



# **COMMUNITY SUPPORT AND SERVICES COMMITTEE**

## **Members present:**

Ms CP McMillan MP—Chair

Mr SA Bennett MP

Mr MC Berkman MP

Ms CL Lui MP

Dr MA Robinson MP

Mr RCJ Skelton MP

## **Staff present:**

Ms L Pretty—Committee Secretary

Dr S Pruijm—Assistant Committee Secretary

## **PUBLIC HEARING—INQUIRY INTO THE HOUSING LEGISLATION AMENDMENT BILL 2022**

### **TRANSCRIPT OF PROCEEDINGS**

**MONDAY, 28 NOVEMBER 2022**

**Brisbane**

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**The committee met at 9.05 am.**

**CHAIR:** Good morning. I declare open this public hearing for the committee's consideration of the Housing Legislation Amendment Bill 2022. I respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders, past and present. I especially acknowledge Ms Cynthia Lui, the member for Cook—the first Torres Strait Islander to be elected to the Queensland parliament. We acknowledge her and her culture's long stewardship of our country. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people, whose lands, winds and waters we all share.

On 27 October 2022, the Hon. Leeanne Enoch, Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts, introduced the bill into the Queensland parliament. On the same day, the bill was referred to the Community Support and Services Committee for detailed consideration. The purpose of today is to assist the committee with its deliberation and examination of the bill.

My name is Corrine McMillan. I am the member for Mansfield and chair of the committee. With me here today are: Mr Stephen Bennett MP, member for Burnett and the deputy chair; Mr Michael Berkman MP, member for Maiwar; Ms Cynthia Lui MP, member for Cook; Mr Robert Skelton MP, member for Nicklin; and Dr Mark Robinson, member for Oodgeroo.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to my direction at all times. The media rules endorsed by the committee are available from committee staff if required. All those present today should note that it is possible you might be filmed or photographed during the proceedings by media and images may also appear on the parliament's website or social media pages. I ask everyone present to turn mobiles phones off or to silent mode.

Only the committee and invited officers may participate in the proceedings. As parliamentary proceedings, under the standing orders any person may be excluded from the hearing at my discretion or by order of the committee. I also ask that any responses to questions taken on notice today are provided to the committee by 12 pm on Friday, 2 December 2022. The program for today has been published on the committee's webpage, and there are hard copies available from committee staff.

### **LONGO, Ms Tracy, National Operations Manager, Homes for Homes**

**CHAIR:** Good morning, Ms Longo. We thank you immensely for your time today. We know how busy you are, but we thank you for appearing before our committee today. I invite you to make a brief opening statement, after which committee members will have, I am sure, many important questions for you.

**Ms Longo:** I thank the committee for allowing us to present today on this important change in the legislation that will allow Homes to Homes to operate in Queensland. I will start by giving a brief overview of what Homes for Homes is and where we come from. We have been blessed to have been in partnership with The Big Issue, which has been in operation now for 26 years. The Big Issue is renowned and is one of the largest social enterprises in being able to help people from the margins actually earn an income and support their health across many facets of their life. What was very evident from the start was the importance of having a roof over one's head to be able to make significant changes in their lives.

Homes for Homes was born out of an initiative in California. We would love to say that it was one of our ideas but it was not. It actually came from a California developer who had this idea of wanting to be able to give back to the community. If you have ever been to California, you will know that homelessness and seeing people on the streets is something you cannot hide from. He had this initiative. He wanted to contribute a small proportion of his sales. He is a large developer. He develops about 25,000 properties—so no small scale. He really wanted to be able to give back. That is where the idea was born.

He came to Australia. He presented the idea. A range of CEOs picked up that idea and it went into seven years of consultation and development to ensure that Homes for Homes was able to not only work across one developer but also become a community-led solution nationally. That was the important part of it. How do we bring the entire community together to be able to raise and bring new funds? That is the important part of what Homes for Homes does. It is around bringing new funds to the market utilising the community.

Australia is an amazing community where we do give back and we have a generous nature. How do we utilise that opportunity where people are able to have a secure, safe home and how can they contribute? That is the easy part of it. Homes for Homes is a simple donation on the sale of your property. When you sell, 0.1 per cent of that sale is donated to the Homes for Homes fund. We then pool those moneys and we grant them out to the community housing sector, who are very experienced at what they do, and they are able to increase the supply of social and affordable housing. The fabulous thing is that we do not compete with any policy. We simply sit and augment and are able to bring in new funding, which is a piece that is missing and we think is part of being able to collaboratively work with the private sector, the philanthropic and the government sector. Thank you very much for the opportunity to present Homes for Homes today.

