

Mr Dale Stewart
Chief Executive Officer
Shire of Denmark
P.O. Box 183
Denmark WA 6333

02/06/2015

RE: SHIRE OF DENMARK DRAFT POLICY P130205 CARAVANNING OR CAMPING ON PRIVATELY HELD LAND

Dear Dale,

Caravan Industry Association Western Australia (CIAWA) makes a submission against the above policy and submits legal advice to support this submission, we request Council withdraws the draft policy.

CIAWA provides the attached legal advice from Kott Gunning which clearly identifies the legal position against the draft policy and its conflict with State Regulations, in this case the Caravan Park and Camping Grounds Act 1995 and Regulations 1997.

SUMMARY OF LEGAL ADVICE

The Proposed Policy is in the opinion of Kott Gunning:

1. Inconsistent with and not authorized nor contemplated by the CPCG Act, the CPCG Regulations nor the LG Act;
2. Is an invalid attempt at sub-delegation of legislative power; and
3. Is an invalid avoidance of parliamentary and ministerial scrutiny of the manner in which the Local Government regulates and enforces the provisions of the CPCG Act and CPCG Regulations.

For any clarification and detail on the legal advice please contact Mr Greg Mohen, Partner at Kott Gunning. For any further information on the submission please contact the undersigned.

CIAWA request Council direct staff to enforce the CPCG Regulations and ensure that non-compliant camping does not occur in the Shire of Denmark.

Yours Sincerely

[Redacted Signature]

[Redacted Title]

[Redacted Contact Information]

Caravan Industry Association Western Australia
Unit 15 64 -66 Kent St, Cannington. W.A 6107

[Redacted Contact Information]

27 May 2015

EMAIL

Chief Executive Officer
CIAWA

Our Ref: [REDACTED]
[REDACTED]

Partner: [REDACTED]
[REDACTED]
[REDACTED]

BY EMAIL: [REDACTED]

Dear [REDACTED]

CARAVANNING OR CAMPING ON PRIVATELY HELD LAND POLICY

On 14 April 2015 the Council of the Shire of Denmark (Shire) resolved as follows:

“That Council advertise that attached draft Camping on Privately held land Policy, subject to the inclusion of reference to regulation 13 of the Caravan Park and Camping Grounds Regulations 1997, for a 60 day public and industry comment period and consider in the 2015/2016 Budget a fee of \$100 (plus GST) to assess an application, on a standard form, for variation to the Policy, should the Policy subsequently be adopted.” (Resolution 20415)

Resolution 20415 was passed despite objections raised by CIAWA and local caravan park operators. The Proposed Policy purports to act as a blanket approval for camping in defined circumstances on privately held land that would otherwise be in breach of the Caravan Park and Camping Grounds Regulations 1997 (CPCG Regulations) and the Caravan Park and Camping Grounds Act 1997 (CPCG Act). It seeks to authorise a longer stay than permitted under Regulation 11 and more caravans than permitted under Regulation 12.

In the Shire's letter to Kott Gunning 21 April 2015 which notified this decision the Shire invited further comment by CIAWA on the Proposed Policy and the legal issues raised by us in our letter to the Shire of 14 April 2015 and in particular the underlying legal basis for the Proposed Policy.

CIAWA have sought specific advice on the following issues:

-
1. Does the Proposed Policy conflict with the written law set out in Regulations 10, 11, 12 and 13 of the CPCG Regulations.
 2. Does the Shire have the statutory power to make the Policy 20415.
 3. Does the Shire have the statutory power to make a Local Law in terms of the Policy 20415.

SUMMARY OF ADVICE

The Proposed Policy is in our opinion:

1. inconsistent with and not authorized nor contemplated by the CPCG Act, the CPCG Regulations nor the LG Act;
2. is an invalid attempt at sub-delegation of legislative power; and
3. is an invalid avoidance of parliamentary and ministerial scrutiny of the manner in which the Local Government regulates and enforces the provisions of the CPCG Act and CPCG Regulations.

Relevant CPCG Regulations

Regulation 10 prohibits camping unless it is on a site in a licensed caravan park or the camping is in accordance with Regulation 11.

To the extent that a person camps anywhere other than in a licensed caravan park or camping ground it has to be in compliance with Regulation 11 otherwise they commit an offence under Regulation 10.

Regulation 11(1)(a) provides a limited exemption for camping on "land which he or she owns or has a legal right to occupy".

Regulation 11(2) allows for a Local Government to permit stays of up to 3 months.

Regulation 11 must be read in conjunction with Regulation 12 which limits the number of caravans permitted to be used for camping at any one time to one unless otherwise approved pursuant to Regulation 12(2) by a Local Government.

Regulation 13 requires a Local Government in considering permission under 11(2) or 12(2) to be satisfied as to the suitability of the place for camping with special regard to safety, health and access to services.

The combined effect of Regulations 11, 12 and 13 is that:

A person may camp without additional approvals where all of the following circumstances exist:

1. The camping place must be on land which the person camping owns or has a legal right to occupy (ie can be enforced against the true owner of the land such as a lease or contractual license) Regulation 11(1)(a)
2. Only one caravan can be used at any one time Regulation 12(1)(a)

3. Camp only for 3 nights in any 28 day period Regulation 11(1)(a).

Regulation 11(2) and Regulation 12(2) provides a process for obtaining approval for a stay exceeding 3 nights (Regulation 11(2)) and exceeding 1 caravan (Regulation 12(2)).

Regulation 11(2) contemplates 2 situations where the Local Government may grant approval for camping longer than 3 days:

- (a) if such approval is for less than 3 months in any 12 month period
- (c) for up to 12 consecutive months if there is a building or demolition license in place in regard to the Lot where the caravan is camping.

Regulation 12(2) contemplates that the Local Government may grant approval for more than one caravan for up to 3 months.

In both cases the exercise of the discretion of the Local Government or the Minister must comply with Regulation 13 which requires a Local Government to be satisfied as to the suitability of the place for camping with special regard to safety, health and access to services.

In order to comply with Regulation 13 each case must be determined on a case by case basis. A blanket policy to approve a class of uses is not contemplated by the Regulations. Both Regulations contemplate a specific written approval for each non-compliant use taking into account the consideration specified in Regulation 13.

Priority of CPCG Regulations over Policy or Local Law

The CPCG Regulations must be read in the context of the whole of Part 2 of the CPCG Regulations and the powers of a Local Government under the CPCG Act and Local Government Act 1995 (LG Act).

Regulation 8 provides that if there is a conflict or inconsistency between this Part and any other written law other than a Local Law, the other written law prevails to the extent of the conflict or inconsistency.

Sections 28 and 29 of the CPCG Act do provide for Local Laws in relation to camping within limits.

28. Regulations

- (1) *The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.*
- (2) *Without limiting subsection (1), regulations may —*
 - (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 to obey such directions;*
- ...
- 29 (1) *Subject to this section, a local government may make Local Laws for its district under the Local Government Act 1995 for any purpose set out in section 28(2)(a), (b), (c), (d), (e) and (f) as if that purpose were a purpose for which Local Laws could be made under that Act.*
- (2) *Where there is conflict or inconsistency between a regulation made under this Act and a Local Law referred to in subsection (1), the regulation, to the extent of the conflict or inconsistency, prevails.*

The critical provision is that where there is conflict or inconsistency between a regulation made under the CPCG Act and a Local Law referred to in subsection 29(1), the regulation, to the extent of the conflict or inconsistency, prevails.

Section 3.7 of the LG Act also expressly provides that a Local Law made under the LG Act is inoperative to the extent that it is inconsistent with the LG Act or any other written law.

The *Interpretation Act* 1984 defines “written law” as all Acts for the time being in force and all subsidiary legislation for the time being in force.

The CPCG Regulations are subsidiary legislation.

Local Government policies are not even a Local Law and accordingly cannot conflict with or be inconsistent with a written law.

Accordingly the effect of the above provisions is that neither a Local Law nor a Local Government policy can be in conflict with the regulations in Part 2 of the CPCG Regulations.

The Joint Standing Committee on Delegated Legislation (JSC) has considered the use of policy and Local Law as a regulatory process.

Once a Local Law is gazetted it is referred to the JSC for consideration and if issues are found with the law will usually seek a written undertaking from the Local Government to amend or repeal the instrument in question, and has power to report to the Parliament recommending the disallowance of the instrument in the Legislative Council. The JSC gives regular reports on its findings.

The JSC has specifically commented on the practice of Local Governments attempting to incorporate policies or codes by reference into a Local Law and found the practice to be inconsistent with and not authorized nor contemplated by the Local Laws’ empowering Act,

the LG Act; amounted to an invalid sub-delegation of legislative power; and was an attempt to avoid parliamentary and ministerial scrutiny.¹

The Department of Local Government and Communities has also issued guidance on the adoption of policies:²

“8.1 Adoption of Policies

The Joint Standing Committee will not approve Local Laws which attempt to adopt policies and make them enforceable. Adopting policies and making them enforceable is often done in planning schemes, however, that is done under the Planning and Development Act 2005, not the Act (sic. Local Government Act 1995). The Joint Standing Committee position is that the powers of the Act do not permit Local Laws to empower a Local Government to adopt internal policies as laws other than by inclusion of the matter in a Local Law (ie policies for advertising signs or codes of conduct). Attempting to adopt policies in Local Laws and make them enforceable is considered an attempt to avoid the process in section 3.12 of the Local Government Act 1995 and the scrutiny of Parliament. The section 3.12 procedure is mandatory and must be followed in chronological order. Failure to do this will render the Local Law invalid and will likely result in the Joint Standing Committee recommending the law for disallowance.”

It is a logical extension of this position that if a Local Law cannot be used to make a policy enforceable contrary to an existing regulation, a policy on its own clearly will not have the effect proposed by the Local Government, namely a blanket approval to modify the requirements of the regulations for longer stays with more caravans on land which they are neither owners of nor legally entitled to occupy.

Who has a Legal Right to Occupy the Land

There is even a more fundamental issue to be determined in regard to the Local Government's attempt to modify the operation of the CPCG Regulations and that is the threshold test contained in Regulation 11(1) which defines the class of persons who are permitted to camp on the land. The test is that the land on which the person is camping must be land that such person “owns or has a legal right to occupy”.

A legal right to occupy means something more than a mere permission to enter and erect a camp on a property. Permission alone to enter and camp is not a legal right to occupy as it is not enforceable by the person camping on the land. In order to be a legal right, there needs to be either a statutory or contractual right to the occupation of the land such as a lease or a licence that would give rise to a legal right to occupy.

The text “*Words And Phrases Legally Defined*”³ provides some guidance on the meaning of “legal” and “lawful”.

“Legal” ... the word “legal” means lawful, that is, something effectual and proper which the courts of judicature of the country will enforce.⁴

¹ Joint Standing Committee 4th, 8th and 9th reports

² Local Government Operational Guidelines Number 16 – November 2011 Local Laws.

³ Butterworths: John B Saunders ed. 3rd ed vol 3 at pp 23, 34.

The natural meaning of “lawful” depends on the context in which the word is used. It may mean... in the sense of supported by law, eg. Lawful authority, in some connections the word implies the quality of being “legally enforceable”. A lawful owner or heir is one whose rights are recognised and enforceable by law.⁵

Other Statutes referring to Right to Occupy

The common interpretation of the phrase “right to occupy” can also be drawn from other statutory provisions where that concept is used such as in the *Residential Parks (Long-stay Tenants) Act 2006* and the *Residential Tenancies Act 1987*.

In the case of both of these Acts they consistently use the phrase in the context of a legally enforceable agreement granting a person a right to occupy a site or premises. The element of the ability of the person claiming the right to occupy being able to legally enforce that right for a determinable period of time is essential to there being a right to occupy for the purposes of those Acts.

Under the *Land Administration Act 1997* an “occupier” is defined as “in relation to land, means a person who, in exercise of a right of possession, is in a actual occupation of the land, but does not include anyone who is in occupation of the land merely as a member of the family or household of such a person.”⁶

The *Occupiers Liability Act 1985* imposes a duty of care on an “occupier of premises”⁷. Section 2 provides that an occupier of premises means a person occupying or having control of land or other premises, and section 4(2) provides that nothing shall be taken to alter the rules of the common law which determine the person on whom, in relation to any premises, a duty to show care towards a person entering those premises is imposed. The persons who are occupiers of premises for the purpose of that Act are, therefore, the persons who were occupiers of premises at common law. This means an occupier can be an owner in occupation, a tenant, a licensee or any person who has the right to possession of the premises and the right to invite or permit any other person to come on to them.

How does this Advice Affect the Proposed Policy

The terms of the Proposed Policy are as follows:

“P130205 CARAVANNING OR CAMPING ON PRIVATELY HELD LAND

Objectives

To enable owners and long term rental occupiers of properties within the Shire to accommodate limited numbers of friends and relatives for short term periods in a manner that does not compete unfairly with licensed Caravan Parks and therefore detract from their viability, whilst not creating any environmental, public health or other nuisances nor detracting from the amenity of neighbourhoods.

⁴ *Dufaur v Professional Life Assurance Co* (1858) 25 Beav 599 at 603

⁵ *Crafter v Kelly* [1941] SASR 237 at 243.

⁶ *Land Administration Act 1997* s151

⁷ *Occupiers Liability Act 1985* ss 4 and 5

To provide consistency and certainty about enforcement of Regulations 11, 12 and 13 of the Caravan Parks and Camping Ground Regulations 1997 to both Licensees of Caravan Parks operating within the Shire and Council's Law Enforcement Officers.

Policy

In accordance with its powers under Regulations 11, 12 and 13 of the Caravan Parks and Camping Ground Regulations 1997, the Shire of Denmark grants permission to land owners and, with the approval of the land owner, long term rental occupiers of properties within the Shire of Denmark, to accommodate one occupied caravan or 6 persons camping in tents per 1000m² of property area (or part thereof for smaller than this allotment size) up to a maximum of 4 occupied caravans or immediate family tent clusters or 24 persons, whichever is greater, for a maximum of 7 days in any period of 28 consecutive days, providing:

- 1) No charge is made for the accommodation or associated services.*
- 2) The area used for camping is not to be sign posted or advertised in any way.*
- 3) The owners or long term rental occupiers of the property are present for the majority of the time that the camping takes place.*
- 4) The activity is not to create noise or unruly conduct as to cause a nuisance to adjoining property occupiers.*
- 5) Toilet, ablution facilities and effluent treatment and disposal systems exist on the property.*

Persons seeking approval for numbers of persons, caravans, tents or days in excess of these restrictions or intending to charge for occupation of a caravan or tent on their property should apply in writing for Council's consideration at least 60 days prior to the intended activity or occupation together with the appropriate fee.

NB: This Policy should be read in conjunction with Policy P130301 (Guidelines for Temporary Accommodation).

Responsible Officer

The Director of Community and Regulatory Services is the responsible officer for implementing this policy."

The critical deficiencies in this Proposed Policy are as follows:

- 1. For the reasons outlined above neither Regulations 11 or 12 give a power to the Local government to expand the class of persons who are entitled to camp on property as an exception to regulation 10. Accordingly the objective of permitting owners and long term rental occupiers of properties within the Shire to accommodate limited numbers of friends and relatives for short term periods by allowing them to camp on properties is not within the power of the Local Government, as friends and relatives are not the subject of the CPCG Regulations 11 and 12 that create exceptions to the prohibition on camping set out in Regulation 10.*
- 2. The Proposed Policy is not needed to provide consistency and certainty about enforcement of Regulations 11, 12 and 13 of the Caravan Parks and Camping Ground Regulations 1997. The regulations are already clear and can readily be enforced by either prosecution or more simply by the implementation of an infringement notice regime. [We note that the minutes of the Shire meeting which considered the Proposed Policy identifies a number of identified clear and ongoing breaches of the Regulations which have gone unprosecuted by the Shire, and in a*

recent letter from the Shire 19 May 2015 the Shire stated that *“While Council is not compelled to prosecute every camping breach that occurs within its boundaries it does have an active enforcement program and to date Council’s rangers have issued 37 illegal camping infringements and 12 warnings in the 2014/2015 year... and the Shire of Denmark has a reputation as one of the more efficient Shires in terms illegal camping compliance”*].

3. *Regulations 11, 12 and 13 of the Caravan Parks and Camping Ground Regulations 1997 do not grant a power to the Shire of Denmark (or any Local Government) to grant approval without consideration in each case of individual circumstances of a request under regulations 11(2) or 12(2) and in particular consideration of the requirements set out in regulation 13.*
4. The Proposed Policy contemplates an extension of the number of persons permitted to camp and the duration of the camping *to accommodate one occupied caravan or 6 persons camping in tents per 1000m² of property area (or part thereof for smaller than this allotment size) up to a maximum of 4 occupied caravans or immediate family tent clusters or 24 persons, whichever is greater, for a maximum of 7 days in any period of 28 consecutive days.* Implementation of this Proposed Policy as an absolute variation of the rules set out in the CPCG Regulations would result in significant numbers of people being permitted to camp on land which they neither own nor have a legal right to occupy which would be in direct conflict with the provisions of regulations 10, 11 and 12 of the CPCG Regulations.
5. The Proposed Policy is in our opinion:
 - a. inconsistent with and not authorized nor contemplated by the CPCG Act, the CPCG Regulations nor the LG Act;
 - b. is an invalid attempt at sub-delegation of legislative power; and
 - c. is an invalid avoidance of parliamentary and ministerial scrutiny of the manner in which the Local Government regulates and enforces the provisions of the CPCG Act and the CPCG Regulations.

