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

Dear Ms Ryan,

**RE: Response to Discussion Paper – Improving the Regulation of
Manufactured Homes, Caravan Parks, Manufactured Home Estates &
Camping Grounds**

Introduction

In November 2015, the Department of Planning and Environment (DP&E) released the Improving the Regulation of Manufactured Homes, Caravan Parks, Manufactured Home Estates & Camping Grounds Discussion Paper (Discussion Paper). The Discussion Paper seeks feedback from the community and stakeholders on simplifying the regulation of manufactured home estates, camping grounds, caravan parks, manufactured homes and moveable dwellings and associated policies.

Ingenia Communities (Ingenia) is one of the largest owners of Manufactured Home Park and Tourist Parks in NSW. Accordingly, this submission focuses our responses on those changes that affect the delivery and operation of Tourist Parks and Residential Parks. It is noted the Discussion Paper has been prepared with a number of questions being asked. This submission specifically responds to the Questions for Discussion posed in the Discussion Paper.

We praise the Department's initiative to simplify and improve the regulations and we are grateful for the opportunity to respond to the proposed changes. We would also welcome the opportunity to further meet with the Department to discuss our submission and the Discussion Paper.

About Ingenia Communities

Ingenia is a leading Australian property group that owns, operates and develops a growing portfolio of affordable seniors communities across key urban and coastal markets. In just over 2 years, Ingenia's portfolio of manufactured home estates and



tourist parks has grown to 24 across NSW, VIC and QLD under the Active Lifestyle Estates brand including some of NSW's premier coastal parks.

24 Active LIFESTYLE PARKS

- 1,620 permanent sites
- 593 annual sites
- 1,300 short term sites
- 1,637 development sites



Our strategy involves refurbishing and improving the parks that we acquire through upgrades to infrastructure, compliance, community facilities, tourism and housing stock. Below is an example of a transition project at Stoney Creek Active Lifestyle Estate in Western Sydney.

