



Department of **Local Government and Communities**
Department of **Regional Development**



Consultation Paper

Proposal for Caravan Parks and Camping Grounds Legislation



This consultation paper is an initiative of the WA Caravan and Camping Action Plan, which is supported by the State Government's Royalties for Regions program to improve caravan park and camping experiences.

Consultation Paper

Proposal for Caravan Parks and Camping Grounds Legislation

30 May 2014

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Introduction

This consultation paper is an invitation for public comment on proposed changes to the *Caravan Parks and Camping Grounds Act 1995* (CPCG Act). It contains detailed information on the proposed changes and guidance questions to assist people wishing to submit comments on all or part of the paper.

This consultation paper, which forms a Regulatory Impact Statement (RIS), has been prepared by the Department of Local Government and Communities (the Department) in accordance with the Western Australian Government's requirement for Regulatory Impact Assessment and to facilitate public consultation on the proposed development of a new Caravan Parks and Camping Grounds Legislation.

Submissions

Online versions of this consultation paper and an associated feedback form have been created to assist you in preparing your submission. They can be found on the Department's website at www.dlgc.wa.gov.au/CPCG-Consultation-Paper.

To assist with submission processing, it would be appreciated if topic headings and/or guidance questions are used where possible.

For your convenience, the guidance questions are also available in a separate Feedback Form available on the Department's website at www.dlgc.wa.gov.au/CPCG-Consultation-Paper.

Please note that all responses to the consultation paper may be made publicly available on the Department's website. If you would prefer your name to remain confidential, please indicate this in your submission. If you would like the entire submission to remain confidential, please mark it "Private and Confidential".

Written comments, queries and submissions should be forwarded no later than **1 September 2014**.

Please direct all comments and submissions:

By email to: caravan@dlgc.wa.gov.au noting 'Caravans and Camping Review' in the subject line.

By post to:

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Executive Summary

The State Government proposes to develop new caravan parks and camping grounds legislation to replace the existing *Caravan Parks and Camping Grounds Act 1995* (CPCG Act). The overarching objective is to provide a legislative framework which meets the needs of consumers, operators and regulating authorities, reduces red tape and safeguards the health and safety of users.

The anticipated outcome from the development of the new legislation is an improvement in:

- clarity in the interpretation of the legislation;
- consistency of application of the legislation by local governments;
- consistency of application of the legislation by State government agencies; and
- flexibility of the prescribed requirements under the legislation for existing and new developments.

This consultation paper seeks your comments on proposals outlined in this paper. In particular, the new legislation will focus on the health and safety standards of sites designated for the use of a caravan, campervan or tent.

It is proposed that the new legislation focus on **holiday parks**¹ (previously known as caravan parks and camping grounds), recognising that these have a variety of users. The term ‘holiday park’ will provide the flexibility to allow the market to drive the supply of accommodation types. It is proposed that all holiday parks be subject to the same health and safety standards regardless of whether they are operated by a public sector body or a private operator.

Residential parks² are proposed to be assessed as residential developments under relevant development and planning policies. Park homes are currently defined as ‘vehicles’ under the CPCG Act but treated as buildings with wheels – they have to comply with the Building Code of Australia (BCA). It is proposed that the treatment of park homes be clarified by transferring the certification process of park homes to the *Building Act 2011* (the Building Act).

¹ See definition in *Table 3: Proposed definition in new legislation* of this consultation paper.

² Residential parks are also known as park home parks. They contain long-stay sites and some only cater wholly to long-stay occupiers.

The proposed licensing regime focuses on a management plan proposed by the operator. The management plan is assessed by the licensing authority for its compliance with minimum health and safety standards, its delivery of products to the identified market segment(s) and the addressing of environmental and risk matters. When approved, it will form the basis for the licence. This model is expected to be sustainable, support commercial viability and meet changes in the market as it is consumer focused.

It is proposed to increase the scope of the Act to include public sector bodies.

Where possible, the headings of the consultation paper are set out in accordance with the provisions in the CPCG Act. Proposals are developed to facilitate the review of this complex piece of legislation. Comments are encouraged for the entire CPCG Act, and not just restricted to the matters raised in this consultation paper.

Please note: unless marked “Private and Confidential”, all correspondence and submissions will be regarded as public documents and may be made available on the Department’s website.

The review of the CPCG Act and the development of new legislation address Recommendation 1 of the *Western Australian Caravan and Camping Action Plan 2013-18* and are supported through the State Government’s Royalties for Regions program.

Recommendation 1 of the *Western Australian Caravan and Camping Action Plan 2013-18* is as follows:

*Review legislation and regulations, including the Western Australian Caravan Parks and Camping Grounds Act (1995) and Regulations (1997), to increase the supply of caravan parks and campgrounds to meet visitor demand and commercial market realities.*³

³ Recommendation No. 1. Tourism Western Australia, *Western Australian Caravan and Camping Action Plan 2013-18*.

Background

The CPCG Act came into effect on 1 July 1997 and there have been no substantial amendments to it since that time. It was over sixteen years in development and its focus was to provide for the regulation of caravanning and camping, to control and license caravan parks and camping grounds, and to provide standards in respect of caravans.

The CPCG Act delivers licensing, inspection and enforcement powers to local governments in order to administer the legislation. The main provisions of the CPCG Act are the process of application for a licence, duties of the licence holder, keeping a register of licences, right of inspection, and providing for the making of subsidiary legislation such as regulations and local laws.

The CPCG Regulations deal with matters under the CPCG Act that include: standards of design, construction of caravans and annexes, health and safety standards of services and amenities, vehicular traffic, forms and fees, type of licences and penalties.

There are approximately 400 caravan parks in Western Australia⁴, about half of the caravan parks only cater to long-stay tenants. According to the 2012 registration figures in Western Australia; there are 72,405 caravan and camper-trailer registrations and 8,127 campervans registrations. This represents 30 registrations for every 1,000 people which is understood to be the highest proportion in any Australian state.

The following table provides information on other relevant legislation and its application to a holiday park (caravan parks and camping grounds).

Table 1: Information on regulatory tools related to a holiday park

Holiday Park Key Aspect	Regulatory Tool
Land use, zoning issues, proportion of long-stay tenants and short-stay tenants in a holiday park	<i>Planning and Development Act 2005</i> , Planning Bulletin 49 and 71 Local Government Tourism Planning Strategies Local Government Town Planning Schemes Metropolitan Region Scheme

⁴ Economics and Industry Standing Committee, *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia*, Legislative Assembly of Western Australia, Perth, 15 October 2009, p. 17.

Holiday Park Key Aspect	Regulatory Tool
Building standards and building approval	<i>Building Act 2011</i> Building Code of Australia
Granting or renewal of licence, inspections, level of facilities	<i>Caravan Parks and Camping Grounds Act 1995</i> <i>Caravan Parks and Camping Regulations 1997</i>
Security of tenure and consumer protection in relation to buying and selling of park homes	<i>Residential Tenancies (Long-Stay Tenants) Act 2006</i>

Why change the act?

The CPCG Act and associated regulations are very prescriptive and have not had the flexibility needed to cope with changes to the market and consumer expectations. For example, many travellers now have fully self-contained recreational vehicles (RVs) that do not need the same facilities that are prescribed in the CPCG Act. This uniformity has stifled the ability of operators of facilities to respond to different market segments. Therefore, new legislation is necessary to address current deficiencies.

Research for the Consultation Paper

The Parliamentary Economics and Industry Standing Committee conducted a review of the industry in 2009, with its report 'Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia' tabled on 15 October 2009 (the EISC Report). On 25 May 2010, the government tabled its response to the EISC inquiry. These recommendations and government agency responses have been considered in the development of the proposals in this consultation paper.

Across Australia there is no consistent approach to the regulation of caravan parks and camping grounds. Research on the different States shows that only Western Australia, New South Wales and Victoria have specific legislation that deals with standards of holiday parks. These States also prescribe separate standards for park homes. One of the focuses of the CPCG Act is to provide for laws and regulations which would apply uniformly across the State. Other states such as Queensland, South Australia and Tasmania use local laws or planning laws to regulate holiday parks, leading to a wide range of standards and processes.

Objectives

One of the key functions of government is to minimise risks to the community (where they cannot otherwise be managed). It is intended that the new legislation be less prescriptive and focus on the management of health and safety risks in relation to caravan and camping facilities.

Principles

The four key principles that have guided the approach to the review and development of the new regulatory framework are:

- 1) Minimalist in its regulatory approach / to reduce the red tape while managing the risks associated with the operation of holiday parks.
- 2) Where appropriate, to allow for a sustainable market driven approach to product mix and park design.
- 3) To provide a flexible operating environment to meet the changing needs and expectations of holiday park users.
- 4) To promote consistency in approach to administration of the new regulatory framework.

