



Submission to the Review of the Residential Tenancies Act Consultation Paper – *Laying the Groundwork*

1. Introduction

The Victorian Caravan Parks Association Inc. (VicParks) thanks Consumer Affairs Victoria for the opportunity to participate in the Review process and specifically to comment on some of the matters raised in the Consultation Paper circulated in June 2015.

We appreciated the opportunity to meet with the Review team in July to identify some current and emerging issues for the caravan park industry in relation to the provision of long-term residential accommodation in caravan parks, and look forward to working further with the team to further explore these issues.

At this meeting it was suggested that the initial response from VicParks to the Consultation Paper should take the form of an abbreviated list of issues that would set the agenda for further discussions with us as the Review process gets underway and the subsequent Issues Papers are developed by the Review team. In line with this recommendation, this submission will list issues for consideration, and look forward to further consultation with the Review team to consider options to resolve these issues.

2. Industry Overview

The Victorian Caravan Parks Association Inc. (VicParks) is the peak industry body for owners, managers and lessees of caravan parks in Victoria. Its members are predominantly regionally based, and the industry forms an important component in the supply of both regional tourism and regional residential accommodation.

The caravan park industry provides economic benefits and employment to regional towns and cities across the state; current state and federal government research indicates that there is significant opportunity for increased tourism visitation, and a subsequent increase in regional economic growth and employment as a result.

VicParks members employ more than 2500 staff in regional locations. The Victorian caravan park industry is estimated to contribute more than \$475 million annually to the Victorian state economy.

The Strategic Plan of the Victoria Caravan Parks Association that was developed in 2013 identified that caravan parks hold more than 54% of all accommodation capacity in Victoria. However, there is an average vacancy rate of about 49-52% across the entire year, for all but the peak summer weeks

in late December-January during the summer school holidays. There is certainly capacity for caravan parks to offer increased levels of full-time residential accommodation

However, the impact of any proposed increase in the existing levels of regulation of the supply of residential accommodation in caravan parks could impact future supply, as the option for a higher return from tourist accommodation becomes more economically attractive and less burdensome to park owners and lessees.

3. Types of Caravan Parks

There are a number of operating models for the conduct of a commercial caravan park that offers residential accommodation

DESCRIPTION	CUSTOMER BASE	COMMENTS
Part 4A Residential Park	Solely for Part 4A Site Tenants who own their own dwelling and enter into a site agreement to rent the site on which their home is occupied.	This is a growing segment of the market where it provides affordable housing in a gated community with facilities for use by the homeowners.
“Hybrid” Caravan Park – Both Part 4A and Part 4	Mixed customer base, comprising a mix of tourists on short-stay visits, Part 4 Residents who rent their dwelling from the park owner, and Part 4A Site Tenants	We are also starting to see some hybrid parks starting to regenerate through improving the quality of the homes in the parks as well as improving their facilities.
Tourist Parks	A park that is purely focused on providing accommodation for tourists in either the park’s own cabins, on annuals’ sites or on caravan or camping sites.	Many of these parks have less than 100 sites and purely rely on the tourist market.

4. Issues for Consideration

We would appreciate the opportunity as discussed at our meeting earlier this month to meet with the Review team to consider the following issues that we believe should be addressed within the Review:

(i) Dedicated Act

We would like to explore further the opportunity to move the legislation to a dedicated Act covering caravan parks.

(ii) Governing the rights and responsibilities of caravan park operators and annuals

The opportunity to include in the legislation a description of the governing the rights and responsibilities of caravan park operators and annuals – see separate synopsis of NSW legislation **Attachment 1**

(iii) Definition of resident

The definition of **resident** in Section 3 is problematic. It is difficult for the park owner to know with certainty whether a person is living in the park as his or her only or main place of residence.

We suggest that paragraph (b) (ii) of the definition should require continuous occupation for 120 days and a **written agreement** between the occupant and the park owner that the person will become a resident.