Building Control - P130301 Guidelines for Temporary Accommodation

This policy of the Shire of Denmark is referred to in the officer’s report to council attached to the agenda item on 14 April 2015. It is stated that this policy is not in conflict with the Proposed Policy. The policy sets out a set of criteria for an applicant to address when applying to the Shire for permission to inhabit a caravan, in accordance with Regulation 11(2). It differs substantially from the Proposed Policy in that it does not purport to extend the class of persons permitted to camp, it requires each application to be considered by Council on its merits and does not fetter the Council’s discretion under Regulation 13.

Letter from Denmark to CIAWA 19 May 2015

We have reviewed the above letter in regard to the Shire’s contentions in regard to the Proposed Policy (set out in italics) which are relevant to this advice:

“The Caravan Park and Camping Ground Act and Regulations which were drafted and are periodically reviewed with extensive industry input give scope to Council and its CEO to “manage” caravan and camping on both public and private land within a range

of parameters and the officer report and recommendation fall within those parameters.”

The CPCG Act and CPCG Regulations are the primary source of power for the Local Government to act in regard to caravan parks camping grounds and camping generally. Where they prohibit certain conduct the Local Government is limited in its power to vary that prohibition to the specific provisions in the CPCG Act and CPCG Regulations.

There is no general power in either the CPCG Act or the CPCG Regulations for a Local Government to “manage” caravan and camping. To the extent that a Local Government is the authority responsible for licensing and enforcement of the CPCG Act and CPCG Regulations, its power is defined by and limited by those laws.

Accordingly as elaborated above, neither a policy nor a Local Law can be in conflict with a regulation, and in particular the Proposed Policy cannot prevail against the regulations.

“Reg 11(2) of the Caravan Parks & Camping Grounds Regulations 1997 as described in the officer report gives Council’s CEO the ability to grant permission to camp outside a facility for up to 3 months.”

As detailed above, this is a very limited power and does not authorise a Local Government to make a policy inconsistent with the Regulation.

“The officer recommendation and the subsequent minuted resolution is an across the board written approval for the entire Shire.”

As detailed above a policy of broad application without any consideration of each application is not a proper exercise of the Local Government’s discretion to allow camping pursuant to regulations 11, 12 and 13.

“Towns that choose to go RV Friendly and allow “free camping” in their CBDs and multiple day concerts that have on site tent cities and mobile road construction camps are also examples of this.”

Depending on the land used, the circumstances of the application and the basis for granting permission to camp by a Local Government, some of these practices may also be beyond the power of the Local Government and may warrant further investigation and review.

Yours faithfully

KOTT GUNNING



From: [REDACTED]

Sent: Mon 8/06/2015 12:53 PM

To: Denmark Shire Enquiries

2

Cc:

Subject: ICR15633694 - Caravans on open land, or at the Oval

Message AVG certification.txt

I am not in favour of allowing caravan or other camping on non-licensed campgrounds and caravan parks. There are several reasons for this.

1. Caravan Parks provide a lot of defacto services that are necessary for maintaining safety and the peace. Such services include ad hoc policing and keeping the peace, first aide and even sometimes ambulance service when people are injured at the park.
2. Caravan Parks serve as mini-tourist bureaus, and dispense valuable local information when asked. Why not support them?
3. Caravan parks serve as waste management centres, in that the by-products of camping are given proper disposal.

Sometimes when I want to go to a restaurant, they are fully booked. Not very often, but that is just part of life. Why can't that be the same for camping and caravans? Just too bad, and no big deal. People should not be allowed to camp any old where, any old how. It will become a public nuisance, and won't benefit the Shire in any way.

[REDACTED]

From: [REDACTED]
Sent: Wednesday, 10 June 2015 10:15 AM
To: Denmark Shire Enquiries
Subject: ICR15633736 - Comment on Draft Caravanning Or Camping On Privately Held Land Policy

3

Comment on Draft Caravanning Or Camping On Privately Held Land Policy

I live in Bavin Street Denmark.

Over the last few years there have been residents that have friends come to stay at Christmas and Easter, they park caravans outside the properties on the verge and then plug into the house for mains power. I have not complained as the Shire Rangers are up and down my road all the time, they have failed to take any action.

There are several houses in this street that allow tents to be put up at holiday times in the gardens. There are vehicles coming and going at all times and the campers tend to sit outside on warm evenings until late, there is consistent noise.

The properties here tend to be 1/2 acre blocks so on that basis if I am not mistaken X2 caravans could be parked. Most of the houses have a 35 amp single phase supply, plug in two big caravans and you are likely to overload the system in these properties with inevitable consequences. Fires occur when large consumption is taken on extension cables.

There has for the last two years been a temporary caravan park that has appeared on Ocean beach road. There have been at least 7 caravans and tents occupying this property. This was an infringement of local laws and yet the shire did nothing. The shire has shown itself to be incompetent with regard to policing of the local laws. Adding to this, allowing all and sundry to park their vans in people gardens is ludicrous and has a potential to seriously upset the rate payers of this shire. It's also against all recommendations made within state law regarding the West Australian caravan park and camping ground regulations. This statewide document overrides any local parochial policy.

As a resident of Denmark I am seriously not in favour of this proposal. You already have constant noise complaints, the place for campers and caravans is in the commercial parks. There is plenty of room and the holidaymakers will then be paying that adds to the local businesses.

[REDACTED]

From: [REDACTED]
To: Denmark Shire Enquiries
Cc:
Subject: ICR15633778 - Camping on own property

Sent: Thu 11/06/2015 1:06 PM

4

Message AVG certification.txt

Dear Sirs/Maddam

I am writing to respond to the public comment regarding private camping on own property. Please pass on this correspondence to the appropriate person(s)

Our family lives at 10 Knowles Court, Denmark.

We support the current change suggestions and would like to see it extended to longer periods.

Often during the summer our children like to camp in the garden, and visitors come and go, often staying for a number of weeks, even a month.

We'd like the possibility for them to camp with us during that time, and until it was raised in the Denmark Bulletin we were un-aware that there were any limits on time.

I can understand how residents would not like a 'tent city' permanently on a block, but I would see no problem with an owner of a block erecting a tent for longer periods.

We would add that it would not be acceptable for holiday homes in residential areas to supply tents for 'overflow' as this is effectively paid camping.

Some people work on building their houses, and I feel it's reasonable for them to be able to apply to camp on their own blocks more extensive periods.

Thank you

[REDACTED]



Our Ref: DE6-10 E1521873

Mr Dale Stewart
Chief Executive Officer
Shire of Denmark
PO Box 183
DENMARK WA 6333

Dear Mr Stewart

CARAVANNING AND CAMPING POLICY – DEPARTMENT COMMENTS

Thank you for the letter dated 20 April 2015 requesting the Department’s advice on the Shire’s draft policy **P130205 – CARAVANNING OR CAMPING ON PRIVATELY HELD LAND.**

After carefully reviewing the draft policy and input from external sources, the Department would like to express its view that the draft policy is likely to be unlawful due to its inconsistency with regulations 11, 12 and 13 of the *Caravan Parks and Camping Grounds Regulations 1997* and would recommend that it is not adopted in its current form.

It appears to be inconsistent with regulations 11 and 12 in that it purports to confine the circumstances in which written approval for camping must be sought and obtained from the Shire. If the draft policy is adopted it will mean that the Shire will effectively not exercise the discretion conferred by the Regulations in the manner intended by the Regulations.

Further, it is assumed that the Shire does not propose to assess the suitability of the land for camping which appears to be inconsistent with regulation 13, which imposes an obligation on the Shire to satisfy itself that the land is suitable for camping before it approves longer than 3 nights, or occupation of more than one caravan for camping on the lot.

The Department appreciates the opportunity to provide input and would be open to further discussions should the Shire deem it necessary.

If you have any questions, please feel free to contact Mr Troy Hancock, Senior Legislation Officer, Department of Local Government and Communities, on 6552 1624 or via e-mail at troy.hancock@dlgc.wa.gov.au.

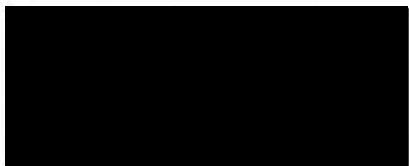
Yours sincerely



BRAD JOLLY
EXECUTIVE DIRECTOR, SECTOR REGULATION AND SUPPORT

23 June 2015

1508157792
21 JUL 2015



20th July 2015

Mr D Stewart
Chief Executive Officer
Denmark Shire
South Coast Highway
Denmark WA 6333

Handwritten notes and checkmarks on a form.

Dear Dale

RE: Draft Policy P1303205 – Caravanning or camping on privately held land.

I wish to inform the Denmark Shire of my objection to this draft policy. I feel the current allowance of not exceeding a period of 3 consecutive days is more than sufficient.

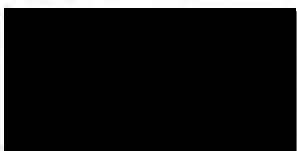
I believe the objectives of the policy are commendable, but in today’s society not a reality. Up until the conception of this draft policy, the Denmark Shire had a number of issues of enforcing the existing policy, as recorded in the agenda and minutes of a Denmark Shire Council meeting.

I would like to know how you envisage you will police:
The non-payment/non charge policy.
The facility not being advertised. - I am sure you can acknowledge how expansive social media is. Who am I to contact when antisocial behaviour is demonstrated? – The Police will most likely be busy with more serious items at hand, I for one will not be confronting any antisocial persons... Will I be able to contact you or the Shire President directly to deal with the situation?
How are you able to ascertain whether the home owner is present?

My husband and I bought and built in Denmark for our family. In our building applications fees were paid to Water Corporation to ensure water supply and sewerage system adequacy, fees were paid to Synergy to ensure power supply and fees are paid yearly to the Denmark Shire by way of rates and rubbish collection, - all of these fees are happily paid to ensure services to our family home.

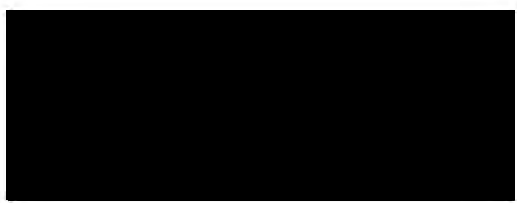
I feel that the draft policy is flawed and not in Denmark’s rate payer’s interest.

Yours sincerely



HLTH-1

Site #12
ISUB157793
23 JUL 2015



20th July 2015

Mr D Stewart
Chief Executive Officer
Denmark Shire
P.O. Box 183
Denmark WA 6333

Administrative form with handwritten marks and a checkmark.

Dear Dale

RE: Draft Policy P130205 – Caravanning or Camping on Privately Held Land

I wish to advise the Denmark Shire that I am against this draft policy.

My household block is approximately 3000 square metres, I have 2 x bathrooms and 2 x toilet's.
With the allowance of 3 caravans or 18 people, plus the 6 residing in my house, 24 people will be
over taxing my power and water supplies.

This draft policy is not in the interest of Denmark.

Yours sincerely

CMCA Position Paper

Low Cost, Self-contained RV Accommodation

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1. Synopsis

- Innovative technology has significantly changed the facilities and capabilities of modern recreational vehicles with a major shift in the RV market to self-contained vehicles, those with on-board shower, toilet, water storage and electrical generation capacity.
- Changes in vehicle facilities and capabilities have in turn significantly changed the type of accommodation self-contained RV tourists want and prefer, with the market moving towards low-cost, no-frills camping and away from caravan parks.
- Self-Contained recreational vehicles (RV) are the major growth area of RV tourism, with most of this growth now occurring through the manufacture of caravans from 1.6 tonnes to 3 tonnes.
- The key market for caravan parks is families, with caravan parks competing aggressively with each other, and other low-cost accommodation providers, to attract this seasonal market.
- A secondary market for caravan parks is the touring market, predominantly retirees, and self-contained RVs are a significant segment of this market.
- The basic accommodation product for self-contained RV tourists is a dump point, potable and non-potable water and a place to park. RV tourists are prepared to pay up to \$10 a night for this product.
- Most caravan parks need to charge \$30 per night or more for an unpowered site in order to cover costs and get an acceptable return on investment.
- There is a gap in the RV accommodation market between the price of the lowest cost product provided by most caravan parks and the price self-contained RV tourists are prepared to pay to access basic, no frills RV accommodation.
- To address the RV accommodation market gap and meet the needs of self-contained RV tourists, many councils are providing low-cost, non-commercial RV accommodation options.
- There are significant economic benefits to local communities when councils provide low-cost accommodation to maximise visitation by RV tourists, along with challenges for councils in providing these services.
- Councils must develop policies and associated management plans to effectively manage RV tourism in their regions.
- Councils should involve their communities in the development and management of RV tourism to ensure clear understandings of the issues and challenges this market presents and to maximise the economic and social benefits it can deliver.

2. Overview

The development and management of low-cost accommodation facilities for the self-contained RV market must be understood in the context of the impact of technology on RV manufacturing and how this has driven the growth of RV sales in Australia over the past decade.

Some of the key innovations over the past 10 years influencing RV design include:

- More efficient and cost-effective solar panels providing no-cost, renewable energy to the vehicle.
- LED lighting dramatically reducing power consumption.
- Construction methodologies using light weight composite, highly insulated panels.
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- Availability of low cost, high capacity pure sine wave inverters allowing the direct connection of devices such as lap tops, mobile phones, tablets, HDTV, compressor refrigerators and the like to the RV environment.
- Lithium ion batteries 50% lighter than the equivalent lead acid batteries, with three times the longevity, significantly faster recharge and providing a more cost effective energy storage option.
- Automatic satellite locating dishes plus satellite decoding boxes providing TV reception at any location Australia wide.
- Mobile internet modem and router, creating a Wi-Fi hotspot within the RV to connect multiple devices, allowing the RV tourists to access the internet almost anywhere in Australia.

As a result of these technological advances RV manufacturers worldwide are producing sophisticated and very comfortable, self-contained “mobile homes” with a very similar mix of on-board facilities whether the vehicle is self-propelled or towed.

Self-contained RVs are those vehicles with the minimum on-board facilities of a toilet and fresh water storage tank, and include motorhomes, caravans, 5th Wheelers, some campervans and slide-ons, and even some camper trailers. These vehicles usually also have on-board shower, electrical generation capacity (solar panels, generator) and high performance batteries. Most motorhomes and some caravans have on-board grey water tanks or grey water containment facilities and even laundry facilities.

Most RV manufacturers will fit grey water tanks to caravans as a factory option and these tanks can also be fitted aftermarket.

Self-contained RVs do not NEED to externally access electricity, freshwater (except to fill tanks), toilet or shower facilities when stopping overnight and consequently do not NEED to access the facilities of a full-service commercial caravan park. However, many may and do choose to access a caravan park for a range of reasons.

Under the Campervan & Motorhome Club of Australia (CMCA) Leave No Trace® Scheme, member vehicles are certified as meeting a set self-containment criteria established by the club. Members are also required to sign up to a code of conduct based on the maxim they leave nothing behind but tyre tracks.

A low-cost camping ground or RV park for self-contained vehicles need only include a dump point with potable and non-potable water, and an area of flat, stable land of a size to allow larger vehicles to park and manoeuvre, with easy access to and from the roadway. It is preferable land area is not adjacent to residential areas and located a reasonable distance from commercial caravan parks.

With an estimated 85% of CMCA member vehicles including some level of self-containment, CMCA supports the development of low-cost RV accommodation for self-contained vehicles as an integral part of the overall accommodation mix for the Australian drive tourism market.

3. Issues Analysis

Issue 1

The rapid growth in sales of self-contained caravans, outstripping that of motorhomes, has significantly increased demand for low-cost, no-frills parking and camping options.

In 2001, self-contained vehicles were motorhomes. Very few caravans had showers, toilets or electrical generation facilities on board, and caravans relied on the services of caravan parks.

Over the past six years, just under 120,000 RVs were manufactured in Australia with the major growth segment being caravans between 1.6 tonnes and 3 tonnes, approximately 17 foot to 24 foot, nearly all self-contained. These vehicles are promoted as “freedom machines” with customers often advised that the on-board facilities mean they can freedom camp where they choose. As a result,

there has been a rapid change in the travel patterns of caravans and the accommodation experience being sought by self-contained RV tourists, towards low-cost camping and away from caravan parks.

Demand for low-cost RV accommodation for RV tourists is now dominated by caravanners, many of whom do not have the facility to contain grey water and need a larger parking area than most motorhomes.

A decade ago motorhomes using low-cost and no cost RV accommodation was an irritant to the caravan park industry. However, the growth in self-contained caravans and the shift by caravanners towards non-commercial accommodation has seen the caravan park industry struggling to respond and highlights the industry's lack of flexibility in its product and its pricing structures.

