that are available under section 82 of the Local Government Act 1993 in relation to factory built housing, particularly for the purpose of encouraging the development of new residential land lease communities by allowing in certain circumstances for on-site building of manufactured homes.

#### Moveable dwelling

12. 18 We note the spelling error in the current LG Regulation in relation to the word "moveable" and although we have used this spelling in this submission, this should be amended in any new definition and the term "towable recreational vehicle" incorporated:

Movable dwelling means:

- a) a tent, or
- b) a motorhome, campervan, towable recreational vehicle or other vehicle that is capable of being registered under the Road Transport Act 2013, or
- c) any other portable device (whether on wheels or not),

which is used for human habitation, but does not include a manufactured home.

#### Relocatable home

12. 19 Subject to our other submissions we have no issues with the deletion of the definition of "relocatable home."

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<sup>14</sup> Further amendment will be required should a third classification, i.e. general caravan park, be adopted.

## Major section

12. 20 This definition needs to take into account the deletion of the definition of "relocatable home". For example, holiday cabins do not always contain a laundry, kitchen, bathroom and toilet facilities. To provide clarity, we propose the following amended definition of "major sector":

Major section means a single portion of a manufactured home, being a portion:

- a) that contains a total living space (excluding the living space contained in any associated structure) of at least 20 cubic metres, and
- b) that comprises all of the major components of that portion of the manufactured 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, and (if any) the kitchen, bathroom and laundry fittings (other than stoves, refrigerators, washing machines and other white goods) and the built-in cupboards and cabinets.

## Installation

12. 21 To remove duplication and maintain consistency with the proposed definition of "building" and our proposed definition of "manufactured home" we propose the following amended definition of "installation":

Installation means:

- a) in relation to a manufactured home, the process of connecting the major sections of the manufactured home and attaching them to footings, or
- b) in relation to an associated structure, the process of constructing or assembling the components of the associated structure and (where appropriate) attaching them to footings,

and includes the connection to the manufactured home or associated structure of gas, electricity, telephone, water, sewerage and drainage services.

## 13 - PROVIDING FOR A DIVERSITY OF RESIDENTIAL AND TOURIST USES WITHIN PARKS

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

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

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

13. 1 The Discussion Paper references the Government's commitment to increase housing supply and tourism opportunity and notes the issue of long term (residential) and short term (tourism) uses in caravan parks and manufactured home estates.



13. 2 There is no doubt that parks and manufactured home estates are in a unique position to play an important role in both these objectives and as such, we agree that there is a need for a diversity of sites within parks.
13. 3 However, this should not detract from an operator's ability to alter their business models as needed in order to respond to changing markets. We therefore do not agree that sites should be maintained for tourist uses in a Residential Land Lease Community and vice versa and a further threshold applied. We reiterate our submissions in response to Discussion Questions 1 to 4.

#### 14 - SEASONAL AND ITINERANT WORKERS ACCOMMODATION

##### [Discussion Question 24: What controls should be in place to manage short-term housing for seasonal or itinerant workers?](#)

14. 1 Caravan parks are a natural choice for itinerant or seasonal workers in industries such as fruit picking, farming, construction, mining, etc. With an ability to rent both a site and a caravan, or even place their own moveable dwelling on a site, they are able to live cheaply and flexibly, moving from place to place in accordance with work opportunities.
14. 2 However, enough suitable accommodation for itinerant or seasonal workers is an important consideration. Therefore, we support the continued installation of temporary or moveable housing on commercial land to meet short-term demand as per the existing exemption under clause 77 (c) of the LG Regulation:
- "The prior approval of the council is not required for: (c) the installation of a caravan or campervan on pastoral or agricultural land, so long as it is merely occupied seasonally by persons in pastoral or agricultural operations on the land."
14. 3 Despite this, it is expected that itinerant or seasonal workers will find it easier to obtain accommodation in parks and residential land lease communities due to recent amendments to the tenancy laws. Previous disputes regarding permanent residency have now been abated by the commencement of the Residential (Land Lease) Communities Act 2013, which excludes itinerant workers<sup>15</sup>.

#### 15 - SUPPORT FOR INNOVATION IN THE CURRENT FRAMEWORK

15. 1 The caravan and camping industry does continue to innovate in terms of product offerings to the market. This is part of what makes it such a dynamic industry and an important contributor to the tourism economy.
15. 2 For example, modern RVs are becoming more and more sophisticated, offering better quality materials and many luxuries to enhance the camping experience. These include kitchens with cupboards, ovens, grills, sinks, toilets, washing machines, showers, solar panels, air conditioning and even entertainment systems.