**CHAIR:** Thank for your brief description. It certainly sets the scene for our questions.

**Mr BENNETT:** How do we see the transaction of the donation? Will that sit in a sales contract with the Real Estate Institute or within real estate agents? How do we see that transaction occurring? Is there a simple way that it is happening in other states?

**Ms Longo:** Yes, it absolutely is. We are operational across most states. Obviously this will be the first opportunity into the Queensland market. Yes, it does sit in the contract of sale. It is a special condition that goes into the contract of sale. What it does is disclose Homes for Homes to the purchaser. We also have a donation deed, which is a deed that the home owner or the purchaser would sign which provides us the opportunity then to be able to lodge the administration advice onto the title.

One of the fabulous things about Homes for Homes is that it stays on the title until a home owner chooses to withdraw. It is a voluntary initiative. When you are that home owner you can make the decision at any point in time, at no cost to you, to withdraw, but we are delighted to say that we have over an 80 per cent retention rate when people are purchasing. We do have properties that have turned over multiple times throughout the initiative across different states.

**Mr BENNETT:** Are we relying on an education process and for, say, the real estate agents at point of sale to be an advocate for the charity?

**Ms Longo:** Yes. We are delighted we have a lot of industry support, so all of the lenders are on board. We have been working with them for a long period of time. Anna Bligh sits on our investment advisory board.

**Mr BENNETT:** Yes, I saw that.

**Ms Longo:** They are obviously a big component of the sale process. In Queensland the fantastic thing is that the administration advice does not impact any dealings. It is a really easy transaction for Homes to Homes to operate once we establish here in Queensland. We also work with the conveyancing industry. We also work across the real estate industry. It is a community-led solution, so it really does take everyone.

Yes, it is about education. We have been delighted that we do know that people and the industry are looking for something where they can provide a really meaningful contribution back to the community. Homes for Homes is that simple way of being able to do it. It comes through education. We have been operating in the ACT, for example, since late 2016. It is now just part of the DNA there. Everybody is very familiar with it and the transaction just flows and the donation is made. The first thing we know about it is exactly that—when the donation is actually sitting in our bank account. It is very quick to pick up.

**Ms LUI:** Ms Longo, you mentioned that this initiative was born out of California to tackle homelessness. How effective is this initiative currently in California?

**Ms Longo:** Unfortunately, it is a bit more complex in the States, where there are something like 37 different state jurisdictions. We are very blessed that we have seven and that we have the Federation, which brings it all together. Jeffrey has found it really challenging to move it beyond California. He still has a desire to do that. He now looks to us, given the fact that we have been able to implement it so successfully here in Australia. He has gone from being the person who initiated it to looking at us to ask, 'How can we better do it?' He still very much has a desire to broaden it across Brisbane

the US. We now have other countries looking at how Homes for Homes operates and implements. We are talking to members of parliament in Canada. We are also speaking to New Zealand and, more recently, the UK.

**Dr ROBINSON:** At the public briefing reference was made to Homes for Homes encouraging developers to include the donation deed arrangements into new housing estates. Can you elaborate on your experiences in other jurisdictions with this potential revenue stream?

**Ms Longo:** This is one of the things we did very early on. We are absolutely delighted that you can register your home today via our website, but we are looking for scale and a developer is able to bring property at scale. We have largely worked with the property sector to look at how they can embed and include Homes for Homes in their sale process. We have developments across Sydney, Melbourne, Perth and Adelaide where property developers embed Homes for Homes into sales. Whether it is a greenfield site or a tower that is going up in a CBD, they can participate regardless. They just include that as part of their sales suite.

Over the past 10 years the industry has done a fantastic job of looking at environmental sustainability. Home owners and purchasers are looking at more than just what is environmentally sustainable but also what is socially sustainable. Homes for Homes is able to provide that value-add for a developer to participate. We now have developers coming to Homes for Homes independently, based on what we have been able to do in the market, and registering their properties. Yes, we do have some large greenfield sites of up to 4,000 lots right through to high-rise apartments in the Melbourne CBD which will deliver 600 apartments over the course of the next few years.

**Mr SKELTON:** How much revenue do you expect Homes for Homes to raise if the bill is passed and the scheme is in operation in Queensland? Have you done any forecasting in that space?

**Ms Longo:** Absolutely. As I said, we did seven years of research before we launched Homes for Homes. Part of that was economic modelling to understand what value we can contribute back to the community. I am pleased to say that we are on track to raise over a billion dollars by 2050. That is on conservative numbers of three per cent of the entire population participating in Homes for Homes. Based on where we are today, we have a pipeline of over \$50 million which we will see come through over the course of the next 30 years, based on our property developer participation, which is around 17,000 properties. In Queensland, obviously we are not operating but, based on the models we have done to date, we anticipate there will be about \$200 million of new funding contributed.

