

Mr Andrew McKeegan
Deputy Secretary, Planning and Land Services
Department of Transport and Planning
Level 13, 1 Spring Street

23 April 2024

Dear Mr McKeegan,

REGULATORY IMPACT STATEMENT FOR THE RESIDENTIAL TENANCIES (CARAVAN PARKS AND MOVABLE DWELLINGS REGISTRATION AND STANDARDS) REGULATIONS 2024

I would like to thank your staff at the Department of Transport and Planning (the Department) for working with the team at Better Regulation Victoria to prepare the Regulatory Impact Statement (RIS) for the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2024 (the proposed Regulations).

As you know, the Commissioner for Better Regulation is required to provide independent advice on the adequacy of the analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be clearly written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 22 April 2024 meets the adequacy requirements set out in the *Subordinate Legislation Act 1994*.

Background

The regulatory framework for caravan parks in Victoria is provided by Part 14 of the *Residential Tenancies Act 1997* (the Act). The Act enables the Government to create regulations relating to caravan parks and moveable dwellings and grants local councils with specific powers to regulate caravan parks. Part 14 of the Act contains few provisions that are operable in the absence of specific regulation.

The Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020 (the current Regulations) are made under the Act. The current Regulations were made in 2010 and due to sunset in 2020, but have been extended several times, and are now due to sunset on 30 June 2024.

The current Regulations set out the requirements for caravan parks and movable dwellings in Victoria, as anticipated by the Act. Notably:

- caravan parks are exempt from the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2020
- unregistrable moveable dwellings (UMDs) and rigid annexes are exempt from the *Building Act 1993* and Building Regulations 2018.

Problem and options analysis

In the RIS, the Department undertakes problem and options analysis for five specific areas of the current Regulations:

1. registration
2. design, construction, and installation of UMDs and rigid annexes
3. amenities
4. emergency preparedness and management
5. duties of caravan park owners.

Two options are analysed for each area of regulation:

- **Option 1** (status quo): remake the current Regulations with no changes.
- **Option 2** (targeted changes): remake the current Regulations with targeted changes. Option 2 is the Department's **preferred option** for all areas.

The Department notes that the options have many impacts that are difficult to quantify. Therefore, the Department uses multi-criteria analysis (MCA) to analyse these impacts against the base case (where the regulations are allowed to sunset and are not remade) to identify the preferred option. Different criteria and weightings are used for each of the five areas of regulation:

- Improved health, safety and emergency preparedness
- Improved compliance and council oversight of caravan parks
- Consistency with other legislation and regulations
- Improved consumer protection
- Costs to industry
- Costs to government
- Costs to owners of UMDs and rigid annexes

Registration

Problems

The Department notes that under the base case, no system for councils to identify, monitor, and charge fees to caravan parks would be in place. This would impact on councils' ability to serve as effective regulators of the caravan park industry.

Under the current Regulations, caravan park owners must apply for renewal of council registration by 1 October of the year their registration expires. Councils must approve this application before a park's existing registration expires on 31 December, in effect giving councils only three months to review all applications. The Department has heard that this places significant administrative pressure on councils, leading to a rushed review of applications.

Options and options analysis

The two options analysed by the Department are:

- **Option 1:** require caravan parks to register with their local council and apply for a renewal of registration every three years by 1 October.
- **Option 2:** require caravan parks to register with their local council and apply for a renewal of registration every three years by 1 August.

The Department explains that both options establish a mechanism for councils to monitor and enforce caravan parks' compliance with the Act and Regulations. The registration system for caravan parks under both options also mirrors the registration system for other accommodation in Victoria, as set out in the PHWPA Regulations. The Department estimates the cost of registration to caravan park owners at \$2.8 million in net present value (NPV) terms over the 10-year lifespan of the proposed Regulations.

The Department explains that Option 2 is its preferred option, as it affords councils more time to review registration renewal applications (5 months instead of 3 months). The Department expects this will reduce administrative pressure on councils and enable them to review applications more thoroughly.

