

Australian Small Business and Family Enterprise Ombudsman (ASBFEO)
GPO Box 1791
CANBERRA ACT 2601
Via email: inquiries@asbfeo.gov.au

3rd November 2021

Dear Ombudsman

Thank you for the opportunity to provide feedback regarding your report 'The Show must Go On' assessing the opportunity for a Discretionary Mutual Fund to alleviate the significant insurance pressures in the amusements sector. I also want to acknowledge the excellent policy work completed by ASBFEO regarding insurance, particularly the 2020 inquiry (the 'Carnell Report') and the ongoing advocacy of ASBFEO on this.

In the caravan park industry, pressures surrounding insurance have been exacerbated in recent years both regarding general commercial (business) insurance and public liability insurance.

From a PLI perspective, as an industry, we have considered establishing an industry wide DMF, and are still looking at this as a potential solution, however it is not the only solution to the issue and indeed may not solve all problems in our sector. We feel that any DMF solution being implemented should not be restricted by membership requirements of industry associations or the like.

Thank you once again for the opportunity to contribute to this important discussion, and we welcome being a part of this discussion moving forward.

Please get in touch if you have any questions regarding this submission.

Yours Sincerely

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Summary

Caravan Industry Association of Australia welcomes the opportunity to provide feedback on ASBFEO's recently released report 'The Show must Go On: Is a discretionary mutual fund the solution to the insurance crisis facing Australia's amusement, leisure and recreation sector?'

While Caravan Industry Association of Australia broadly supports government intervention to assist businesses in accessing insurance, as the current difficulties in businesses accessing insurance is a crisis in the current settings, a DMF is one of several options available to the government. Other options include expansions of existing reinsurance pools, as well as reform of personal liability

The chief concern with a DMF is that a business that has insurance coverage through a DMF is not always accepted by third parties (i.e. Banks, Councils, Landlords, Government Bodies) for insurance security. Further to this, a DMF can disenfranchise existing traditional insurers and prevent new insurers from entering the market.

Caravan Industry Association of Australia see opportunity for the Federal government to expand the remit of the Terrorism Reinsurance pool (managed by the ARPC) to include natural disasters, cyclones & flood related damage. This could work similarly but on a larger scale as the recently announced Northern Australia Reinsurance pool.

Further to this, there are a number of reforms that the government can look at including caps on personal liability claims; introduction of mandatory public liability cover (similar to workers compensation and CTP schemes) or look at models in NZ such as no-fault accident compensation insurance. These proposals have already been outlined in depth in previous reports from ASBFEO.

Background

The caravan park sector is vitally important to Australia's visitor economy creating over 20,000 jobs and generating in excess of \$10b in visitor expenditure around the country. It is a sector, that according to the Federal Government, is the largest domestic accommodation sector by nights in Australia and a major source of economic value to regional economies.

Access to affordable and adequate insurance coverage is crucial to the ongoing viability of the sector. However, in recent years, caravan park operators are increasingly expressing their difficulties in obtaining coverage, excessively high premiums, limitations on policy extensions and reduced options in the market. Affordable and adequate insurance coverage is important for business to ensure they can protect their employees, their consumers and their operations. Issues regarding Natural Disaster and Public Liability Insurance provision will be discussed on the following pages to provide context to the issues that the caravan park industry is currently experiencing.

For additional background, a number of case studies are included in an Appendix.

Insurance Issues in the Caravan Park sector

Public Liability Insurance

Key Points

- Public liability insurance issue centres around availability and access.
- Where accessible, insurance terms are tenuous with only short-term agreements common.
- Cost is increasingly prohibitive for businesses and some elements of caravan parks (such as water slides / bouncing pillows) are being excluded from insurance policies – forcing businesses to take out insurance with multiple providers to get coverage.

Background

As noted in the report (p61): *“within the caravan industry public liability insurance is currently still available although premiums are increasing. Some aspects of caravan park life, such as ‘bouncing pillows’ and pool slides are being highlighted as exclusions under most insurance policies.”*

Perceived ‘high risk activities’ such as jumping pillows, waterslides, kids water play areas, bike tracks, skate parks and campfires are being placed into caravan parks to improve and upgrade facilities and are in reaction to growing consumer demand.