Over the past 10 years, including locally manufactured and imported vehicles, more than 200,000 RVs have been sold in Australia while the number of caravan parks has decreased by approximately 10%.

Issue 2

Caravan parks are no longer low-cost accommodation providers and generally do not offer products priced to meet the “no-frills” requirements of the self-contained RV market.

Caravan parks have historically operated at the bottom of the tourism accommodation market but this has changed over the last decade. Caravan parks in Australia operate on an annual average occupancy of 57.8%¹ and are heavily reliant on revenue generated by family tourists (52.1% of visitor nights²) over school holiday peak seasons, approximately 12 weeks a year. Over the past 10 to 15 years caravan parks have evolved their business model to focus on this market, developing a wide range of auxiliary products and services (over and above the basic facilities of power, water, shower and toilet). These auxiliary facilities have been added to compete mainly with other caravan parks, but also other low-cost fixed accommodation providers such as motels and hostels.

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An example of auxiliary products offered by caravan parks are those the Windmill Caravan Park in Ballarat advertises on its website to attract and retain the family market:

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2. Rubbish bins
3. Power connection
4. Water connection
5. New Indoor heated pool with 2 spas splash pad and lap pool
6. Free Wireless Internet
7. Large Jumping Pillow
8. Sauna
9. Mini Gym
10. Tennis Court
11. Playground
12. Indoor Sandpit
13. BBQ Area
14. BBQ Camp Kitchen
15. Heated Recreation Complex
16. Camp Kitchen
17. Internet Kiosk
18. Kiosk
19. Laundry
20. Free children's activities during Victorian school holidays
21. Swap 'n' go gas exchange
22. Children's Bathroom
23. Tourist information
24. Local Attraction discount vouchers
25. Games Room with 4 dedicated gaming computers
26. Exercise Facilities including treadmill
27. Guests are invited to pick from our complimentary Garden that contains seasonal herbs such as Sage, Parsley, Mint and other herbs there for your enjoyment

Outside of school holidays there is a secondary market available to caravan parks (26.5% of visitor nights³) being "touring" RV tourists who are predominantly retirees travelling on average 156 days a year and generally seek basic low-cost accommodation options. A significant segment of this market is self-contained RVs.

Caravan parks have invested heavily in developing a range of auxiliary products and, faced with other operational costs, must maintain the integrity of their tariffs to ensure an acceptable return on investment. This generally means selling an unpowered site at around \$30 to \$40 per night. Consequently, caravan parks have created a price gap in the market between the lowest priced product they offer and the price self-contained RV tourists are prepared to pay for a low cost, basic camping ground product.

³ Ibis world - Caravan Parks and Camping Grounds and Australia 2013

Some caravan parks, usually in more remote locations, have not developed the “full service” model and can provide low-cost camping options to attract support from self-contained RV tourists.

It should be noted that in its report *Caravan Parks and Camping grounds and Australia - November 2013*, IBISWorld identified the following key industry facts:

- Despite the loss of an average 13 caravan parks per year over the past five years, overall industry revenue has grown at an annual rate of 1.9% over the past 10 years and this is expected to increase to 2.1% over the next five years.
- Over the past decade a major industry change has been the general improvement of facilities offered with operators upgrading unpowered sites to include power or replaced them with cabins and flats. Improved facilities, at higher tariffs and improved occupancy rates, have contributed to greater industry revenue over the past five years, despite lower site numbers.
- Many operators have substantially upgraded amenities and recreational facilities to meet the rising expectations of campers and to justify increased tariffs.
- Families are the biggest users of caravan parks, contributing 52.1% of industry revenue.
- Tourists aged over 55 years currently represent an estimated 26.5% of industry revenue and this percentage is expected to grow to over 30% in the next five years. (IbisWorld 2013)
- International tourists account for just 9.7% of industry revenue but there is large scope for this to grow over the next five years.
- While 56.9% of accommodation offered by the caravan park industry is powered caravan sites, cabins return a significantly higher yield per square metre and are the growth area of the industry. The number of cabins has doubled in the past 15 years leading to an increase in employment in the industry.
- Short-term unpowered sites represent just 14.3% of caravan park accommodation and this is expected to decline over the next five years.
- There have been basically no new major caravan parks or camping grounds built Australia-wide over the past five years. The relatively low potential investment returns and the large regulatory hurdles involved do not give new or existing operators sufficient motivation.
- Currently 37.7% of caravans parks are corporately owned or part of member based buying/marketing groups. The remainder are predominantly individually owned/operated businesses.

- There are no formal qualifications required to operate in this industry, although experience and training in various aspects of hospitality is desirable. Basic business operation and hospitality skills are necessary to operate a caravan park. (IbisWorld 2013)

In summary, the supply of unpowered sites in caravan parks has decreased substantially over the past 10 years due to a general decline in the number of caravan parks and the conversion of unpowered sites to either powered sites or cabins. As caravan parks move away from parking caravans and into being family resorts, they have left a gap at the bottom of the RV accommodation market for no-frills basic camping grounds, a gap currently being filled by councils and community based organisations.

Issue 3

Local government is formally recognising and managing low-cost and no cost RV accommodation as part of their tourist accommodation infrastructure.

Free camping grounds have existed around Australia for decades with many developed by councils in the 1950s and 1960s as community recreational facilities. This was a time when motor vehicle ownership was growing and young families looked to camping and caravanning as the most affordable family holiday options.

The development of the grey nomad market in the 1980s and 1990s saw retirees travelling Australia in caravans, campervans and motorhomes, gradually increasing the use of existing free camping grounds as they sought to stretch their pension cheques and extend their travel time.

By 2000, a relatively small number of vehicles (compared to current numbers) were accessing Council camping grounds and other low-cost or no-cost facilities such as rest areas and bush camps. The caravan parks saw self-contained motorhomes as a problem due to their on-board facilities, but as caravan parks very much owned the caravanning market, their opposition to motorhomers using low-cost accommodation was relatively low key.

The rapid growth in the self-contained RV market over the past decade and particularly the growth in self-contained caravans, has seen a massive increase in demand for low-cost camping areas and high usage of existing facilities. This demand is being driven by baby boomers reaching retirement age, healthier and wealthier than their predecessors, and looking for lifestyle experiences in regional and outback Australia.

In response, councils have developed policies to manage access to these facilities and management plans to ensure these policies are properly enacted. Many councils have formally recognised low-cost camping grounds, rest areas, RV parking areas and bush camps as part of their tourism infrastructure and sought to manage these facilities to maximise their economic value to the local community.

The CMCA RV Friendly Town Scheme[®] has been used by more than 30% of councils across Australia as a tool for managing the provision of low-cost accommodation. CMCA has been active in representing the interests of self-contained RV tourists and maintaining access to low-cost RV accommodation where ever possible.

Some LGA's have decided not to become involved in provision of low-cost and no cost accommodation options while others struggled to come to terms with the policy and management challenges inherent to these facilities. As a result, State governments have become more proactive in working with councils to develop a full range of RV tourism facilities.

In providing low-cost and no-cost accommodation facilities, councils are servicing the gap in the market between the unpowered site product offered by caravan parks and the low-cost camping wants and needs of self-contained RV tourists. These councils provide this accommodation product maximise RV tourist visitation to their region.

In some locations a market gap does not exist as the local caravan park provides low-cost accommodation options. However, the growing RV traveller preference for an accommodation experience other than that offered by caravan park means demand for low-cost camps still exists.

Research undertaken with CMCA members⁴ and also with RV tourists using no cost camping grounds in North Queensland⁵ found that generally, self-contained RV tourists are prepared to pay up to \$10 per night for no-frills camping options.

⁴ Balfour Consulting – CMCA Member Research 2010

⁵ Balfour Consulting - Rest Area Research 2010

Issue 4

Councils and local communities do not always fully appreciate the challenges and potential benefits of RV tourism, how to maximise these benefits and minimise any negative impacts.

Until very recently, the self-contained RV market was well understood by State tourism organisations and many local tourism bodies. This was generally because RV tourists do not spend through traditional tourism channels where their spending patterns could be measured and recorded, and as their average daily spend is low they were considered low value tourists who should and would access caravan parks.

As the number of self-contained RV tourists grew, the caravan parks industry attacked those accessing low-cost accommodation as bludgers, wanting local ratepayers to foot the bill for their accommodation and too cheap to pay the “fair tariffs” offered by caravan parks. This argument was not only wrong but created escalating antagonism between RV tourists and caravan park operators, with councils often caught in the middle. Unfortunately, this antagonism has created entrenched and quite negative attitudes on both sides.

Research has found of the total RV tourists, 34% stay only in caravan parks, 16% stay only in non-commercial accommodation and 50% use a mix of non-commercial and caravan park accommodation. The 50% of RV tourists who use a mix of caravan parks and non-commercial accommodation are the largest spending segment⁶. This research suggests that at any one time there are at least 45,000 RVs on the road, wanting a mix of accommodation options with a further 14,000 vehicles only looking for low-cost, basic camping options and never staying in caravan parks.

Councils have found themselves faced with the choice of whether or not to provide low-cost accommodation for RV tourists and implications this choice may have for the development of tourism in their region.

Over the past decade, many councils have come to understand that self-contained RV tourism can deliver significant economic benefit to their community. Key to this economic benefit is the diffusion of the RV tourist spending across a wide range of businesses in the community.

⁶ Tourism Research Australia - Queensland's outback central West visitor profile and satisfaction survey, 2010

Councils have also come to understand the challenges of managing low-cost and no cost RV accommodation to meet community expectations, protect environmental standards, ensure proper use of facilities and overcome objections from commercial caravan park operators.

Communities in regional and outback Australia do not need to invest in extensive tourism infrastructure to benefit from self-contained RV tourism. What communities do need is a good understanding of how to engage with RV tourists to understand their wants and needs. Community engagement and consultation is critical to developing positive interactions between local businesses and community groups, and the RV tourists visiting their local area.

Becoming a CMCA RV Friendly Town[®] is a management tool that attracts visitation while providing a constant reminder to the community of the importance of RV tourism. It also ensures facilities are in place to meet the basic needs of self-contained RVs, helps prevent inappropriate behaviours such as illegal overnight parking or improper disposal of waste, maximises the benefits this market can deliver and can attract up to 77%⁷ of RV tourist who use low-cost accommodation. However, these outcomes cannot be fully achieved without the involvement and support of the local community.

⁷ Balfour Consulting – CMCA Member Research 2010

CMCA Position Paper

Low Cost, Self-contained RV Accommodation

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1. Synopsis

- Innovative technology has significantly changed the facilities and capabilities of modern recreational vehicles with a major shift in the RV market to self-contained vehicles, those with on-board shower, toilet, water storage and electrical generation capacity.
- Changes in vehicle facilities and capabilities have in turn significantly changed the type of accommodation self-contained RV tourists want and prefer, with the market moving towards low-cost, no-frills camping and away from caravan parks.
- Self-Contained recreational vehicles (RV) are the major growth area of RV tourism, with most of this growth now occurring through the manufacture of caravans from 1.6 tonnes to 3 tonnes.
- The key market for caravan parks is families, with caravan parks competing aggressively with each other, and other low-cost accommodation providers, to attract this seasonal market.
- A secondary market for caravan parks is the touring market, predominantly retirees, and self-contained RVs are a significant segment of this market.
- The basic accommodation product for self-contained RV tourists is a dump point, potable and non-potable water and a place to park. RV tourists are prepared to pay up to \$10 a night for this product.
- Most caravan parks need to charge \$30 per night or more for an unpowered site in order to cover costs and get an acceptable return on investment.
- There is a gap in the RV accommodation market between the price of the lowest cost product provided by most caravan parks and the price self-contained RV tourists are prepared to pay to access basic, no frills RV accommodation.
- To address the RV accommodation market gap and meet the needs of self-contained RV tourists, many councils are providing low-cost, non-commercial RV accommodation options.
- There are significant economic benefits to local communities when councils provide low-cost accommodation to maximise visitation by RV tourists, along with challenges for councils in providing these services.
- Councils must develop policies and associated management plans to effectively manage RV tourism in their regions.
- Councils should involve their communities in the development and management of RV tourism to ensure clear understandings of the issues and challenges this market presents and to maximise the economic and social benefits it can deliver.

2. Overview

The development and management of low-cost accommodation facilities for the self-contained RV market must be understood in the context of the impact of technology on RV manufacturing and how this has driven the growth of RV sales in Australia over the past decade.

Some of the key innovations over the past 10 years influencing RV design include:

- More efficient and cost-effective solar panels providing no-cost, renewable energy to the vehicle.
- LED lighting dramatically reducing power consumption.
- Construction methodologies using light weight composite, highly insulated panels.
- Vacuum toilet technology, developed for aircraft toilets, being transferred to the RV market.
- Instant, energy efficient hot water systems from the domestic market adapted for RV use.
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- Lithium ion batteries 50% lighter than the equivalent lead acid batteries, with three times the longevity, significantly faster recharge and providing a more cost effective energy storage option.
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- Mobile internet modem and router, creating a Wi-Fi hotspot within the RV to connect multiple devices, allowing the RV tourists to access the internet almost anywhere in Australia.

As a result of these technological advances RV manufacturers worldwide are producing sophisticated and very comfortable, self-contained “mobile homes” with a very similar mix of on-board facilities whether the vehicle is self-propelled or towed.

Self-contained RVs are those vehicles with the minimum on-board facilities of a toilet and fresh water storage tank, and include motorhomes, caravans, 5th Wheelers, some campervans and slide-ons, and even some camper trailers. These vehicles usually also have on-board shower, electrical generation capacity (solar panels, generator) and high performance batteries. Most motorhomes and some caravans have on-board grey water tanks or grey water containment facilities and even laundry facilities.

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Self-contained RVs do not NEED to externally access electricity, freshwater (except to fill tanks), toilet or shower facilities when stopping overnight and consequently do not NEED to access the facilities of a full-service commercial caravan park. However, many may and do choose to access a caravan park for a range of reasons.

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A low-cost camping ground or RV park for self-contained vehicles need only include a dump point with potable and non-potable water, and an area of flat, stable land of a size to allow larger vehicles to park and manoeuvre, with easy access to and from the roadway. It is preferable land area is not adjacent to residential areas and located a reasonable distance from commercial caravan parks.

With an estimated 85% of CMCA member vehicles including some level of self-containment, CMCA supports the development of low-cost RV accommodation for self-contained vehicles as an integral part of the overall accommodation mix for the Australian drive tourism market.

3. Issues Analysis

Issue 1

The rapid growth in sales of self-contained caravans, outstripping that of motorhomes, has significantly increased demand for low-cost, no-frills parking and camping options.

In 2001, self-contained vehicles were motorhomes. Very few caravans had showers, toilets or electrical generation facilities on board, and caravans relied on the services of caravan parks.

Over the past six years, just under 120,000 RVs were manufactured in Australia with the major growth segment being caravans between 1.6 tonnes and 3 tonnes, approximately 17 foot to 24 foot, nearly all self-contained. These vehicles are promoted as “freedom machines” with customers often advised that the on-board facilities mean they can freedom camp where they choose. As a result,

there has been a rapid change in the travel patterns of caravans and the accommodation experience being sought by self-contained RV tourists, towards low-cost camping and away from caravan parks.

Demand for low-cost RV accommodation for RV tourists is now dominated by caravanners, many of whom do not have the facility to contain grey water and need a larger parking area than most motorhomes.

A decade ago motorhomes using low-cost and no cost RV accommodation was an irritant to the caravan park industry. However, the growth in self-contained caravans and the shift by caravanners towards non-commercial accommodation has seen the caravan park industry struggling to respond and highlights the industry's lack of flexibility in its product and its pricing structures.

Over the past 10 years, including locally manufactured and imported vehicles, more than 200,000 RVs have been sold in Australia while the number of caravan parks has decreased by approximately 10%.

Issue 2

Caravan parks are no longer low-cost accommodation providers and generally do not offer products priced to meet the “no-frills” requirements of the self-contained RV market.

Caravan parks have historically operated at the bottom of the tourism accommodation market but this has changed over the last decade. Caravan parks in Australia operate on an annual average occupancy of 57.8%¹ and are heavily reliant on revenue generated by family tourists (52.1% of visitor nights²) over school holiday peak seasons, approximately 12 weeks a year. Over the past 10 to 15 years caravan parks have evolved their business model to focus on this market, developing a wide range of auxiliary products and services (over and above the basic facilities of power, water, shower and toilet). These auxiliary facilities have been added to compete mainly with other caravan parks, but also other low-cost fixed accommodation providers such as motels and hostels.

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An example of auxiliary products offered by caravan parks are those the Windmill Caravan Park in Ballarat advertises on its website to attract and retain the family market:

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Outside of school holidays there is a secondary market available to caravan parks (26.5% of visitor nights³) being "touring" RV tourists who are predominantly retirees travelling on average 156 days a year and generally seek basic low-cost accommodation options. A significant segment of this market is self-contained RVs.