Before



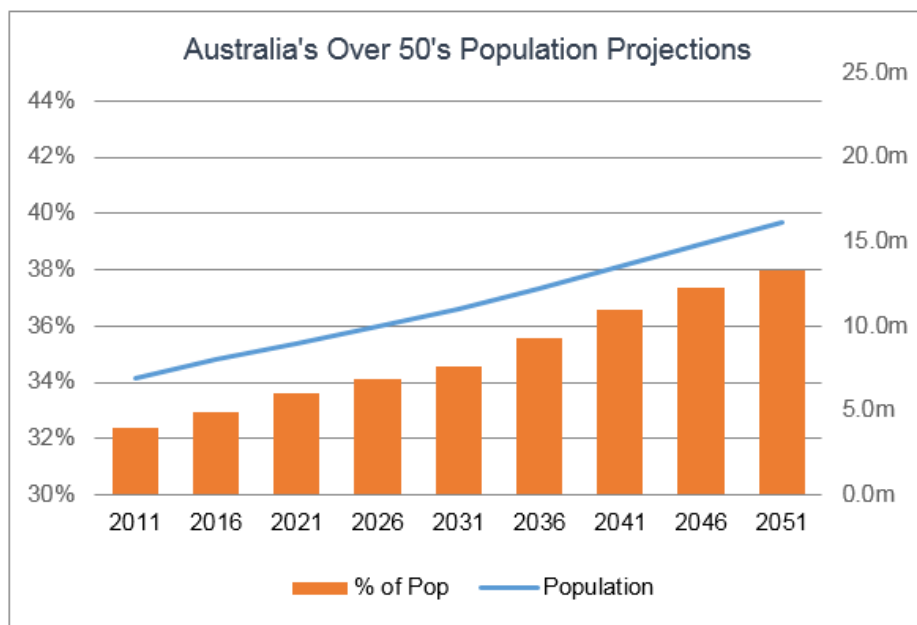
After



Affordable Living Options for an Ageing Population

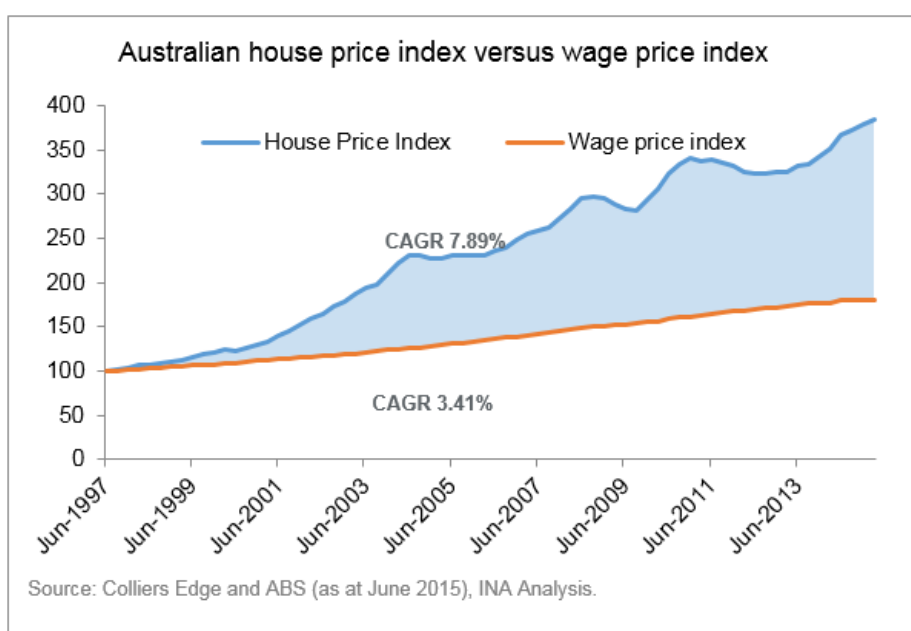
The affordability and ageing population challenges facing the nation have been well documented. Australia's population is rapidly ageing and the need to provide housing options funded by government payments will increase.

ABS and 2011 Census figures indicate that 77% of single people over 65 rely on the pension as their primary source of income (ABS, 2011 Census). Furthermore, Australia's growing pool of retirees is living longer - many have limited superannuation savings and expect to rely on government payments in retirement.



Source: ABS, Catalogue Number 3222.0 - Population Projections, Australia, 2012 (base) to 2101. ABS Census 2011 for 2011 population.

The rate of wage growth has been far outstripped by growth in house prices with dwelling price to income ratio at the highest level in more than 15 years.



Source: Colliers Edge and ABS (as at June 2015), INA Analysis.

Source: ABS, Catalogue Number 3222.0 - Population Projections, Australia, 2012 (base) to 2101. ABS Census 2011 for 2011 population.

For retirees whose sole source of wealth accumulation is through home ownership, releasing equity to fund a comfortable retirement while owning their own home and retaining access to the pension and rent assistance is attractive. The ability of retirees to downsize also frees up housing stock for first home buyers struggling to get into the property market.

Current Planning Challenges

One of the major difficulties in delivering affordable housing to seniors in manufactured housing estates and caravan parks is the challenge of developing 'greenfield' sites due to the planning constraints and availability of suitably zoned land. The current legislation also expressly prohibits development of new parks in the Sydney Metropolitan area. Furthermore, it is difficult to achieve acceptable commercial returns on affordable housing (which is typically priced below 70% of the median house price in the area) when civil infrastructure costs and developer contributions are included.

In preparing our response to the discussion paper we have focused on the following key issues:

- Planning constraints and infrastructure costs to developing greenfield sites – particularly in Sydney;
- Being able to develop new parks in residential zones;
- Reducing the costs of dwelling construction;
- Providing flexibility in park layout and site mix; and
- Driving innovation with on-site dwelling construction.

Ingenia's responses to the Questions for Discussion:

Section 4.1 of the Discussion Paper

It is understood the purpose of Section 4.1 of the Discussion Paper is to provide clarity on how caravan parks and manufactured home parks are defined to better reflect the land use. It is also proposed to introduce a threshold that will better define when a caravan park has changed to a manufactured homes park and vice versa based on the mix of tourist and permanent sites being provided.

