

SUBMISSION FROM THE CARAVAN INDUSTRY ASSOCIATION WESTERN AUSTRALIA (INC)

TO THE DEPARTMENT OF LOCAL GOVERNMENT AND COMMUNITIES ON;

NATURE-BASED PARKS.

GUIDELINES FOR DEVELOPERS AND LOCAL GOVERNMENT

February 26th 2014



BACKGROUND

The Caravan Industry Association Western Australia (CIAWA) is the peak industry body representing Caravan Parks, Trades and Consumers. As a not for profit organisation it is CIAWA's role to ensure the affordability of the caravan and camping is in reach for all West Australians to enjoy, to promote caravan and camping, to provide advocacy on behalf of industry and form partnerships with other stakeholders in the industry.

SUBMISSION

CIAWA has engaged with members of the industry and consumers to gather information for use in this submission. This included providing a survey to members and directly contacting members. The information in this submission is based on this industry input.

Two expert specialist service providers were contracted by CIAWA to provide research and legal advice.

Civic Legal were engaged to provide a legal interpretation as to the risk associated with provision of facilities and compliance with the non-competition law which all states are signatories to.

Haeberlin Consultants were contracted to provide independent research into the occupancy levels of commercial caravan parks, their fixed and variable costs of providing a site and average revenue.

KEY ISSUES

While the current State Government Act and Regulations for managing a Caravan Park or Camping Ground are in place, any service provider charging for a site for use by a recreational vehicle or camper must be compliant with the requirements set out in the Act of 1995 and Regulations of 1997.

CIAWA believes that the implementation of the guidelines in their current form are open to misinterpretation by Local Councils, with decisions based on local opinions of services and the approval process without clear descriptions can be open to abuse.

Of serious concern in the less prescriptive nature of the guidelines is that until appropriate monitoring for the compliance of the service provider and minimum standards are in place the consumer will have a negative experience and be exposed to possible health and safety issues.

EXECUTIVE SUMMARY

CIAWA and industry in general fully support;

- Nature-Based Parks,
- The concept of low amenity sites,
- The development of more caravan and camping sites with diversity in product and experience for consumers, and;
- A simplified application, licensing and approvals process that will benefit all stakeholders providing caravan and camping sites.

CIAWA and industry expect the ability to provide new and additional sites is done on a “level playing field”. The approval of sites for development applications and licences is treated in exactly the same manner for those providing the service, no matter where the service is located.

Government should not, and cannot, provide one level of standards for a service provider and expect another service provider to meet a different level of standards. The issuing of a licence for anyone providing a site for caravanning or camping must be exactly the same.

CIAWA is aware that a review of the Caravan Park and Camping Grounds Act 1995 and 1997 Regulations (CP&CG) is to be conducted during 2014 and this is fully supported by industry.

Any changes to the Act and Regulations that will allow commercial caravan parks to provide the same services as outlined in the Nature-based Parks Guidelines will require at least two or possibly three years to be implemented.

CIAWA believe that until all service providers are allowed to provide caravan or camping sites on the same basis, under the same licence conditions, that any relaxation of requirements for nature-based parks should not be allowed. The exception is in facilities providing a maximum of five (5) sites for caravan or camping only which must provide one unisex toilet, shower and hand basin.

Appendix's

- Fact sheet on the compliance to competitive neutrality required by Local Government
- Fact sheet on the Risks for Local Government providing a low cost facility
- Independent research paper from Haeberlin Consultants on site operating costs
- A BDO report on the value of a commercial caravan park to a local community
- A BDO report on the spend of a commercial camper compared to a non-commercial camper
- Tasmanian Local Government Association Guidelines on a Recreational Vehicle

CIAWA RESPONSE TO GUIDELINES

While fully supporting the provision and development of new sites for caravanning and camping, and in having clearly stated the support of this, CIAWA support is conditional on a “level playing field” be created so that the same conditions are in place for any provider of a caravan or camp site.

CIAWA believe it is relevant to identify issues in the draft guidelines so that Government is fully aware of the consequences for commercial service providers, if Government progresses with the development of these guidelines and creates a double standard of licence and operations.

Draft Nature-Based Parks Guidelines for Developers and Local Government

1. Objectives

The objectives provide a disclaimer that the guidelines are to be read in accordance with the Regulations and is not a substitute for the Legislation. Many of the guidelines are in breach of the requirements to provide a site for occupancy by a caravan or camper and these current Regulations outline the minimum standard to be applied for providing a caravan or camp site that should be used until the Regulations and Legislation governing service providers of caravan sites is changed.

