



NEW SOUTH WALES CROWN HOLIDAY PARKS TRUST

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Attn: Carlie Ryan
Team Leader- Housing Policy
Department of Planning and Environment
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Submitted via planning.nsw.gov.au/proposals.

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Dear Carlie,

RE: Response to Local Government (Manufactured Homes, Caravan Park, Camping Ground and Moveable Dwellings) Regulation discussion paper.

1. Overview

NSW Crown Holiday Parks Trust (the Trust) has the care, control and management of 35 holiday and recreational parks located on Crown lands across NSW. We welcome this review and discussion of the legislation and believe there are several areas suitable for improvement.

a) Licences

The Trust undertakes significant planning across the parks under our management and prepares Plan of Managements in accordance with the Crown Lands Act. The Plans of Management are approved by the Minister under the authority of the *Crown Lands Act 1989*. This process is very thorough and should avoid the need to seek approval from Local Government under a section 68 licence of the *Local Government Act 1993*. For instance; National Parks and Wildlife Services operate parks under the *National Parks and Wildlife Regulation 2009* without the need for additional oversight and approval of local councils.

The current method of inspections and provision of section 68 licences is inconsistently applied across many various Local Government Areas (LGAs). In many cases the current section 68 licences expires before a new one can be issued. There is also a variation in the application of Ordinance 71 transitional arrangements, (existing use rights), with interpretations of the regulations varying significantly across a range of LGAs.

We believe a state-wide approach to operating, licensing and establishing parks is in keeping with the intent behind Ordinance 71 and is preferred to deliver consistent standards

for all parks as opposed to Local Council approval. This is because local councils, in particular, have varying interpretations of the Legislation and local political lobby groups can influence the application of the Legislation. This can result in varying standards across the State which penalise parks that are required to comply with interpretations that result in overly onerous and costly capital works. This can lead to competitive disadvantage and potentially lost economic gain for that community.

b) Manufactured Housing and Caravan Park ratios.

The discussion paper could be improved by providing an industry overview which includes the numbers of state wide manufactured home estates, caravan parks and camping grounds and how many of these would be impacted by the establishment of a 75% ratio. The existing regulations differentiate between manufactured home estates and caravan parks. The proposed definition in this discussion paper refers to the primary purpose of the park as either a residential park or a tourist park. In the case of the discussion paper what constitutes primary purpose would have 75% dominance or more.

If such a ratio is to be introduced, a precinct approach needs to be considered. For example; a large park can provide both a manufactured home estate and caravan park with a much higher percentage of one over the other. A park with 300 sites could have 75% or 225 tourist sites with the remaining 75 residential sites being of sufficient size to become a stand alone business. A better approach for parks operating across mixed uses (both tourist and residential) would be to use a precinct development approach. This would allow clear physical separation of both uses whilst maintaining the synergy of park management and service provision.

2. NSWCHPT (Trust) response to the specific questions posed in the discussion paper.

The following response to each question is provided below:

Q1 Do you agree with proposed changes to the definitions?

The discussion paper proposes to introduce the following definitions:

“Residential Park: A place that primarily provides accommodation for permanent residents on which moveable dwellings are installed, manufactured homes are installed and which may or may not include communal facilities and administration buildings.”

“Tourist Park: A place that primarily provides accommodation for tourists and visitors on which moveable dwellings are installed, manufactured homes are installed, and which may or may not include communal facilities and administration buildings.”

This is a shift away from the current regulations which are divided into manufactured home estates (part 2) and Caravan Park, camping grounds (part 3). The existing definitions are:

“Manufactured home estate: Land on which manufactured homes are, or are to be, erected.”

Caravan parks and camping grounds were defined in Ordinance 71 (1986) which commenced the licencing of caravan parks.

“Camping Ground: A property used...for the placement of tents or camper vehicles.”

“Caravan Park: A property used... for the placement of caravans (or caravans and other moveable dwellings).”

It appears these proposed definitions are aimed at formalising the primary purpose of parks as either for residential purposes, (such as retirement villages), or tourist purposes, (such as caravan parks).

The current regulations do differentiate between manufactured home estates and caravan parks and are similar to the proposed definitions. The Trust agrees with the definitions, however they need to differentiate between manufactured homes and other types of relocatable buildings typically located in tourist parks such as: amenities, residences, offices and camp kitchens.

Also there is no analysis of the transition of the construction standards for relocatable buildings such as holiday cabins from the current regime under the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. If the proposed changes are implemented, every effort should be made to streamline the process so that manufactured homes, tourist cabins and other relocatable buildings are dealt with as complying development rather than requiring a separate consent.