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Some caravan parks, usually in more remote locations, have not developed the “full service” model and can provide low-cost camping options to attract support from self-contained RV tourists.

It should be noted that in its report *Caravan Parks and Camping grounds and Australia - November 2013*, IBISWorld identified the following key industry facts:

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- Many operators have substantially upgraded amenities and recreational facilities to meet the rising expectations of campers and to justify increased tariffs.
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- Short-term unpowered sites represent just 14.3% of caravan park accommodation and this is expected to decline over the next five years.
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In summary, the supply of unpowered sites in caravan parks has decreased substantially over the past 10 years due to a general decline in the number of caravan parks and the conversion of unpowered sites to either powered sites or cabins. As caravan parks move away from parking caravans and into being family resorts, they have left a gap at the bottom of the RV accommodation market for no-frills basic camping grounds, a gap currently being filled by councils and community based organisations.

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Local government is formally recognising and managing low-cost and no cost RV accommodation as part of their tourist accommodation infrastructure.

Free camping grounds have existed around Australia for decades with many developed by councils in the 1950s and 1960s as community recreational facilities. This was a time when motor vehicle ownership was growing and young families looked to camping and caravanning as the most affordable family holiday options.

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The rapid growth in the self-contained RV market over the past decade and particularly the growth in self-contained caravans, has seen a massive increase in demand for low-cost camping areas and high usage of existing facilities. This demand is being driven by baby boomers reaching retirement age, healthier and wealthier than their predecessors, and looking for lifestyle experiences in regional and outback Australia.

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⁵ Balfour Consulting - Rest Area Research 2010

Issue 4

Councils and local communities do not always fully appreciate the challenges and potential benefits of RV tourism, how to maximise these benefits and minimise any negative impacts.

Until very recently, the self-contained RV market was well understood by State tourism organisations and many local tourism bodies. This was generally because RV tourists do not spend through traditional tourism channels where their spending patterns could be measured and recorded, and as their average daily spend is low they were considered low value tourists who should and would access caravan parks.

As the number of self-contained RV tourists grew, the caravan parks industry attacked those accessing low-cost accommodation as bludgers, wanting local ratepayers to foot the bill for their accommodation and too cheap to pay the “fair tariffs” offered by caravan parks. This argument was not only wrong but created escalating antagonism between RV tourists and caravan park operators, with councils often caught in the middle. Unfortunately, this antagonism has created entrenched and quite negative attitudes on both sides.

Research has found of the total RV tourists, 34% stay only in caravan parks, 16% stay only in non-commercial accommodation and 50% use a mix of non-commercial and caravan park accommodation. The 50% of RV tourists who use a mix of caravan parks and non-commercial accommodation are the largest spending segment⁶. This research suggests that at any one time there are at least 45,000 RVs on the road, wanting a mix of accommodation options with a further 14,000 vehicles only looking for low-cost, basic camping options and never staying in caravan parks.

Councils have found themselves faced with the choice of whether or not to provide low-cost accommodation for RV tourists and implications this choice may have for the development of tourism in their region.

Over the past decade, many councils have come to understand that self-contained RV tourism can deliver significant economic benefit to their community. Key to this economic benefit is the diffusion of the RV tourist spending across a wide range of businesses in the community.

⁶ Tourism Research Australia - Queensland's outback central West visitor profile and satisfaction survey, 2010

Councils have also come to understand the challenges of managing low-cost and no cost RV accommodation to meet community expectations, protect environmental standards, ensure proper use of facilities and overcome objections from commercial caravan park operators.

Communities in regional and outback Australia do not need to invest in extensive tourism infrastructure to benefit from self-contained RV tourism. What communities do need is a good understanding of how to engage with RV tourists to understand their wants and needs. Community engagement and consultation is critical to developing positive interactions between local businesses and community groups, and the RV tourists visiting their local area.

Becoming a CMCA RV Friendly Town[®] is a management tool that attracts visitation while providing a constant reminder to the community of the importance of RV tourism. It also ensures facilities are in place to meet the basic needs of self-contained RVs, helps prevent inappropriate behaviours such as illegal overnight parking or improper disposal of waste, maximises the benefits this market can deliver and can attract up to 77%⁷ of RV tourist who use low-cost accommodation. However, these outcomes cannot be fully achieved without the involvement and support of the local community.

⁷ Balfour Consulting – CMCA Member Research 2010

Chief Executive Officer
Shire of Denmark
PO Box 183
Denmark WA 6333

Re: Caravanning or Camping on Privately Held Land

Dear Sir,

The Campervan and Motorhome Club of Australia Limited (CMCA) supports Council's proposal to allow motorhomes, caravans and tents to stay on private property for a period of up to seven days, as detailed in the Shire's draft policy.

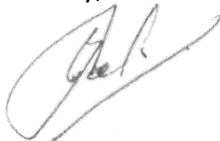
CMCA believes that our members should be able to exercise their 'Freedom of Choice' when deciding where they camp. We firmly believe that any shire that does not provide a suitable mix of commercial and non-commercial camping options are not maximising the economic benefits available to all local businesses.

Research undertaken in the outback Queensland tourism region by Tourism Research Australia (TRA) found that 34% of recreational vehicle (RV) travellers only use caravan parks, 16% only use non-commercial accommodation and 50% use both commercial and non-commercial accommodation options. Recent research undertaken in South Gippsland by Dr Anne Hardy from the University of Tasmania produced very similar results. The TRA research also found that the 50% of RV travellers using a mix of accommodation options had the highest daily spend.

The caravan parks will argue that this policy will have a negative impact on their businesses. However, our research indicates that RV tourists using the proposed accommodation option, as detailed in the Shire's draft policy, may not visit Denmark if there are not suitable camping options available.

I have attached a copy of CMCA's position paper on 'Low-Cost, Self-Contained RV Accommodation'.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Bevin Martin', is written over a white background.

Bevin Martin
State Representative
Campervan and Motorhome Club of Australia Limited

26th July 2015

From: [REDACTED]
Sent: Thursday, 30 July 2015 7:16 PM

13

Hi ☺

I would like to mention the following points when considering the caravan and camping on private property policy to be discussed at the council meeting soon.

Historical

- We have provided a 3 to 7 day camping ground on our pasture in our Spring season for schools completing the Bibbulmun Track between Valley of the Giants and Peaceful Bay.
- This usually occurs annually to every 2 years depending on the schools conducting the walk
- Each school generally travels each 3 years or so as a large group of between 25 and 100 persons including the carer companions travelling with the students eg teachers, parents etc.
- The schools always bring their own camping equipment and facilities.
- We do not charge for these events as this is our community support venture.
- Shire provided verbal agreement that we can provide community support for these types of occasions

Other groups / individuals

I am unsure if the Shire was aware of the following and feel it would be disheartening if these services could no longer be made available for Shire residents on larger properties

- A few other properties in the outer Denmark area provide similar services for the Police Camping and Caravan & Camping societies for their annual social gatherings. I am unaware of tariffs, however to my knowledge I believe they also provide the service complimentary
- A number of acreage properties participate in assisted personnel programs – accommodation for labour hire during travel which is all agreed and complimentary on both sides – there are general regulated standards that each industry follows. A large percentage of the time guests stay longer than 7 days and bring their own mobile home.

Support of policy

- I support the proposed policy with the following consideration items listed below
- If the following items are not adopted, property owners such as ourselves and others in our area may not be able to provide the community service that is currently taking place for students, police, nomads and other such groups.
- To my knowledge Kim at TreeElle Retreat also supports the information in this email and can be contacted on 98408471 if further information is required.

Considerations for meeting

- Consession for extension of maximum guest numbers plus mobile homes/tents for larger properties with acreage above the prescribed maximum of 1 acre (4,000 sqm) that can accommodate such groups within the proposed guidelines of appropriate effluent disposal
- Consession for extension of maximum days for up to 12 months for property maintenance officers/farm hands (excluding caretakers), touring groups or itinerant groups wishing to stay longer than 7 days

Please feel free to contact me or [REDACTED] at [REDACTED] about any of the above and we will be glad to assist.

Sincerely

[REDACTED]

Submission –**COUNCIL POLICY - DRAFT CARAVANNING OR CAMPING ON PRIVATELY HELD LAND**

Under the Caravan Parks and Camping Grounds Act 1995, Caravan Parks and Camping Grounds Regulations 1997, stipulates as follows:

11. Camping other than at a caravan park or camping ground

(1) A person may camp —

(a) for up to 3 nights in any period of 28 consecutive days on land which he or she owns or has a legal right to occupy, and may camp for longer than 3 nights on such land if he or she has written approval under sub-regulation (2) and is complying with that approval; Written approval may be given for a person to camp on land referred to in sub-regulation (1)(a) for a period specified in the approval which is longer than 3 nights —

(a) by the local government of the district where the land is situated, if such approval will not result in the land being camped on for longer than 3 months in any period of 12 months;

(b) by the Minister, if such approval will result in the land being camped on for longer than 3 months in any period of 12 months; or

(c) despite paragraph (b), by the local government of the district where the land is situated —

(i) if such approval will not result in the land being camped on for longer than 12 consecutive months; and

(ii) if the person owns or has a legal right to occupy the land and is to camp in a caravan on the land while a permit has effect in relation to the land.

We do not believe that council has the right to override a state act and its regulations, therefore the council cannot create the proposed policy in its current form.

Should the council feel they do have the right to create a policy that overrides a state act, then we oppose the proposed policy on the following grounds:

- Potentially reduces investment into tourism industry. The investment in this shire in tourism is many millions of dollars, for facilities that are supplied in accordance with the regulations that set the standards. Why would businesses continue to operate, or new ones be built if they are to be undermined by private landowners supplying camping & caravan sites that do not meet these requirements. This therefore places unlicensed camping in direct competition with the licensed parks. This especially effects the existing parks who may be willing to extend their parks to meet peak demand, but will not do so if virtually unrestricted camping is allowed on private land.
- Increased impost on council rangers. The rangers will not be able to check on all incidence that they comply with the length of stay let alone that no charge is being made.
- Possible antisocial behaviour and management of this. Licensed parks continually monitor behaviour of their guests, and have recourse to govern this, yet private landowners will fall back on the rangers to control their guests.
- Camping on unlicensed private land should be restricted to family or for specific functions where permission has been granted by the shire, and that all requirements of sanitation, area per camp, water and lighting are met, as per the regulations, including the length of stay, ie no longer than 3 nights.
- The council already has the ability to meet the Objectives of the proposed policy through the current regulations, and does not need to create a policy which contravenes those regulations by allowing a longer stay.
- If the council feels it must make a policy, then it must include all elements of the state legislation including length of stay permitted without applying to council, ie 3 nights, not 7.

Caravanning or Camping on Privately Held Land

Submission by [REDACTED]

As Caravan Park operators we would like to register our opposition to changes to Shire policy that enables caravanning and camping on privately held land. We believe that regulation 11 and 12 of the Caravan Parks and Camping Grounds Regulation 1997 are adequate.

Caravanning or Camping on Privately Held Land

Submission from 

I would like to express my opposition to caravanning and /or camping on privately held land in the Denmark Shire. I believe that problems associated with overcrowding of back yards, overuse of ablution facilities and anti social behaviour cannot be adequately managed.

From:

Sent: Fri 31/07/2015 2:47 PM

To: Denmark Shire Enquiries

Cc:

17

Subject: ISUB157823 - Caravan or camping on privately held land

Message AVG certification.txt

Dear Mr Stewart

I am a ratepayer in the Shire of Denmark with a lease at House 50, First Avenue, Peaceful Bay.

I am absolutely opposed to caravans or camping on privately held land. The traveller is more than adequately catered for with first class facilities within the Shire.

I don't believe that neighbours of people allowing campers on their property should have their recreational space, in their back yards, impacted on when there are perfectly good facilities available in properly zoned areas.

Yours sincerely

[Redacted Signature]

From:

Sent: Fri 31/07/2015 3:53 PM

To: Denmark Shire Enquiries

Cc:

18

Subject: ISUB157824 - Overflow camping at McLean Park, and caravanning on private property policies.

Message AVG certification.txt

Thanks for the opportunity to comment on the overflow camping at McLean Park.

I object to this idea. It is a good idea for towns in the wheatbelt that do not have such high tourist volumes and require additional room for a major event, however for Denmark the idea is flawed, especially for McLean oval.

The oval is used by several sporting clubs regularly and all year round. It puts these sport and recreational users at risk with forgotten tent pegs and possible refuse and broken glass. Will the shire cover insurance for those damaged by this proposal?

It takes opportunity away from private investors. Poor idea, and I hope it is not being used as a means of justifying application for grant monies to upgrade facilities at the location.

Also, regarding the caravan and camping on private land, the extent of this idea is wrong. 4 tents/vans for 7 days with 24 persons over normal household is too much and is likely to bring confrontation with neighbours through noise issues etc. One van/tent for 7 days per block is a better compromise.

Regards

[Redacted signature]

From: [REDACTED]

Sent: Fri 31/07/2015 4:58 PM

To: Denmark Shire Enquiries

19

Cc:

Subject: ISUB157825 - Comment on Draft Caravanning or Camping on Privately Held Land Policy

Personal reasons:

I recently moved back to my home town from Perth suburbia to enjoy a quiet, relatively undisturbed lifestyle. If I wanted to have near neighbours & was happy to hear others lives I would have/could have spent much less & lived in Denmark town. I chose to live in Ocean Beach to enjoy the trees, birds & quiet. How can it be fair that the lifestyle I chose can be disturbed by visitors on neighbouring blocks. I certainly accept that I live in a tourist town & encourage visitors within acceptable numbers & in gazetted areas.

Environmental:

From a sustainability & environmental point I also have deep concerns about the additional persons in our town when we have power & water issues from residents & the numbers of visitors we already accept. Water is a precious resource & we already have restrictions for much of the year, how will additional water use be managed?

Apart from the additional power requirements from the extra persons how is the safe use of power (eg extension leads) going to be policed? This then leads on to the additional fire risk that use of leads etc may cause. The fire risk also relies highly on the care & vigilance of the people in the area - what about camp fires, smoking in unpoliced caravan/camping.

Can Denmark retail & hospitality well service even more numbers in our peak times? Great service & experience surely is better for a smaller number of people?

I don't understand this draft policy or that of the Overflow Camping as I don't see that the town infrastructure can handle it or that the experience of both the residents & visitors during the peak times will be positive. I believe these changes would negatively impact the town & also me personally.

[REDACTED]

From: [REDACTED]
To: Gregg Harwood; 'Ross Thornton'; Dale Stewart; Denmark Shire Enquiries
Cc: [REDACTED]
Subject: ISUB158829 - public comment ,draft caravan /camping privately held land.

Sent: Mon 3/08/2015 3:59 PM

20

Message AVG certification.txt

Dear Mr Ross Thornton (President), Shire of Denmark, Councillors and Staff,

As the owners of [REDACTED] we are vehemently opposed to multiple caravans parked on privately owned residents properties.

I am sure that the councillors have all read the legal opinion given by the Caravan Industry to The Shire re the proposed draft policy.

It is my belief the Shire of Denmark does not need to draft a new policy to deal with a resident wishing to park a caravan on their property. If the Shire receives a written request it has the authority to give the required permission to allow this to happen within a few guide lines. It is my experience that drafting new policies to cure one issue that can be dealt within the already existing framework creates more problems than currently exist.

Please take into consideration when making a decision into this draft policy, the resident businesses that have spent large amounts on infrastructure that may be adversely affected by your ultimate decision.

Yours faithfully,

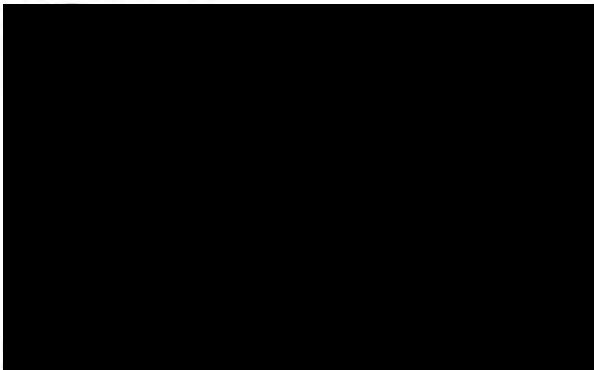
[REDACTED]

- Specify amount of time the caravan can be parked
- Simple application form with proposal from farmer (NOT like the complicated Nature Based Park application which is for longer stay camping!)

Yes, we have an interest in making it easier for farmers to allow self-contained caravans to park overnight between towns as we have a website that connects travellers with available farms around Australia. We currently have over a thousand members, and keen to attract more tourism to benefit WA - We will be providing free membership for the month before and after the Caravan & Campervan Rally in Albany in October as we want to promote our region while that opportunity is here.

We have researched the Local Government Regulations, Health & Safety and the Leave No Trace guidelines, and would be happy to discuss any way we can enable or help attract people to our beautiful towns.