Planning Bulletin 49, a guideline to Local Government Planners issued by the Department of Planning is under review with the second draft paper released for comment in February 2014.

The information in the Department of Planning Guidelines is inconsistent with the Department of Local Government draft guidelines and it is incongruent to have these two guidelines being created with conflicting advice.

2. Legislation

CIAWA believes the existing Caravan Parks and Camping Ground Act and Regulations must continue to be used in reviewing development applications for any caravan or camp sites, until the Act and Regulations are changed to allow for a consistent and equal approvals process for all applications.

3. Management Plan

The conditions around these guidelines are unclear, while addressed in part in other sections of the guidelines the descriptions are open to a wide variety of interpretations.

Market Segment

The identification of what the definition of a Market Segment is needs to be included in the guidelines. For example there are inconsistent descriptions of what is required to be self-contained, this could lead to confusion between what the operator is providing for a self-contained visitor and what the visitor has as a vehicle.

If the developer has lodged a Management Plan and identified the target market segment, and thus the relevant infrastructure and services required, what regulatory body will ensure that only this market segment is using the facility?

What will happen if a consumer arrives late at night without a vehicle that conforms to the market segment infrastructure in place, will they be asked to leave and put the operator at risk of breaching duty of care?

If the market segment does not utilise a facility and the operator wishes to change the Management Plan what process is in place to allow this? Does the facility have to close and a new Management Plan be lodged for approval?

The guidelines state that “*a flexible approach*” be taken when assessing the Management Plan. This is currently not the case a Local Government can or does take when assessing a development application from a commercial caravan park.

Case Study:

A commercial caravan park in the south west has one hectare of undeveloped land at the rear of the existing caravan park, there is non-urban farm land surrounding two sides of this land and native bushland on the third side.

The commercial operator wishes to use this scenic non-urban land which is in a natural bush setting, to provide a low cost and service facility for fully self-contained caravans and motorhomes to meet the demand for consumers for this style of site.

The local council has rejected this on the basis that the commercial operator must comply with the CP&CG Act and Regulations and that the land is not zoned for use as a caravan park.

Under this basis, where an existing service provider is attempting to meet the needs of the consumer, the same decision making should be applied to any application from a nature-based park developer.

Position

CIAWA fully supports the implementation of a “Flexible Approach” for all development applications, this needs to include commercial caravan parks.

The approval for the redevelopment or new development of a commercial caravan park and a nature-based park should be made unconditionally on equal standards.

The definition of self-contained vehicle must include the ability to store grey or sullage water and black waste.

4. Definition of a Nature-based Park

The guidelines state that a nature-based park means a facility in a non-urban area and in a natural setting. What is the definition of a non-urban area?

The guideline states that a natural landscape can include an agricultural setting, currently any number of sites in regional areas would meet this criteria within less than five kilometres of the town boundary.

If the State Government allows relaxed regulations for the development of nature-based parks it must ensure that the sites are for recreational vehicles or campers only and for no more than a maximum of five sites per licence.

The CP&CG Regulations state that a nature-based park must have a toilet, shower and hand basin with the local council approving the number. The guidelines state that a nature-based park can cater for the market segment without providing amenities. It cannot be guaranteed that all users would be self-contained and to protect the environment and health of guests a minimum of one unisex toilet, shower and hand basin must be provided at any facility.

Limited Facilities

The guidelines state that a nature-based park should be able to link the facility provided to the requirement of the target market segment. Currently a commercial caravan park is unable to do this and the implementation of dual standards creates an uneven playing field to operate in.

The non-prescriptive nature of the definitions means that every council will be able to interpret this in a different way, including city councils with bushland settings. The term “consideration should be given” can be widely interpreted as to what should or should not be permitted.

The guidelines also state that a local government is to ensure consistency in granting exemptions for a nature-based park but it doesn't state what it needs to be consistent with. It is the experience of industry that councils do not make consistent decisions within their own areas let alone in how another council interprets guidelines.

Appropriate Licence

The guidelines state that *"If a nature-based park has been substantially extended or redeveloped since its initial licensing, the local government should consider if conditions have changed whether it is still appropriate for a nature-based park."*

Does this mean the nature-based park will be closed? If not then what will it be allowed to trade as, a commercial caravan park? If this is then the case why would it have been allowed to have started operating as anything other than a commercial caravan park as the management plan should have identified that style of facility?

This is the problem identified previously in this response by CIAWA. This very statement in the guidelines is why there cannot be a different level of licence for providers of a caravan or camping site, and that all providers need to be treated equally meeting the same standards required under existing regulations.