Q2 Should a threshold for permanent residents be set for residential parks? If so, do you agree with a 75% threshold?

A prescriptive 75% threshold doesn't fit within the current industry practice nor allow flexibility for parks to vary precincts in order to respond to market changes.

None of the Trusts' 35 parks fit into the residential parks 75% threshold. If the Trust were to establish a residential park, in order to respond to market demands, the set threshold amount does not permit adjustment of site numbers without DA approval. This could significantly reduce the flexibility to respond to market conditions.

The variety of park sizes and changing market opportunities, across NSW, won't suit a fixed 75% ratio approach. A separate precinct development approach for each activity would allow operators to respond to changing market conditions. Precinct attributes could be defined such as how the interface is to be treated between each precincts (for example: Separate entries and landscaped boundaries).

Q3 Would a zoning approach be appropriate for residential and tourist parks?

Approximately one third of parks in NSW are located on Crown land. It would be beneficial if DPI Crown Lands could move towards an operational oversight model used by National Parks & Wildlife. The relevant Act would then be the Crown Lands Act rather than the Local Government Act and Regulations. Plans of Management provide a tool for development of the parks through the Infrastructure SEPP. This avoids the need for numerous DA's.

The reserve definitions listed in the NSW Government Gazette, such as 'public recreation', could be expanded to include manufactured housing and caravan parks. Or these definitions could be specifically added to the 'public recreation' category.

The approach taken, as a result of this review of the Regulations, needs to be applied consistently across NSW. This will avoid individual council's differing interpretations and applications of the Regulations. Eliminating any local influence and interpretation will provide a consistent state-wide approach.

A zoning approach would be supported if it is included as a mandatory requirement of the standard LEP and not subject to "opt in or out" options available to local councils. We consider this to be especially important given the "fit for the future" proposal for council mergers.

Q4 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?

The zoning, under the standard LEP (SP3), includes tourist and visitor accommodation as mandatory purposes. Zoning B2 covers tourist and visitor accommodation. The difficulty in applying and enforcing an SP3 zoning occurs when parks have mixed uses such as tourism and residential accommodation.

Care needs to be taken in allowing an overarching permissible zone for caravan and residential parks so that adjoining land uses are not compromised. However, the identification of a B2 or SP3 zone, where tourist or residential use is mandated, could encourage the development of new parks.

The Trust prefers Option 1. However, the LEP should widen the opportunity for the establishment of either residential or tourist parks in other zones, only with consent, to allow innovative development of suitable land that supports both affordable residential living and tourism.

The zonings should align with the existing approach with zones such as SP3, RE1 and RE2 supporting tourist parks and residential zones supporting residential parks.

Q5 Would the proposed changes make the permissibility of manufactured homes clearer and contribute to a simpler approvals process?

Currently caravan parks do not need DA approval to install moveable dwellings onto sites. Instead the current process requires Council notification within seven days of the dwelling being installed. This allows development to continue without delay. This process should remain in place and permitted for manufactured homes. Permitting manufactured homes on locations, other than manufactured home estates and caravan parks, could lead to improved and cost effective designs and building methods.

The Trust agrees that the proposed changes will contribute to a simpler approvals process. This will further benefit manufactured home builders. Greater competition should also lead to improved designs and building methods.

Q6 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?

There are existing situations covered in the regulations where caravans are permitted outside caravan parks without council approval as follows:

Caravans are permitted onsite in rural areas to accommodate seasonal work. This provides an essential support to the agricultural sector.

Homeowners are currently permitted a caravan onsite for either their use, or immediate family use, on the proviso the van is maintained in a safe condition. This should remain in place and would be otherwise difficult to regulate.

Council approval is not required for caravans onsite for two days or less. This is partly how primitive campgrounds, showgrounds and events are permitted to accommodate caravans. NSW Crown Lands operate primitive campgrounds in a number of areas across the state. Council has the ability (as do Crown land managers) to set aside areas that cannot be used for camping or overnight stays. The two day limit allows an effective way to accommodate primitive, festival and event camping.

In summary, onsite seasonal worker caravans in rural areas and caravans in private residential land should be permitted in line with existing regulations. A two day limit should apply in other situations. If a site is regularly and routinely used for longer than two day stays it should be subject to council approval. Conditions, for these sites, should align with those imposed on tourist and residential parks. For example, sites which offer free camping, with the provision of basic amenities, can unfairly compete with licensed parks.

Q7 How should the new framework facilitate the use of self contained caravans and campervans?