Review Process and Timetable

It is recognised that many stakeholders including: consumers, industry, state government departments and local government have an interest in the caravan parks and camping grounds legislation. The review is being led by an Interagency Advisory Group assembled to facilitate the development of a new CPCG Act and to explore key policy issues.

Consultation Workshops

Consultation workshops were held as part of the development of this consultation paper to identify key issues with the current legislation and to develop key policy options for wider consultation. Government agencies and relevant stakeholder groups were invited to participate in the workshops.⁵

Five workshops were held in December 2013 to January 2014 on the following topics:

1. Regulation of Park Homes and Park Home Estates
2. Minimum Standards
3. Catering for the Different User Groups
4. Roadside Rest Areas
5. Role of Local Government and State Government as Operators.

Public Consultation Phases

There are two main public consultation phases for the development of the new Act. These are outlined below:

Phase One - CPCG Act Consultation Paper

The aim of this Consultation Paper is to obtain the views of the general public, operators, local government, industry stakeholders and government agencies on the effectiveness of the current CPCG Act and what the new legislation should look like. The Consultation Paper will be published for public comment for a period of three months.

⁵ A list of the organisations participating is contained in *Acknowledgements* of this Consultation Paper.

Phase Two – Proposed Drafting Instructions

Submissions received for this Consultation Paper will be analysed and positions developed to inform the drafting instructions for the new legislation. These will be published for further public comment for a period of three months.

As the *Caravan Parks and Camping Grounds Regulations 1997* (the CPCG Regulations) contain the fine detail that fill in the broad outline in the legislation, preliminary work on these will take place in parallel with the work on the new Act. It is intended that a consultation paper on the CPCG Regulations is released in association with Phase two of the Act development and consultation.

The timetable below provides an overview of the review process and intended timeframe for each stage of the process.

Table 2: Intended timeframe for the review process

Phase	Activity	Start	Finish
Preliminary	Workshops with key stakeholders held to discuss key topics for input into the CPCG Act Consultation Paper	December 2013	January 2014
Phase 1:	Drafting of the Consultation Paper	January 2014	April 2014
	CPCG Act Consultation Paper released for state-wide public comment	May 2014	September 2014
Phase 2:	Preparation of CPCG Regulations Consultation Paper	June 2014	September 2014
	Analysis of feedback received on the CPCG Act Consultation Paper , drafting of decision paper	September 2014	October 2014
	Preparation of Drafting Instructions	November 2014	January 2015
	Release of Regulation Consultation Paper for Statewide public comment	Dec 2014	April 2015

Phase	Activity	Start	Finish
	Release of Drafting Instructions for state-wide public comment	January 2015	April 2015
	Analysis of submissions received and drafting of the Bill	April 2015	August 2015

Scope of the New Legislation

1. Definitions

The Government accepts Recommendation 47 of the EISC Report which states:

*The Minister for Local Government ensures that the current legislative review of the CPCG Act and subsidiary legislation includes a review of the definitions used throughout the legislation, updating those necessary to reflect contemporary practice.*⁶

The following key definitions are proposed for the new legislation.

Table 3: Proposed definition in new legislation

Current term under the CPCG Act	Proposed definition in new legislation	Comment
None	<p>Licensing authority</p> <p>The licensing authority is the State if the Minister has decided that the State is to be the licensing authority.</p> <p>If the licensing authority is not the State, the licensing authority is the local government in whose district the proposed holiday park is, or is proposed to be, located.⁷</p>	<p>Where the facility is on Crown land or is operated by a government agency, the Minister will have the power to determine that the State Government is the licensing authority.</p> <p>The local government will continue to be the licensing authority in all other cases. See <i>8. Application of the Act to public sector body</i> for more information.</p>

⁶ Recommendation No. 47. Economics and Industry Standing Committee, *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia*, Legislative Assembly of Western Australia, Perth, 15 October 2009, p. 296.

⁷ This is modelled after the *Building Act 2011*.

Current term under the CPCG Act	Proposed definition in new legislation	Comment
Relates to the Land		
Caravan park	<p>Holiday park</p> <p>Holiday park means an area of land on which caravans, campervans and/or tents are situated for habitation primarily by short-stay occupiers. It may include ancillary accommodation depending on zoning and the licence conditions of the holiday park.</p>	<p>This definition is intended to describe mixed-use caravan parks as the term 'caravan park' does not reflect current practice that most caravan parks are mixed-use. Camping grounds will be a limited form of a holiday park.</p> <p>What buildings will be allowed in a holiday park is discussed under <i>5. Buildings allowed</i>.</p>
None	<p>Short-stay occupier</p> <p>Short-stay occupier means a person or one group of persons who occupies a holiday park for no longer than 3 months in any 12 month period.</p>	<p>This places the focus of the definition on the person and not the site as any site could qualify as a short-stay site.</p>
Short-stay site	<p>Short-stay site</p> <p>Short stay site means a site at a holiday park which is to be occupied by a short-stay occupier.</p>	<p>This places the focus of the definition on the person and not the site as any site could qualify as a short-stay site.</p>
Long-stay site	<p>Long-stay site</p> <p>Long-stay site means a site at a holiday park which can be occupied consecutively by the one person or one group of persons, for longer than 3 months in any 12 month period.</p>	<p>This distinguishes long-stay site from short-stay site.</p>

Current term under the CPG Act	Proposed definition in new legislation	Comment
Relates to Types of Accommodations		
Caravan	<p>Caravan</p> <p>Caravan means a trailer that is fitted or designed to be:</p> <ul style="list-style-type: none"> (a) Attached to and towed by a vehicle; (b) Used for habitation; and (c) Capable of being registered/licensed (within the meaning of the <i>Road Traffic Act 1974</i>) as a trailer. 	This will include camper trailers but exclude non-transportable homes and park homes.
Campervan	<p>Campervan</p> <p>Campervan means a vehicle designed to be used both as a vehicle and for habitation, capable of being registered/licensed (within the meaning of the <i>Road Traffic Act 1974</i>) as a motor vehicle.</p>	This definition will capture motorhomes and RVs but exclude transportable homes and park homes.
Park home	No definition of park home as it will be classified as a building under the BCA and the Building Act.	Transportable cabins/chalets and park homes will be treated in the same way – as buildings under the BCA.
Camp (noun)	<p>Tent</p> <p>Tent means any portable tent which, apart from any rigid support frame, has walls and a roof of canvas or other flexible material.</p>	<p>The noun 'camp' is proposed to be replaced by 'tent'. This will remove the dual use of the term 'camp' both as a noun and as a verb.</p> <p>This definition includes safari tents which are portable but not those on a rigid floor.</p>

Current term under the CPCG Act	Proposed definition in new legislation	Comment
		Any other type of tent that is not 'portable' and/or has a rigid floor will be required to be assessed under the Building Act.
Camp (verb)	<p>Camp (verb)</p> <p>Camp means to stay or lodge in a tent, or other transportable thing of any kind used or capable of being used for habitation, and includes a caravan, campervan or other vehicle.</p>	The new definition of the verb 'camp' will be similar to the definition in the <i>Conservation and Land Management Regulations 2002</i> .

Guidance Questions

Your comments and feedback are welcomed on all or part of this consultation paper. The following guidance questions have been created to assist you with your submission. It would be appreciated if they were referenced for ease of processing.

The guidance questions can also be found in our online Feedback Form at: www.dlgc.wa.gov.au/CPCG-Consultation-Paper.

Question 1: Are there any issues with the proposed definitions in *Table 3: Proposed definition in new legislation* of this consultation paper? Please explain.

Question 2: Are there other significant term that requires definition? If so, what is/are the term(s) and your proposed definition(s)?

Question 3: Can you identify any particular cost impacts or benefits that may result from the implementation of these proposed definitions? Please provide details.

2. Holiday parks

The uses of holiday parks vary and can be broadly categorised as follows:

- Holiday accommodation (short-stay)
- Workers accommodation (short-stay or long-stay)
- Residential accommodation (long-stay)
- Accommodation for people in transit (overnight or short-stay)
- Respite accommodation (short-stay)

Due to market demand and commercial viability, holiday parks have evolved to offer different types of accommodation products including cabins, chalets, caravans, park homes and tents. As stated in the EISC Report, ‘travellers appear to want fewer and more basic facilities, while holidaymakers may want more amenities to enhance their holiday experience at that park’.⁸ Therefore, a one-size-fits-all approach is no longer appropriate and the terms ‘caravan parks’ and ‘camping grounds’ may not be an accurate description of current facilities where they consist of various holiday accommodation types.