Yours sincerely



Name [REDACTED]

Email Address [REDACTED]

Phone Number [REDACTED]

Comments We have just come across the unfortunate news that Council has forgone the opportunity to attract caravanners to your shire through the provision of short term overnight sites for vanners to pull into your District. Many will only stay overnight but many would also take the opportunity to further explore your area, moving into longer term sites within the narrow minded operators of local caravan facilities.

This is a massive market and I am dissappointed gor your ratepayers to have missed this golden oppourtunty to further develop the economy within your area.

Regards
One of the many thousands currently caravanning actiss this beautiful Country.

From: [REDACTED]
Sent: Friday, 24 July 2015 11:04 AM

23.1

To: [REDACTED]
Subject: Caravan/camping legislation for Western Australia's South West

Good Morning [REDACTED] and [REDACTED] – The following and its Attachments will keep you in touch with my addressing of the Denmark saga. All the best Jim Goodsell:

To the Honourable Minister/CEO

My name is [REDACTED] I retired in 1994 as a Wildlife Research Scientist from my then employer the Western Australian Department of Conservation & Land Management. I am the owner/operator of a camping & caravan park Valley of the Giants Ecopark which underwent Denmark Shire's Town Planning Scheme Amendment for 2 years from 1994 until the park's gazettal & commencement at the end of 1995. The Ecopark's entrance is on the northern side of Highway One (WA's South Coast Highway) at Hay Location 1839, 55Km west of the Denmark CBD in Western Australia & is 1.5Km from a "Parking Bay" (the VHB) which is almost opposite Conspicuous Beach Rd & is 5Km south of the Tree Top Walk an iconic tourist attraction within the Walpole Wilderness. The Ecopark & the VHB adjoin the Walpole Wilderness on the northern side of Highway One. This document's 6 recommendations (prefixed by >) & its 4 Attachments focus on camping/caravanning (i.e.camping) in Denmark Shire & in southern Manjimup Shire (Attachment2). A New Caravan & Camping Grounds Act & its attendant Regulations are now proposed by the WA Dept of Local Govt & Communities & the WA Dept Regional Development through their Consultation Paper i.e.*Proposal for Caravan Parks & Camping Grounds Legislation (30/05/2014)*. Those Departments are soliciting submissions in relation to this New Act. In light of the unexpected development that DSC intends to operate outside the Current Act (1995) & its Regs (1997), this focus is an addendum to Goodsell's (2014) submission & it also addresses DSC's illegal draft policy P130205 (Attachment3). Please contact JG for any further information you may require.

Summaries of Attachments:

- *1:Kott Gunning lawyers: Illegality of Denmark Shire's draft caravanning/camping policy P130205.
- *2:Legislating for caravanning /camping (Contents: Introduction, Socio-economic hazards of draft policy P130205, Impacts of illegal camping, Eliminating illegal camping & Conclusions).
- *3:Illogic of P130205.
- *4:Request of Denmark Shire to negotiate closure of a Highway parking bay, denied.

Summaries of Recommendations generated by Attachment 2:

- >1:DSC's misconstruction of the Current Act & its Regulations by P130205 should be clearly extinguished by the New Act.
- >2:Prior to approving a use of a caravan park, the New Act should ensure the adequacy of a park's infrastructure & land capability.
- >3:Overflow camping areas should comply with all relevant inter-organizational regulations/requirements.
- >4:The viability of essential services provided by caravan parks should be protected.
- >5:Local Authority Ranger surveillance for offences & the use of appropriate signage of camping sensitive sites should be sustained.
- >6:The water catchments of road verge "Parking Bays" & any other camping sites are occupied by local residents whose interests & health should not be compromised by camping.

27 May 2015

EMAIL

Chief Executive Officer
CIAWA

Our Ref: [REDACTED]

Partner: [REDACTED]

BY EMAIL: [REDACTED]

Dear [REDACTED]

CARAVANNING OR CAMPING ON PRIVATELY HELD LAND POLICY

On 14 April 2015 the Council of the Shire of Denmark (Shire) resolved as follows:

“That Council advertise that attached draft Camping on Privately held land Policy, subject to the inclusion of reference to regulation 13 of the Caravan Park and Camping Grounds Regulations 1997, for a 60 day public and industry comment period and consider in the 2015/2016 Budget a fee of \$100 (plus GST) to assess an application, on a standard form, for variation to the Policy, should the Policy subsequently be adopted.” (Resolution 20415)

Resolution 20415 was passed despite objections raised by CIAWA and local caravan park operators. The Proposed Policy purports to act as a blanket approval for camping in defined circumstances on privately held land that would otherwise be in breach of the Caravan Park and Camping Grounds Regulations 1997 (CPCG Regulations) and the Caravan Park and Camping Grounds Act 1997 (CPCG Act). It seeks to authorise a longer stay than permitted under Regulation 11 and more caravans than permitted under Regulation 12.

In the Shire's letter to Kott Gunning 21 April 2015 which notified this decision the Shire invited further comment by CIAWA on the Proposed Policy and the legal issues raised by us in our letter to the Shire of 14 April 2015 and in particular the underlying legal basis for the Proposed Policy.

CIAWA have sought specific advice on the following issues:



Level 8, AMP Building
140 St Georges Terrace
Perth WA 6000

GPO Box L890
Perth WA 6842
DX 110 Perth

T 08 9321 3755
F 08 9321 3465
E info@kottgunn.com.au

kottgunn.com.au
advoc

**> WHEN THERE'S
BUSINESS AT STAKE**
WE'RE YOUR LEGAL PARTNERS

1. Does the Proposed Policy conflict with the written law set out in Regulations 10, 11, 12 and 13 of the CPCG Regulations.
2. Does the Shire have the statutory power to make the Policy 20415.
3. Does the Shire have the statutory power to make a Local Law in terms of the Policy 20415.

SUMMARY OF ADVICE

The Proposed Policy is in our opinion:

1. inconsistent with and not authorized nor contemplated by the CPCG Act, the CPCG Regulations nor the LG Act;
2. is an invalid attempt at sub-delegation of legislative power; and
3. is an invalid avoidance of parliamentary and ministerial scrutiny of the manner in which the Local Government regulates and enforces the provisions of the CPCG Act and CPCG Regulations.

Relevant CPCG Regulations

Regulation 10 prohibits camping unless it is on a site in a licensed caravan park or the camping is in accordance with Regulation 11.

To the extent that a person camps anywhere other than in a licensed caravan park or camping ground it has to be in compliance with Regulation 11 otherwise they commit an offence under Regulation 10.

Regulation 11(1)(a) provides a limited exemption for camping on "land which he or she owns or has a legal right to occupy".

Regulation 11(2) allows for a Local Government to permit stays of up to 3 months.

Regulation 11 must be read in conjunction with Regulation 12 which limits the number of caravans permitted to be used for camping at any one time to one unless otherwise approved pursuant to Regulation 12(2) by a Local Government.

Regulation 13 requires a Local Government in considering permission under 11(2) or 12(2) to be satisfied as to the suitability of the place for camping with special regard to safety, health and access to services.

The combined effect of Regulations 11, 12 and 13 is that:

A person may camp without additional approvals where all of the following circumstances exist:

1. The camping place must be on land which the person camping owns or has a legal right to occupy (ie can be enforced against the true owner of the land such as a lease or contractual license) Regulation 11(1)(a)
2. Only one caravan can be used at any one time Regulation 12(1)(a)

3. Camp only for 3 nights in any 28 day period Regulation 11(1)(a).

Regulation 11(2) and Regulation 12(2) provides a process for obtaining approval for a stay exceeding 3 nights (Regulation 11(2)) and exceeding 1 caravan (Regulation 12(2)).

Regulation 11(2) contemplates 2 situations where the Local Government may grant approval for camping longer than 3 days:

- (a) if such approval is for less than 3 months in any 12 month period
- (c) for up to 12 consecutive months if there is a building or demolition license in place in regard to the Lot where the caravan is camping.

Regulation 12(2) contemplates that the Local Government may grant approval for more than one caravan for up to 3 months.

In both cases the exercise of the discretion of the Local Government or the Minister must comply with Regulation 13 which requires a Local Government to be satisfied as to the suitability of the place for camping with special regard to safety, health and access to services.

In order to comply with Regulation 13 each case must be determined on a case by case basis. A blanket policy to approve a class of uses is not contemplated by the Regulations. Both Regulations contemplate a specific written approval for each non-compliant use taking into account the consideration specified in Regulation 13.

Priority of CPCG Regulations over Policy or Local Law

The CPCG Regulations must be read in the context of the whole of Part 2 of the CPCG Regulations and the powers of a Local Government under the CPCG Act and Local Government Act 1995 (LG Act).

Regulation 8 provides that if there is a conflict or inconsistency between this Part and any other written law other than a Local Law, the other written law prevails to the extent of the conflict or inconsistency.

Sections 28 and 29 of the CPCG Act do provide for Local Laws in relation to camping within limits.

28. Regulations

- (1) *The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.*
- (2) *Without limiting subsection (1), regulations may —*
 - (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 to obey such directions;*
- ...
- 29 (1) *Subject to this section, a local government may make Local Laws for its district under the Local Government Act 1995 for any purpose set out in section 28(2)(a), (b), (c), (d), (e) and (f) as if that purpose were a purpose for which Local Laws could be made under that Act.*
- (2) *Where there is conflict or inconsistency between a regulation made under this Act and a Local Law referred to in subsection (1), the regulation, to the extent of the conflict or inconsistency, prevails.*

The critical provision is that where there is conflict or inconsistency between a regulation made under the CPCG Act and a Local Law referred to in subsection 29(1), the regulation, to the extent of the conflict or inconsistency, prevails.

Section 3.7 of the LG Act also expressly provides that a Local Law made under the LG Act is inoperative to the extent that it is inconsistent with the LG Act or any other written law.

The *Interpretation Act* 1984 defines “written law” as all Acts for the time being in force and all subsidiary legislation for the time being in force.

The CPCG Regulations are subsidiary legislation.

Local Government policies are not even a Local Law and accordingly cannot conflict with or be inconsistent with a written law.

Accordingly the effect of the above provisions is that neither a Local Law nor a Local Government policy can be in conflict with the regulations in Part 2 of the CPCG Regulations.

The Joint Standing Committee on Delegated Legislation (JSC) has considered the use of policy and Local Law as a regulatory process.

Once a Local Law is gazetted it is referred to the JSC for consideration and if issues are found with the law will usually seek a written undertaking from the Local Government to amend or repeal the instrument in question, and has power to report to the Parliament recommending the disallowance of the instrument in the Legislative Council. The JSC gives regular reports on its findings.

The JSC has specifically commented on the practice of Local Governments attempting to incorporate policies or codes by reference into a Local Law and found the practice to be inconsistent with and not authorized nor contemplated by the Local Laws’ empowering Act,

the LG Act; amounted to an invalid sub-delegation of legislative power; and was an attempt to avoid parliamentary and ministerial scrutiny.¹

The Department of Local Government and Communities has also issued guidance on the adoption of policies:²

“8.1 Adoption of Policies

The Joint Standing Committee will not approve Local Laws which attempt to adopt policies and make them enforceable. Adopting policies and making them enforceable is often done in planning schemes, however, that is done under the Planning and Development Act 2005, not the Act (sic. Local Government Act 1995). The Joint Standing Committee position is that the powers of the Act do not permit Local Laws to empower a Local Government to adopt internal policies as laws other than by inclusion of the matter in a Local Law (ie policies for advertising signs or codes of conduct). Attempting to adopt policies in Local Laws and make them enforceable is considered an attempt to avoid the process in section 3.12 of the Local Government Act 1995 and the scrutiny of Parliament. The section 3.12 procedure is mandatory and must be followed in chronological order. Failure to do this will render the Local Law invalid and will likely result in the Joint Standing Committee recommending the law for disallowance.”

It is a logical extension of this position that if a Local Law cannot be used to make a policy enforceable contrary to an existing regulation, a policy on its own clearly will not have the effect proposed by the Local Government, namely a blanket approval to modify the requirements of the regulations for longer stays with more caravans on land which they are neither owners of nor legally entitled to occupy.

Who has a Legal Right to Occupy the Land

There is even a more fundamental issue to be determined in regard to the Local Government's attempt to modify the operation of the CPCG Regulations and that is the threshold test contained in Regulation 11(1) which defines the class of persons who are permitted to camp on the land. The test is that the land on which the person is camping must be land that such person “owns or has a legal right to occupy”.

A legal right to occupy means something more than a mere permission to enter and erect a camp on a property. Permission alone to enter and camp is not a legal right to occupy as it is not enforceable by the person camping on the land. In order to be a legal right, there needs to be either a statutory or contractual right to the occupation of the land such as a lease or a licence that would give rise to a legal right to occupy.

The text “*Words And Phrases Legally Defined*”³ provides some guidance on the meaning of “legal” and “lawful”.

“Legal” ... the word “legal” means lawful, that is, something effectual and proper which the courts of judicature of the country will enforce.⁴

¹ Joint Standing Committee 4th, 8th and 9th reports

² Local Government Operational Guidelines Number 16 – November 2011 Local Laws.

³ Butterworths: John B Saunders ed. 3rd ed vol 3 at pp 23, 34.

The natural meaning of “lawful” depends on the context in which the word is used. It may mean... in the sense of supported by law, eg. Lawful authority, in some connections the word implies the quality of being “legally enforceable”. A lawful owner or heir is one whose rights are recognised and enforceable by law.⁵

Other Statutes referring to Right to Occupy

The common interpretation of the phrase “right to occupy” can also be drawn from other statutory provisions where that concept is used such as in the *Residential Parks (Long-stay Tenants) Act 2006* and the *Residential Tenancies Act 1987*.

In the case of both of these Acts they consistently use the phrase in the context of a legally enforceable agreement granting a person a right to occupy a site or premises. The element of the ability of the person claiming the right to occupy being able to legally enforce that right for a determinable period of time is essential to there being a right to occupy for the purposes of those Acts.

Under the *Land Administration Act 1997* an “occupier” is defined as “in relation to land, means a person who, in exercise of a right of possession, is in a actual occupation of the land, but does not include anyone who is in occupation of the land merely as a member of the family or household of such a person.”⁶

The *Occupiers Liability Act 1985* imposes a duty of care on an “occupier of premises”⁷. Section 2 provides that an occupier of premises means a person occupying or having control of land or other premises, and section 4(2) provides that nothing shall be taken to alter the rules of the common law which determine the person on whom, in relation to any premises, a duty to show care towards a person entering those premises is imposed. The persons who are occupiers of premises for the purpose of that Act are, therefore, the persons who were occupiers of premises at common law. This means an occupier can be an owner in occupation, a tenant, a licensee or any person who has the right to possession of the premises and the right to invite or permit any other person to come on to them.

How does this Advice Affect the Proposed Policy

The terms of the Proposed Policy are as follows:

“P130205 CARAVANNING OR CAMPING ON PRIVATELY HELD LAND

Objectives

To enable owners and long term rental occupiers of properties within the Shire to accommodate limited numbers of friends and relatives for short term periods in a manner that does not compete unfairly with licensed Caravan Parks and therefore detract from their viability, whilst not creating any environmental, public health or other nuisances nor detracting from the amenity of neighbourhoods.

⁴ *Dufaur v Professional Life Assurance Co* (1858) 25 Beav 599 at 603

⁵ *Crafter v Kelly* [1941] SASR 237 at 243.

⁶ *Land Administration Act 1997* s151

⁷ *Occupiers Liability Act 1985* ss 4 and 5

To provide consistency and certainty about enforcement of Regulations 11, 12 and 13 of the Caravan Parks and Camping Ground Regulations 1997 to both Licensees of Caravan Parks operating within the Shire and Council's Law Enforcement Officers.

Policy

In accordance with its powers under Regulations 11, 12 and 13 of the Caravan Parks and Camping Ground Regulations 1997, the Shire of Denmark grants permission to land owners and, with the approval of the land owner, long term rental occupiers of properties within the Shire of Denmark, to accommodate one occupied caravan or 6 persons camping in tents per 1000m² of property area (or part thereof for smaller than this allotment size) up to a maximum of 4 occupied caravans or immediate family tent clusters or 24 persons, whichever is greater, for a maximum of 7 days in any period of 28 consecutive days, providing:

- 1) No charge is made for the accommodation or associated services.*
- 2) The area used for camping is not to be sign posted or advertised in any way.*
- 3) The owners or long term rental occupiers of the property are present for the majority of the time that the camping takes place.*
- 4) The activity is not to create noise or unruly conduct as to cause a nuisance to adjoining property occupiers.*
- 5) Toilet, ablution facilities and effluent treatment and disposal systems exist on the property.*

Persons seeking approval for numbers of persons, caravans, tents or days in excess of these restrictions or intending to charge for occupation of a caravan or tent on their property should apply in writing for Council's consideration at least 60 days prior to the intended activity or occupation together with the appropriate fee.

NB: This Policy should be read in conjunction with Policy P130301 (Guidelines for Temporary Accommodation).

Responsible Officer

The Director of Community and Regulatory Services is the responsible officer for implementing this policy."