The Caravan, Motorhome Club of Australia (CMCA) promotes the idea that their members provide significant economic activity for the towns they visit. This is aimed at convincing towns to provide free camping grounds. It is often claimed that these fully self contained motorhomes do not require park infrastructure. However, all vans and motorhomes at some stage require dump sites, power and water provision.

Once free camping is offered, not even discounting can win back business to a licensed caravan park. For example: Coffs Harbour City Council trialled price discounting in order to attract motorhomes (self contained caravans) back to their parks. This trial failed with only a very low percentage of take up.

Self contained caravans and campervans should not be given dispensation to free camping. If any approval is given for campgrounds primarily for self contained vehicles then it should not be in areas where existing caravan parks or campgrounds compete. In addition any long term sites should have to meet the conditions and requirements imposed on residential or tourist parks.

Q8 What provisions from Sepp21 or Sepp36 should be retained under the new framework?

SEPP 21 applies to caravan parks and is intended to encourage new park development. Industry evidence shows that this has not been achieved as more holiday parks have closed than new ones opening.

The amendments identified in Appendix A are supported by the Trust.

Q9 Are there additional controls that should be included in the new framework to facilitate the development of new tourist parks or residential parks?

A move to performance based controls in lieu of the existing prescriptive measures is recommended. The application of the 2005 regulation, in concert with SEPP 21, has created a regulatory environment that limits the financial viability of new ventures. Suitable land has primarily been developed for other end uses that provide superior financial returns.

Innovative designs could provide a mix of residential and tourist uses on the same site, with the residential park portion providing the transition and buffer between residential zones and tourist park activities. Also, low impact tourist activities could provide a buffer between environmental zones and residential areas of a park.

Q10 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?

The existing approval to operate framework is inconsistently applied across many councils and is sometimes unworkable. The current regulatory environment allows councils to overrule the intent of Plans of Management adopted under the *Crown Lands Act 1989*. This can fetter the Minister's authority to determine how holiday parks on Crown Land operate. The duplication of approvals should be removed.

Many local councils do not issue the licence before the current licence expires. This can result in legal uncertainty, potential liability and insurance and tenancy issues.

Removing the need for ongoing approval from councils should be pursued. Council inspections, to ensure the park is maintained in accordance with health and safety standards, should however continue. This then becomes a regulating or checking process rather than a licensing and approval process.

Alternatively, the existing provisions in S72 of the LG Act need to be strengthened to specifically include reserve trusts and make the requirement for Ministerial concurrence to licence refusals and conditions on Crown land unequivocal.

This should not only apply to 'new' parks but those parks where infrastructure has been replaced and the park is in an 'as new' condition.

A move to performance based controls via guidelines is also supported.

Q11 What other matters should be considered in camping grounds and primitive camping grounds approvals? Should 'primitive camping grounds' be defined?

Primitive camping grounds do not require a separate definition as they are covered under the proposed definition of a tourist park. The establishment or approval to operate will identify that the use is for primitive camping where basic communal facilities are required. Primitive camping may be an option for control of short stay transit sites that require a lesser degree of regulation NB the standard LEP includes a definition of camping grounds (with 'communal facilities').

The approvals need to consider the transition of existing parks where they may not be fully compliant. When Ordinance 71 was introduced parks had to produce a compliance schedule of works. A similar process could be undertaken to ensure parks are compliant with safety and risk requirements. This could be introduced by mandating a three to five year improvement program which is monitored and reported on.

Q12 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 Trusts supports the removal of the requirement for park approval to operate. Industry accreditation should be encouraged as apposed to a regulatory approach. Properly controlled customer rating schemes provide transparency around quality issues and make the continuation of prescriptive requirements less effective.

Any Inspection should be based on risk frameworks identifying high risk areas such as fire compliance. This could be in the form of an expanded fire safety certificate for hydrants, hose reels, extinguishers and fire separation. These inspections could be undertaken by either private certifiers or council.

Q13 What controls should existing parks be exempt from when being considered under the new framework?

Option 1: This provides an opportunity to bring all parks up to a common industry standard. A reasonable period of time is needed for this occur due to the potential costs involved. Controls should be built into future DA approvals for parks so they need to comply once upgraded. For example; if a park installs six new cabins then the fire services requirements should be mandated.

Option 2: Existing use rights need to remain in place for setbacks from park boundaries, separation distances between structures, construction of buildings and roads. For example, it would be cost inhibitive and wasteful for existing good condition amenities building be demolished and replaced because they are two metres too close to the boundary. New developmental works undertaken which expand or replace of old assets should comply with current regulations.

All controls that impact on fire safety, or other high risk areas, should be retained and transition arrangements established. Setbacks from boundaries should remain exempt.