Different planning policies, zoning, building legislation and the complexity of the CPCG Act, have created confusion on the legality of the placement of certain types of accommodation in holiday parks. It is proposed that the out-dated terms ‘caravan parks and camping grounds’ are replaced with the more general term ‘holiday parks’. This will recognise the primacy of holiday use, the mix of different product types that exist on holiday parks and are required for commercial viability, whilst also allowing future accommodation types to be developed. The use of holiday accommodation, whether it is for short-stay or long-stay, will be a secondary consideration.

Residential Parks

Caravan parks have traditionally catered for tourists and holidaymakers. However, they are now recognised as providing a legitimate form of residential accommodation.⁹ It is recognised that the demand of the caravan industry is seasonal and ‘permanents’ or ‘long-stay tenants’ provide consistent income and out of season benefits for operators.

⁸ Economics and Industry Standing Committee, *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia*, Legislative Assembly of Western Australia, Perth, 15 October 2009, p. 48.

⁹ Finding No. 101. Economics and Industry Standing Committee, *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia*, Legislative Assembly of Western Australia, Perth, 15 October 2009, p. 250.

One of the unintended consequence with formally recognising long-stay residential accommodation in caravan parks is that it has allowed caravan parks to develop solely for long-stay residence, commonly known as ‘residential parks’, ‘lifestyle villages’ or ‘park home parks’. As quoted in the EISC Report, the Shire of Busselton described the development of ‘retirement park home facilities on sites intended for tourism use’ as an exploitation of a ‘loop hole in the Regulations’.

Residential parks that only cater to long-stay tenants should be assessed under a more appropriate regulatory framework similar to a typical residential development. The Interagency Advisory Group supported the Government’s response to the EISC Report that the CPCG Act is no longer an appropriate statutory basis for the lifestyle village form of residential development.

The issue of eligibility for rent assistance for residents of lifestyle villages/residential parks was raised in the consultation workshops. The Department has clarified with the Australian Government Department of Human Services that the classification of park homes as ‘buildings’ rather than ‘vehicles’ will not impact on an otherwise eligible resident’s receipt of Rent Assistance. The Rent Assistance is linked to the payment of rent for the land, not the park home’s classification under the CPCG Act.

Zoning

The use of the current CPCG Act to establish residential enclaves raises planning and development issues.¹⁰ Allowing long-stay residency on tourism zoned land goes against the intent of the zoning.

Although zoning and planning matters are not within the scope of the CPCG Act, it was still considered important to consider them in this review. It is believed that the mix of long and short-stay sites within caravan parks is best determined at a local level via a local government’s local tourism planning strategy.¹¹

The proportion of long-stay and short-stay occupants in a holiday park will be determined by the developer and local government on the basis of planning policies, market demand and operational viability. The management plan¹² can set out the mix of

¹⁰ Economics and Industry Standing Committee, *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia*, Legislative Assembly of Western Australia, Perth, 15 October 2009, p. 217.

¹¹ Finding No. 89 Economics and Industry Standing Committee, *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia*, Legislative Assembly of Western Australia, Perth, 15 October 2009, p. 222.

¹² For detailed discussion of Management Plans refer to 6.2 *Management Plan Model* of this consultation paper.

accommodation facilities in a holiday park. This is subject to approval by the licensing authority. If an operator decides to change the mix then a revised management plan will be required to be submitted.

It is proposed that the new legislation can contain a similar provision to improve clarity around the future development of holiday parks; that they have to comply with the *Planning and Development Act 2005*.

Proposal 1: The principal focus of the new legislation is on holiday parks and relevant holiday accommodation.

Proposal 2: Caravan parks and camping grounds are referred to as holiday parks in the new legislation.

Proposal 3: The new legislation no longer covers long-stay residential parks which will be treated like any other residential village.

Proposal 4: The development of holiday parks has to comply with the *Planning and Development Act 2005* and associated legislation.

Guidance Questions

Question 4: Do you support the change in terminology from 'caravan parks and camping grounds' to 'holiday parks'? If yes, why? If no, why?

Question 5: Should the new legislation contain a provision that before granting a licence for a holiday park, relevant provisions of planning legislation must be complied with? Please explain.

Question 6: What impacts will the distinction between long-stay residential parks and holiday parks have on users, developers and administrators?

Question 7: What are the impacts if long-stay residential parks are removed from the new legislation and treated as residential developments?

Question 8: Should there be a transitional clause to exclude long-stay residential parks from the new legislation? If so, what do you suggest as a transitional clause?

Question 9: Can you identify any particular cost impacts or benefits that may result from removing long-stay residential parks from the new legislation? Please provide details.

3. The objects of the new Act

The main purpose of the legislation is to ensure that minimum health and safety standards are met in holiday parks. It is proposed that the new objects reflect this.

Proposal 5: The following are the proposed objects of the new CPCG Act:

An Act to –

- (a) minimise the health and safety risks to the users of holiday parks;
 - (b) provide for the licensing and regulation of accommodation located in holiday parks;
- and for other related matters.

Guidance Question

Question 10: Are these proposed objects sufficient? Please explain.

4. Building standards

It is proposed that long-stay residential parks be treated as residential developments and will consequently fall outside the scope of the new legislation. However, there are circumstances where individual park homes and other accommodation buildings will be located on a holiday park.

One of the issues which arises from the use of the CPCG Act to provide for long-stay accommodation relates to building approvals and compliance.¹³ As a park home is defined as a vehicle under the current CPCG Act, building approvals are different for an identical park home type dwelling that is located on a caravan park facility compared to one that is on a piece of land outside a licensed facility. This causes confusion and potential inequities.

Under regulation 4 of the CPCG Regulations, a park home is a **caravan** in which a licence is not required under the *Road Traffic Act 1974*, because it could not be drawn by another vehicle on a road due to its size. Some park homes are the principal homes for the residents; hence the building, health and safety standards need to reflect this.

The EISC report states that the Committee supports the notion that all transportable buildings are treated the same and that buildings and vehicles should be clearly

¹³ Economics and Industry Standing Committee, *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia*, Legislative Assembly of Western Australia, Perth, 15 October 2009, p. 229.

differentiated. Buildings should be covered by building legislation with its associated standards, and vehicles should be regulated under a vehicle or other licensing regime.¹⁴ It was also raised in the consultation workshop that it is more appropriate to define 'park homes' as buildings (transportable) rather than caravans.

This will not mean that park homes are not allowed in holiday parks; rather it means that the certification process is recommended to be under different and more appropriate legislation. This is also consistent with how other permanent and transportable buildings (i.e. chalets and cabins) are certified and assessed under the Building Act in existing tourist facilities. The 'transportable' element of a park home will remain unchanged as the Building Act already deals with 'transportable buildings'.

The tables outlined in *Annexure A*, compare the building approval process for park homes and transportable chalets/cabins.

If park homes are certified under the Building Act, only the **certification process** is changed. There will be no changes to the building standards in relation to park homes as the same building standards under the BCA continue to apply. As mentioned in table 2 in *Annexure A*, the costs involved with the park home being certified under the Building Act will be the relevant cost of obtaining a building permit.

Proposal 6: Park homes are treated as buildings under the Building Act in the same way as other transportable buildings.

Proposal 7: Rigid annexes are treated as structures under the Building Act.

Guidance Question

Question 11: What are the likely impacts if the approval process of park homes and rigid annexes fall under the Building Act?

Question 12: Can you identify any particular cost impacts or benefits that may result from treating park homes as buildings and rigid annexes as structures under the Building Act? Please provide details.

¹⁴ Economics and Industry Standing Committee, *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia*, Legislative Assembly of Western Australia, Perth, 15 October 2009, p. 235.

5. Buildings allowed

It is important that holiday parks have the ability to cater to the needs of particular groups of visitors (market segments) and have a variety of accommodation types from buildings such as chalets and cabins to sites available for caravans, campervans and tents. Hence, it seems important that buildings continue to be allowed at the holiday park under the new legislation and be dealt with under Building and Planning legislation. The new legislation will continue to address the risk of the placement of buildings in relation to caravans, campervans and tents.

The local planning scheme and other local government planning instruments determine what accommodation types are allowed on holiday parks. If there are various accommodation types proposed by the operator, the developer and local government will determine what proportion will be licensed as a holiday park under this Act. This should be aligned with the local planning strategy or local tourism planning strategy and the market segment(s) that the operator is aiming to attract and form part of the management plan.