The critical deficiencies in this Proposed Policy are as follows:

- 1. For the reasons outlined above neither Regulations 11 or 12 give a power to the Local government to expand the class of persons who are entitled to camp on property as an exception to regulation 10. Accordingly the objective of permitting owners and long term rental occupiers of properties within the Shire to accommodate limited numbers of friends and relatives for short term periods by allowing them to camp on properties is not within the power of the Local Government, as friends and relatives are not the subject of the CPCG Regulations 11 and 12 that create exceptions to the prohibition on camping set out in Regulation 10.*
- 2. The Proposed Policy is not needed to provide consistency and certainty about enforcement of Regulations 11, 12 and 13 of the Caravan Parks and Camping Ground Regulations 1997. The regulations are already clear and can readily be enforced by either prosecution or more simply by the implementation of an infringement notice regime. [We note that the minutes of the Shire meeting which considered the Proposed Policy identifies a number of identified clear and ongoing breaches of the Regulations which have gone unprosecuted by the Shire, and in a*

recent letter from the Shire 19 May 2015 the Shire stated that *“While Council is not compelled to prosecute every camping breach that occurs within its boundaries it does have an active enforcement program and to date Council’s rangers have issued 37 illegal camping infringements and 12 warnings in the 2014/2015 year... and the Shire of Denmark has a reputation as one of the more efficient Shires in terms illegal camping compliance”*].

3. *Regulations 11, 12 and 13 of the Caravan Parks and Camping Ground Regulations 1997 do not grant a power to the Shire of Denmark (or any Local Government) to grant approval without consideration in each case of individual circumstances of a request under regulations 11(2) or 12(2) and in particular consideration of the requirements set out in regulation 13.*
4. *The Proposed Policy contemplates an extension of the number of persons permitted to camp and the duration of the camping to accommodate one occupied caravan or 6 persons camping in tents per 1000m² of property area (or part thereof for smaller than this allotment size) up to a maximum of 4 occupied caravans or immediate family tent clusters or 24 persons, whichever is greater, for a maximum of 7 days in any period of 28 consecutive days. Implementation of this Proposed Policy as an absolute variation of the rules set out in the CPCG Regulations would result in significant numbers of people being permitted to camp on land which they neither own nor have a legal right to occupy which would be in direct conflict with the provisions of regulations 10, 11 and 12 of the CPCG Regulations.*
5. The Proposed Policy is in our opinion:
 - a. inconsistent with and not authorized nor contemplated by the CPCG Act, the CPCG Regulations nor the LG Act;
 - b. is an invalid attempt at sub-delegation of legislative power; and
 - c. is an invalid avoidance of parliamentary and ministerial scrutiny of the manner in which the Local Government regulates and enforces the provisions of the CPCG Act and the CPCG Regulations.

Building Control - P130301 Guidelines for Temporary Accommodation

This policy of the Shire of Denmark is referred to in the officer’s report to council attached to the agenda item on 14 April 2015. It is stated that this policy is not in conflict with the Proposed Policy. The policy sets out a set of criteria for an applicant to address when applying to the Shire for permission to inhabit a caravan, in accordance with Regulation 11(2). It differs substantially from the Proposed Policy in that it does not purport to extend the class of persons permitted to camp, it requires each application to be considered by Council on its merits and does not fetter the Council’s discretion under Regulation 13.

Letter from Denmark to CIAWA 19 May 2015

We have reviewed the above letter in regard to the Shire’s contentions in regard to the Proposed Policy (set out in italics) which are relevant to this advice:

“The Caravan Park and Camping Ground Act and Regulations which were drafted and are periodically reviewed with extensive industry input give scope to Council and its CEO to “manage” caravan and camping on both public and private land within a range

of parameters and the officer report and recommendation fall within those parameters.”

The CPCG Act and CPCG Regulations are the primary source of power for the Local Government to act in regard to caravan parks camping grounds and camping generally. Where they prohibit certain conduct the Local Government is limited in its power to vary that prohibition to the specific provisions in the CPCG Act and CPCG Regulations.

There is no general power in either the CPCG Act or the CPCG Regulations for a Local Government to “manage” caravan and camping. To the extent that a Local Government is the authority responsible for licensing and enforcement of the CPCG Act and CPCG Regulations, its power is defined by and limited by those laws.

Accordingly as elaborated above, neither a policy nor a Local Law can be in conflict with a regulation, and in particular the Proposed Policy cannot prevail against the regulations.

“Reg 11(2) of the Caravan Parks & Camping Grounds Regulations 1997 as described in the officer report gives Council’s CEO the ability to grant permission to camp outside a facility for up to 3 months.”

As detailed above, this is a very limited power and does not authorise a Local Government to make a policy inconsistent with the Regulation.

“The officer recommendation and the subsequent minuted resolution is an across the board written approval for the entire Shire.”

As detailed above a policy of broad application without any consideration of each application is not a proper exercise of the Local Government’s discretion to allow camping pursuant to regulations 11, 12 and 13.

“Towns that choose to go RV Friendly and allow “free camping” in their CBDs and multiple day concerts that have on site tent cities and mobile road construction camps are also examples of this.”

Depending on the land used, the circumstances of the application and the basis for granting permission to camp by a Local Government, some of these practices may also be beyond the power of the Local Government and may warrant further investigation and review.

Yours faithfully

KOTT GUNNING




To the CEO:

LEGISLATING FOR CAMPING/CARAVANNING IN WA's SOUTH WEST by

10/07/2015,

INTRODUCTION

My name is [REDACTED] I retired in 1994 as a Wildlife Research Scientist from my then employer the Western Australian Department of Conservation & Land Management. I am the owner/operator of a camping & caravan park Valley of the Giants Ecopark which **underwent Denmark Shire's Town Planning Scheme Amendment** for 2 years from 1994 **until the park's gazettal & commencement at the end of 1995. The Ecopark's entrance is on the northern side of Highway One (WA's South Coast Highway) at Hay Location 1839, 55Km west of the Denmark CBD in Western Australia & is 1.5Km from a "Parking Bay" (the VHB) which is almost opposite Conspicuous Beach Rd & is 5Km south of the Tree Top Walk an iconic tourist attraction within the Walpole Wilderness. The Ecopark & the VHB adjoin the Walpole Wilderness to their north. This document's Attachments are numbered 1 to 4.** Its 6 recommendations (prefixed by >) focus on camping/caravanning (i.e.camping) of Denmark Shire & southern Manjimup Shire. Illegal camping within the Walpole Wilderness on the verges of Highway One continues along the 170 Km between the towns of Denmark & Manjimup except within the precincts of those towns. No doubt in that area, it accounts for tens of thousands of camper group nights annually. Collectively, the caravan parks of this area have never reported filling to capacity & have enough land to accommodate all camper demand into the foreseeable future.

In WA, camping within a Local Authority is subject to the current Caravan Parks & Camping Grounds Act (1995) & its Regulations (1997) which like the regulations of many other Acts, the Local Authority is obligated to administer. WA Highway **"Parking Bays" occupy the Highway verges & are indicated by a distinctive Main Roads WA "P" sign. They are for "fatigue management"**. Their camping-use is illegal. In less populous parts of WA, Highway **"Road side rest areas"are dedicated by Main Roads. Camping is permitted on WA's RSRA's under certain conditions.** In the other Australian States & Territories camping & caravan parks are administered differently from WA. The current obligation on the WA Local Authority to administer camping other than at a caravan park through the CP&CGA is sometimes misunderstood.

The Departments of Local Government & Communities & the Department of Regional Development are soliciting submissions to develop a New Caravan & Camping Grounds Act through their Consultation Paper i.e. *Proposal for Caravan Parks & Camping Grounds Legislation* (30/05/2014). The New Act/Regulations will replace the current CP&CG Act (1995) & its Regulations (1997). In response, Goodsell (2014) submitted that the **standards, criteria & enforcement of "No illegal Camping" of the Current Act/Regulations** should be encompassed within the Proposed Legislation also which should continue to be administered by the Local Authority.

In light of an unexpected concerning development that DSC is planning to operate outside the Current Act (1995) & its Regulations (1997) (see Attachment1: Solicitor Kott Gunning's letter), this focus has two purposes: It is an addendum (Attachment2) to Goodsell's (2014) previous submission & it comments on DSC's two draft policies P130206 (not attached) & the concerning P130205 (Attachment3). These draft policies are subject to a public comment period closing on 31/07/2015. Newspaper advertisements of policy P130205 misleadingly omit its commercialization provision (Denmark Bulletin no 883 28/05/2015-10/06/2015, p17; Walpole Weekly 20/05/2015, p11 [see link: <http://walpole.org.au/wp-content/uploads/2015/05/May-20-2015-Walpole-Weekly.pdf>]).

SOCIO-ECONOMIC HAZARDS OF DSC's DRAFT POLICY P130205 (Attachment3)

DSC at its ordinary 14/04/2015 meeting with only 6 days prior warning to stakeholders & without any consultation, proposed the policy P130205 (Authored by DSC's Director of Community & Regulatory Services [DC&RS], agenda item 8.2.1/ See paragraph # of Attachment3: *i.e. "Persons seeking approval for numbers of persons, caravans, tents or days in excess of these restrictions or intending to charge for occupation of a caravan or tent on their property should apply in writing for [Denmark] Council's consideration."*). P130205 prioritises visitors above residents as was occasioned by the same author when responding to a denied request by JG (see Attachment 4) of DSC at its ordinary meeting 20/08/13 to negotiate closure of the VHB with Main Roads WA (Minutes Item 8.2.3, p27) *i.e. "As a former Meat Inspector and Environmental Health Officer with 24 years experience, it is the Author's professional opinion that..... illegal campers defecating in the bush around the bay (i.e.the VHB) is in itself a sufficient public health and amenity concern to warrant policing the bay, the risk is an **immediate one to the people using that bay and not to the surrounding farms.**"* (NB: *the only farms are downstream 100M to 3Km*). Again, the DCRS, prioritizes visitors above local residents & excludes the concept of land capability in relation to water transport of contaminants. Such a rationale applied by the Policy P130205 would lead to environmental impacts & chaotic conflicts involving neighbours, regulatory Govt Departments & regulatory NGO's. The Policy sets a limit of 24 persons to camp for 7 days. This number of person/nights is excessive for the toilet system of a non-commercial site. Additionally, there would be at least 3 categories of residents in relation to accommodating camping. Some neighbours requesting camping would be on compatible or incompatible land. A third category of residents would object to neighbouring camping. Policy P130205 is an irrational "cherry-picking" enabling policy that poses a threat to the safety of a neighbourhood by the relaxation of the Current C&CG Act/Regs one of which is Regulation 19.(1)(a) *i.e. the "24/7 availability of the park manager"*. It also poses threats to potable water resources above & below ground, to the economic viability of the essential services caravan parks provide & to the viability of planning in Local Government. Also note JG's comments affixed to Attachment3 (Policy P130205) indicating that the Policy's text is illogical.

Mohen (2015) of Kott Gunning Lawyers on the same day as the 14/04/2015 DSC ordinary meeting reacted to P130205: *i.e. "CIAWA recommends that the [Denmark] Shire investigate the underlying legal basis for the [misconstrued] proposed policy"*. Thus, **>1:DSC's misconstruction of the Current Act & its Regulations should be extinguished by the New Act's unequivocal clarification that any accommodation of camping, commercial or**

otherwise should be subjected to the New Act & to its Regulations & to inter-reacting Acts through a process which has the equivalence of a Town Planning Scheme Amendment of relevant Current Acts & of their Regulations in relation to the management of camping.

IMPACTS OF ILLEGAL CAMPING

Free non-compliant camping (*i.e.* "Freedom Camping" of the "RV [Motor Homes & Caravans] friendly town movement" [RVM]) poses potential costs in the forms of loss of revenue from communities, wildfires & waste-pollution by campers from all over the world. Failure to appreciate the consequences of ineffective sanitation is not unusual. Sometimes it is not realised that Western Society has been & still is based on the safety factor of effective sanitation that has made close settlement possible. As current global populations exponentially increase & concentrate so too does the need for planned rather than the "ad hoc" P130205 management of camping.

In response to comments by customers at his caravan park & by residents, JG began on-going overnight recording of numbers of camper groups & their vehicle details during an initial non-enforcement period of 65 days of illegal camping beginning 18/12/2011 at the VHB. A mathematical model displays that 11257 adults camped there during 1996 – 2011 **(16 years, Attachment4, p11). DSC commenced enforcement of "No Camping" on the 66th day (i.e. 21/02/2012).** Dawn camper groups recorded by JG during the initial period was 253 (28/week) & exactly one year later for exactly the same period during enforcement 23 (3/week). Annually, this now fluctuates around an average of 9 for 253 dawns (less than **1/week**). **This result demonstrates that DSC has the ability to enforce "No Illegal Camping"** but was ineffective at proacting i.e. failing to plan to prevent illegal camping at the VHB in the first place.

Historically Walpole & its surrounds have not been attractive to retirement villages, properties for sale attest to that. The Walpole Denmark area is wet & cold from Easter until Christmas & is attractive to itinerant campers for relatively WA cool summer stays which coincide **with the area's bushfire hazard period & the seasonal withdrawal of surface waters** below sandy soils. Subsequently in winter, underground water re-surfaces causing water flows (Goodsell 1990). For example, at the end of winter 2013 at Nornalup, the VHB creek of the flood plain immediately east of Station Road & flowing through the Station Road culvert 4Km below the VHB (see map Attachment4, p9) had a similar stench & appearance as septic tank effluent. Generators of this stench would be organic farm wastes of the VHB **creek's catchment including water transported discharges from the VHB via its Highway One culvert & despite JG's recommendation (see Attachment4) there are no advised** reports that these discharges have ever been sampled for organo-mineral pollution. Almost **all of the VHB creek's northern tributaries originate in the Walpole-Nornalup National Park** (see map Attachment4, p9). Similarly, almost all of the creeks & rivers between Manjimup & Walpole originate &/or flow through forested conservation areas & are of rain water potability with an approximate pH of 5. Thus, without impacts of organic contamination & wildfires they are sustained resources of potable water & biological diversity.

Since the 1990's attitudes to the caravan park industry have been changing with exponential rapidity & the increase of illegal camping has been associated with this rapid change. The Caravan & Motor Home Club of Australia (CMCA) was initiated & the tourist guide books of supposed free camping areas began to be circulated (Goodsell 2013, Attachment4). These books provide a basis of the promotion of RV's that camping can be "free" & can be "anywhere". Another description of this activity is "freedom camping". The selling point is that if campers stay free in a locality they will spend money in that locality. However, this is contested by Brighthouse & Starfish Business Solutions (2012). Almost all campers at the VHB are from outside of WA (National & International). This refutes the RVM that WA is unfriendly to campers.

Almost all motor homes are two-wheel drives & of these, many are front-wheel drives. Some have a lazy axle added at the rear. Consequently & for obvious reasons, these are not "go anywhere" vehicles. In 20 years JG has only observed two four-wheel drive motor homes at his caravan park. They are fully imported & are very expensive. **>2:Prior to approving a caravan/camping area, the New Act should ensure that a Local Authority is obligated to establish the adequacy of the area's infrastructure, its access & capability of land to accommodate camping.**

ELIMINATING ILLEGAL CAMPING

Historically, illegal camping has been tolerated by the Department of Parks & Wildlife (DPAW) & by the Local Authorities of Denmark (DSC) & Manjimup Shires. DSC since 21/02/2012 has introduced enforcement of a "No Illegal Camping" policy throughout its Shire. There are 5 "Parking Bays" along its 67Km of Highway One. All now except one, which has not been a camping hot-spot have had "Camping Prohibited" signs erected from 21/02/2012 (firstly at the VHB) until October 2014. Any Local Authority regime can be **tenuous when dealing with such matters as the enforcement of "No Camping"**. Any equivocation re non-compliant camping obviously could compromise an investment in a caravan park.

A solution to illegal camping, proposed by DPAW is to upgrade & then lease the Shannon Camp Ground in the Walpole Wilderness & by Manjimup Shire Council's idea to install a free camping area near the Walpole Garbage Transfer Station. Both sites are potential wildfire death traps & **contaminants of potable water resources. It can be expected that the area's caravan parks & the overflow camping facility proposed at McLean Park (draft policy P130206, not attached) could absorb an unexpected increase in camper numbers, if illegal camping were suddenly eliminated** **>3:Any overflow camping areas should comply with all relevant inter-organizational regulations/requirements so that relevant contingencies including insurances can be accommodated.**

After catastrophic WA wildfire events between Northcliffe & Walpole, Kent River & Pemberton during February 2015, Highway-access was closed for several weeks between Manjimup & Walpole. Wildfires can be caused by campers. The costs of these wildfire events no matter how infrequent surpass any benefit whether social, ecological, political or economical that can be attributed to free non-compliant camping. Without collateral damage, the direct cost of extinguishing the Northcliffe wildfire during February 2015 is

estimated at \$14.1 million (ABC South West Radio News, 2015). It follows that **>4:Relevant organizations (Government & otherwise) should impose unequivocal regulations/requirements to eliminate illegal camping in ways that protect the viability of caravan parks & of their socio-economic environments.**

JG's recording of camper-use of the VHB during non-enforcement & during enforcement demonstrates that campers place a low value on free camping sites, from luxury 5 wheelers to standard tradesman vans. This was evidenced by unattended campfires during high bushfire hazard periods for the initial period of 65 dawn of non-enforcement of "No Camping". The fireplaces were removed early in 2012. Additionally, littered garbage & faeces are also usually spread around during illegal camping. Any mess is routinely cleaned up bi-weekly by Main Roads WA's Fulton Hogan contractor but especially prior to Christmas & Easter holiday events. The only such clean-up of garbage & fireplaces prior to these two events during non-enforcement was on Friday 23/12/2011 as enforcement of "No Camping" by DSC began on 21/02/2012 a prior date to the following holiday events.