(iv) Definition of caravan

The definition of **caravan** in Section 3 includes a reference to an immovable dwelling situated in a caravan park – this is confusing and should be addressed.

(v) Definition of movable dwelling

The definition of **movable dwelling** in Section 3 included a request for a 24 hour test which we believe is artificial – and we suggest that this requires attention.

(vi) Definition of caravan park

The definition of **caravan park** in Section 3 needs attention to better define what is a caravan park and therefore the need to comply with the Act and the regulations. At the moment free camping areas set up by councils are excluded from this definition.

(vii) Section 206I

The 20 day consideration period is impractical. It often prevents people who are seeking urgent accommodation from accessing it quickly. We believe it is unduly onerous, particularly when coupled with section 206J which allows a cooling off period of 5 business days.

(viii) Section 206S

We suggest that this section be amended to codify deferred management fees, and that the site agreements include details of any DMF payable, when it is to be paid and how it is to be calculated.

(ix) Section 206

A distinction is required between a proposed rent increase that the park operator wishes to impose, and an agreed rent increase that the parties have jointly agreed to in the written agreement between the at the time of signing. In the latter case, the notice of increase ought not to contain the statement required by Section 206V (3).

These comments also apply to Section 152 although it is acknowledged that it is less likely to arise as an issue under Part 4.

(x) Division 4 of Part 4 and Part 4A

We suggest that the clauses concerning the residents and caravan park owners' respective liabilities for gas, water, electricity, drainage and sewerage be updated to better reflect how these services are charged today. In particular the billing method for sewerage and drainage is not reflected in the drafting on the relevant clauses in terms of the residents' liability for the charges.

(xi) Division 3 of Part 4A

That the clauses concerning notice with respect to a rent increase should be amended so there should be no requirement to give notice of a rent increase where there is an agreement between the parties as to how the rent is to be increased. [note – does this duplicate paragraph ix?]

(xii) Abandoned Goods Procedures

Current procedures for dealing with goods left behind or abandoned by customers (including residents) are confusing and cumbersome. The Residential Tenancies Act (Vic) 1997 prescribes different arrangements for disposing of goods belonging to residents than those prescribed for Annuals who hold Long Term Holiday Site Agreements, within Part 4.2 of the Australian Consumer Law and Fair Trading Act 2012 (Vic).

(xiii) On selling of long term leases for Tourist Sites to third parties.

We have become aware of a practice where operators are on selling long term leases for tourist cabins to third parties and then maintaining the management rights. VicParks' concern with this model is that it provides no ongoing incentive for the parks to be improved over time and the title becomes heavily encumbered meaning that the park cannot be developed. VicParks would like to see a provision included in the legislation which prohibits this form of practice.

(xiv) Specific comments:

Page 9 – final paragraph. On what basis does the government say that the “the private rental market *needs* to be able to provide housing to low-income households? We know of no social obligation on the part of landlords to be active in social housing. How can government expect to regulate to require this? The lack of social housing for low-income families is a direct response to the failure of government to meet the demands for this, to meet rising population growth.

The private market would only find this sector more attractive for investment if the federal Commonwealth rental assistance levels were increased.

Page 14 – the section on rights and responsibilities of tenants and landlords, fails to adequately delineate the difference in the applicable periods for service of a Notice to Vacate for Part 4 residents and Part 4A site tenants.

Page 15 – Question 7 offers an opportunity for the Review Panel to consider the benefits to the caravan park industry and its customers that would arise from the removal of the current regulatory burden and high associated costs imposed by compliance requirements detailed in the Victorian Caravan Park Regulations 2011, especially the requirement for triennial renewal of park registration, and compliance with the *CFA Fire Safety in Caravan Park* Guideline.

Page 18- rent has increased faster than affordability – the federal rental assistance level needs to rise commensurate to rental increases rather than the average wage. As a result more people are suffering rental stress. This is not an industry problem but an issue for federal government.

