



Government of **Western Australia**
Department of **Local Government**

Your Ref: EISC/CCI
Our Ref: 326-98#17

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Dr M D Nahan, MLA
Chair
Economics and Industry Standing Committee
Parliament House
PERTH WA 6000



Dear Dr Nahan

INQUIRY INTO THE PROVISION, USE AND REGULATION OF CARAVAN PARKS (AND CAMPING GROUNDS) IN WESTERN AUSTRALIA

Thank you for your letter of 6 July 2009 requesting the following information:

1. Drafting instructions relating to the Department's proposed amendments to the *Caravan Parks and Camping Grounds Act 1995*;
2. Response from Parliamentary Counsel to the Department's drafting instructions; and
3. Copies of the responses received to date to the Department's survey of 'Caravanning and Camping Facilities within Local Government Districts'.

I have attached information which addresses items 1 and 3 above. In relation to item 2, I am advised that there has been no formal response from Parliamentary Counsel to the Department's drafting instructions to date.

Yours sincerely

Jennifer Mathews
DIRECTOR GENERAL

9 July 2009.

Review of *Caravan Parks and Camping Grounds Act 1995*

Amendments to the Caravan Parks and Camping Grounds Act 1995 arising from legislative review process.

Repeal of subsection 10 (3) to remove requirement to forward prohibition notices to the Department of Local Government and Regional Development

Section 10(3) of the Act presently requires that a local government forward a copy of any prohibition notice it issues to a license holder to the Director General of the Department of Local Government and Regional Development. This requirement is considered redundant as a person to whom a notice is served has a right of appeal to the State Administrative Tribunal and not the Department.

Include a new requirement for inspection reports carried out on local government operated facilities to be endorsed at a local government council meeting

To enhance transparency and accountability it is proposed that section 21 of the Act be amended so that where a local government operates its own facility, the annual inspection report, including all other relevant information such as work notices relating to its facility, is to be submitted to a full meeting of that local government's council for review and endorsement.

The amendment is to also ensure that Council is not able to delegate this function to the Chief Executive Officer and, furthermore, the inspection report and other documentation tabled for endorsement are to be available for inspection by members of the public.

Allow for classes of persons to be appointed as authorised persons

Section 17 provides local government with the power to authorise persons for the purpose of entry and various enforcement functions with respect to caravans and camping grounds. At present, this section does not provide for the authorisation of *classes* of local government employees to carry out particular enforcement functions.

Consistent with standard practices in other legislation administered by local government, it is recommended that section 17 be amended to provide for the authorisation of different classes of persons.

Clarify that authorised persons have the power to enter private land

Section 18(b) of the Act currently provides power for a person authorised under the Act to enter and inspect any caravan or camp, where that caravan or camp is not within a licensed facility. At present, the Act is silent on whether they can enter the *land* for the purpose of entering and inspecting the caravan or camp situated on that land.

To ensure the Act can be properly enforced, it is considered appropriate to amend section 18 to provide for an authorised person to enter and inspect any caravan or camp which is not in a facility to have the legal authority to *enter any lands* to undertake such an inspection.

Increase the penalty for obstructing an authorised person to \$10,000

At present, section 19 provides a maximum penalty for the obstruction of an authorised person by another person when carrying out their duties under the Act of \$5,000. The State Solicitor's Office has advised that the current maximum penalty is low when compared to other Western Australian legislation, and it is proposed that it be increased to \$10,000.

Provide for the modified penalty for a breach of section 13 (duties of the licence holder) to be increased to \$200

The modified penalties currently prescribed for breaches of provisions in the legislation are \$200 except for breaches of section 13 which is set at \$50.

Section 13 provides that the licence holder is responsible for undertaking the duties as prescribed by this section. It is considered that the current modified penalty of \$50 is too low and is to be increased to \$200. This will ensure consistency with the other modified penalties currently imposed for offences against the Act.

Provide the power for the date of birth of an offender to be recorded on an infringement notice

The date of birth of a person alleged to have breached the Act is necessary for the Fines Enforcement Registry to be able to take steps to recover any outstanding modified penalties.

To overcome this, it is proposed that a person authorised to issue an infringement notice be given the power to require an alleged offender to give his or her date of birth.

Amend the definition of 'camp' and 'camping'

Both the Act and Regulations are effectively silent on the meaning of 'camp' when used as a verb. The lack of a workable definition has contributed to enforcement related difficulties for local governments that have encountered issues relating to illegal camping.

To resolve this, section 5(1) of the Act is to be amended to include the following definition: '*The act of camping is to **occupy** a camp, caravan or vehicle*'.

Further detail may also be required on what constitutes occupation. This will either be included in section 5(1) or prescribed in Regulations following consultation with Parliamentary Counsel.

Provide power for a local government council to delegate its powers under the Act to its CEO

Generally, issues relating to the management and administration of caravan parks and camping grounds facilities arise on a daily basis and, in some cases, require urgent attention and resolution. It is considered impractical to refer decisions and other matters of an administrative or procedural nature to the local government council for decision.

As such, it is proposed that the Act be amended to include a new provision that will provide the ability for a local government council to delegate its powers under the Act to its Chief Executive Officer.

Provide power for the Minister to delegate his or her powers under the Act to the Director General of the Department of Local Government and Regional Development

To improve administrative efficiency, it is proposed that the Act be amended to include a new provision to enable the Minister to delegate his or her powers under the Act to the Director General of the Department of Local Government and Regional Development.

Removal of the exemption of the State Government from provisions of the Act

The present exemption of State Government agencies and lessees of Crown land that operate caravan parks and camping grounds from complying with licensing and standards requirements has been determined as anti-competitive and should be removed. In addition, the licensing function should be undertaken by an independent body and not local government.

As such, section 3 (1) of the Act will require rewording to remove the current exemption provided to State Government agencies and lessees of Crown land, and to also indicate that the licensing body for such facilities is to be prescribed in the Regulations. This amendment will not take effect until nature based park standards have been established.

Removal of restriction to establish a transit park or a nature based park if there is a licensed caravan park or camping ground within 50 kilometres

Regulation 49 prevents transit camps and nature based parks from being established within 50km of a licensed caravan park or camping ground. This provision is overly restrictive and should be removed.

As such, regulation 49 is to be deleted.