Any additional building or structure shall not be situated so that they prevent the mobility of a caravan and campervan, nor the removal of transportable buildings within 24 hours. This is because these vehicles do not provide the same level of protection as buildings, it is important for the safety of occupants that they can be readily relocated in an emergency. It is proposed that there is physical and visual separation of a facility into zones according to the accommodation type.

In order to prevent the development of permanent residential developments in a holiday park, it is proposed that any building and associated structure which a person other than a short-stay occupier resides must be transportable, apart from any manager's residence. Chalets and cabins which are not transportable will only be able to be occupied by short-stay occupiers.

Proposal 8: Land zoning, local government planning schemes and other planning instruments determine the type of accommodation allowed on a holiday park, with the mix of accommodation types forming part of the approved management plan.

Proposal 9: Any building and associated structure, apart from any manager's residence, which a long-stay occupier occupies, must be transportable.

Guidance Questions

Question 13: Should (residential) buildings be allowed to be constructed or placed on holiday parks? Why or why not?

Question 14: Do you support all forms of accommodation occupied by long-stay tenants being transportable? Why?

Question 15: Is a requirement that a transportable building or vehicle be able to be removed in 24 hours reasonable? Why or why not?

Question 16: What non-residential buildings should be allowed to be constructed – or required – on a holiday park and for what purposes?

Question 17: Can you identify any particular cost impacts or benefits from requiring all buildings and associated structures to be transportable (apart from any manager's residence)? Please provide details.

6. Licensing regime

The current CPCG Act stems from the *Health Act 1911* and is essentially designed to minimise the health and safety risks associated with caravan parks and camping grounds. The licensing regime is a regulatory tool to regulate and monitor these risks.

Under the CPCG Act, a person operating a caravan park or camping ground must have an appropriate licence.¹⁵ Public sector bodies are exempted from the CPCG Act. Local government facilities do not have to be licensed as the local government is the licensing authority. Local governments facilities do, however, have to comply with the other provisions of the CPCG Act, please see 7. *Licensing authority as operators* in this consultation paper.

6.1 Licence categories

Under Schedule 2 of the CPCG Regulations, there are currently six types of licences that can be granted. These licences are as follows:

- Caravan park licence
- Camping ground licence
- Caravan park and camping ground licence

¹⁵ Section 6 *Caravan Parks and Camping Grounds Act 1995* (WA).

- Park home park licence
- Transit park licence (stay of no longer than 3 consecutive nights)¹⁶
- Nature-based park licence (stay of no longer than 3 consecutive months)¹⁷.

Through consultation with relevant stakeholders, it appears that ‘caravan park licence’ is the most common type of licence issued. The six different types of licence under the CPCG Regulations should be simplified to reflect current practice where most holiday parks are mixed use and contain different types of accommodation. The simplification will allow a development application to be assessed on a case-by-case basis instead of trying to fit it in an existing category. This will in turn allow flexibility and ensure that health and safety risks involved in different types of developments are addressed accordingly. Different parts of the one facility may have distinct features that differentiate them from each other such as level of facilities, length of stay and accommodation types allowed.

Industry stakeholders and local government have also expressed confusion about the vague definition of ‘nature-based park’ and ‘transit park’. Under Schedule 8 of the CPCG Regulations, a nature-based park ‘means a facility where an occupier may stay no longer than 3 consecutive months’. Under the CPCG Regulations, local government has discretion to exempt nature-based park from providing certain amenities. A set of design guidelines for the development of nature-based parks focusing on planning and design has been developed.¹⁸ In addition, the draft Nature-based Parks Licensing Guidelines have been developed to assist operators and local government.¹⁹ The CPCG Regulations will be amended later this year in line with the Nature-based Parks Licensing Guidelines and feedback received on the Nature-based Parks questionnaire, as the current definition is vague and requires urgent amendment.

Proposal 10: The licensing categories are simplified to three categories: holiday park licence, transit park licence and nature-based park licence.

The permitted use of the caravan park land and proportion of long-stay sites and short-stay sites are determined through the planning and development approval and licensing process which is administered by the local government. Whilst land use, preservation of caravan parks and planning is outside the scope of the CPCG Act and new Act, it is

¹⁶ Schedule 8 *Caravan Parks and Camping Grounds Regulations 1997* (WA).

¹⁷ Ibid.

¹⁸ Resolve Global Pty Ltd on behalf of Department of Parks and Wildlife and Department of Local Government and Communities, ‘A Development Guide for Nature based Caravan Parks and Camping Grounds in Western Australia’, 20 December 2010.

¹⁹ Draft Nature-based Parks Licensing Guidelines can be found at www.dlg.wa.gov.au/Content/Legislation/UnderReview/CaravanCampingLegislation/CaravanCampingRegulations.aspx

important to examine ways to streamline the various approvals needed to develop a caravan park. The Department of Planning's *Planning Bulletin 49* provides guidance to local government in relation to planning (including zoning and development) of caravan parks.

Proposal 11: The licensing authority approves the ratio of long and short stay sites in a holiday park when approving the management plan for the holiday park.

Guidance Questions

Question 18: Should there be separate licence category for nature-based parks? Please provide reasons.

Question 19: Under what circumstances should a nature-based park licence be issued?

Question 20: Should there be a separate licence category for transit parks? Please provide reasons.

Question 21: Under what circumstances should a transit park licence be issued?

Question 22: In your opinion, is it reasonable that different parts of a holiday park which cater to different market segments have different levels of facilities and different conditions attached to them? Please explain.

6.2 Management Plan Model

It is proposed that the licensing regime focuses on a management plan prepared by the operator. This management plan will be an extension of the development application and approval. This new model is expected to be sustainable and able to readily meet changes in the market as it is consumer focused.

The management plan will form the main planning document for the operator and be the document a licensing authority uses to assess the application in order to license and regulate the park. It will be assessed on a case-by-case basis by the licensing authority while adhering to minimum health and safety standards under the new legislation. When approved, it will be the basis for the licence issued and conditions associated with that licence. This model is currently being proposed for the development of nature-based parks.²⁰

²⁰ Draft Nature-based Parks Licensing Guidelines can be found at www.dlgc.wa.gov.au

Some of the matters that the management plan will need to address include:

1. Market segment being targeted.
2. Infrastructure to be provided (in light of the market segment).
3. The number and type of sites proposed.
4. The buildings proposed.
5. The proposed maximum capacity of the facility.
6. If a full range of infrastructure is not to be provided, include an explanation of the impacts and how will this be managed.
7. Environmental impact and sustainability.
8. Waste management.
9. Traffic management.
10. Risk management.

If the operator wishes to make significant changes to the facility, a modified management plan will need to be submitted to the licensing authority for approval.

Proposal 12: The use of a management plan forms a model for licensing holiday parks.

Proposal 13: The new legislation provides minimum health and safety standards according to the types of facilities proposed in the management plan.

Guidance Questions

Question 23: How can the current licensing regime be improved?

Question 24: How can the planning approval and licensing approval process be streamlined? Please provide details.

Question 25: How can the requirements of the planning approval be more aligned with the requirements of the licence approval?

Question 26: What are the issues involved if the management plan model is used for the application for, and the basis of, a licence?

Question 27: Will the use of a management plan that is tailored to the market segment to be served by the holiday park result in a better outcome for users of that park? Please explain.

Question 28: Can you identify any particular cost impacts or benefits with the minimum health and safety standards being determined by the type of facilities in the proposed management plan? Please provide details.

Question 29: Can you identify any particular cost impacts or benefits resulting from a licensing regime based on a management plan model?

6.3 Duration of licence

Currently, the prescribed duration of a licence is **one year** from the day on which the licence is granted or renewed.²¹ A licence remains in force for one year unless it is provided otherwise in the licence or it is cancelled. Through the consultation workshops, it has been raised that a one year licence period is too short. The lack of certainty for operators can affect the economic viability of a facility.

It is proposed that there are longer licence periods and longer periods between inspections to reward operators that are meeting the approved management plan requirements. It was suggested through the workshops that the licence period be extended from one year to five years. Inspections will be conducted during the licence period, with their frequency determined by the results of the previous inspection and any substantiated complaints received. This will create less administrative burden on the operator and compliance demands on the licensing authority.

To add further certainty for the ongoing operation of the holiday park and to improve the renewal process, it is proposed that operators should apply for renewal of their licence at least three months before it expires. If the licence renewal is not processed by the licensing authority before the licence expires, there is to be a presumption that the licence will continue unless there have been breaches of the licence conditions or legislation in that licensing period.

The new Act will still provide for the cancellation of a licence if the operator is found to be in breach of the legislation and/or licence conditions – see 9. *Enforcement* of this consultation paper for more information on compliance.

