

Elizabeth Kinkade
Executive Director, Planning Policy
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Kinkade

Submission
**Discussion Paper - Improving the regulation of manufactured homes, caravan parks,
manufactured home estates & camping grounds**

Thank you for the opportunity to provide a submission on this Discussion Paper, given Council's ongoing concerns with the current operation of State Environmental Planning Policy (SEPP) 21 – Caravan Parks and SEPP 36 – Manufactured Home Estates (MHE) and the significant role this form of accommodation plays in Shoalhaven.

Supporting land uses in the right locations

The operation of SEPP 21 and SEPP 36 has been of concern to Council for a number of years and we have previously made representations to the Department in this regard. At present these SEPPs effectively permit “manufactured home estates” to be developed on rural zoned land wherever caravan parks are permissible. As Council's Local Environmental Plan (LEP) allows caravan parks as permissible with consent in most of its rural zones, Council has been faced with proposals for de-facto residential developments in the form of manufactured home estates, utilising the provisions of the SEPPs. This potentially creates unexpected and undesirable outcomes, particularly when large, essentially residential villages, are placed in rural areas with limited services.

Definitions

Council supports the need for clear land use definitions for the various forms of development, such as:

- caravan parks;
- manufactured home estates;
- camping grounds;
- primitive camping grounds;
- glamping structures and safari tents (which are more permanent and may include decks, kitchens and ensuites); and
- other similar land uses.

These definitions should be standard and used in all related legislation and plans. Providing a consistent definition for land uses such as manufactured home estates and primitive camping grounds would enable these land uses to either be permitted with consent or prohibited in the appropriate land use zones within Council's LEP.

Primitive camping grounds

Primitive camping grounds should be defined. These are an affordable option and there is a need to better define the options being provided outside traditional caravan parks. The density required for private primitive camping grounds is currently too low; there needs to be a greater density than 1 site every 2 hectares. There are once a year events that are held that include primitive camping but they are unable to meet the definition of a primitive camping ground because the density requirement is so low. Showgrounds also provide an affordable option but difficulties with enforcement can arise.

Permissibility

A zoning approach for residential and tourist parks is supported. Zoning tables in LEPs should include all land uses as either permissible with consent or prohibited. This will prevent tourist parks being changed to residential parks in areas where multi-dwelling residential accommodation would normally be prohibited.

The permissibility of residential or tourist parks could be mandated by State Government for various zones (option 1), however, Council would prefer the ability to determine this based on local strategic planning, instead of purely a Standard Instrument (SI) LEP template approach. Councils should have the ability to decide the appropriate zones within their local government area (LGA). There should at least be a different approach for coastal LGAs, compared with western area inland and metropolitan LGAs.

If the SI LEP template approach is mandated, caravan parks should be permissible within the following zones: RE1 Public Recreation; RE2 Private Recreation Zones; SP3 Tourist and within rural zones where:

- there is acceptable access to urban services and infrastructure;
- land use conflict between tourist parks and residential areas is minimised; and
- they are not established in isolated locations.

While developers seek consistency of rules between zones, Councils should undertake planning to confirm the appropriateness of zones especially if a development is likely to house aged persons.

Site compatibility certificates

As an alternate approach, Council has previously suggested a requirement for a "site compatibility certificate". Under a number of other SEPPs that potentially override existing zoning controls, a "site compatibility certificate" is already required from the Department of Planning & Environment (DP&E) before a development application can be lodged. For example, the SEPP Housing for Seniors or People with a Disability, where if an adjoining urban area is protected by "scenic hatching" then the provisions of the SEPP cannot be used.

This initial process considers the appropriateness of the proposed uses in a broader sense (e.g. availability of services, consistency with strategic planning etc.) and prevents inappropriate development applications being lodged. This would avoid the need for councils to argue these issues through the assessment process or in court. The current review must ensure that manufactured home estates can no longer continue to be placed in inappropriate rural locations without consideration of economic, social and logical land use planning considerations.

Use of a threshold approach

Council does not necessarily agree with a threshold approach (i.e. that if a caravan park has 75% permanent residential sites then it is considered a residential park). The definitions of a tourist park and a residential park should be distinct and should require a change of use to move from one to the other to enable a proper assessment of the differing impacts. It should not be left to an applicant to define the proposed development and therefore which legislation applies. Should a threshold approach be taken, Councils should be responsible for setting this threshold rather than it being prescribed by the State Government. Twenty five per cent permanent residential in a caravan park in an isolated coastal village has very different impacts compared to the same proportion of residential in a metropolitan area. Alternatively there could be separate thresholds set for metropolitan, inland western area, and coastal Councils. There needs to be flexibility for Councils to set this threshold, but Council acknowledges that this also needs to be balanced with the need for consistency across the state so that it is clear for both industry and government.

Design quality of manufactured homes

Council supports the inclusion of 'manufactured home' in the definition of 'building' under the Environmental Planning and Assessment Act 1979 (EP&A Act) which means that manufactured homes will be required to comply with the Building Code of Australia (BCA). Given the increasing use of manufactured homes as forms of affordable and seniors housing, it is important that the quality of these homes is appropriate for permanent residential use. BASIX should also be applied to manufactured homes to ensure that water and energy consumption issues are addressed at application stage, together with design specifications to ensure that manufactured homes are well-insulated and well-designed to minimise cooling and heating bills for a vulnerable sector of the community.