Whilst the guidelines allude to the fact that if there is a caravan park within close proximity a nature-based park may not be in a natural setting, this is completely open to the interpretation by each individual council.

Without an absolute prescribed distance, which under the Competitive Neutrality regulations prescribed distances can't be implemented, local councils will have to allow approvals at any distance or location and as in many examples under the guise of RV Friendly towns local councils encourage any facility providing sites for caravanners regardless of location.

There are any number of properties in close proximity to a commercial caravan park or town centre would meet the definition of a natural setting.

Case Study

Currently in Shark Bay, crown land zoned tourism is available which is suitable for a caravan park. This land meets all definitions for a nature-based park and would be heavily utilised by visitors to the area if developed as a nature-based park.

An existing commercial caravan park operates on a government leasehold site immediately adjacent to the potential nature-based park site. This commercial caravan park has had to comply with all existing parts of the CP&CG Act and Regulations in providing sites, generating its own power, water treatment and installing infrastructure at a cost of over \$10 million, including a recent \$2.5 million investment into a state of the art black water treatment unit.

Under nature-based park guidelines another operator could develop a facility at barely any cost and be able to offer much lower rates for caravan and camp sites due to not having had to comply with the CP&CG Act. This would have a major detrimental effect on the financial viability of the existing operator and create an uneven playing field in which to operate.

Position

CIAWA fully supports the development of new sites as long as these developments provide the same level of facility as the existing service provider has to comply to.

CIAWA fully supports the development of new sites as long as the existing facility is provided with the same licence conditions as the new development.

CIAWA believes that all providers of a caravan or camp site must operate under the same business conditions and licence regulations and Government provides a level playing field in which to conduct business. Until any the CP&CG Act and Regulations are changed, all service providers must comply with the Act and Regulations. The exception under nature-based parks would be a site that has a maximum of five (5) sites and provides the minimum amenity of one unisex toilet, shower and hand basin.

The description in the guideline that “consideration” be given to the location and access to facilities is to open to interpretation and not prescriptive enough to ensure locations that were not the intention of the guidelines for development will in fact be developed.

Meeting consumer demands have been quoted by Government as part of the reason for creating these guidelines with un-serviced sites. Those consumer groups have not isolated their comments on the standard of facilities required being in remote locations, so why should they not be provided in an area such as the metropolitan area where those consumers travel to?

Either creating and providing low amenity sites is wanted by Government or not. If so it should not matter where they are provided. By allowing commercial caravan parks to cater for this market either in a regional or metropolitan area the needs of the consumer would be catered for and achieve Governments objective of creating a diverse range of sites.

5. Calculation of camping sites

To meet the objective of creating a feeling of being close to nature in a new facility and to maintain the natural amenity. Any nature-based park location must only have a maximum of five (5) sites per facility.

6. License area

The statement that *“the nature-based park license can apply to a designated area which is part of a larger area of land owned by the operator and the regulations do not apply to areas that are not covered by the licence”* reflects a double standard of provision of a licence for one operator over another and creates unequal business operating conditions.

Many existing caravan park operators have land that they would like to provide the facility desired by consumers but are unable to do so, and as an existing commercial operator they do not fit the requirements indicated throughout this guideline on being able to apply for a nature-based park licence – as stated in the guidelines under this condition.

Yet a commercial operation, such as a winery in a natural bush setting two kilometres from a town boundary, that has full facilities such as buildings of bricks and mortar, running water and electricity can have that on a separate area outside of the nature-based park licence.

This is an unequal standard of approving a facility under a second class of licence that creates an unequal operating condition of business and unequal competitive advantage for the provision of the same service for one operator over the other. Everything provided by the operator is classified as the business and the same standard of licence must apply.

The definition of “natural setting” is open to broad interpretation by local councils, who will make decisions based on their own view, as the definition is unclear on the distance from an urban area to a “non-urban” area this could mean anything.

In contrast to the statement in the guidelines that due to the requirement of a nature-based park to be in a natural setting that a commercial caravan park would not be able to meet the requirements, a table of just a few examples of the following existing commercial caravan parks are in settings that meet the requirement, including in the metropolitan area;

The following table is not an exhaustive list and is simply a limited example of existing commercial caravan parks that fit with the definition of a nature-based park and have available land;

Monkey Mia Dolphin Resort	Duke of Orleans Caravan Park	Fitzroy River Lodge
Mandurah Caravan Park	Woodman Point Holiday Park	Yardie Creek Caravan Park
BIG4 Peppermint Park	Tom Price Caravan Park	Bremer Bay Caravan Park
Lighthouse Caravan Park	Peaceful Bay Caravan Park	Ayr Salien Caravan Park

It is also stated in the guidelines that a nature-based park would be incompatible with holiday cabins and chalets. This comment reflects the complete lack of understanding of what the industry currently provides from the comments in the guidelines.