Design, construction, and installation of UMDs and rigid annexes

Problems

Under the base case, there would be few requirements for the design, construction, and installation of UMDs and rigid annexes in Victoria. The Department explains that UMD installation standards may consequently slip, while sub-standard stock may be sold on the Victorian market. Similarly, there may be a heightened risk that builders intentionally miscategorise Class 1 buildings as UMDs to avoid having to meet national construction

standards. Further, without prescribed standards and certification from constructors and installers, consumers may have difficulty seeking recourse if defects arise. Under the current Regulations, an installer of a UMD and/or rigid annexe must provide an installation certificate to the owner within 7 days of installation. However, there is no requirement to pass the installation certificate onto subsequent owners, meaning future UMD and rigid annexe owners may not have access to the certificate.

Options and options analysis

The two options analysed by the Department are:

- **Option 1:** require the construction and installation of UMDs and rigid annexes to adhere to relevant parts of the National Construction Code (NCC) and bespoke standards for fire safety, sanitary facilities, energy efficiency and smoke alarms. Constructors and installers must self-certify that they have adhered to these standards by affixing a compliance plate to the UMD or rigid annex (for constructors) and providing an installation certificate to the owner (for installers).
- **Option 2:** additionally require installation certificates to be passed on to subsequent owners of a UMD and/or rigid annexe.

The Department explains that that both options will have positive benefits on health, safety and emergency preparedness, particularly through minimum standards regarding structural integrity, insulation, and smoke alarms. The Department outlines that both options will facilitate owners in making warranty claims and will also ensure a level of consistency between standards for UMDs and rigid annexes and other buildings in Victoria. The Department expects that both options will moderately increase the cost of UMDs and rigid annexes.

Option 2 is the Department's preferred option. It explains that Option 2 has slightly higher consumer protection benefits through ensuring used UMD and rigid annexe owners have access to their installation certificates, without imposing any significant additional costs.

Amenities

Problems

Under the base case, caravan parks would not have to meet minimum health and sanitation standards. The Department explains that the absence of these standards may increase the risk of diseases, such as gastroenteritis, dysentery, and respiratory illnesses spreading throughout caravan parks. The Department also outlines that caravan parks would have an unfair commercial advantage over other forms of accommodation, which must comply with the minimum standards for amenities set out in the PHWPA Regulations.

Under the current Regulations, there is no requirement to mark non-potable water taps, meaning residents may inadvertently consume contaminated water.

Options and options analysis

The two options analysed by the Department are:

- **Option 1:** require caravan park owners to provide certain amenities to prescribed standards, including a continuous water supply, safe drinking water, sewage and wastewater discharge, sanitary and laundry facilities, garbage bins, and lighting.
- **Option 2:** additionally require non-potable water taps to be marked with a sign.

The Department outlines that both options will reduce the risk of disease and personal injury for residents and ensure consistency between standards for caravan parks and other forms of accommodation. While it notes that the standards impose a moderate cost on caravan park owners, particularly new owners, it explains that most parks would likely still provide the same amenities under the base case for commercial reasons.

The Department explains that Option 2 is its preferred option, as it will further prevent residents from accidentally consuming contaminated water, while only imposing marginal additional costs on parks (as most parks already sign non-potable water taps).

Emergency preparedness and management

Problems

Under the base case, there would be few requirements for caravan park owners to undertake emergency preparedness measures, adhere to fire safety guidelines, and proactively consult with emergency service agencies. The Department explains that consequently, caravan parks may not be sufficiently prepared to respond to emergencies, increasing the risk to residents if an emergency were to occur.

Under the current Regulations, an Emergency Management Plan (EMP) and Fire Safety Report (FSR) must be submitted alongside registration and renewal applications. However, the current Regulations do not explicitly require an EMP or FSR to be updated between registration periods. The Department has heard concerns from councils that some FSRs and EMPs submitted recently were prepared over a decade ago, and have not been updated to reflect current park conditions and best practices.