Q14 Is it appropriate that existing parks are considered under the new framework when lodging a development application for expansion or reconfiguring?

When Ordinance 71 was introduced parks were given a period of time to comply with the new regulations. Existing use rights and exemptions, such as setbacks, remained in place.

Any upgrade to the park's infrastructure, access or expansion should be subject to the new framework. Any new works should comply with the framework.

However, the reconfiguring of sites within an existing park, including changing the ratio of short term, long term or camp sites, should not trigger new compliance requirements. The only exception to this is where the new works increase the safety risk.

Q15 What are your views on the proposed approach for exempt and complying development?

The Trust agrees to the proposed regime shown in the extract table below:

Exempt Development	Complying Development	DA
Ancillary structures associated with a manufactured home	Installation of a manufactured home and associated ancillary development on an appropriately zoned site	Installation of a manufactured home and associated ancillary development that does not meet the complying development provisions
Switching between long term and short term sites and vice versa where the threshold is not exceeded	Replacement of existing manufactured home on site where there is: <ul style="list-style-type: none"> - No change from short term to long term site and vice versa - No change in site size - Coverage, separation distances and other standards are satisfied The replacement of existing communal amenities or facilities, administration office and other buildings	Approval to operate camping ground, residential park or tourist park. Changing between long term and short term sites (and vice versa) where the threshold will be exceeded. Installation of manufactured home where: <ul style="list-style-type: none"> - There's a change to site size - The coverage, separation distances and other specified standards are not met Adding new sites/expanding camping grounds or park

Q16 Should anything else be exempt or complying development?

Amenities blocks, in the existing regulation, must be of masonry construction. The Trust has installed suitable, well designed relocatable amenities blocks with council consent. It is logical that these are permitted as complying. Complying development should also include installation of new facilities required to achieve park compliance.

Installation of new cabins should also be listed as complying development so it is clear that approval is not needed.

Q17 Do you agree with the controls proposed for inclusion within the guideline?

The controls identified closely align with existing regulations in place for caravan parks or manufactured home estates. The Trust agrees in principle with this approach. However, a more detailed comparison of the proposed transition arrangements is required.

Q18 Are there any specific controls where a performance based approach would be better suited than the current prescriptive approach?

There are prescriptive requirements in place that are not effective. This includes masonry amenities blocks (as listed above), car washing bays and clothesline space requirements (2M per site) which doesn't take into account any installed park clothes dryers.

Suitable non masonry amenities, car wash bays and clothes lines should be approved based on satisfying performance standards.

Also any changes to setback controls should be considered based on performance standards.

Q19 Is it appropriate to remove concurrence provisions and manage variations as part of the development application process?

Concurrence should bring consistency across NSW and therefore not have to rely on individual council interpretation. While reducing the level of approvals needed is a benefit, the need for a consistent approach across the state is also important. The guideline must therefore cover a number of potential development applications and identify standard variations. There is also a need to protect existing parks from the retrospective application of the standard, where the required change is unreasonable or unnecessary.

Q20 Do you agree with the proposed approach reducing duplication and providing greater clarity in definitions?

Reducing duplication and clarifying definitions is supported. However, there is a need to be careful with the new definitions. For example: The discussion paper reduces the number of days permitted on a short term site from 150 days (or 180 for a holiday van) to 90 days (refer to Table 4 proposed definitions). Table 4 also identifies that a long term site is intended for use by a resident for more than 90 days. The Trust opposes these particular alterations to the definitions as they will impact negatively on park operations. In particular long stay guests such as those onsite throughout periods of autumn and winter. There are also concerns that the reduction of the timeframe down to 90 days will possibly see some tourists become quasi residents and therefore seek status under the Residential (Land Lease) Communities Act 2013.

Q21, Q22 & Q23 Should sites be maintained for tourist uses in residential parks and vice versa? If so should a threshold be set to provide for a mix of uses? If so, what should the threshold be or should this be set by individual councils?

There is a demand for mixed use parks in some locations throughout NSW. Mixed use parks can operate successfully, particularly if precinct managed. Geographic precincts are preferable to ad-hoc combinations of residents and tourists sites. Some parks operate primarily as residential parks yet maintain a small number of sites for tourists. This can be the case in regional areas where tourist numbers are small when compared to the coast. This can vary based on market trends and demands. There is a risk that a park intending to reduce its numbers of residential to tourist sites will either have to maintain sufficient residential sites or proceed through a DA process to reach approval. This can create uncertainty and potentially a slow response to changing market conditions.