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<sup>15</sup> See section 7 (1) (c) of the Residential (Land Lease) Communities Act 2013.

15. 3 In the glamping space, other innovations include the bell tent (a canvas or cotton tent with a central supporting pole and PVC flooring), the safari tent (platform style canvas tent), a tepee (tent offering beds, rugs and amenities), etc.

Discussion Question 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?

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

15. 4 We agree that any new framework needs to support industry improvements and innovations while ensuring that appropriate building and safety standards are met. As such, any controls placed on safari tents, or other semi-permanent structures, should be limited to these areas of concern and take a performance-based approach, including in areas that are notified flood liable.
15. 5 We also advocate that they be classified as exempt development as per the existing exemption that applies to tents in clause 75 of the LG Regulation. Not all of these new innovations are semi-permanent. Some camping areas are utilising these kinds of accommodation options in a 'pop-up' capacity.

## 16 - MANUFACTURED HOMES AND THE BUILDING CODE OF AUSTRALIA (BCA)

16. 1 As we support the proposal to include manufactured homes within the definition of 'building' under the EP&A Act, we support the proposal for manufactured homes to be required to meet relevant BCA controls.
16. 2 The performance-based requirements of the BCA will allow greater flexibility than the current LG Regulation and foster continued innovation. We believe this change would also assist in the demand for manufactured homes on residential land outside of dedicated parks.

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

On a preliminary review of this matter we see no issues with the application of relevant BCA provisions to manufactured homes, given their performance-based approach. However, we look forward to continued consultation on the development of the Guideline.

## 17 - CRITICAL STAGE INSPECTIONS FOR MANUFACTURED HOMES

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

Discussion Question 29: Should manufactured homes be subject to any mandatory inspections during installation?

17. 1 The issue of quality control assessment within factories producing manufactured homes is an important consideration.

17. 2 The Discussion Paper states that because the LG Regulation and EP&A Regulation do not currently prescribe when manufactured homes must be inspected, they may not be subject to the same level of rigor as buildings that are built on site. However, we do not agree with this assessment.
17. 3 Due to the unique building processes employed, it is arguable that factory built housing is more likely to exhibit a consistent standard of build than housing that is built on site. In fact, in many ways manufactured homes are built better than traditional homes because they are built in order to be transported as well as installed on site without succumbing to the stresses of movement.
17. 4 We see no issues with the introduction of critical stage inspections undertaken in the factory by appropriately qualified persons, in addition to the existing 'Notice of Installation' requirement when a manufactured home is installed on site.
17. 5 For interstate manufacturers who are delivering manufactured homes to New South Wales, the same requirements can still apply. An appropriately qualified person could undertake the critical stage inspections on a manufactured home and verify that construction has been carried out in the factory in accordance with New South Wales requirements. When the manufactured home is installed on site in New South Wales, the same 'Notice of Installation' requirement will apply. Without certification as referred to, development consent for the installation of the interstate built home should be required.

## 18 - FIRE SAFETY STANDARDS IN RESIDENTIAL AND TOURIST PARKS

Discussion Question 30: What fire safety controls should residential and Tourist Parks be required to meet?

Discussion Question 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?

18. 1 We support a requirement for all Residential Land Lease Communities and Tourist Parks<sup>16</sup> to meet appropriate fire safety controls, so long as these controls also take a performance-based approach. This is important to fairly and adequately manage existing issues, such as separation distances and fire hydrants.
18. 2 In relation to a requirement for Residential Land Lease Communities and Tourist Parks<sup>17</sup> to submit an Annual Fire Safety Statement, like the Annual Fire Safety Statement (AFSS)<sup>18</sup> which applies to boarding houses and requires that it be displayed prominently within the building. This does not appear to be appropriate for or relevant to tourist parks or residential land lease communities where the cabins and homes are freestanding and not contained in a communal or shared building, like a boarding house. In these circumstances, we do not consider requiring tourist parks

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<sup>16</sup> Including any third classification adopted, i.e. general caravan park.

<sup>17</sup> Including any third classification adopted, i.e. general caravan park.

<sup>18</sup> Each year boarding house owners are required by state regulation to provide an Annual Fire Safety Statement (AFSS) to the local council and Fire and Rescue NSW. The AFSS is a statement that certifies each required fire safety measure installed in the building complies with applicable fire safety standards and council regulations. The AFSS should be prominently displayed within the building.

and residential land lease communities to submit an AFSS to be an effective way to check that essential fire safety measures have been met.