Simplify Approvals

Council supports a clearer and simpler approvals process as proposed by the changes. The process should clarify where manufactured homes are permissible and enable Councils to determine where they are permitted and enable easy application for the correct type of development/construction. Similar changes are needed for moveable dwellings/secondary dwellings. The very prescriptive style of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 (Regulations) has made it difficult for existing older parks to meet the requirements and so many remain potentially non-compliant today.

Camping and caravans outside of caravan parks

If the use of caravans, campervans, and tents continues to be permitted on land outside parks and camping grounds without the need for Council approval, a time limit not exceeding 7 days should be imposed. Currently, this practice is permissible without consent for 2 days at a time. Council would support changes to require approval for longer stays. Council has had issues in the past with effluent management, unauthorised use of electricity, dumping of rubbish, noise complaints and anti-social behaviour.

Another issue is how to provide for self-contained caravans and campervans outside of traditional caravan parks. The new framework should facilitate the use of self-contained caravans and campervans where the Roads and Maritime Services or Councils provide roadside facilities similar to pull-off points such as those available in the Northern Territory. Overnight parking in residential areas can be an issue. The approaches of other jurisdictions should be investigated, such as the Northern Territory, Victorian practices on Crown Lands, and New Zealand Winnebago stops. There are some Shoalhaven examples, such as Bewong and Jerrawangala rest stop areas. Shoalhaven also has low cost camping facilities at showgrounds where Council has the ability to enforce local laws.

The new guidelines

The implementation of the guidelines is uncertain, including when and how it applies. If there is no annual inspection, there should be at least compliance audit inspections and performance based conditions with an annual audit report. A copy of the annual audit report should be submitted to Council.

A number of provisions from SEPP 21 or SEPP 36 should be retained under the new framework. This could be through the guidelines or by additional clauses in the SI LEP. The relevant provisions that should be retained are:

- zoning controls including siting in appropriate locations (SEPP 36);
- triggers for when for development applications are required;
- requirements for a DA (SEPP 21); and
- development controls.

Additional controls should be included in the new framework to facilitate the development of new Tourist Parks or Residential Parks including:

- annual fire safety certificates;
- annual compliance reports; and
- annual environmental reports.

Locational requirements from SEPPs should become development standards and development controls should require residential parks be connected to urban facilities. Flood liable parks should be required to submit an annual compliance report to show compliance with the conditions of their development approval.

Development application vs approval to operate

Council somewhat agrees that new caravan parks, camping grounds and manufactured home estates should be required to apply for a one-off development consent rather than the existing 'approval to operate' provisions under the Regulations. Existing caravan parks should no longer operate under the 'approval to operate' provisions. Responsibility should be placed on operators to meet the required standards. Regular council inspections should be required for these parks and that a structure for mandatory annual audit reports relating to life and safety issues should be established and reviewed annually by councils.

Council agrees that existing parks should be exempt from controls such as amenity provisions, when being considered under the new framework. Alterations should comply and there should be requirements for annual fire safety certificates, separation distances, and a limited approval for a maximum of 10 years, subject to compliance. Existing caravan parks should not be exempt from safety requirements and should be required to upgrade if they do not meet the new controls.

Compliance

There should be a five-yearly review of compliance with the park's development approval. This would increase council's ability to monitor compliance and to issue notices, orders, and penalty infringement notices (PINs) under the EP&A Act to deal with non-compliance. Examples to consider include the food business model, the swimming pool model and fire safety schedules, which require compliance reports to be provided prior to sale. There should be a mix of owner responsibility in providing annual statements followed by an annual review by council.

Currently there are no options for fines for minor offences. Any breaches of legislation require court action which is not practical. If the approval to operate requirement is replaced by development consents, councils can issue PINs for any non-compliance.

Council does have concerns, however, that in moving to a less regulated model, the standards and maintenance of parks may fall. It is important that park owners and managers are providing information annually to ensure the ongoing safety of caravan parks and to prevent inappropriately sited manufactured home estates.

Other Key Planning Issues

The review of the SEPPs should address the important issues of provision of affordable and seniors housing. Caravan parks and manufactured home estates are important sources of affordable housing and if this were to decrease, there would be fewer options available which could have negative social impacts. It is also important to note the negative social impacts that arise when caravan parks and manufactured home estates are sited in inappropriate locations. The issue of aged housing availability should also be considered. The appropriateness of siting of residential parks in bushfire prone or flood prone locations needs to be considered together with important issues such as evacuation capabilities.

Comment Period

Council has consistently requested DP&E to consider reasonable comment periods that accommodate Council reporting cycles, for example a 6 week minimum. In this case it was not possible to formally report this submission through Council as would normally be the case.

If you need further information about this matter, please contact Danielle Ratcliffe, Planning & Development Services Group on (02) 4429 3553. Please quote Council's reference 1039E (D15/355423).

Yours faithfully

A handwritten signature in black ink that reads "Gordon Clark". The signature is written in a cursive, flowing style.

Gordon Clark
Strategic Planning Manager
14/12/2015