Proposal 14: The licence period be extended to five years.

Proposal 15: Application is to be made for renewal of licence at least three months prior to the expiry of the licence. The licensing authority has three months to process the application and if no decision is made within the timeframe, there is a presumption that the licence has been renewed unless there is a breach of legislation or licence conditions within the current licence period.

²¹ Regulation 52 *Caravan Parks and Camping Grounds Regulations 1997* (WA).

Proposal 16: The licensing authority is to carry out an initial inspection within twelve months of:

- (a) the licence first being issued; or
- (b) any change in operator; or
- (c) any significant redevelopment of the facility.

Proposal 17: The timing of further general inspections will be determined by the results of previous inspections, with the frequency of no more than once a year and no less than once every three years.

Proposal 18: Additional inspections will be allowed in the following circumstances:

- (a) where a complaint has been received or the licensing authority has reason to believe that the conditions of the licence are not being met; or
- (b) to determine that the breach of legislation or licence conditions has been rectified.

Proposal 19: The licensing authority charges the operator of a facility an inspection fee, with the maximum fee prescribed in the new regulations.

Guidance Questions

Question 30: Is a five year licence reasonable? If not, how long should it be issued for? Why?

Question 31: Should there be a presumption of the extension of a licence if the licensing authority does not process the application within three months? Why or why not?

Question 32: If the licence period is extended to 5 years, assuming fees are calculated based on the types of sites, should licence fees be collected at the beginning of the licence period or annually? Please justify.

Question 33: Can you identify any particular cost impacts or benefits with allowing the licence period to be extended to five years? Please provide details.

Question 34: Is the proposed inspection regime outlined above reasonable and practicable? Why or why not?

Question 35: Do you have any alternative suggestions on how licence and inspection fees can be charged? Please provide details.

Question 36: Should there be a maximum length of time between inspections if the facilities have no compliance issues?

Question 37: Can you identify any particular cost impacts or benefits with extending the time period between inspections based on previous inspection results? Please provide details.

6.4 Renewal of licence

In accordance with the management plan model, it is proposed that a new management plan will not be required for application to renew a licence. The application for renewal will contain a number of questions including asking whether the facility is still compliant with the approved management plan and whether there have been changes to the existing facilities, redevelopment or change of ownership/management.

A revised management plan will, however, be required if the facility is redeveloped or expanded or if there are significant changes to the proposed type of use that is inconsistent with the management plan. This will form the basis for the issue of a new licence. Any licence fee that has been prepaid is to be credited against the new licence fee.

See 6.3 *Duration of Licence, Proposal 15*, it is proposed that an application for renewal of licence is to be made three months prior to its expiration. If the local government does not make a decision within the timeframe, there is a presumption that the licence has been renewed unless there is a breach of legislation or licence conditions within the current licence period.

Proposal 20: A new management plan is not required for application to renew a licence.

Proposal 21: A new licence will be required on the basis of an approved revised management plan if the facility is redeveloped or expanded or if there are significant changes to the proposed type of use.

Guidance Question

Question 38: When should a new or revised management plan need to be lodged with the licensing authority? Please explain.

Question 39: Can you identify any particular cost impacts or benefits with requiring a revised management plan if:

(1) the facility is redeveloped or expanded; or

(2) there are significant changes to the proposed type of use? Please provide details.

7. Licensing authority as operators

Under the current CPCG Act, the local government is the licensing authority for the operation of caravan parks and camping grounds. If the facility is operated by a local government in its district, a licence is not required – that is, the local government does not need to grant itself a licence.²² However, the local government's facilities still have to comply with all the requirements of the legislation that apply to other private operators.

One of the issues raised by industry stakeholders with a licensing authority operating its own facility is conflict of interest. The issue of cost recovery and competitive neutrality of licensing authority-operated facilities is, however, outside the scope of the CPCG Act and proposed new legislation.

Independent licensing authority

It has been suggested that an independent licensing authority take the current role of local government in licensing and regulating facilities.

The advantages given for this model include:

- Removing the issue of perceived conflict of interest.
- Ensuring that all licence approvals in the State are processed consistently.

Some disadvantages for this model include:

- Significant increased cost to the industry as the cost of the independent licensing authority will need to be fully met by licensees.
- Potential increased cost to the users of holiday parks as the industry will pass on the costs.
- High costs in operating a centralised licensing authority with the ability to inspect and regulate across our large State, including travel costs.
- In a more decentralised model, the difficulty in hiring an inspector in regional areas who is independent of local government.
- Likely increase in back logs and delays of licence approvals and inspections done around the State.

²² Section 15 *Caravan Parks and Camping Grounds Act 1995* (WA).

Guidance Questions

Question 40: Are there any other advantages and disadvantages in having an independent licensing authority?

Question 41: Do you support the model of having an independent licensing authority separate to the local government? Please provide your reasons.

Question 42: If you are a caravan park or camping ground operator, will the benefits of this model outweigh the costs? Please explain.

8. Application of the Act to public sector body

The current CPCG Act does not apply to caravan parks and camping grounds **operated** or **leased** to private operators by a public sector body.²³ The exemption of a 'public sector body' from the CPCG Act currently results in perceptions of different standards that apply to facilities on certain Crown land, private and local government facilities. These perceptions can and have created confusion as to whether the CPCG Act applies.

The proposal is that the new legislation applies to all facilities, including those owned, operated or leased by a public sector body. It is, however, inappropriate for a local government to be a licensing authority for a State/Federal agency. It is, therefore, proposed that where a public sector body has a regulatory regime in place with standards consistent with the new legislation, the Minister can declare that agency to be the licensing authority for the purpose of those facilities.

Proposal 22: All caravan parks and camping grounds in WA are subject to the same health and safety standards regardless of whether they are owned, operated or leased by a public sector body.

Proposal 23: The licensing and enforcement process for caravan parks and camping grounds operated by State agencies remain with the State where there is compliance with the new legislation.

²³ Section 3(1) *Caravan Parks and Camping Grounds Act 1995* (WA).

Guidance Questions

Question 43: What are the consequences if caravan parks and camping grounds operated by a public sector body are bound by the new legislation? Please provide specific examples.

Question 44: If the legislation binds a public sector body, how should the facilities be licensed and enforced?

Question 45: Should there be a difference in regulation between facilities operated by a public sector body and those leased by that agency to private operators? Please explain.

Question 46: Do you have any other comments on proposals 22 and 23?

Question 47: Can you identify any particular cost impacts or benefits of applying the same health and safety standards to all caravan parks and camping grounds in WA, regardless of whether they are operated by a public sector body or not? Please provide details.

9. Enforcement

Through inspections of the caravan park or camping ground, local governments currently have the following options to enforce the provisions of the CPCG Act—

Work specifications notice – A local government may give the licence holder a works specification notice specifying that work is required to be carried out to ensure compliance with the licence and the CPCG Act.²⁴ A maximum penalty of \$5000 can be imposed for not carrying out the work in the work specifications notice.

Prohibition notice –The local government may by notice in writing give to a licence holder a prohibition notice. The effect of the prohibition notice is that no new occupiers can be admitted to the facility or that no charges can be collected from existing occupiers when the prohibition notice is in force.²⁵

²⁴ Section 21(3) *Caravan Parks and Camping Grounds Act 1995* (WA).

²⁵ Section 11 *Caravan Parks and Camping Grounds Act 1995* (WA).

Cancellation of licence – A local government can cancel a licence on the following grounds under section 12 of the CPCG Act:

- the licence holder has been convicted of an offence which, in the opinion of the local government, renders the licence holder an unsuitable person to hold the licence;
- a condition imposed on the licence has been contravened; or
- the licence was obtained by fraud or misrepresentation.

Legal proceedings – The local government (licensing authority) can take legal action for an offence under the CPCG Act.

Infringement notices – An authorised person may give an infringement notice to an alleged offender if he/she believes that a person has committed a prescribed offence against the CPCG Act. The infringement notice has to be given within 21 days after the alleged offence is believed to have been committed.²⁶ The authorised person is appointed by the local government/licensing authority.

A person who is aggrieved by a decision of a local government on the above enforcement provisions in relation to licences, work specification notices and prohibitions notices may apply to the State Administrative Tribunal for a review of that decision.²⁷

A local government operated facility needs to comply with the same standards as prescribed in the CPCG Regulations even though a licence is not required to operate the facility. If the local government does not comply with the CPCG Act or Regulations, the Minister for Local Government may give directions to the local government to do so.²⁸ A local government which contravenes a direction under this section 16 of the CPCG Act commits an offence and is liable to a penalty of \$5000.²⁹

Proposal 24: The enforcement provisions in the current CPCG Act are retained in the new legislation.