18. 3 The requirement for fire and smoke alarms as set out in clause 156 of the LG Regulation is appropriate and should be continued. Similarly, the provisions of clause 128 Fire Hydrants and clause 129 Fire hose reels should be continued, subject to a performance-based assessment of locations within a tourist park or residential land lease community where they should be located.

## 19 - ENVIRONMENTALLY SENSITIVE LAND

[Discussion Question 32: What controls should apply to tourist and residential parks located on flood prone or bush fire prone land?](#)

19. 1 We support the continuation of existing controls and savings provisions for parks and communities on notified flood liable land.
19. 2 With the current dual system of approvals to be streamlined and incorporated into the planning system, it is appropriate that communities and parks on Bush Fire Prone Land incorporate bush fire protection measures to reduce the impacts of a bush fire. As an example, a requirement for a risk management plan to be developed in consultation with local fire authorities could be an effective, performance-based approach.

## 20 - ENSURING COMPLIANCE WITH CERTAIN STANDARDS

[Discussion Question 33: What would be the most effective and efficient enforcement approach?](#)

20. 1 We agree that ensuring buildings, movable dwellings and other structures within a park or camping ground or a manufactured home outside of these sites meet the relevant planning and building controls is important for the safety and amenity of residents and visitors.
20. 2 In line with managing approvals through the EP&A Act, we support councils' use of relevant compliance provisions, including penalty infringement notices and orders, provided the process of compliance and enforcement focuses on outcomes rather than red tape.

## 21 - OTHER KEY PLANNING ISSUES

### Role of residential parks in seniors housing

21. 1 Residential land lease communities do provide an alternative form of housing that is more affordable than traditional housing, and therefore they play an important role in housing affordability in New South Wales and Australia. They offer benefits not just to seniors and retirees, but also young families, first homebuyers, seasonal workers and disadvantaged persons.
21. 2 The Australian Productivity Commission has just released its research paper *Housing Decisions of Older Australians* December 2015. It highlights that despite growing significantly over the past two decades, "MHEs that are marketed specifically to older

Australians remains a small part of the age-specific housing sector. In 2013, there were about 165 MHEs in Australia, primarily in New South Wales and Queensland (Colliers 2015)...A further 750 mixed-use caravan parks offer permanent residences alongside short-term accommodation (Colliers 2015). While many residents are over 50, mixed-use caravan parks offer affordable and crisis accommodation to disadvantaged Australians regardless of age."

21. 3 The research paper further highlights the differences between residential land lease communities and retirement villages:

"Although some MHEs offer dwellings and amenities similar to those found in retirement villages, there are a number of differences between the two:

**Target market** — Residents in MHEs are often younger than those in retirement villages. Unlike people entering retirement villages, whose decision to move is often motivated by deteriorating health, the decision to move into a MHE is primarily motivated by location and financial reasons, followed by a desire to live in a secure community setting. CRA eligibility can also affect the decision (Department of Housing and Public Works 2014; SPRC 2010).

**Affordability** — The initial purchase price of a manufactured home is lower compared with retirement village units, while ongoing fees can be higher in MHEs. In many MHEs, residents receive any capital gains made when selling the property and are not charged deferred management fees (SPRC 2010). However, shared equity or capital gains arrangements have become more common across the sector (Department of Commerce 2014).

**Government funding** — MHE residents who also receive the Age Pension are eligible for CRA, as they pay rent for the land their dwelling stands on, and in some cases, the dwelling itself. In 2010, about 80 per cent of MHE residents received CRA, compared with only three per cent of retirement village residents. This is in part due to different eligibility rules (SPRC 2010) (see the retirement village section below).

**Security of tenure** — Residents in MHEs have significantly weaker security of tenure compared with retirement village residents. The level of consumer protection afforded to them is often similar to that of tenants in the private rental market, and in most jurisdictions, MHE residents can be evicted without grounds (Goodman et al. 2013). As they do not own the land on which their dwellings stand, residents can be affected if operators decide to change the way they use their land. Regulations in some jurisdictions have been changing to improve security of tenure (see below).

21. 4 The research paper acknowledges that New South Wales is a jurisdiction where reviews of legislation "have resulted in more substantial levels of consumer protection and security of tenure for MHE residents."<sup>19</sup>

21. 5 Given the varying nature of residential land lease communities and parks, we would support the requirement for consideration of services and facilities where relevant, as outlined on page 65 of the Discussion Paper, so long as this also took a performance-based approach and allowed for on-site service provision or accessibility to services off-site.