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

It is proposed to define the land uses of a Caravan Park and Manufactured Home Park to either a 'Residential Park' or a 'Tourist Park'.

In general, we agree with the new land use definitions being proposed and the description associated with each land use, however we believe that the word 'primarily' should be removed to provide sufficient flexibility with the site mix.

We believe the definition of short term sites should be reworded to remove any ambiguity that less than 90 days does not prohibit the site being used as a tourist cabin all year. The 90 days should also be changed to 180 days to reflect the current 'annual' dwelling arrangements.

The 'manufactured home' definition should be changed to allow on-site construction.

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

It is acknowledged that each Council has adopted a different approach to how they determine whether a site comprising a mix of permanent sites and tourist sites is defined.

We do not agree with the introduction of 75% threshold to define whether a park is used for tourist or residential purposes as it severely restricts the flexibility of the site mix and also forces a park to maintain a percentage of tourist sites that may not be commercially viable to operate.

3. Would a zoning approach be appropriate for Residential and Tourist Parks?

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?

With respect to questions 3 & 4, currently parks are located in a range of zones given the historical nature of land use planning for these uses. There could be a range of zones from the Standard Instrument that could be appropriate, for example E2 – Environmental Conservation.

Accordingly, we believe there is merit in allowing Councils (Option 2) to nominate their preferred zoned for Tourist Parks and Residential Parks. However, it is important for the Department to ensure that both Tourist Parks and Residential Parks are reflected in the same zones. We also believe that both Tourist and Residential parks should be permissible in residential zones.

The variety of zones upon which parks are located means it is important for the existing use rights provision under Part 5 of the Environmental Planning and Assessment Regulation 2000 continue to support the ongoing use, modification and expansion of a park to respond to market demands and maintain their viability.

We also propose that similar to the relevant provisions in the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, that residential parks or tourist parks should be permissible on land adjoining land zoned primarily for urban purposes, special uses or for the purposes of an existing registered club if the Director-General has certified a site compatibility certificate.

Section 5.1 of the Discussion Paper

This part of the discussion paper focuses on:

- Including manufactured homes within the definition of a building under the EP&A Act;
- Removing the need for manufactured homes to be approved under both the Local Government Act and the EP&A Act; and
- Permit manufactured homes where a dwelling house (or other form of residential accommodation) is permissible in the relevant LEP.

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

Of the three (3) key points raised in this part of the Discussion Paper, we are generally supportive of including manufactured homes in the definition of a building and removing the need for a second approval under the LG Act.

These changes would simplify the approvals process, improve standards and market perception and insurance requirements. However, there is a concern the change in the inclusion of a manufactured home in the definition of building may have a flow on affect of requiring a variety of new construction inspections to occur (i.e. separate footing inspections, building inspections, etc). These additional inspections would add time to the installation of the homes and to the cost of the homes which inhibits the provision of affordable housing.

Section 5.2 of the Discussion Paper

This section of the Discussion Paper relates to the permissibility of caravans, campervans and tents outside of a camping ground.

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

As the operator of quality Tourist Parks which comply with the regulations, we believe that the use of caravans, campervans or tents on land outside of caravan parks and camping grounds should not be permitted without Council approval to ensure the relevant regulations and standards are met by these operators. The use of self-contained caravans and campervans should be regulated in the same way as Tourist Parks.

Section 5.3 of the Discussion Paper

This part of the Discussion Paper seeks input on the provision of SEPP 21 and SEPP 36 and what provisions should be retained. The question is also asked as to whether there are any additional controls that should be introduced.

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

Ingenia agrees that the key elements of SEPP 21 and SEPP 36 should be consolidated in any future regulation. We would suggest that the provisions that relate to the external interface of the development with the surrounding properties are the primary provisions to be retained. Provisions regarding the internal design are considered to be less important and should be dictated by the market and the product being proposed by operators in this sector. This will provide for the diversification and variety of product in the industry. This is the case with the provision of a typical home.