Guidance Questions

Question 48: Are the enforcement options in the CPCG Act sufficient to ensure compliance with the Act? Please provide reasons.

²⁶ Section 23(2) *Caravan Parks and Camping Grounds Act 1995* (WA).

²⁷ Section 27 *Caravan Parks and Camping Grounds Act 1995* (WA).

²⁸ Section 16 *Caravan Parks and Camping Grounds Act 1995* (WA).

²⁹ Section 16(3) *Caravan Parks and Camping Grounds Act 1995* (WA).

Question 49: What are the difficulties and issues involved with the current enforcement provisions under the CPCG Act?

Question 50: What are your suggestions for improving the enforcement provisions of the CPCG Act?

Question 51: Is the Minister's direction sufficient to enforce the requirements of the CPCG Act on a local government? If not, please provide alternative suggestions.

Question 52: Can you identify any particular cost impacts or benefits in retaining the current enforcement provisions in the new legislation? Please provide details

10. Amount of penalties

The following table outlines the penalties for the offences under the CPCG Act.

Table 4: Penalties for offences under the CPCG Act

Description of offence	Maximum Penalty
Operating a facility without the appropriate licence (s6)	\$5000
Incorrect display of the prohibition notice (s10)	\$2000
Contravention of the prohibition notice (s11)	\$5000
Breaching the duties of the licence holder (s13)	\$2000
Incorrect display of the licence (s13)	\$1000
Local government contravening a direction by the Minister (s16)	\$5000
Obstructing an authorised person lawfully acting under the CPCG Act (s19)	\$5000
Contravention of the works specifications notice (s21)	\$5000
Continuing offences (s24)	\$500 for each day the offence is continued
Regulations made under the CPCG Act can provide for penalties not exceeding \$5000 and a further penalty not exceeding \$500 for each day the offence continues. Regulations can also prescribe modified penalties (fines) up to \$500. (s28) These apply on the issue of an infringement notice.	

Description of offence	Maximum Penalty
Local laws can provide for penalties not exceeding \$5000 and a further penalty not exceeding \$500 for each day the offence continues. (s29)	

Guidance Question

Question 53: Please provide your comments and suggestions on the quantum of penalties (allowable amount) for the offences under the CPCG Act. Please justify your reasons.

11. Regulations

The CPCG Act gives the Governor the power to make regulations prescribing all matters that are required or permitted by the CPCG Act, or are necessary or convenient to be prescribed, for giving effect to the purposes of the CPCG Act. Thus the Act provides a head of power for the making of regulations.

Details of the prescribed level of facilities are contained in the CPCG Regulations. This allows the prescribed level of facilities to be more readily amended to meet changes in the industry and in the market.

It is intended that the existing CPCG Regulations will be reviewed and redeveloped at a later stage in this legislative review process and public input will be sought. As a preliminary step in this process, input is being sought on what the minimum health and safety standards should cover.

Proposal 25: A regulation-making power will be included in the new legislation.

Guidance Question

Question 54: What do you think the minimum health and safety standards of holiday parks should be?

12. Other provisions

12.1 Duties of the licence holder

The CPCG Act specifically outlines the duties of licence holders³⁰. If the licence holder does not ensure that these requirements are met, the licence holder can be liable for a penalty of \$1000 to \$2000. The CPCG Act also provides that the CPCG Regulations can further prescribe the obligations of licence holders.³¹ The duties of the licence holders relate to the management of the facility, occupiers' access within the facility and the safe use and enjoyment of the facility.

The licence holder needs to ensure that the occupiers and the facility comply with the CPCG Act and Regulations. The following table outlines a number of the duties of the licence holder under the CPCG Act. Please indicate in the table whether the duty should be in the new legislation.

Table 5: Review of duties of licence holders

Duties of licence holders	Remain in new legislation?
Duty 1: The licence holder must ensure that a manager or other responsible persons resides in or near the facility and is accessible at all times in case of an emergency. At a caravan park, the manager or other responsible persons must be available at the office during normal office hours.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Duty 2: A register of occupiers is maintained.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Duty 3: Copies of relevant certificates in relation to park home approvals are kept at the facility with the register of occupiers.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Duty 4: Copies of the Act and any subsidiary legislation made under this Act, facility rules and any special conditions imposed on the licence are readily available for inspection by the occupiers of the facility.	<input type="checkbox"/> Yes <input type="checkbox"/> No

³⁰ Section 9 *Caravan Parks and Camping Grounds Act 1995* (WA).

³¹ Section 28(l) *Caravan Parks and Camping Grounds Act 1995* (WA).

Duties of licence holders	Remain in new legislation?
<p>Duty 5: Display the following in a prominent position at a camping ground or at the office of a caravan park:</p> <ul style="list-style-type: none"> • The licence issued and any special conditions imposed on the licence • A plan of the facility • A copy of the facility rules made by the licence holder • The name, address and telephone number of a person to be contacted in an emergency. 	<input type="checkbox"/> Yes <input type="checkbox"/> No

Guidance Question

Question 55: If you have indicated that one or more of the duties listed above should not be retained, please justify.

Question 56: Do you think there should be any additional duties? Please explain.

12.2 Registers

12.2.1 Register of occupiers (section 13)

Under section 13(1)(b) of the CPCG Act, the licence holder is to maintain a register of occupiers in the prescribed manner. Regulation 65 of the CPCG Regulations prescribes the manner in which this register is to be maintained.

Regulation 65. Register of occupiers

A register of occupiers under section 13(1)(b) of the Act is to be maintained in such a form that it is possible to readily ascertain –

- (a) the name and principal place of residence of an occupier for each site occupied;*
- (b) which site is occupied by a particular occupier, or group of occupiers;*
- (c) the dates on which an occupier, or group of occupiers, arrives at, and departs from, a site; and*
- (d) in respect of a caravan park, the number plate of –*
 - (i) the caravan;*
 - (ii) the vehicle towing, or which towed, the caravan, where possible; and*
 - (iii) another vehicle used by occupiers of the site, if it is not possible to identify the number plate referred to in subparagraph (ii).*

Guidance Questions

Question 57: Should a holiday park operator be required to maintain a register of occupiers? Why or why not?

Question 58: Do you think any changes need to be made to the prescribed manner of the register of occupiers? Please provide details.

12.2.2 Local government to keep register of licences (section 14)

Under section 14 of the CPCG Act, a local government is to keep a register of licences issued by it recording such details in respect of each licence as are prescribed under the CPCG Regulations.³² The local government is also required to keep a permanent record of a copy of each approval and certificate granted by it or sighted by it.³³ It is essential for local governments to collect this information as a regulator and licence authority.

The following are prescribed details to be recorded by the local government in respect of each licence granted:

- (a) the name and address of the facility
- (b) the name and address of each licence holder
- (c) the type of licence
- (d) the number and type of sites authorised to be used at the facility
- (e) whether or not the facility has an overflow area, and if so, the number and type of sites authorised to be used at the overflow area
- (f) the number of buildings on the facility that are used for occupation by persons
- (g) any conditions imposed on the licence.

Guidance Question

Question 59: What details in respect of each licence should be added or removed in the new legislation and why?

12.3 Caravan Parks and Camping Grounds Advisory Committee

The Caravan Parks and Camping Grounds Advisory Committee (the Advisory Committee) is established under the CPCG Act.³⁴ The functions of the Advisory

³² Regulation 66 *Caravan Parks and Camping Grounds Regulations 1997* (WA).

³³ Regulation 67 *Caravan Parks and Camping Grounds Regulations 1997* (WA).

³⁴ Section 25 *Caravan Parks and Camping Grounds Act 1995* (WA).

Committee include providing advice to the Minister, Department, public sector bodies, local governments and members of the public. The Advisory Committee's function is also to recommend to the Minister ways to improve, promote and regulate caravanning and camping throughout the State.³⁵

The Department of Premier and Cabinet has released a circular which outlines the State Government's policy in relation to Government Boards and Committees. The Department of Premier and Cabinet's Circular 2010/02 states the following:

*Ministers and agencies are encouraged to utilise interdepartmental working groups, drawing upon external advice and engaging in other forms of consultation that do not involve the establishment of a State Government Board or Committee and the payment of fees.*³⁶

Establishing a committee under legislation limits the number of stakeholders and stakeholder groups who are able to be involved in providing advice and making recommendations. When an issue arises, there may not be the expertise on the committee to address the matter. There are more effective, flexible and responsive ways of seeking stakeholder advice and tapping into their expertise on matters related to this industry sector.