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<sup>19</sup> p 98, Australian Government Productivity Commission, Housing Decisions of Older Australians, Productivity Commission Research Paper, December 2015

21. 6 We look forward to continued consultation on these issues.

#### Building Sustainability Index (BASIX)

21. 7 As indicated in our recent 24<sup>th</sup> November 2015 meeting with the NSW Department of Planning, on a preliminary review of this matter we see no issues with the overall application of relevant BASIX controls to manufactured homes. However, it is likely that there are some requirements that are not appropriate for communities and parks. We look forward to continued consultation on this proposal in the next stage of the review.

#### CONCLUSION

We reiterate the significance of caravan and holiday parks to the tourism economy and residential land lease communities to affordable housing. These businesses play an important role in these two issues for the New South Wales and Australian Governments.

Our Association broadly supports a reform of the LG Regulation and associated planning policies to simplify the approvals process and reduce red tape for these developments as set out in this submission.

As an important stakeholder in relation to the regulation of manufactured homes, caravan parks, manufactured home estates and camping grounds in New South Wales we are keen to continue to participate in any further discussions and ask that we be noted as a stakeholder so that we continue to be included in all future communications and meetings.

Thank you for your consideration of the issues we have raised.

Should you wish to meet and/or discuss any aspect of this submission please contact Bob Browne, General Counsel on (02) 9615 9920 or email [bob.browne@cciansw.com.au](mailto:bob.browne@cciansw.com.au).

Yours sincerely



Lyndel Gray  
Chief Executive Officer



## Freedom Camping and Public Access Dump Points

### What is Freedom Camping?

Freedom camping is essentially staying in a free or low cost camping location, outside of commercial caravan parks and camping grounds.

Freedom camping typically occurs in locations such as beside a river, the ocean or in a bush setting, but also occurs in roadside rest areas, showgrounds, Crown reserves and other land made available by local Councils and private landowners. In most cases, the land is not approved for this purpose.

Recreational vehicles (RVs) with on-board facilities such showers, toilets and waste water holding tanks are contributing to the popularity and practice of freedom camping, which is spreading throughout Australia with countless websites, discussion boards, blogs and books dedicated to it.

Freedom campers argue that they don't need the facilities in commercial caravan parks and camping grounds and therefore they don't need to stay there, but they do at some point need to refuel, restock and dispose of waste.

### Our Position

Our Association is not against freedom camping. In fact, we believe it's important that a full range of services and experiences be available in the caravan and camping sector, so that it can continue to appeal to a broad and growing market. We celebrate the growth of the RV industry and its increasing popularity, especially amongst the retiree market. It's a terrific way for people to experience the best of New South Wales and Australia.

However, camping in New South Wales should only occur in areas that comply with all relevant planning and operational regulations, designed specifically to ensure the preservation of the environment, regulate local business operations and protect the safety of visitors.

We also do not believe that councils should be providing free/low cost overnight camp sites, waste disposal facilities, and water replenishment sources, to recreational vehicle (RV) travellers where approved commercial caravan parks and camping grounds are already providing services to this market. In most cases when this occurs, councils are competing unfairly. Local commercial caravan park operators cannot compete when Councils are providing services free of charge or at non-commercial rates and in direct competition with them. Our Association is not against competition, but we do seek a level playing field and we believe the principle of competitive neutrality should be applied.



# position paper



Although caravan parks already offer travellers very affordable prices (on and off season) there are a range of compliant free and low cost camping alternatives available to freedom campers. These include national parks, state forests, primitive camping grounds and purposely approved showgrounds and reserves.

## Key facts

- The New South Wales State government legislation sets stringent laws under which commercial caravan parks need to operate. These laws help ensure the preservation of the environment and the safety of guests/customers.
- Caravan parks in New South Wales are required under law (i.e. their approval to operate) to have a dump point if they are in a location that is connected to sewer.
- Governments at all levels normally only provide services when there is market failure – i.e. something is not being delivered because it is not financially viable for commercial businesses to provide these services.
- In 2013 caravan parks in NSW accommodated 2.4 million people, who stayed 11.1 million nights and generated close to \$2 billion in economic value. Most importantly, caravan parks accommodated 28% of holiday visitors to our regional and rural areas of the State.<sup>1</sup>
- There is still room to grow. Every night there are around 50,000 short term and camp sites available across our commercial park network. The national occupancy rate is 54%. So, outside of peak holiday periods, there is plenty of availability for RV travellers. Importantly, 73% of our parks offer facilities to accommodate large RVs.