We also require that the Sydney Metropolitan area be included under the new framework to enable the provision of affordable seniors housing which will also free up housing stock for first home buyers, particularly in Western Sydney.

The proposed guidelines are a good recommendation.

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

This submission is intended to provide higher level feedback on the proposed regulation. We would recommend that the Department provide a draft version of the Guidelines to the industry for feedback before their adoption.

In order to improve the commercial viability of greenfield projects, we propose that developer contributions should be discounted to reflect the lower household occupancy rates (typically 1.2-1.3 persons per dwelling) and those villages have community facilities which reduce the reliance on external community facilities typically funded from developer contributions.

Section 5.4 of the Discussion Paper

It is proposed to discontinue the requirement to seek an 'approval to operate' as outlined in the LG Regulation and to require only a one-off development approval for the land use under the EP&A Act.

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?

Ingenia Communities does not support the proposal to remove the existing regulations despite the use of the land use consent as the over-riding means for providing for the use of the land.

Although we believe that a 'complying development' approach should be adopted, in that if the proposal, complies with the relevant requirement, then there is no further assessment required, we believe the need for approval to operate provisions and inspections ensures that park operators comply with the regulations.

A performance based approach however can be adopted under the new guideline. Operators need flexibility to ensure swapping between long and short term sites, as proposed later in the Discussion Paper, is not affected.

Compliance should not be specifically conditioned into approvals, otherwise modifications to consent under section 96 of the Environmental Planning and Assessment Act 1979 (EP&A Act) will be required to allow works to proceed, and could affect the ability to swap between long and short term tenancies.

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

Primitive camping grounds should be regulated similar to Tourist Parks and the operators required to comply with the regulations as Tourist Parks are required. This ensures standards are maintained and compliance requirements are met.

Section 5.5 of the Discussion Paper

This Section relates to the transitioning of existing estates and parks to the new approval framework. This includes recognition that existing parks do not require further approvals until it is proposed to reconfigure or expand a park.

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?

We do not agree that existing parks should no longer be required to obtain 'approval to operate' despite that a land use approval under the EP&A should be sufficient.

Regular inspections should occur with respect to fire safety compliance, health and hygiene matters etc. Inspections in regard to compliance on land use matters is not considered to add value and could occur as part of the issuing of a License to Operate, so regular inspections regarding the land use are not considered to be warranted.

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

The new regulations should not trigger the need for retrofitting existing premises and should allow a pattern of development within the park to continue or cater for a transition between the existing and new sections of the park.

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

For consistency, it is reasonable for new sections of an existing park to be considered against the new framework but this could be as a Section 96 modification and not require a full development application. The new regulations need to give clear considerations, but provide Council's with the flexibility to treat compliance on a performance basis so that compliance can be dealt with on a site by site basis (for example, in relation to fire rating, flood levels, and bushfire risk).

The retrofitting of existing premises will be costly, could adversely affect existing business viability and is not warranted for existing sites.

Section 5.6 of the Discussion Paper

This section proposes that manufactured homes be subject to the complying development provisions contained in the Codes SEPP providing for fast track complying development process. Ancillary structures associated with manufactured

homes could also be considered as exempt development if they meet certain criteria outlined in the Codes SEPP.

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

It is suggested that the use of the codes SEPP to facilitate the fast tracking of complying development is supported. The use of this structure to cater for ancillary structures is also considered to be appropriate.

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

The proposed framework within Table 3 of the Discussion Paper is considered to be generally appropriate.

However, as there is a supported approach to allow switching between long and short term sites, it is suggested the reference of “No change from short to long term sites and vice versa” be deleted as a qualifying provision in the ‘Complying Development’ column.

It is understood the ‘Complying Development’ column is to allow for the upgrading of existing homes. The home should be able to be upgraded regardless of whether the use of the home is for either short or long term. To restrict this will conflict with the aim of Option 2, which is currently included (and supported) as Exempt development.

The requirement to get a Development Application to change the size of a site or change between long term and short term sites is not supported as these changes do not materially change the use of the park.

Section 5.7 of the Discussion Paper

This section discusses the introduction of a Guideline in lieu of the Local Government Regulations.