CONCLUSIONS

Since the 1960's caravan park goodwill has been compromised. An image has developed that caravan park operators are profiteers when in fact the caravan parks of southern Manjimup Shire & western Denmark Shire are in active economic competition in their provision of an essential service. Apart from "*ad hoc*" selection, campers now appear to choose a caravan park for camping only by two principal factors i.e. the park's location & the prices charged. If prices are low some campers will tolerate the worst of conditions without empathy of their surroundings. Whenever "No Camping" signs have been vandallistically removed from the VHB there has been an immediate upsurge in illegal camping there. Once illegal campers move in, they are soon followed by others. For this reason, **>5:In order to effectively manage camping, ranger surveillance & the use of appropriate signage should be sustained.**

The 4 other "*Parking Bays*" of Denmark Shire's 67Km of Highway are also on creek flow lines indicating common origins of the "*Parking Bays*". Typically, the first Highway route followed the contour around the head of the creek flow-line to avoid sandy gullies which were later directly traversed by the upgraded Highway, leaving the "*Parking Bays*" surviving as so-called "*safety features*". Expectedly, Main Roads WA will never accept closure of these "*Parking Bays*" as traffic accidents could be blamed on such closures. Moreover, these "*Parking Bays*" could support re-routing of an upgraded Highway. It can be expected that these other "*Parking Bays*" sited on the 4 creeks/catchments of Denmark Shire & at least of other WA coastal roads have also been impacted by potential wildfire hazards & by waste-pollution by campers from all over the world.

Coastal & other areas of WA usually have sandy soils which are effective absorbers of liquid but are poor retainers of pollutants **>6:The water catchments of "*Parking Bays*" & any camping site are occupied by local residents whose interests & well-being should not be threatened by camping. Policy P130205 represents a particular threat in this regard. "*Parking Bays*" & any other camping should be the subject of planned management strategies which are outlined here as an addendum to Goodsell's (2014) previous**

submission which commented that the standards & criteria of the Current Act/Regulations should be encompassed within the proposed legislation of the New Act which also should continue to be administered by the Local Authority.

REFERENCES

Brighthouse (PO Box 1185, Mandurah, WA, 6210) & Starfish Business Solutions (9 King William St, Fremantle, WA, 6162 [2012]): *A Strategic Approach to Caravan & Camping Tourism in Western Australia*. Prepared for Tourism WA.

Goodsell, J.T. (1990). Distribution of Waterbird Broods Relative to Wetland Salinity & pH in South-western Australia. *Aust. Wildl. Res.* 17, 219-229.

Goodsell, J.T. (2014). *Submission in response to Consultation Paper – Proposal for New Caravan & Camping Ground Legislation (WA Depts of Local Govt & Regional Dev, 2014) including a general response to all questions & a specific response to 12.9 Stopping on the Road, page 46: 28-08-2014Submission49 [Secured]*.

Mohen, G.P. (14/04/2015). Kott Gunning Lawyers. Their ref: GPM: CARIAW1: 150790; 1751644_1; E: Gmohen@kottgunn.com.au.

Western Australian Caravan Parks & Camping Grounds Act (1995) & Regulations (1997).

Notes by JG: Objective(2) is a "red herring" & paragraph(#) contradicts Objective(1) & Policy(1). P130205 is illogical/illegal (see Kott Gunning lawyer [Attachment 1] & it poses a threat to the viability of caravan parks, to planning by Local Government & to potable water resources below & above ground. Policy (3) relaxes the Current Reg 19.(1)(a) i.e. "the park manager's availability". "PRIVATELY HELD LAND" is a vague description of land tenure. Policy5: existence of domestic toilet facilities do not guarantee camper group adequacy.

DENMARK SHIRE COUNCIL DRAFT POLICY P130205 CARAVANNING OR CAMPING ON PRIVATELY HELD LAND

Objectives

- (1) To enable owners and long term rental occupiers of properties within the Shire to accommodate limited numbers of friends and relatives for short term periods in a manner that does not compete unfairly with licensed Caravan Parks and therefore detract from their viability, whilst not creating any environmental, public health or other nuisances nor detracting from the amenity of neighbourhoods.
- (2) To provide consistency and certainty about enforcement of Regulations 11 & 12 of the Caravan Parks and Camping Ground Regulations 1997 to both Licensees of Caravan Parks operating within the Shire and Council's Law Enforcement Officers.

Policy

In accordance with its powers under Regulations 11 & 12 of the Caravan Parks and Camping Ground Regulations 1997, the Shire of Denmark grants permission to land owners and, with the approval of the land owner, long term rental occupiers of properties within the Shire of Denmark, to accommodate one occupied caravan or 6 persons camping in tents per 1000m² of property area (or part thereof for smaller than this allotment size) up to a maximum of 4 occupied caravans or immediate family tent clusters or 24 persons, whichever is greater, for a maximum of 7 days in any period of 28 consecutive days, providing:

- 1) No charge is made for the accommodation or associated services.
- 2) The area used for camping is not to be sign posted or advertised in any way.
- 3) The owners or long term rental occupiers of the property are present for the majority of the time that the camping takes place.
- 4) The activity is not to create noise or unruly conduct as to cause a nuisance to adjoining property occupiers.
- 5) Toilet, ablution facilities and effluent treatment and disposal systems exist on the property.
- 6) The land having suitable facilities for the level of camping that is taking place as is required under Regulation 13 of the Caravan Parks and Camping Grounds Regulations 1997.

(#) Persons seeking approval for numbers of persons, caravans, tents or days in excess of these restrictions or intending to charge for occupation of a caravan or tent on their property should apply in writing for Council's consideration at least 60 days prior to the intended activity or occupation together with the appropriate fee (\$100 is proposed in the 2015/16 Schedule of Fees).

NB: This Policy should be read in conjunction with Policy P130301 (Guidelines for Temporary Accommodation).

Responsible Officer

The Director of Community and Regulatory Services is the responsible officer for implementing this policy.

Attachment 4: Request of DSC at its ordinary meeting 20/08/13 to negotiate closure of Highway One Valley of the Giants Parking Bay was denied.

TO THE CEO:

TRANSITION TO ENFORCEMENT OF *NO CAMPING* AT A HIGHWAY PARKING BAY, SHIRE OF DENMARK, WESTERN AUSTRALIA

by [REDACTED] 06/06/2013

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VALLEY OF THE GIANTS HIGHWAY PARKING BAY (VHB)

Illegal camping introduces hazards into an environment and compromises the success of tourist hubs (Morrison, 2011). This is a report of the VHB's transition from a non-enforcement regime to an enforcement regime of *No Camping* by Denmark Shire.

Since the 1990's illegal camping has been steadily increasing in response to the VHB's identification in published touring and camping guides (see References p8 *tourist guide publications*). The publications often do not discriminate between sites at which free camping is legal or illegal. Some have a disclaimer for incorrect information.

The VHB lies 50 km west of Denmark town, the administration centre for the Shire of Denmark (DSC). The VHB is sited in an enclave of the Giants Forest, 500 m east of the Valley of the Giants Road, the entrance road to the iconic Valley of the Giants Tree Top Walk attraction within Walpole Nornalup National Park. The VHB is within the Highway Crown Land Reserve vested with the WA Government Department of Main Roads (MRWA), (Map1,p9). The VHB lies upslope on the northern side of a curved section of the South Coast Highway and is on a former approximate 450 metre long roadwidth pavement remaining after upgrading of the Highway to suit modern traffic. This former road has no culvert, so drainage from its immediate catchment flows over its surface and then underground through well-drained sands into the VHB's ephemeral creek which flows through its Highway culvert and then to the west for 5.75 km through beef producing farmland to the Frankland River (Map1,p9). Immediately south of the Highway is a 3 km strip of beef-farmed sandplain which borders vegetated coastal dunes of the Southern Ocean.

The VHB with its two highway junctions approximately delineates a horizontal triangle with the height being about 70 metres north from the Highway and its area being approximately 1.5 ha. The triangle is covered with dense forest and a gully draining culvert is at the centre of the triangle's highway base which is concave to the south. By a Google air photo and by the odometer of JG's car, the triangle's two base apices are separated by 430 m of Highway pavement. At the triangle's western apex the angle is 23° . This apex is just below the Valley of the Giants Road's elevated western junction with the Highway. At the triangle's eastern apex the angle is 15° and is barely west of the Highway's junction with Conspicuous Beach Road (on the south) where the Highway sharply curves upward to the south east. These are dangerous configurations for access to this major Highway. Additionally, roadside vegetation and topography tunnels the Highway to such an extent that when motoring to the west, a head on collision occurred in approximately 2002 between a vehicle being driven by Mr Alan and Mrs Hazel Dumbrell then of Nornalup, later of Walpole and now deceased (not caused by the collision) and an international tourist motoring to the east on the wrong (southern) side of the Highway. This collision caused serious injuries but especially to Mrs Dumbrell.

Factors making the VHB unsuitable for camping and other uses include:

- Poor sight distance, roadside vegetation and vision impairment by the sun due to the Highway's east west axis contribute to the Highway's hazards despite double unbroken lines along the centre of the Highway. The VHB's two Highway entrances exacerbate the hazards of this section of the Highway.

- There are no water supplies or sanitation infrastructures on site. This has led to RV's (caravans and motor homes) discharging liquid and solid wastes and has also led to the deposition of faeces within the VHB's immediate catchment of approximately less than 5 ha (Map1,p9).
- The potential bushfire hazard is ever present among its campers whose recorded registration plates indicate that almost all are non-Western Australian tourists.
- Because of its angulation, conditions and numbers of its occupants cannot be assayed from only one of its entrances.
- It is electronically insulated (TV, cell phone & radio) by a ridge on its northern side and by overhanging forest branches which occasionally drop.

On 07/05/2012 DSC installed two custom three-in-one *No Camping* signs at each of its two entrances indicating \$100 on the spot fines for camping in the full profile of camping units. These signs accompany two MRWA *No Campfires* symbol signs and a third MRWA *No Camping* sign is attached with a standard *Parking Bay* sign 50 metres on the area's western approach. All signs are luminescent and are obvious day and night.

TOURIST CENTRES NEAR THE VHB

The iconic Valley of the Giants Tree Top Walk is 5.5 km to the north east accessible via the sealed Valley of the Giants Road. Settler's Park at Nornalup village is slightly more than 4.5 km to the west, on the banks of the Frankland River, DSC's western boundary with Manjimup Shire. Settler's Park has public facilities for parking, information, telephone phone, boat launching ramp/jetty and free toilets, electric BBQ's & children's playground. There is a gravel surfaced Highway parking bay within the Walpole Nornalup National Park on the banks of the Frankland River at the south western side of the River bridge. Nearby are three caravan parks whose fees reflect their active competition i.e:

- Coalmine Beach Holiday Park - West on the Highway, 10 km;
- Peaceful Bay Caravan Park -East on the Highway, 22 km, or South on an unsealed road, 12 km;
- Valley of the Giants Ecopark Caravan Park -West on the Highway, 1.5 km.

CARAVAN PARKS and CAMPING GROUNDS REVISED ACT (1995)/REGULATIONS (1997): "the Regulations"

In Western Australia wherever the venue, the Local Authority is obliged to administer *the Regulations*. *Section 11 - Camping Other Than At A Caravan Park Or Camping Ground* is directed at camping in tents and in any other temporary camping unit.

The Department of Environment and Conservation and MRWA are responsible for the designation of land uses of reserves under their control. Thus, there are legitimately managed camping areas in nearby national parks and forests.

Additionally, MRWA identifies these categories of roadside facilities:

- In remote less populous parts of WA, *Road Side Rest Areas* are designated by MRWA's distinctive signage along the Highway verges. Camping is allowed at these RSRA's under certain conditions. (*Regulation 11 [3]*);
- In less remote and more populous parts of WA *Parking Bays* such as the VHB are designated also by distinctive "P" signs. At these parking bays, overnight and longer stays are illegal and penalties of up to \$1000 for each offence can be imposed. Enforcement is by the Local Authority.

VALLEY OF THE GIANTS ECOPARK CARAVAN PARK

The Valley Of The Giants Ecopark is the closest caravan park to the VHB (1.5km). It occupies Hay Location 1839 which is zoned with a land use of *Caravan Park* in Denmark Shire Council's Town Planning Scheme (TPS Amendment gazetted 1995). The TPS assures that a caravan park so accredited complies with Local Government Regulations of amenity, safety and health. The TPS Amendment process occurred during 1994-1995, pre-dating by about two years the opening of the WA Government's nearby tourist attraction Valley of the Giants Tree Top Walk in the Walpole Nornalup National Park.

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DAILY DUSK/DAWN RECORDING AT THE VHB OF CAMPER-GROUP USE

This section reported here of on-going recording was undertaken from December 2011 onwards. After recording began, DSC initiated Action Plans to enforce *No Camping* on 21st February 2012 when ranger patrols commenced with the equivalent of (0.5 FTE [Staff full time equivalent]). JG assists the transition by instantaneous messaging numbers of camper-groups at each dusk/dawn to the DSC Administration. This is equivalent at least to an additional 0.5 FTE.

Recording is conducted inconspicuously and the privacy of occupants of the VHB is never invaded. The numbers of camper-groups cited (Graph1,p10) are those that are camped at the VHB at early dawn of each day. As a standard, a camper-group is based on one (towing) vehicle. The number of adults making up a camper-group is adopted from the camper-group profile of 2.2 adults observed at the Ecopark. Recording enables the construction of a camper-group profile. Other sources of VHB anecdotal information are campers at, and visitors to the Ecopark and members of the local community. During the recording period reported here the value of the Australian dollar was consistently high and therefore was assumed not to influence variation of camping at the VHB.

RESULTS OF RECORDING AT THE VHB OF CAMPER-GROUP USE

Recording enables two summer holiday periods to be compared and contrasted. The first is of a non-enforcement regime of *No Camping* by DSC from 18th December 2011 to 20th February 2012 for 65 days. The second is of an enforcement regime for the same period exactly one year later (Graph1,p.10).

In the first period of non-enforcement 253 camper groups are recorded. In the second period of enforcement only 23 camper groups are recorded. Thus, camping has almost been eliminated.

Almost all vehicle registration plates are from outside of Western Australia. During non-enforcement, the components of the camper-group profile are:

- Motor Homes (MH) 15%;
- Caravans (CV) 22%;
- Standard Tradesmens Vans (STV's) 28%;
- Cars and station-wagons etc (VT's) 35%.

STV's and VT's are combined here into a single category (VTV's) 63%. These are often defective and are occupied by mainly young international travellers. (See link:

<http://www.couriermail.com.au/news/queensland/wicked-campers-fail-roadworthy-tests/story-e6freoof-1225817662630>)

After their departure from their campsite at the VHB, the VTV occupants usually leave domestic rubbish, faeces and toilet paper strewn around. Similar behaviour is recorded for other parts of Australia. (See link: <http://www.dailytelegraph.com.au/news/dirty-tourist-vans-sent-backpacking/story-e6freuy9-1225982613423>). Sometimes, as many as six people or more occupy a VTV vehicle. Wicked Campervan Hire promotes aberrant social behaviour by their hirers. (See link: (http://www.ecampervanhire.com/review/wicked_campers/)). The site quality requirements of VTV occupants are low. This explains their relatively high occupancy rates of 63% during the poor site conditions of non-enforcement. This reduced to 53% during enforcement, possibly to avoid the law because of their defective vehicles.

Based on the camper profile and for sample sizes, it is estimated that during the non-enforcement (sample size 253) and enforcement (sample size 23) periods, 85% of adult campers were without onboard toilets. This has resulted in the deposition of faeces within the VHB's immediate catchment since 1996 by thousands of people from all over the world (Table1,p11).