Options and options analysis

The two options analysed by the Department are:

- **Option 1:** require an EMP and FSR (procured from a fire agency) to be submitted alongside an application for registration and renewal of registration. Caravan parks must also meet prescribed standards for fire safety equipment, firefighter access and fire separation, as well as display emergency procedures and public emergency warnings at prominent positions in the park.

- **Option 2:** additionally specify that a new FSR, an updated EMP and an EMP cover sheet must be submitted alongside applications for renewal of registration.

The Department expects that both options will significantly improve the ability of park staff and emergency services to respond to emergency events and reduce the risk of fires, mitigating health and safety risks to park residents.

The Department explains that Option 2 is its preferred option, as it ensures that the EMP and FSR are updated and reviewed frequently. It explains that this will result in more frequent park visits by emergency services, more up-to-date emergency procedures, and a greater awareness of emergency procedures among park staff. The Department also expects the EMP cover sheet will help councils save time in reviewing the EMP. The Department estimates that Option 2 will impose \$1.8 million (NPV, 10 years) in costs to caravan parks, significantly higher than the \$476,000 cost of Option 1. However, it argues that the positive impacts of Option 2 on health, safety and emergency preparedness outweigh the increase in costs relative to Option 1.

Duties of caravan park owners

Problems

The Department explains that due to the evolving nature of caravan parks, it is important that park owners play a proactive role in mitigating risks to residents. Emergency incidents, such as natural disasters, medical episodes, violence or burglary may occur and caravan park owners must ensure that the park is prepared for emergencies, and liaise with emergency services. Park residents frequently come and go, while the park site and layout itself can change often. Under the base case, there would be few legal requirements for caravan park owners to fulfill these duties.

The current Regulations specify that the caravan park office must be staffed during 'normal office hours.' This requirement has created a degree of uncertainty as to whether caravan parks must have a park office, and what 'normal office hours' are.

Options and options analysis

The two options analysed by the Department are:

- **Option 1:** require caravan park owners to:
 - ensure that emergency vehicles can access the park, park management can be contacted in case of emergency, and a register of residents is kept
 - display the park plan, rules, registration certificate and emergency contact details in a prominent position in the park
 - provide a copy of the Act and Regulations to residents on request
 - ensure that management staffs the park office during 'normal office hours'

- **Option 2:** require park owners to fulfill the same duties above but remove the requirement for a park office staffed by a manager during 'normal office hours.'

The Department explains that both options will assist emergency services and residents in case of emergency, such as if a park must be evacuated. Residents may also benefit through the information that owners must publicly display or provide upon request.

The Department explains that Option 2 is its preferred option, as it enables parks to lower staffing costs through reducing office hours and/or having a more junior staff member staff the park office. It does not expect Option 2 to negatively impact upon residents, as nowadays parks are able to provide assistance if needed online or over the phone.

Small business and competition impacts

The Department argues that small businesses will not be disproportionately impacted by the Regulations, as the costs imposed by the proposed Regulations mostly scale in proportion to the size of the park. Regarding competition impacts, while the Department acknowledges the Regulations create a barrier to entry for new parks, it explains that this barrier is relatively minor and justifiable given the competition benefits of the Regulations.

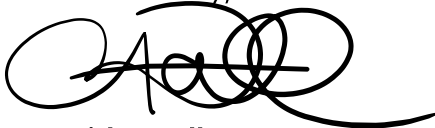
Implementation and evaluation

In the RIS, the Department outlines that the proposed Regulations are expected to be made on 29 June 2024. The new requirements (except regarding passing on installation certificates) will have a delayed commencement, coming into effect on 1 January 2025. Throughout the latter half of 2024 and 2025, the Department will communicate these changes through meetings with key stakeholders (such as councils, industry bodies and caravan park owners), an email and mail campaign, and providing online resources.

The Department commits to conducting a review of the proposed Regulations before they sunset in 2034, as part of the process to remake the Regulations. In the interim period, the Department commits to collecting a broader range of data related to caravan parks and moveable dwellings to facilitate this review.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on (03) 7005 9772.

Yours sincerely,



Cressida Wall

Commissioner for Better Regulation