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

There is general agreement based on the translation of the concept of a Guideline that embodies the provisions currently included in the Local Government Regulation. However, the table in Appendix B does not provide clarity on what the Department envisages to be included. It is submitted that significant rework is required as part of the development of the guideline.

By way on an example, it is proposed to delete the definition of ‘Relocatable Home’ and this will need to be removed from the guideline.

The guidelines should also be drafted to allow for a performance based assessment to occur.

Furthermore, the Discussion Paper also mentions an intention to have the manufactured homes comply with the Building Code of Australia. As it is expected that this will impose minimum ceiling heights, there would not be a requirement to transfer ceiling height and fire rating and other relevant construction matters if this occurs.

It is therefore requested that a draft of the guideline be released separately for comment by the industry.

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

A 'one size fits all approach' is unlikely to be successful. It is submitted the development provisions in the following sections of the Local Government Regulations should be dealt with via a performance based approach:

Part 2, Division 3, Subdivision 1 – Land and dwelling site requirements

Part 2, Division 3, Subdivision 2 – Setbacks

Part 3, Division 3, Subdivision 1 – Land and dwelling site requirements

Part 3, Division 3, Subdivision 2 – Setbacks

This approach will allow flexibility to tailor the built form to respond to market demands and the requirements of the location. The provision of communal facilities and communal open space can offset reasonable reductions of private open space if this satisfies the market demands.

The performance based approach will also allow operators to tailor their product to facilitate a diversity of built form and provide the community with options when considering what site and dwelling configuration suits their needs.

Section 5.8 of the Discussion Paper

This section discusses the need for concurrence from the NSW Department of Planning and Environment.

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

It is agreed that the need for a concurrence should be removed from the process.

Section 5.9 of the Discussion Paper

The definition of development is discussed in this section with the introduction of new terms and the removal of multiple definitions. The changes proposed are outlined in Table 4 of the discussion paper.

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

We agree with the proposed approach to reduce duplication and provide greater clarity in the relevant definitions.

Section 6.1 of the Discussion Paper

The intention is to provide for a diversity of residential and tourist uses with parks. This section poses questions around whether parks should contain portions of a park for either a residential or tourist purposes.

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

It is acknowledged that there may be occasions and location requirements that may warrant a small portion of the site to retain either a residential or tourist use. We do not believe it is necessary to mandate such a requirement. Residential Parks and

Tourist Parks have different operational requirements and a mix does not necessarily suit certain operators or market requirements.

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

No threshold is suggested as it is submitted that parks should be allowed to be either 100% residential or tourist. The 75% percent threshold proposed will not provide the flexibility for portions of site to accommodate the alternative use, if required. It also forces a park to maintain a percentage of tourist sites that may not be commercially viable to operate.

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

We do not believe a threshold should be set nor should Council's be permitted to set an alternative threshold as this would restrict market forces and the ability of an operator to run a viable business.

Section 6.2 of the Discussion Paper

A discussion is generated in this section in relation to the accommodation of seasonal or itinerant workers accommodation.

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

Short-term housing for seasonal or itinerant workers on private, commercial or Council land should be required to meet the same regulations as Residential and Tourist Parks to ensure safety and compliance standards are met.

Section 7.1 of the Discussion Paper

This portion of the Discussion Paper relates to the provision of innovation in this sector.

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?

No, they should be able to be manufactured and installed to the relevant Australian standards.

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

We consider ourselves as a leader in innovation in the sector and in particular the move towards building relocatable dwellings on-site. We proposed that the requirement to manufacture homes off-site be removed so that we can provide a product that better suits the needs of Seniors by reducing the number of steps required, allowing for ageing in place and improving the quality and aesthetics of the product and streetscape. Modern construction methods allow for homes to be constructed on-site within 12 weeks and with minimal disruption to residents. It will also remove trucks from the roads and improve road safety, improve the safety of installation and reduce the costs of construction which will assist with improving affordability. Furthermore, we note that on-site construction of relocatable dwellings is permitted in both Queensland and Victoria.