Occupants of relatively mobile and insulated RV's (caravans and motor homes) might have a higher tolerance of poor camp site conditions than the low numbers of campers in relatively exposed sedentary tents and camper-trailers. This explains the relatively high compositions of RV's of 37% during non-enforcement and 43% during enforcement. It is also likely that quality of the camping experience is diminished by larger numbers of camper-groups and so far explains why high teen numbers were uncommon and why 20 was the maximum number recorded. Of course our future socio-economic environments may lead to an escalation of numbers of camper-groups that are prepared to tolerate third world conditions of the VHB as a "free camping area". Based on its size the VHB could simultaneously accommodate approximately 50 camper-groups. The following are some scenarios at the VHB during non-enforcement:

- Campers stay for days and/or longer than a week. They disperse during the central part of the day and return to camp at late afternoon;

- Vans and tents are sited within feet of each other. In the event of a bushfire threat, it is impossible for a rapid evacuation;
- Camper-groups haphazardly obstruct one-way passage through;
- The VHB cannot be used as a rapid assembly area for emergency services;
- Highway-using vehicles cannot unexpectedly detour into the VHB without the possibility of collision with campers;
- Burning camp fires are unattended. (Three campfires were extinguished by the local community on 19/12/11, 19/02/12 and 17/03/12);
- Campers cannot be warned electronically of impending emergency as the VHB does not enjoy cell phone or TV reception and radio reception at best is fitful;
- MRWA 44 gallon rubbish bins overflow and garbage, faeces toilet paper and RV waste drainage waters are scattered around and under campers' units;
- Washing hangs on vegetation;
- In the afternoon's alfresco environment, fortified wines flow freely among campers;
- 07/03/12 a small low dining table for toddlers was set up at dusk twilight in the traffic way.

Use of the *tourist guide publications* continues as numerous visitors currently seek clarification of the "free camping area nearby" at the Ecopark. When advised that the information of these publications is incorrect, these visitors often become antagonistic to the payment of fees and if they stay at the Ecopark continue their hostilities. A common attitude is that their *tourist guide publications* authorize them to free camp at the VHB and that the prohibiting *No Camping* signs deprive them of an entitlement. These signs were vandalized by removal on 30/06/12 and were replaced by DSC and MRWA within two weeks. During that time camping increased.

MODEL OF DAWN CAMPER-GROUP USE OF THE VHB DURING NON-ENFORCEMENT OF THE NO CAMPING REGULATIONS 1996-2011

The exact numbers of groups that have camped at the VHB are not known. Apart from the 65 days of recording (18/12/2011-20/02/2012) no other data collecting has been performed during its non-enforcement regime. This model explains the ever-present sights of campers during highway drive-pasts, cursory drive-throughs and enquiries at the Ecopark by travellers re the "free camping area". Consequently, the model (Table1,p11) generated by a relatively small data-set is included to add depth to this report.

During the brief recording of the non-enforcement regime, no correlations of camper numbers are identifiable with any of the local activity records such as automated counts of road use and Tree Top Walk visitor use. The lack can be explained by illegal camping at the VHB being externally driven since the 1990's by national (& international) use of the *tourist guide publications*. The many decimal places used initially in these calculations are demanded by the logarithmic (Ln) values of the exponential regression equations below. However, for this report numbers used in calculations are

rounded to 3 decimal places. The 65 days of the non-enforcement regime are comprised of 45 days for a holiday period per day average of 4.432 camper-groupawns and 20 days for a non-holiday period per day average of 2.700 camper-groupawns. Extrapolation from these averages gives a total of 1155 camper-groupawns for a 2012 model of a non-enforcement regime.

The *tourist guide publications* generated an increase of camper-groups to the observed 14 groups before Christmas 2010 and then to 20 camper-groups 2011. This arbitrarily includes the selection here of a third data pair of 1 camper-group one week before Christmas 1996. This year is selected for several reasons: The *tourist guide publications* were published in the 1990's and remain concurrently in use from the beginnings of the Ecopark's and the Tree Top Walk's operations from 1996 onwards. The three data pairs can be described by a commonly used tool of demographers that is applied to self-perpetuating populations, namely the exponential regression equation $Y=Ae^{BX}$ (Equation 1) which can be transformed to linearity as Equation 2 i.e. $\ln Y=\ln A+BX$, where $N=3$, $R=0.998$, Y =the number of camper-groups at dawn one week before Christmas, X =the year, $\ln A=-388.986$ and B =the annual rate of increase of \ln values of camper-group use (0.195). This last value can be viewed as an index of the incessant force of the *tourist guide publications* driving camper-groups to the VHB not only on the day a week before Christmas but assumed also for 52 weeks of each year.

Another linear regression equation $\ln Y=\ln A+BX$ can be constructed as Equation 3. For this equation, $\ln A=-385.047$ can be derived from: $B=0.195$, $Y=1155$ camper-groupawns during $X=2012$ (a 366 day leap year). Equation 3 can generate numbers of camper-groups occupying the VHB annually for the 16 year period 1996 - 2011 (Table1,p.11).

The exponential increase exhibited by this model explains why camping at the VHB erupted virtually overnight. In this model, the cumulative value at 2011 for numbers of adult campers is 11,257. This can be translated into a total revenue loss from the community of \$123,827 which is based on the current approximate charge per adult per night at an unpowered camping site of \$11. Additionally, the model also portrays that 9,569 adults from all over the world have camped without sanitation within the headwaters of the VHB creek's catchment (Map1,p9). Water flow events could transport such contaminants as RV drainage wastes, faecal materials, parasites and the causal agents of exotic diseases into the bio-systems comprised of people, farmed animals and vegetation on the southern side of the Highway via the VHB's ephemeral creek. Effective sanitation is an ancient bastion of western culture. There is a wealth of articles on the impacts of human wastes on environmental health. Their citation here would divert attention from the theme of this report.

CONCLUSIONS

The VHB is an artefact of the upgrading of the Highway. It is a community liability. Its purpose of accommodating a driving break is already well catered for at Nornalup village, 4.5 km to the west and at other sites along the Highway and in the surrounding National Parks. Additionally, camping is accommodated 24/7 at the Valley of the Giants Ecopark Caravan Park, 1.5 km to the west. This recording of enforcement of *no camping* demonstrates that camping inevitably resurges and is only being suppressed by constant surveillance. Camping has not yet been completely eliminated by the equivalent of 1.0 FTE and 0.5 of this is currently supplied voluntarily by JG and cannot be sustained indefinitely. Thus, the VHB continues to impose costs for staff and law enforcement as well as potential extrinsic costs in the forms of campfires, highway hazards, contamination by faeces and by

drainage wastes, loss of revenue from the community and also intrinsic hazards to any of the VHB's users. Continued camping, even under the current enforcement regime of the equivalent of 1FTE, could result in closure of the Ecopark.

RECOMMENDATIONS

- (1) Denmark Shire Council in collusion with the WA Department of Main Roads and other relevant Authorities should recognise their duty of care to farmers downstream from, and potential users of the VHB by commencing negotiations aimed at permanently closing and quarantining the VHB by a fencing enclosure with locked gates and retaining the VHB as a community asset such as a gravel dump and/or emergency assembly area. This would minimise its administrative cost and would avoid socio-environmental liabilities.
- (2) If the VHB is not closed:
 - (2.1) The Denmark Shire Council should appoint a permanently employed or contracted Ranger responsible for the western end of the Shire; and
 - (2.2) Contamination of water flow events out of the VHB by faecal materials and other wastes should be monitored; and
 - (2.3) A ground-water observation bore should be installed at the VHB's sand gully to sample/monitor faecal/bacterial contamination of underground water.

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Hyperlinks (NB: In Windows Internet Explorer some webpages do not print hard copy directly. Sometimes, a way to overcome this is to email the page to yourself, then print the page from your email. Also, some links do not connect from a document. Sometimes, a way to overcome this is to copy the link [ctrl+c], then paste [ctrl+v] into the website address bar.)

Courier Mail: (<http://www.couriermail.com.au/news/queensland/wicked-campers-fail-roadworthy-tests/story-e6freoof-1225817662630>)

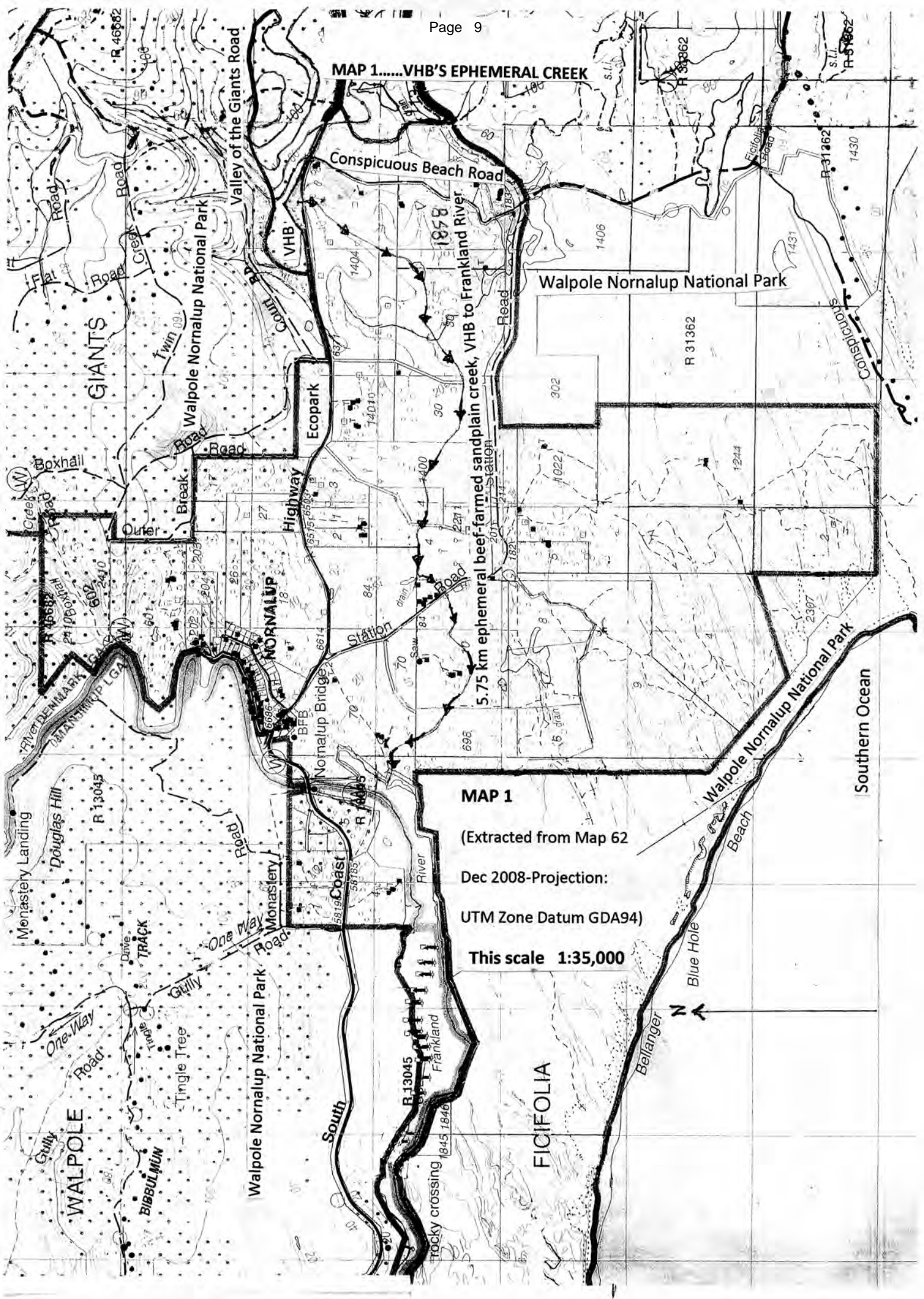
Daily Telegraph: (<http://www.dailytelegraph.com.au/news/dirty-tourist-vans-sent-backpacking/story-e6freuy9-1225982613423>)

Morrison, G. (2011):

http://www.goseeaustralia.com.au/article/776/Free_Freedom_Illegal_Camping_are_vexed_questions_for_life_on_road_RVs/

Wicked Campers: http://www.ecampervanhire.com/review/wicked_campers/

MAP 1.....VHB'S EPHEMERAL CREEK



MAP 1

(Extracted from Map 62

Dec 2008-Projection:

UTM Zone Datum GDA94)

This scale 1:35,000

FICIFOLIA



Southern Ocean

GRAPH 1: Dawn camper-group use of VHB for 76 calendar weeks.
Wk -1 to wk 0 (Dec 2011), wk 1 to wk 52 (2012), wk 53 onwards (2013).

Two recording phases are (1) Non-enforcement: wk -1 to wk 7 (2) Enforcement: wk 8 onwards

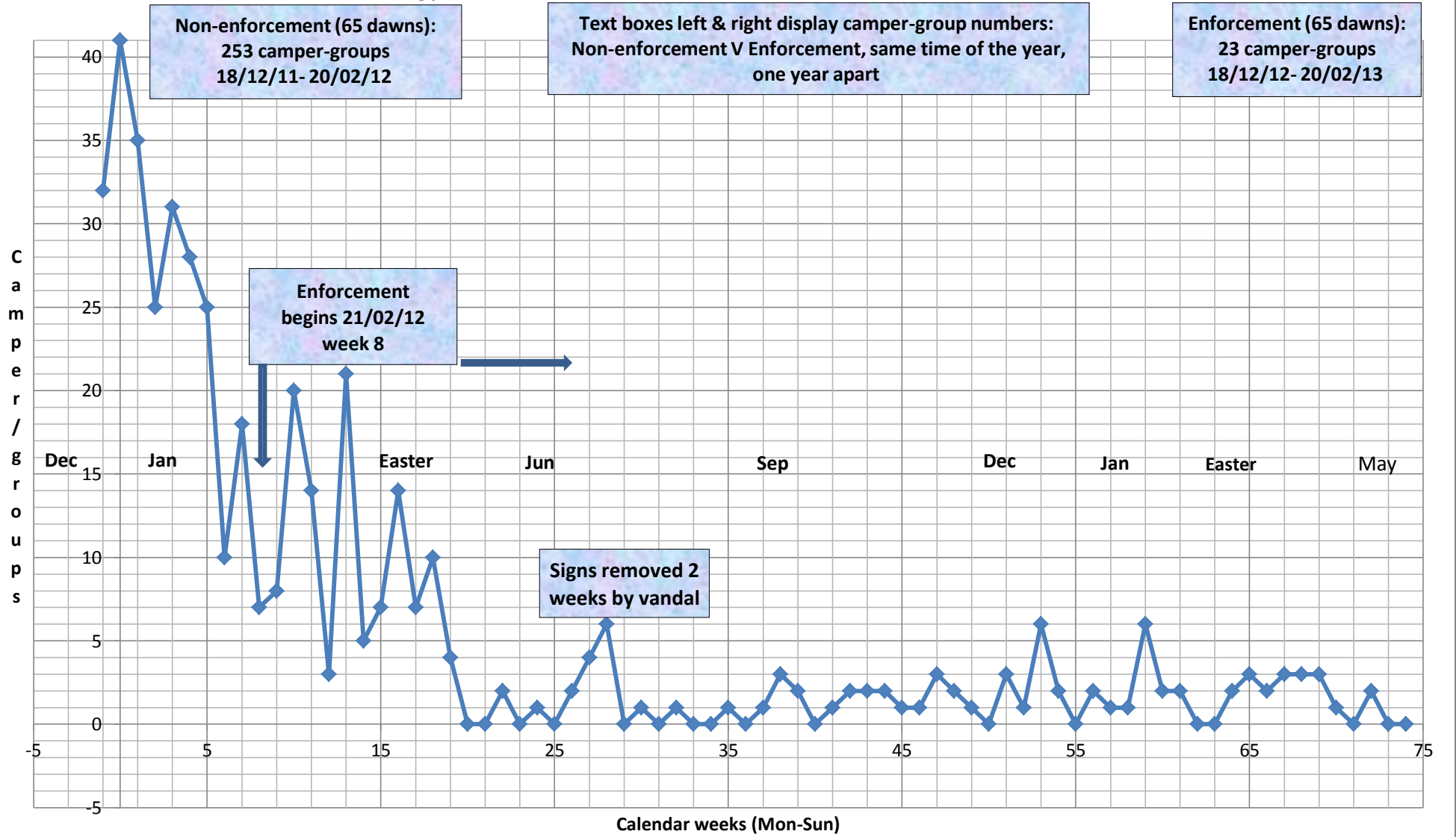


Table 1

<p align="center">Model of Dawn Camper-Group use of the VHB during Non-enforcement of the <i>No Camping</i> Regulations.</p> <p align="center">Constructed exponential linear regression equation page 7 (Eqn.3): $\ln Y = -385.047 + 0.195X$ generates annual numbers of camper-group dawns for the 16 year period 1996 - 2011.</p>					
Year (X)	Nos Camper- Group dawns. All @ 366 day leap year values (Y)	Nos Adults @ 2.2 per CG. Non- leap years adjusted to 365 day values	Cumulative Adults	85% Adults without onboard toilets	Cumulative 85% Adults without onboard toilets
1996	51	112	112	95	95
1997	62	136	248	116	211
1998	75	165	413	140	351
1999	92	202	615	172	523
2000	111	244	859	207	730
2001	135	296	1155	252	982
2002	165	362	1517	308	1290
2003	200	439	1956	373	1663
2004	243	533	2489	453	2116
2005	295	647	3136	550	2666
2006	359	788	3924	670	3336
2007	436	957	4881	813	4149
2008	530	1163	6044	989	5138
2009	644	1413	7457	1201	6339
2010	782	1716	9173	1459	7798
2011	950	2084	11257	1771	9569