Page 34 – the majority of renters in caravan parks who rent cabins in parks are single people, not families, given that the accommodation is in caravans or cabins offering 2 bedrooms at the most.

5. In conclusion

We appreciate that a primary purpose of the Review is to review the current state of the rental market and its fairness and suitability for both tenants and landlords.

Our consideration of the “Laying the Groundwork” document provides little direct evidence that caravan parks fail in their responsibility to provide safe, affordable and secure housing for tenants who have chosen to live there. Because the majority of caravan parks are in regional locations in the state, they are often a scarce source of affordable housing for tenants, and provide a much-needed back-up for the government social housing programs. Regional caravan parks often support some of the neediest people in our society, including people on recent release from prison, women and families seeking refuge from domestic violence, and people with mental and other illnesses who have been unable to find local rented accommodation.

There is little statistical evidence to indicate that caravan park owners as landlords fail to provide security and tenure for their tenants.

As the Review progresses, it will be important to remember that caravan park owners who have invested significantly in the freehold or lease of their park, and in the costly compliance requirements to manage their businesses, have choices as to the best return on this investment. Should the legislative environment for Part 4 and Part4A tenants become overly restrictive as a result of recommendations arising from this Review, there is a very real threat that caravan park owners might reduce their involvement in the supply of sites for residents in favour of tourists who generally bring a higher return on the sites. Any reduction in the current prescribed procedures for accepting and vacating permanent residents might trigger a move away from providing residential accommodation in caravan parks.

6. Appendices

6.1 VicParks comments on the NSW Holiday Parks (Long-term Casual Occupation) Act 2002.

For all enquiries on this submission, please contact:

Elizabeth White

Chief Executive Officer

Victorian Caravan Parks Association Inc
Suite 8/88 Dynon Road
West Melbourne 3003

Phone 03 9372 3420

APPENDIX 1

VicParks comments on the NSW Holiday Parks (Long-term Casual Occupation) Act 2002

Holiday Parks (Long-term Casual Occupation) Act 2002 (NSW)

Application – see section 5

The Act applies to any occupation agreement in relation to a site –

- Entered into by an occupant who has a principal place of residence elsewhere;
- Occupant installs own moveable dwelling on the site and leaves it there whilst the agreement is in force
- The occupant can occupy for no more than 180 days in any 12 month period (in a continuous or broken period)
- Term of at least 12 months.

Occupant entitled to disclosure – see section 9

Park owner must provide disclosure statement setting out –

- Fees
- Will additional fees be charged during peak periods
- Additional fees for additional occupants or visitors
- Any additional charges - power, gas, water
- Costs of preparing agreement
- How much notice of fee increases
- How much notice for termination
- How will disputes be resolved
- Can the dwelling be sold and what are the commission arrangements
- Restrictions on types of dwellings allowed
- What else can be put on the site – eg carport, shed
- Any restrictions on the use of common facilities
- Who pays the costs of relocation of the dwelling within the park during the term of the agreement.

Park Rules

Copy must be given before agreement is signed – see section 10

Park rules are terms of the agreement – see section 24

Process for amendment is in section 25

Form of Agreement – see section 11

Agreement must be in writing and include standard terms set out in Schedule 1 to the Act.

Additional terms can be included if they are consistent with the Act

If there is no agreement in writing the Act imposes standard conditions in Schedule 1.

What happens at the end of a fixed term? – see sections 18 to 20

- Fixed term agreement may specify that it continue
- If there is no provision for extension, the park owner or occupant may terminate
- If there is no provision for extension and neither party terminates,

periodic agreement arises equivalent to the basis upon which the occupation fee is paid – eg monthly, quarterly – can be terminated on notice equivalent to the relevant period

Occupation fees and charges

Can't ask to be paid more than quarterly in advance

Dispute Resolution

Dealt with by Civil and Administrative Tribunal

Recovery of Possession

Process outlined in sections 28 to 30

Abandoned Goods

Process outlined