Section 8.1 of the Discussion Paper

It is proposed to have manufactured homes to meet the relevant Building Code of Australia Requirements and this is discussed in Section 8 of the Discussion Paper.

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

The homes we install currently meet the BCA requirements including BASIX. However, we do not believe that the requirement for water tanks under BASIX is feasible considering there is limited room on the sites for a tank and also associated pumps can be a nuisance for neighbouring residents considering the close proximity of dwellings.

Section 8.2 of the Discussion Paper

Under this section it is proposed to introduce inspections of the homes and the certification of specific aspects of the installation.

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

We believe the current certification requirements are appropriate as they ensure compliance whilst also not adding unnecessary costs.

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

No as the current controls are considered appropriate and it will add unnecessary costs.

Section 8.3 of the Discussion Paper

In this section the paper introduces the discussion surrounding fire safety standards and management of this in the parks.

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

Under the existing regulations, there is a requirement to provide appropriate fire fighting infrastructure. It is also understood that having homes comply with the BCA may introduce industry wide fire standards for manufactured homes.

No new fire safety requirements are proposed at this stage and we will rely on experts in this field to provide comment to the Department.

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?

There is no objection to an annual fire safety statement being required for residential and tourist parks.

Section 8.4 of the Discussion Paper

The discussion paper seeks commentary regarding the management of parks affected by bushfire and flooding.

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

It is acknowledged that the evolution of tourist parks has resulted in the inclusion of permanent sites on land that is either flood prone or affected by bushfire hazard. In both instances, the coastal proximity of a large portion of the parks contributes to the flooding risk issue being an ever increasing concern.

To remove permanent sites from many of the parks will result in the alienation of residents who do not necessarily have the capacity to relocate.

It is agreed that emergency response management strategies is one appropriate means of addressing the risk of bushfire hazard and flooding.

Flooding

It has been the experience of Ingenia that the incursion of flood mapping through updated mapping and sea level risk has introduced flooding as an issue. Consequently, old homes that could be considered a fire risk in their own right, cannot be replaced with a newer product due to the conflict with flooding risk.

In this instance, it is suggested that an opportunity could be provided to allow homes (where suitable) to be elevated to achieve the required freeboard above the 1% AEP flood risk. Where this is practical, it would allow the home and the chattels within to be afforded a greater level of protection in a flood event. This approach can also be beneficial where dealing with residents who are in a low socio-economic situation and cannot afford to relocate from the hazard.

Bushfire

The NSW Rural Fire Service define caravan parks (including mobile home estates) as Special Fire Protection Purpose (SFPP) as the occupants may be more vulnerable to bushfire attack; be it tourists, less mobile persons or simply due to organisational difficulties for the evacuation of people.

SFPP's are regulated by the Rural Fires Act 1997 (RF Act) and therefore any improvements to the regulation of caravan parks and MHEs will not negate the requirement to satisfy the Rural Fires Act, the Building Code of Australia and Australian Standard AS3959-2009 Construction of buildings in bushfire prone areas.

Any changes to the regulation of caravan parks should note the RFS dispensation allowing long term dwellings to be assessed as 'residential purposes' and may apply residential Asset Protection Zones instead of those normally required for SFPP developments.

Section 8.5 of the Discussion Paper

This final section of the report seeks comment on how compliance with development standards are checked and enforced.

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

Given that Council has historically handled the compliance of parks through a License to Operate, it would be logical for Council to continue with the management of compliance for parks. This approach is also consistent with compliance matters associated with other land use developments approved by Councils.

We trust the feedback provided is of assistance to the Department in the development of a new framework for the regulation of Residential and Tourist Parks. We are truly excited by the changes to the regulations to simplify the approvals process and we wish to continue to provide input into the reforms being proposed. We would be happy to clarify any of the comments provided and meet with the Department to discuss our submission and the Discussion Paper.

Should you require any further details or clarification, please do not hesitate to contact me on (02) 8263 0505.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Owen Burnie', with a stylized, flowing script.

Owen Burnie

Senior Development Manager