

CARAVAN PARKS AND MOBILE HOMES LEGISLATION

Issues Paper

June 2008

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1. Introduction

The Northern Territory Department of Justice has prepared this issues paper to obtain the views of the community on possible caravan parks/mobile homes legislation.

The broad issues are:

- Is there a need for regulation of this industry?
- If so, what sort of regulation is required?
- Should the Residential Tenancies Act apply or should a new legislative scheme be developed?
- What protections do owners and residents of caravan parks require?
- What rights and responsibilities are needed in the current housing environment?
- Is there a need for standard tenancy contracts?

The paper does not represent a commitment on the part of Government to any particular course of action. Rather, it provides an opportunity for stakeholders to comment on the issues and make any suggestions about other matters which should be addressed.

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The closing date for submissions is 31 August 2008.

2. What are “caravan parks” and “mobile home parks”

Caravan parks and mobile home parks can take a number of different forms, and the regulation requirements of each need to be considered.

Caravans are designed to be towed on the open road, while a mobile home is a moveable dwelling that is designed so that it may be moved but not towed.

Whether it is primarily for caravans or mobile homes, a park will usually consist of rentable sites upon which to position caravans or mobile homes, common areas for the use of all park residents and guests, and facilities such as toilets, laundry rooms and other conveniences.

The most common type of park consists of land, which is owned by the proprietor of the park, which is then leased to residents of the park. In these parks, residents can usually either rent a caravan or mobile home owned by the proprietor, or they can rent a ‘site’ and locate their own caravan or mobile home on the site for the duration of the lease.

Other types of parks include those where residents are considered the owner of both the caravan or mobile home and the park site that it is located on. There are very few, if any, of these types of parks in the Northern Territory.

Residents of all types of parks can usually be categorised as either a short-term or holiday resident, or as a long-term or permanent resident. Each type of resident requires different levels of protections under tenancy legislation.

3. History of the regulation of caravan parks in the Northern Territory

The *Caravan Parks Act* commenced in 1975 following Cyclone Tracy, and contained a series of rules and powers designed to provide protection to the owners and residents of caravan parks in relation to health, hygiene, safety and other related issues.

The *Tenancy Act*, enacted in 1979, also provided some regulation for owners, operators and residents of caravan parks through their inclusion in the overall tenancy regime. This regime provided for determination of fair rents by a commissioner, prescribed notice periods for termination of leases and allowed for eviction in certain circumstances.

The residential component of the *Tenancy Act* was superseded by the *Residential Tenancies Act* (“RTA”) in 2000, but this new legislation expressly excluded person living in caravan parks from its scope of operation.

The *Caravan Parks Act* was then repealed by the *Caravan Parks Repeal Act 2000*, effective from July 2002. At the time this occurred, it was expected that the RTA would be amended so as to make provision for caravan parks.

This did not eventuate and, as such, since 2002 there has been no legislative scheme regulating caravan or residential parks in the Territory.

Part 8 of the *Law of Property Act* also provides for some protection and clarification of the rights and responsibilities of landlords and tenants for tenancies that are not covered by specific legislation such as the *Residential Tenancies Act*. However, the provisions are of a bare bones nature providing little protection to the types of tenancy issues likely to arise in caravan parks.

- Q1 Is there a need to regulate to provide similar protections to caravan park owners and residents as exist for tenants and landlords under the *Residential Tenancies Act*?
- Q2 If yes, should only long term park residents be covered by the regime?
- Q3 If yes, how should 'long term resident' be defined?
- Q4 Should residents of marinas (both short and long term) be given any protections under these or similar regimes?

4. Specific legislation vs generic residential tenancy regime

A number of jurisdictions in Australia have enacted legislation which deals specifically with the rights and responsibilities of owners and residents of caravan parks, while other jurisdictions have a broad residential tenancy regulatory regime which covers caravan parks.

The table below provides detail as to which option each jurisdiction has in place.

	Specific caravan park legislation	Included in residential tenancy regime
NSW	Yes	No
VIC	No	Yes
QLD	No *	Yes
WA	Yes **	Yes
SA	No	Yes
ACT	No	No
TAS	No	Yes ***
NT	No	No

*There is specific legislation for 'manufactured homes' in residential parks, which applies to movable dwellings but not to caravans or tents.

**The *Caravan Parks and Camping Grounds Act 1995* primarily establishes a licensing regime for caravan parks. However, it also deals briefly with a number of relevant tenancy matters.

***Except where the caravan park resident owns their caravan and is merely renting the site.

Q5 Should the Northern Territory *Residential Tenancies Act* be amended so that it also applies, subject to certain variations, to owners and residents of caravan parks?

Q6 Or, should the regulation be contained in a separate Act?

5. Specific issues

General tenancy legislation, and caravan and mobile home park specific legislation in other jurisdictions, deal with common themes and set out similar rights and responsibilities of park owners and residents.

A summary of these central issues follow.

- Resident's entitlement to possession and quiet enjoyment of the property.
- Park owner's obligations to ensure park is kept clean and in a reasonable state of repair.
- Resident's obligations to keep rented accommodation in a reasonable state of cleanliness, to notify the park owner of any damage to the rented property and not to interfere with the comfort and privacy of other residents.
- Right of entry which excludes the park owner from entering the rented property except in prescribed circumstances.
- Termination of the tenancy and right of eviction, including notice periods.
- Payment of and increases in rent.
- The taking of security deposits and use of condition reports.
- Resolution of disputes and the role of the Commissioner of Tenancies.
- Abandoned goods and premises.
- Standard form tenancy agreements.
- The provision of template park rules and the power of park owners to make additional rules.
- Role of park committees and membership of such organisations.
- Payment for, use and security of mail and other facilities.
- Sale of caravans and mobile homes from the park.

- Appointment of park managers and other staff.
- Protection of the rights and interests of caravan or mobile home owners on the transfer of ownership of the park.
- Offences and penalties.

- Q7 Should any or all of these issues be addressed through regulation?
- Q8 Should any of the protections and responsibilities apply to short term residents, as well as to permanent residents and owners?
- Q9 Are the notice periods, standard terms and other provisions in the *Residential Tenancies Act* applicable to long-term residents of caravan parks, or is there a need for variation between the schemes?

6. Legislative impact

Any proposal to enact new caravan park legislation, or expand existing residential tenancy legislation, will need to be justified in terms of the benefits to the community being greater than the costs.

This analysis of the costs and benefits will also be required to discuss the various options available to achieve the desired outcome.

- Q10 Are there any other viable options aside from (a) extending the scope of the existing *Residential Tenancies Act*, and (b) enacting new legislation dealing specifically with caravan parks?

7. Further consultation

The Department of Justice has released this issues paper for the purpose of preliminary consultation with stakeholders. Following receipt of submissions, a report will be prepared containing recommendations for consideration by the Minister for Justice and Attorney-General, the Hon Dr Chris Burns MLA.

There will be further opportunities for participating in this process after the report has been prepared.