There have been multiple reports of caravan parks being unable to obtain PLI for some of these facilities (detailed in case studies) which is leading to these elements of the Park being closed. This is despite significant risk mitigation and no prior claims history in many cases.

While it is acknowledged that this impacts ‘some’ rather than ‘all’ of the value proposition of a caravan park when compared to the amusement sector; it remains a severe issue, particularly when combined with issues regarding commercial property insurance.

With the last two years seeing significant increases in caravan park visitation, particularly from new travellers, industry fears that claims will rise as inexperienced caravan park users have unrealistic expectations of businesses – particularly in SME environments.

There is a long tail of liability exposures within Parks, that is exacerbated by well-known issues such as no win no pay lawyers and the fact that many activities in caravan parks are generally unsupervised (such as playgrounds, jumping pillows etc.).

Increasingly, insurers are recommending that insurance claims are made outside of court via settlements, which does not lend itself well to assessing the validity of claims made. As suggested in the Carnell report, a review of personal claims and limits to this may decrease the numbers of vexatious claims.

Potential Solutions

- Caps on personal liability claims (as iterated in the Carnell Report)
- Improved understanding of risk management systems in leisure/accommodation/activity settings from insurers; there is a role here for better communication of accreditation programs to insurers.
- Review of the ‘no win no fee’ legal disputes that increase the likelihood of vexatious claims made against businesses.

- A DMF may be suitable in cases where there are no insurers available in market for caravan parks.

Commercial Property Insurance

Key Points

- Commercial property insurance either not available, or available but expensive with annual premium increases in some cases exceeding 200%.
- Insurers have raised the risk profile of the industry – largely this followed 2020 bushfires; even though not a single caravan park was destroyed in the event.

Overview

It is acknowledged that Australia is currently in a hard market insurance cycle, with premiums increasing following with less insurers being willing to partake in the Australian market. The frequency of negative weather events, in part due to the impacts of climate change have increased the perception that caravan parks are 'risky' products to insure due to their regional locations and proximity to bushfire prone areas, rivers or coastlines which may be more prone to severe weather events and subsequent damage.

Insurers in the caravan park sector are also being forced to not cross subsidise lines of business, due to reinsurance capacity (insurers to insurers) starting to demand results by class. This is compounded by insurer and reinsurer consolidation and lack of strong capital investment in the insurance market, all around the world.

Potential Solutions

- Significant expansion of the Northern Australia Reinsurance pool to cover all natural disasters and a larger portion of Australia
- A review and expansion of the ARPC Terrorism reinsurance pool to include natural disasters and offer reinsurance to insurers for these events.

Appendix: Case Studies

Brief Examples

- A Queensland caravan park received their renewal offer and were informed that despite the premium increasing, it would not cover the cabins at their property. After seeking further offers, their park is now paying significantly 120% more in premiums which only covers for 80% should their park need to claim on their business insurance. To reduce the premium they removed the glass coverage from their policy (as the excess is normally more than a claim) and have now been informed that their remaining insurance policies will not cover windows and glass – even if damaged by a cyclone or named storm.
 - This business was also forced to remove their flying fox facility to get public liability insurance, unless they had someone standing at the Fox all the time it was open – 4 employees total are in the park, 2 managers, 2 part time cleaners and a maintenance person.
- One caravan park has recently been informed by their broker that they should expect to see an increase of between 360% and 900% on insurance on their water slides when their premium becomes due in six months time.
- An iconic caravan park in Central Queensland (inland) has been refused business coverage due to bushfires in the previous couple of years. These bushfires have not impacted his business (with the exception of loss of business due to inaccurate reports by media about access). When he asked if he could get coverage without business interruption or bushfire coverage he was informed the insurance companies cannot do this (following Brisbane floods where they still had to payout despite the issue being excluded).
- Large caravan park in North Queensland (over 200 powered sites and 100 cabins plus entertainment style infrastructure (water slides etc)) has been informed they can only be covered for up to \$2 million despite the park selling a few years ago for significantly more than that amount.
- In 2017 Cyclone Debbie devastated the Whitsunday Coast. This event provided very different experiences for the caravan parks in the region.
 - Caravan park 1 received a phone call before the Cyclone, a text message during the Cyclone and was contacted immediately after the Cyclone by their insurance company. They were quickly provided working capital by the insurance company ahead of the formal claim so that they could begin operating again as quickly as possible.
 - Caravan park 2 contacted their broker immediately after the Cyclone and were informed they needed to wait for an assessor before they could begin work to clean up their park and reopen. The Assessor took six weeks to sign off on their claim and works. By this time the licenced and qualified contractors in the region had all started work on other projects where their insurance had been signed off in a more timely manner.
- Port Douglass – caravan park informed that they needed a full-time lifeguard to supervise a waterslide over all weekends plus all school holidays, public holidays. This was needed to

retain public liability insurance for the year. At the busiest time of the year, 20% of park patrons are children.