However, where practical, approvals to establish sole use parks should be encouraged. Government seed money for development of new affordable housing parks, residential parks and tourist parks should be also considered where there is market failure. For parks on Crown land, direction from the Crown will be required for any additional or future residents requesting occupation of 'tourist parks'.

A consistent state-wide approach is needed and thresholds should not be set by local councils. The definition of the specific purpose will impact on mixed purpose parks viability if the guidelines have different requirements for tourist v residential parks.

Q24 What controls should be in place to manage short-term housing for seasonal or itinerant workers?

Short term housing can benefit highway upgrade workers and seasonal workers such as fruit pickers. The document suggests: "consider allowing temporary or moveable dwelling accommodation on private, council or commercial land".

Before this happens, it will be important to measure what impact the establishment of a short term housing scheme will have on existing tourist and rental accommodation businesses. In the case of significant highway works, such a study should be undertaken as part of the road upgrade approval process. Where there is local accommodation capacity the size of such a development should be reconsidered or scaled back accordingly.

Q25 Within camping grounds and caravan parks, should long term structures, including glamping, be required to meet different controls to shorter-term structures like tents?

The requirement for cabins and manufactured homes to be built offsite, and transported onsite, means these structures can be easily moved. Designs and compliance could be controlled at the source of manufacture rather than at the park. This would allow any changes to be made at the point on construction rather than requiring expensive retrofitting in situ.

Minimum controls for cabins and tents should include safety and structural integrity. A specially developed environmental compliance standard could also be introduced. For

example: A derivation of the Building Sustainability Index (Basix) could be introduced for cabins and glamping style safari tents.

Q26 How can the new planning framework provide opportunities for emerging forms of development that vary from traditional housing?

With the use of design based and environmental performance standards, new and innovative forms of accommodation, housing materials and structures can be accommodated.

Q27 Are there any provisions of the BCA that are not appropriate for manufactured homes?

BCA standards should be set as a minimum. Exceptions could apply where a performance solution results in an outcome equivalent or superior to the BCA requirement.

Q28 & Q29 Should the process for design certification by a structural engineer continue? Should there be any other requirements? Should manufactured homes be subject to any mandatory inspections during installation?

Engineering certification should continue as minimum requirement to ensure sound structures are built. This provides a measure of safety for occupants, visitors and park managers.

In order to ensure that the installation is in accordance with design standards, inspections should be conducted (similar to those required for house construction). Private certification is a positive way of undertaking these inspections and ensuring the works are to a suitable standard. Primary inspections can take place at the point of manufacture.

Q30 & Q31 What fire safety controls should residential and tourist parks be required to meet? Would requiring residential and tourist parks to submit an annual fire safety statement be an effective way to check essential fire safety measures have been met?

The current system of RPZs, extinguishers, blankets, smoke alarms, separation distances, fire hose reels and hydrants should be sufficient if all in place and operational. It is already a requirement that annual fire equipment inspections are undertaken and reported to councils. Parks relying on exemptions should be required to become compliant over a reasonable but prescribed time period (e.g. three years)

Q32 What controls should apply to tourist and residential parks located on flood prone or bush fire prone land?

Each park needs to be assessed by appropriately qualified professionals for both fire and flood compliance. Park designs should be approved by the Rural Fire Service or council and mitigation works carried out (e.g. asset protection zones and safe zones). These should be inspected annually by a qualified certifier or authority. Emergency management plans, including bushfire and flood risk assessments, should be mandatory for every park.

Flood prone land requirements should also be introduced where land is identified as flood prone. Permanent structures on flood prone land should only be allowed where the structure

is designed to withstand the flood conditions. Design codes should apply depending on the flood flow rates. Where risks are too high permanent structures should not be allowed.

Q33 What would be the most effective and efficient enforcement approach?

Council is currently responsible for these enforcements and it is expected that this role will continue. In order to reduce councils workload, less risky items could become the responsibility of the park owner/manager.

The Trust recommends the current regime with a shift towards longer inspection periods for parks that show high levels of conformance. Less risky items could be self-managed by the park and inspected at a less frequent interval or when significant complaints are raised relating to noncompliance.

Conclusion:

The caravan and camping industry is a significant element of the tourism industry and the residential land lease communities. NSW Crown Holiday Parks Trust operates across a large portion of the State and throughout many Local Government areas. Improvements in the approval/licencing, inspection and developmental areas of the industry can only be beneficial.

Thank you for allowing us to respond and considering our suggestions. If you require anything further or clarification of any element in our submission please contact Garry Ellem, Business Projects Manager on 0418188760, or Steve Edmonds, CEO on 49672233.

Regards,

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