## Councils providing free services in competition with caravan park operators

- Caravan parks are very important small businesses in regional towns.
- However, it's extremely difficult for legitimate caravan parks and camping grounds to attract business when Councils are offering free or deeply discounted services in direct competition with them.
- The local baker does not have to compete with councils giving away free bread to visitors, nor does the greengrocer compete with them giving away free fruit and vegetables. Why then is it ok for the small business caravan park operator to compete with their Council giving away free or deeply discounted camp sites?

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<sup>1</sup> Destination NSW, Domestic caravan and camping travel to NSW, December 2013

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- Caravan park owners invest significant capital into businesses that provide an environment that enhances the tourism appeal of the local township, as well as its local amenity.
- If they can't be provided an equal playing field, these small businesses will not be able to compete, and hence they will go out of business, with a resulting loss to the town of valuable tourism infrastructure.
- There is tangible evidence that commercial caravan parks are an important part of their local economies - employing local people, paying local rates, and buying goods and services locally. As such, creating a business environment that allows local caravan park operators to flourish should be a priority for local councils.
- A BDO<sup>2</sup> study, commissioned by our national association, Caravan Industry Association of Australia (formerly Caravan, RV & Accommodation Industry of Australia Ltd (CRVA)) demonstrated that for every \$100 taken by a caravan park, \$138 in economic benefit flows on to the local economy.
- Another BDO study<sup>3</sup> showed that there is a vast difference in the amount spent in a town by commercial campers versus free campers. Commercial campers spend an average of \$576 per stay compared to an average of \$213 spent by free campers. This means commercial campers inject 2.7 times more money into the local town than free campers.

There is no such thing as a free dump point or water service

- Dump points are properly designed facilities intended to receive and appropriately dispose of wastewater from RVs to the local sewage system. Therefore, the resources needed to ensure their proper function can be significant.
- The Environmental Protection Authority (EPA) issues environmental protection licenses (EPLs) to local sewage operators. These operators, which are the local councils in many smaller towns, are responsible for what goes into their systems to make sure they are able to comply with the requirements on their licence. They are required to actively manage the potential for inappropriate discharges to sewer systems and should have requirements in place to monitor discharges to dump points. They should also have security arrangements in place. Where licence holders manage the possibility of inappropriate substances being disposed of through contractual arrangements, this places further requirements on the host of a disposal point.

<sup>2</sup> BDO, Economic Benefit Report – Commercial Caravan Holiday Park to a Local Community, October 2012

<sup>3</sup> BDO, Economic Benefit Report – Spending Patterns of Commercial Campers & Non – Commercial Campers” March 2013



- As indicated by the EPA, all EPL licence holders must comply with the conditions of their licence, prepare pollution incident response management plans; publish and/or make pollution monitoring data available, pay annual administrative fees and submit annual returns. The provision of a “free” and unsecured dump point increases the burden.
- As such, there is a cost for the installation, monitoring, maintenance and insurance of ‘free’ dump point and water facilities used by travellers. When these services are being provided free of charge to travellers by Councils, it is the local ratepayer base that is funding their cost.
- The expectation that dump point facilities should be available to RV users free of charge is unrealistic – home owners pay for sewer and water services, and many local tips charge for the dumping of waste: why should RV users expect to be able to dump their waste free of charge?

## Grey Nomads and the truth about “self-contained” RVs

- As at January 2013 there were 528,869 registered RVs in Australia.
- The vast majority of these (90%) are made up of caravans (including camper trailers, tent trailers, etc) where the largest percentage of these continues to be in the 500 – 900 kg category, with 73% weighing less than 1.5 tonne.
- These RVs are not ‘big rigs’ and they are not ‘self-contained’ as they have no grey water storage.
- A small 10% of total registered RVs are campervans and motorhomes with around 50,000 registered throughout the whole of Australia. Small campervans are also not “self-contained”. Only larger motorhomes are, and they make up less than 10% of total registered RVs.<sup>4</sup>
- Grey nomads in self-contained RVs are therefore only a very small segment of RV tourism

## Non-compliant camping grounds and potential environmental impacts

- Free dump points and water provision can be the catalyst for the establishment of non-compliant camping resulting in significant damage to the local environment.
- Non-compliant camping sites are known to spring up around free dump point facilities. They are operating without regulation to ensure environmental protection, and do not have the

<sup>4</sup> BDO, *Caravan and Campervan Data Report*, 4 August 2014



mandated safety requirements under which legitimate caravan parks and camping grounds need to operate to safeguard their guests.