Several examples of what would constitute nature-based parks already exist with chalets and cabins providing an excellent facility to consumers complementing the no service camp sites, some examples include, Karijini Eco Retreat, Red Bluff on Quobba Station, Popanning Farm and Gnoraloo Station.

Case Study

Willoughby Winery and Boston Brewery operate on a farm two kilometres outside of the Denmark Town Boundary. The farm is in a scenic natural setting with a large amount of unused land, very suitable for the provision of a nature-based park as described in these guidelines.

By allowing the developer to excise the part of the land with full services and facilities from the application licence area for a nature-based park, the licence would be for a facility that had no services for caravanners pulling up to stay but in the immediate vicinity would be a restaurant, bathrooms, playground and recreation area.

Exactly the same style of services provided by a commercial caravan park but operating on a completely different licence, the creation of an unequal business model based on two different levels of compliance is unfair to the existing service provider.

Position

CIAWA fully supports the provision of a facility, operated under the same licence conditions as any provider of a caravan site has to comply to on an equal basis.

7. No Permanent accommodation and certain buildings

As already described by CIAWA in this submission, the description of other buildings or fixtures on a proposed development not being included would restrict the ability of the consumers to experience the location, if it is in a scenic natural location or create an unequal business operating condition.

Many existing properties that currently provide a similar facility are a good example as to how properties can be established and this should be encouraged. The provision of these facilities should be developed with the same conditions any operator can provide.

8. Length of stay

The setting of length of stay should not be left to Local Government as the interpretation will vary widely and from one local government area to the next that can be on adjoining properties, which would create an unequal operating condition.

The maximum length of stay should be no more than seven (7) days.

9. Purpose of stay

Once again the issue of who will monitor this needs to be addressed. Local councils are already under resourced and they will not be in a position to monitor.

As an example the resource boom placed pressure on accommodation in the North West, hotels and motels in the middle of towns were allowing permanent occupancy of rooms with no inspection or compliance being provided by the local council.

This was in complete breach of licence conditions but the local council did not perform site inspections and the operator had the opportunity to provide permanent resident occupation and did so.

Position

The purpose of stay must be for short stay tourist only and the regulating authority required to ensure compliance to this condition.

10. Restricted licence

One of the matters to be considered listed in the guidelines is *"if there is no communal toilets, whether every caravan and camp is fully self-contained, including with a chemical toilet."*

The question is asked again, who will monitor this? It is highly likely that an operator will not refuse money from someone arriving at the facility who does not have a fully self-contained vehicle or inspect each vehicle to ensure that it does.

Currently there is no definition of what constitutes a self-contained vehicle. The Tasmanian Local Government Association provides two examples of definitions for self-contained Recreational Vehicles;

- *A vehicle that has internal cooking facilities; sleeping facilities plus water tanks for drinking and other purposes; holding tanks for “grey water” and holding tanks for toilet effluent and shower facilities. (Devonport City Council)*
- *A vehicle that is full self-contained with respect to shower, toilet, washing, cooking and sleeping facilities and must have holding tanks for all toilet waste and sullage water sufficient for at least 48 hours use by the occupants. (Latrobe Council)*

The statement that “*the provision of a chemical dump point (dump points are not necessarily adjacent to nature-based park but in logical proximity)*” would allow a developer to provide a facility for those who have a self-contained vehicle but the cost of providing the facility that those consumers must have access to would be borne by another operator, the commercial park operator or ratepayers through a council facility.

Position

CIAWA supports the development of facilities and the maximum amount of sites provided should be no more than five (5).

Until there is a clear definition of what a self-contained vehicle is, CIAWA believe the minimum requirement for a facility is to provide one unisex toilet, shower and hand basin.

11. Limit of people on site

No more than five (5) sites with a maximum of 10 people per site.

12. Distance between caravans and camps

The natural amenity of an area must be maintained and no less than one hectare per five (5) sites with the location of sites spread across the one hectare.

13. Marketing and advertising material

CIAWA asks what Government believes will be the situation when a consumer arrives with a van or vehicle that does not conform to the facility market segment identified in the Management Plan and the resulting available infrastructure, at a remote facility and no alternative accommodation nearby?