Stakeholder issues-based workshops have been utilised very successfully during the development of this consultation paper allowing a wide range of interest groups to participate in providing views and advice on matters in which they have a particular interest.

Proposal 26: A Caravan Parks and Camping Grounds Advisory Committee be replaced by pro-active consultation with relevant stakeholders.

Guidance Question

Question 60: Do you support the proposed approach to consultation? Please provide reasons.

Question 61a: What alternative means exist of providing advice and making recommendations? What are the advantages and disadvantages of each of these?

³⁵ Section 25(2) *Caravan Parks and Camping Grounds Act 1995* (WA).

³⁶ Department of Premier and Cabinet, '2010/02 Circular State Government Boards and Committees', 26 July 2010. Available at <http://www.dpc.wa.gov.au/GuidelinesAndPolicies/PremiersCirculars/Pages/201002StateGovernmentBoardsandCommittees.aspx>

12.4 Local laws

The current CPCG Act gives a local government power to make local laws for its district under the *Local Government Act 1995* for any purpose set out in sections 28(2)(a)-(f).

Sections 28(2)(a)-(f) are:

- (a) regulate caravan parks and camping grounds and caravanning and camping generally throughout the State;*
- (b) provide for standards of design, construction, installation and maintenance of caravans and annexes;*
- (c) provide health and safety standards and standards for services and amenities for facilities;*
- (d) regulate pedestrian and vehicular traffic;*
- (e) provide that signs may be displayed, erected or marked for the purpose of any regulation;*
- (f) provide that the licence holder of a facility may give reasonable directions to any person in the facility regarding any motor vehicle or animal that the person has apparent control over and require that person obey such directions.*

Local laws made under the previous Act were repealed in 1998. It is understood that no local government has current local laws made under this provision.

Guidance Question

Question 61b: Is a local law making power necessary? If so, what matters should be dealt with in local laws? Please explain.

12.5 Discretion to grant exemption

Under the CPCG Act, the Minister may vary, modify or grant exemptions from the CPCG Regulations upon application from a licence holder as long as the Minister is satisfied that the exemption will not be detrimental to the public interest.³⁷ The local government, as a licensing authority under the CPCG Act, also has power to grant certain exemptions under the CPCG Regulations in relation to transit parks and nature-based parks.

As discussed in 6. *Licensing regime* of this consultation paper, the proposed use of a management plan will enable the level of facilities required in a holiday park to be

³⁷ Section 31 *Caravan Parks and Camping Grounds Act 1995* (WA)

determined on a case-by-case basis, subject to compliance with the relevant minimum standards. This will allow flexibility and the tailoring of a facility to the user group.

Proposal 27: Any exemptions under the new legislation will only be able to be granted by the Minister responsible for the legislation.

Guidance Question

Question 62: Under what circumstances should an exemption from the legislation be considered?

Question 63: Can you identify any particular cost impacts or benefits by only allowing the Minister responsible for the legislation to grant exemptions? Please provide details

12.6 Transitional provision relating to existing caravan parks and camping grounds

One of the key principles of the new legislation is to ensure a flexible operating environment to respond to visitor demand and changes in the sector whilst managing risks associated with holiday parks. In order to achieve this, it is intended that the level of facilities required in holiday parks are less prescriptive while maintaining minimum health and safety standards.

It is proposed that existing caravan parks and camping grounds that comply with the current CPCG Act will not be required to upgrade or change their facilities under the new legislation unless the facility is substantially redeveloped³⁸. This also applies to caravans, park homes and annexes on existing caravan parks.

Any operators of existing caravan parks and camping grounds that wish to comply with the new legislation can elect to do so - this can be done through applying for a new licence or making amendments to their existing licence through the preparation of a management plan.

Any new construction of park homes, buildings and rigid annexes will be required to comply with the Building Act.

Proposal 28: No significant burden is imposed on existing facilities through the introduction of the new legislation.

³⁸ A substantial redevelopment would be one that requires the approval of the local government or other statutory authority under other legislation.

Proposal 29: The new legislation will apply to all facilities but Ministerial exemption can be obtained for existing facilities.

Guidance Questions

Question 64: When should existing caravan parks and camping grounds be required to provide a management plan under the new legislation? Why?

Question 65: What impact will there be if existing caravan parks and camping grounds are required to prepare a management plan at the time of licence renewal?

Question 66: Is it reasonable for all existing licensed facilities to be exempted from any additional requirements in the new legislation? Why or why not? Which requirements?

Question 67: Can you identify any particular cost impacts or benefits on requiring an existing facility to provide a management plan under the new legislation? Please provide details.

12.7 Licensing of caravans

Under the *Road Traffic Act 1974* a caravan or recreational vehicle parked or driven in a caravan park does not require a vehicle licence. A vehicle licence is only required where it is used and/or parked on the road.³⁹ The *Road Traffic (Vehicle Standards) Regulations 2002* generally only apply to a caravan that is going to be driven or parked on a road.

The CPCG Regulations require that caravans remain mobile as follows:

- (1) *The owner of a caravan is to ensure that the caravan has wheels attached to it, or in the case of a park home assembled from components, each component of the park home has wheels attached to it, and is maintained in such a condition that it is able to be moved under its own power or by being towed, within 24 hours of –*
- (a) any services attached to it being disconnected; and*
 - (b) in the case of a park home assembled from components, it being split into components.*

³⁹ Section 15 *Road Traffic Act 1974* (WA).

(2) A person is not to interfere with a caravan so as to render it unable to be moved, under its own power or by being towed. Penalty: \$2000.⁴⁰

Therefore, it is arguable that an unlicensed caravan is inconsistent with the intention of the mobility requirements of the CPCG Regulations as it cannot go on the road without the licence.

Under the *Road Traffic (Charges and Fees) Regulations 2006*, the main fees and charges in relation to caravan and campervan are outlined below.

The licensing fee for a campervan is approximately \$105 per annum with an additional motor vehicle third party insurance policy cost. The licensing fee for a moderate 3.2 metre caravan is approximately \$106 per annum which includes the motor vehicle third party insurance policy cost.

There is 50 per cent concession for the vehicle licence charge for vehicles owned by a pensioner, including the campervan licence fees.⁴¹

Proposal 30: That all caravans and campervans in holiday parks are licensed at all times.

Guidance Questions

Question 68: Do you agree that all caravans and campervans in holiday parks must be licensed at all times so they can be driven on the road when required? Why or why not?

Question 69: What are the impacts, including financial costs, if caravans and campervans in holiday parks are required to be licensed at all times?

12.8 Overflow facilities

Under Schedule 8 of the CPCG Regulations –

overflow area means an area of a facility specified as an overflow area in the licence for the facility

The definition of overflow area is vague and the CPCG Act does not prescribe circumstances when an overflow area can be established. However, most local

⁴⁰ Regulation 15 *Caravan Parks and Camping Grounds Regulations 1997* (WA).

⁴¹ Regulations 18 and 19 *Road Traffic (Charges and Fees) Regulations 2006* (WA).

government only establish or license overflow facilities during peak visitor periods where existing caravan parks and camping grounds are at capacity.

Local government has adopted flexible approaches to overflow which include existing caravan and camping ground facilities being licensed for overflow sites, licensing of community and recreational organisations to provide overflow, and local government providing and managing its own overflow facility. Overflow areas are increasingly being used to accommodate larger self-contained recreational vehicles that have trouble finding a suitable size site in a traditional facility and do not need the facilities provided by caravan parks.

The CPCG Act and regulations are silent on the health and safety requirements of overflow areas, although the local government can impose conditions on the licence in relation to overflow areas and the period of time where an overflow area is open for use.⁴² Conditions may relate to waste management, pets, fire and hanging of laundry.

The current CPCG Act only applies to overflow areas that are in a licensed facility (caravan park or camping ground). Therefore, the current CPCG Act does not apply to overflow areas that are not in a licensed facility such as school halls or sports halls.

Matters which impact on the ability to legislate for overflow areas include high level of flexibility involved in the operation of such facilities, variation in the need for overflow facilities, and the provision of these facilities across the State. In these circumstances a policy framework may be a more workable solution and is being addressed through Recommendation 7 of the 'WA Caravan and Camping Action Plan 2013- 2018'.⁴³

Proposal 31: The new legislation prescribes minimum health and safety standards for overflow areas regardless of whether they are part of a holiday park or not.

Proposal 32: The determination of whether there is a tourist demand for the establishment of an overflow area and how this should operate is determined at a policy level.

Guidance Questions

Question 70: What are some of the issues with the planning, provision and management of overflow areas? Should these be dealt with in legislation or through policy? Why?