Victoria

- A Victorian caravan park observed that their insurer increasing their premiums by 95% due to the increased frequency and severity of natural peril events throughout Australia (e.g. bushfires, storm), increased liability claims (e.g. trip and fall) and increased average claim cost and expenses.
- Recently their broker has withdrawn from providing insurance in certain locations including declining renewals. The most concerning part is that our premium has practically doubled from \$7,430 for 2021 to \$14,434 this year!

Deep Dive Case: Public Liability Insurance

- March 2020 - Very challenging for Caravan park (Northern NSW) to secure insurance for their waterslides (over 3 metres). However, operator had excellent operational plan and risk management procedures and was prepared to pay \$100,000 excess
- Limited number of insurers working in this space one insurer was prepared to provide insurance for the holiday park itself, but excluding the waterslides. Insurers deem 'long tail' claims for such activities, which can drag out in court for years and it takes many years to build a profitable portfolio and so the risk in the meantime is now deemed too high by many.
- Insurers view such facilities in holiday parks as a bigger risk than facilities like Wet N Wild. Reason being the high focus on risk management at the likes of Wet N Wild and the dedicated focus on this facility vs. holiday parks where this is one element of operations
- With no headway with their original insurance broker, the caravan park reached out to 6 other brokers and, eventually was able to secure insurance coverage for their waterslides in July 2020 (a 4-month long ordeal).
- While it is good they were able to get coverage in the end, this situation is not ideal as it alludes to an issue for underwriters when they have multiple brokers coming to them with the same issue for the same entity. But the operator was desperate and felt they had no choice.
- It's worth noting one of the original underwriters who knocked them back stated that their operational plan and risk management was first class. The issue seemed the primary underwriters for the caravan and camping space losing the appetite to cover items deemed of more risk.
- Previously Park operators were able to ensure the whole park, including the waterslides, under one policy. On this occasion they have had to segment the busy into core activities (still covered under previous broker/underwriter) and the waterslides.
- This park has luckily been able to secure insurance again for the coming year. However, the broker who assisted them in July 2020 had to work very hard to secure the policy again and it came at a significant increase in cost. As such, the Park face ongoing concern about being

able to insure their waterslides year to year. Between FY2017 – FY2021 they've had premium increases over 300%.

Deep Dive Commercial Property and Public Liability Insurance

- This scenario was featured in Insurance News
<https://www.insurancenews.com.au/daily/caravan-park-premiums-skyrocket-after-bushfires>
- When the policy at Eagle View Escape accommodation near the Blue Mountains came up for renewal, Mark Lindsay, operator of Southern Cross Parks, says 15 of 17 insurers approached by his broker declined cover.
- Prior to the summer 2019/20 bushfires, the **park had not made an insurance claim**. After the bushfires, the park made 1 claim for business interruption.
- Then in September 2020, after spending \$1600 on a risk management assessment at the advice of his broker, Mark was told the cover he paid \$28,000 for previously was now priced at \$116,000 at renewal.
- Apparently, this was not impacted by the park's business interruption claim, but the number of claims in the overall market following the bushfires.
- Owner opted to forego bushfire and business interruption cover, instead spending \$51,413 for fire and flood with The Barn Underwriting Agency and \$3355 for liability with Pen Underwriting. The sum insured was \$4.67 million.
- Southern Cross Parks operates several caravan parks.
- In October 2020, Kings Point Retreat (South Coast) of the same Parent company also faced challenges trying to secure insurance and had to settle for 3 separate policies to cover assets in the park – 1 for property, 1 for public liability (which would not cover the on-site bar) and therefore, another separate policy for the bar. These policies came at a 25% increase in premium.