- Discharge of grey water from sinks, laundries and showers via hoses under caravans and other RVs increase nutrient loads into local waterways causing significant algal blooms including Blue Green algae (Cyanobacteria) which is known to be toxic to humans and cause death in wildlife, stock and domestic pets.
- Compaction of soils from stationary large vehicles and vans contributes to erosion, soil degradation and silt accumulation in waterways.
- Flora and fauna are at risk through loss of habitat and damage/attack from domestic pets accompanying campers.
- Compliant camp grounds engage pet policies to avoid such issues and dump points within a secure caravan park environment assist in guarding against the potential misuse of facilities, thus preventing environmental degradation.

## Recent Council Decisions Against Free Facilities

- In March 2013, Ballina Shire Council resolved not to support the provision of free camping and dump point facilities within the Shire due to the negative impact this may have on existing licensed operators. The preferred option was to support existing accommodation providers.

Council's Tourism Section believed that the RV market would continue to visit the Ballina Coast & Hinterland regardless of a dump point or RV friendly status and that it was difficult to justify the provision of infrastructure when there is no readily available measure to account for the economic benefit of this market.

- On request from Tweed Shire Council in February 2013, Destination Tweed reported on the benefits and constraints of Tweed Shire joining the CMCA RV Friendly Town Scheme. Destination Tweed concluded that the key tourist markets that contribute to the tourist economy in Tweed are not the RV tourist and that its focus is on higher yielding markets - those that come to the region for longer stays, pay for accommodation, eat out and spend money within the community.

The risk of RV's from pulling into free spots at 5pm, using the facilities that would be supplied free of charge, before heading out at 7am the next morning to head to their next destination without actually having spent a cent in the region, was highlighted.



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It was also noted by Destination Tweed that the full costs involved to become RV friendly would be burdened by the Tweed Shire Council and funds would need to be allocated in order to achieve at a minimum the essential criteria. Because these facilities are already provided successfully by the private sector, at no costs to the rate payer, it would arguably be better for Tweed Shire Council to encourage private investment and development.

## Conclusion

Freedom camping can attract RV tourists to areas that they would not otherwise stay. But, where there are legitimate caravan parks and camping grounds in the area, the practice directly and negatively impacts these businesses, many of which are small and family owned. They don't just lose business – employees can also lose their jobs and towns lose the money that these businesses would otherwise inject via employment and purchasing goods and services.

Local Councils and ratepayers are also directly affected. Notwithstanding any dollars spent in town by freedom campers on things like fuel and groceries, Councils must still dip into ratepayer funds to pay for and manage these free or low cost camping areas as well as be exposed to liability for any harm caused to people and property, including uncontrolled environmental degradation. Prime parking areas and public land can also become choked with freedom campers in holiday season, creating a nuisance for local residents.

Unfortunately, in endorsing or providing freedom camping on land not designed or designated for that purpose for little to no cost, Councils are also competing unfairly with their local caravan park and camping ground businesses – breaching their national competition policy and competitive neutrality obligations. Worse still, planning laws for which Councils are responsible are undermined.

We therefore urge Councils to implement and enforce the regulatory regime for caravan parks and camping grounds. We ask them to carefully consider all the potential impacts and costs, and undertake a full analysis to determine if there is in fact a market failure, before entering into competition with small business operators in their areas. In this way we can stop non-compliant offerings that work against regional economies and consequently support legitimate offerings provided by properly compliant caravan park and camping ground businesses.

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## About Us

We are the Caravan, Camping and Touring Industry and Manufactured Housing Industry Association of New South Wales Ltd. The Association is made up of caravan and holiday park businesses, manufactured home communities, caravan, camping and RV dealers and manufacturers, manufacturers of homes and those that provide services to these industries.

This gives us the collective strength of more than 700 caravan, camping, RV, Holiday Park and manufactured housing businesses throughout NSW. We actively work for members to encourage and promote the use of touring products, caravan parks and manufactured home communities across government, businesses and the general public.

## Disclaimer

The staff at CCIA & MHIA have used their best endeavours to ensure that all the information contained in this position paper is correct at the time of publication and that the information has been obtained from reliable sources. We are not responsible for any errors or omissions, or any outcomes as a result of a use of this information. The information is provided for general guidance on industry issues only and should not be used as a substitute for legal or other professional advice.

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