⁴² Regulations 20 *Caravan Parks and Camping Grounds Regulations 1997* (WA).

⁴³ Recommendation No. 7. Tourism Western Australia, *Western Australian Caravan and Camping Action Plan 2013-18*.

Question 71: What do you think the new definition of ‘overflow areas’ should be?

Question 72: What should the minimum health and safety standards be for overflow facilities?

Question 73: Should the new legislation prescribe health and safety standards for all overflow areas regardless of whether they are in a community building (such as schools hall or sports hall) or part of a holiday park?

Question 74: Can you identify any particular cost impacts or benefits by prescribing minimum standards for overflow facilities in the new legislation? Please provide details

12.9 Stopping on the road

The definition of **road side rest area** is:

an area designated by a traffic sign erected in accordance with a written law, as an area which may be used for 24 hours for –

- (a) resting;*
- (b) stopping; or*
- (c) camping,*

*in a vehicle.*⁴⁴

Under regulation 11 of the CPCG Regulations, a person may camp for up to 24 consecutive hours in a caravan or other vehicle on a road side rest area or on a road reserve in an emergency. The definition of ‘camp’ when used as a verb ‘includes to camp in a vehicle’.⁴⁵ Local government often find it difficult to determine if someone is ‘camping’ for more than 24 consecutive hours or stopping due to fatigue.

Main Roads WA provides road side rest areas and manages the facilities associated with road side rest areas. Main Roads WA’s policy is to provide safe rest areas for people to pull over from the road in order to manage fatigue; it is not intended to replicate more extensive caravanning and camping services where these are better provided by other facilities.⁴⁶ The use of the term ‘camping’ in the definition of road side

⁴⁴ Regulation 11(3) *Caravan Parks and Camping Grounds Regulations 1997* (WA).

⁴⁵ Regulation 8A *Caravan Parks and Camping Grounds Regulations 1997* (WA).

⁴⁶ Economics and Industry Standing Committee, *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia*, Legislative Assembly of Western Australia, Perth, 15 October 2009, p319.

rest areas appear to be inconsistent with Main Road WA's policy wherein they are only intended for 'stopping'.

Through the consultation workshops, it was agreed unanimously that 'camping' be removed as an allowable use of road side rest areas and road reserves. This will be consistent with the intent of the use of road side rest areas or road reserves which is to allow people to park and rest for fatigue management or emergency purposes. This will provide clarification that road side rest areas are for parking for fatigue management purposes for up to 24 hours and avoid the use of the vague definition of 'camp'. It is proposed that the management of the road side rest areas or road reserves be under relevant road related legislation instead of the CPCG Act.

The level of facilities at road side rest areas is covered by the Main Roads WA Standards and is outside the scope of the CPCG Act. The Department is aware that Main Roads WA has received funding to upgrade some of the road side rest areas.⁴⁷

Proposal 33: Road side rest areas are dealt with under existing road and parking legislation rather than the new holiday park legislation.

Proposal 34: Parking/stopping is still allowed at road side rest areas for fatigue management for up to 24 hours.

Guidance Questions

Question 75: If the regulation of parking at road side rest areas and road reserve comes solely under parking related legislation, what are the impacts on users, enforcement agencies and Main Roads WA?

Question 76: Should there be a requirement for users of road side rest areas and road reserves to stay in a vehicle if they are parking there overnight for up to 24 hours? Please explain. How are motorcyclists and cyclists to be catered for?

Question 77: What are the health and safety risks involved with using road side rest areas and road reserves and how can they be resolved?

Question 78: Can you identify any particular cost impacts or benefits by dealing with road side rest areas outside the new legislation? Please provide details. (Note: the use of road side rest areas for the purpose of fatigue management will remain.)

⁴⁷ Tourism WA, Western Australian Caravan and Camping Action Plan 2013-2018, Perth, 6 April 2013 p.6.

Annexure A

Table 6: Regulatory framework for building approval of different structures

Type of structure	Classification under BCA ⁴⁸	Complies with BCA?	Existing regulation of building approval process	Proposed regulation of building approval process
Chalets/ cabins	Class 1b or 3	Yes	<i>Building Act 2011</i>	<i>Building Act 2011</i>
Park Home	Class 1a or 1b	Yes	<i>Caravan Parks and Camping Grounds Act 1995</i>	<i>Building Act 2011</i>
Rigid Annexe	Class 10a, 1a or 1b	Yes	<i>Caravan Parks and Camping Grounds Act 1995</i>	<i>Building Act 2011</i>
Non-rigid Annexe	NA	No	NA	NA
Pergola/ Carport	Class 10a or same classification of the structure it is attached to	Yes	<i>Building Act 2011</i>	<i>Building Act 2011</i>
Caravans	NA	No	<i>Licensed under the Road Traffic Act 1974</i>	<i>Licensed under the Road Traffic Act 1974</i>

⁴⁸ Building Code of Australia

Table 7: Existing building approval process and licensing for park home and chalets/cabins which are transportable.

Key Aspect	Transportable Chalets/Cabins	Park Homes
Applicable legislation	<i>Building Act 2011</i>	<i>Caravan Parks and Camping Grounds Act 1995</i>
Application to BCA	Yes	Yes
Classification	Class 1b or 3	Class 1a or 1b
Building approval process	<p><i>Building Act 2011</i></p> <ul style="list-style-type: none"> Requires a building permit under the <i>Building Act 2011</i>. Registered building surveyor (private or local government) assesses plans and issues a Certificate of Design Compliance. If the application conforms to the <i>Building Act 2011</i>, the building permit is issued by the local government. Construction commences and there may be inspections during construction if required. Once construction is complete, a Notice of Completion is given to the local government within 7 days of end of construction. 	<p><i>Caravan Parks and Camping Grounds Act 1995</i></p> <ul style="list-style-type: none"> Design park home. Engage a registered builder to build or supervise the building of a park home. Construction occurs. The registered builder issues a signed and dated certificate stating that the park home complies with the BCA and other requirements. Professional engineer assesses park home. The professional engineer issues a certificate stating that the park home is structurally sound if assembled according to the instructions and that the design of the axle, wheels and chassis will support the weight of the building.

Key Aspect	Transportable Chalets/Cabins	Park Homes
	<p>If it is Class 3, an occupancy permit is required.</p> <p>See Building Commission website for more information at http://www.buildingcommission.wa.gov.au</p>	<ul style="list-style-type: none"> • These documents are provided to the local government. • Local government is to classify the building under the BCA. • Obtain approval from the local government to bring it onto a caravan park. • Provide these documents to the caravan park licensee to seek approval to place the park home on the facility.
Local government role	<p>Local government –</p> <ul style="list-style-type: none"> • Prior to issuing the building permit, the local government or private building surveyor assesses the plan and signs certificate of design compliance. • Local government will check that the application for building permit conforms to the <i>Building Act 2011</i>. • Issues the building permit. • Local government may inspect during the construction if required. • Issues Occupancy Permit if required, on notification of completion. 	<p>Local government –</p> <ul style="list-style-type: none"> • Classifies the park home under the BCA. • Sights and copies the certificates by a registered builder and professional engineer. • Gives approval for the park home to be brought onto the caravan park. • Issues notification of approval.

Key Aspect	Transportable Chalets/Cabins	Park Homes
Who is the applicant?	The applicant can be anyone, most likely the builder or owner.	<p>The applicant is the person who wishes to place the park home in the caravan park. The applicant can be the resident, operator or developer.</p> <p>The builder of the park home is responsible for providing the required certificates to the purchaser.</p>
Main assessing officer to ensure building standards are complied with	Registered building surveyor	Registered builder and professional engineer
Fees involved	<p>Approximately \$90 for building permit and \$90 for building approval certificate.⁴⁹</p> <p>Cost of a registered building surveyor.</p>	<p>Fee to cover the administrative cost of the local government processing the application to approve the park home.</p> <p>Cost of a registered builder for the certificate and cost of a professional engineer for the relevant certificates.</p>

⁴⁹ Note that these fees are to cover the administrative cost of the permit authority issuing the building permit and/or building approval certificate. The minimum fee for a building permit is \$90 but may be higher dependent on the value of the building.

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Caravan Industry Association of WA
Environmental Health Association Australia
Park Home Owners Association
Seniors Ministerial Advisory Council
The Campervan and Motorhome Club of Australia
WA Association of Caravan Clubs
WA Recreational Campers Organisation

Other

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National Lifestyle Villages

'Consultation Paper - Proposal for Caravan Parks and Camping Grounds Legislation' is available for viewing and download from the Department of Local Government and Communities website: www.dlqc.wa.gov.au/CPCG-Consultation-Paper

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