The obvious solution is the operator will allow the consumer to stay and take the fee for the night, resulting in having a product on site that does not fit the “identified market segment” and available services. CIAWA believe that facilities need to provide a minimum amenity that complies to the same standards as all service providers are required to provide.

14. Buildings on a nature-based park

The guidelines state the “nature setting” is critical, without the exact definition of what this truly compromises or indeed if the site is a farm or pastoral station, a nature setting could be just cleared land.

A farm or station can provide fixed accommodation on a separate licence area, providing a level of business conditions that another service provider is unable to supply under a different licence – a commercial caravan park.

Once again the issuing of a different standard of license would create an unequal operating condition for businesses providing exactly the same product.

15. Roads

CIAWA has no position on this condition

16. Recreational Areas

CIAWA has no position on this condition

17. Toilets and showers

The guidelines state *“a registered building surveyor should determine if the toilets and or showers need to comply with disability access requirements”*. Why should this be allowed or implemented differently to what a commercial operator has to provide as it is discriminatory to not do provide disabled access.

Any new toilets or showers built in a public area must comply to regulations ensuring disabled access and the provision of these at identified standards as per the Disability Access Act, the provision of any services must comply with regulations equally for all operators.

The guidelines then state that *“a nature-based park operator can apply to have the 90 metre regulated distance of a toilet to a site increased, and that a shower does not need to be within 90 meters”*. Once again CIAWA point out the discrepancy in this comment, a commercial caravan park cannot apply or provide a site less than 90 meters from a toilet or shower and this creates an unequal business operation.

Position

CIAWA believes that all providers must be able to provide the same service and facilities and that those services and facilities meet the minimum required standard as per regulations and law that are applied when a person resides in an area overnight.

In the case of a minimum standard in a remote area this should be one unisex toilet, shower and hand basin per five (5) sites.

18. Napkin disposal services

CIAWA agree with this condition

19. Washing up facilities for campers

CIAWA believes that all providers must be able to provide the same service and facilities and that those services and facilities meet the minimum required standard as per regulations and law that are applied when a person resides in an area overnight.

20. Lighting and electricity

CIAWA believes that all providers must be able to provide the same service and facilities and that those services and facilities meet the minimum required standard as per regulations and law that are applied when a person resides in an area overnight.

National safety standards apply and the provision of amenities requires the installation of lighting.

Insurance companies will not provide public liability insurance if a facility does not comply and the operator has a duty of care to provide a safe amenity.

21. Fire management

CIAWA believes that all providers must be able to provide the same service and facilities and that those services and facilities meet the minimum required standard as per regulations and law that are applied when a person resides in an area overnight.

Due to the remote location that the nature-based parks guidelines are supposed to be encouraging use at and the lack of any local firefighting unit. Firefighting equipment to a higher standard than minimum should be required with a high pressure water tender unit required at a facility.

22. Water

By not enforcing the provision of water being required at a nature-based park, Government is creating an uneven playing field in which business will operate.

Case Study

At Red Bluff Caravan Park in Kalbarri, the development application for the commercial caravan park identified the use of water from a bore located on the property. Testing showed water quality from the bore as being greater than the quality of local scheme water.

The local council would not approve the use of the bore water by the caravan park and made the condition of connecting to the local scheme water a requirement for the development of the park.

Position

CIAWA believes that all providers must be able to provide the same service and facilities and that those services and facilities meet the minimum required standard as per regulations and law that are applied when a person resides in an area overnight.

23. Cyclone activity

CIAWA believes that all providers must be able to provide the same service and facilities and that those services and facilities meet the minimum required standard as per regulations and law that are applied when a person resides in an area overnight.

An operator must provide the same level of safety requirements for cyclone. A nature-based park should not be able to include in the management plan “visitors will be evacuated” as this may not be possible and is why commercial caravan parks have to provide tie downs.

24. Rubbish

Any management plan must include the concept of rubbish being left on a site and how this will be handled and disposed of, as many visitors will not take their rubbish with them.

25. Telephones

CIAWA believes that all providers must be able to provide the same service and facilities and that those services and facilities meet the minimum required standard as per regulations and law that are applied when a person resides in an area overnight.

To summarise the responses to the schedule listed in the guidelines. CIAWA and industry believe that Government should not initiate Regulations that allow one operator to provide a piece of land for a caravan or camper to use that requires no services or facility but another operator providing exactly the same piece of land for the same caravan or camper must provide a fully serviced, managed and compliant facility – with an associated high cost of providing the site.

This creates an unequal and unfair level of business operations and conditions which should not be implemented or supported by Government.