One of the great things about Homes for Homes is that, because we have done about six rounds of granting back out into the community housing sector, we are able to leverage our funds. We were not sure how it would work. We anticipated that we would go with a grant round and the community housing sector would apply for the full amount, but what we are finding is that we tend to be the equity component, or that top-up. It allows us to have a one-to-eight ratio: for every dollar we invest, ultimately it unlocks about \$8 of capital for the community housing sector, so that \$1 billion is amplified significantly. As I said, in Queensland our economic modelling shows that we are able to contribute about an extra \$200 million that will be able to be leveraged.

**Mr BERKMAN:** In terms of the modelling that you just touched on and the assumption around the three per cent uptake, is that reflected in the uptake in other jurisdictions where Homes for Homes is operating at the moment?

**Ms Longo:** When we started it was based on behavioural economics. We have been operating in the ACT the longest. We are nearly at that three per cent level already, in a very short period of time. It depends on, I guess, the state's desire to make change. As I said, we are very conservative in our modelling. We definitely know that it can be amplified well beyond that.

**Mr BERKMAN:** For as long as most of us can remember, we have had a very stable or growing property market. Things are a little more turbulent and unpredictable now in terms of future property price value growth. Do you anticipate that is likely to affect people's willingness to engage with the scheme, or have you considered the possibility that it might?

**Ms Longo:** Because we are conservative, we build in a whole lot of factors. For example, when we first started operating the average home turnover was at about 7½ years. We know that has now extended to about 11 years. We will continue to reflect that in our modelling to ensure we are always keeping pace with the changes economically and in the housing sector. The great thing about Homes for Homes is that it is at the point of sale. The home that you purchase today you may not sell in the future. We know that most Australians' wealth has been built off the back of the one asset that they generally own. At the time when people go through a sale, they will have disbursements that would

normally pay off rates or utilities. Having that fund flow in, it is money that they have not seen as being growth through their capital gain. We are finding that, regardless of whether there are changes to the value of properties or whether turnover is slower, once people are in and committed to making a difference, that fund will flow regardless. Again, we do know that it is an 80 per cent retention rate, so people will make decisions based on whether it is the right thing for them to do at that time.

**CHAIR:** In terms of the practical nature of the process, one can decide to make a donation pending the sale of their property, whether it be their principal place of residence or a rental investment?

**Ms Longo:** Yes.

**CHAIR:** Generally, do people make a decision around the percentage of the sale or a nominal amount?

**Ms Longo:** In the donation deed it is 0.1 per cent. It is actually defined as 0.1 per cent. Having said that, though, we do have people who, based on where their life is at at the time, have made conscious decisions, rather than putting 0.1 per cent, to make a nominal donation or no donation. We are happy to take any form of donation. We also have people who feel that 0.1 per cent is not enough and who donate significantly more than that at the time of sale. They can do that. We are embedded in the conveyancing process. Property Exchange Australia, PEXA, is one of our partners. They have built it into their system. For anyone transacting at the time, it just flows automatically. Their representative, their lawyer, can choose to either keep it at 0.1 per cent or, based on your desire, change that in the system.

**Mr BENNETT:** I have been reading that you are already making some contributions to providers in Queensland even though it is not currently able to be remitted from here. Could you share with the committee some examples of the partnerships you have already established?

**Ms Longo:** Yes. Through our corporate partnerships we are able to utilise some of those funds. One of the fabulous things—I keep reiterating that there are some unique elements to Homes for Homes—is that money raised in the state will stay in the state. That is really important. It was one of the learnings we made very early on. Having said that, we have some corporate partners who make some donations to us and we are able to leverage those. One of the things we wanted to do was establish our housing advisory group. When funds are raised, we want to ensure that home owners who contribute to us know that our funding out to the market is robustly governed. We are not experts in where the housing need is within your state, but the people within your industry are. We do create a housing advisory group in each state and territory, and they guide us on where those funds should be granted.

We are able to leverage some of those corporate partnerships to raise moneys, to distribute those into Queensland and to establish that Queensland advisory housing group. They were only small amounts, but they do make a significant difference to the lives of those who receive them. One of our projects in Queensland was for young Aboriginal women experiencing homelessness to utilise those services. The facility was already available but what was missing were things like a community kitchen, security, being able to gain life skills to go back into the community and self-manage. We are really proud. One of the biggest moments we have when we do those grants is being able to see the impact it has on the lives of the recipients of the funds that go out into the community.

**Mr BERKMAN:** Based on the modelling you referred to in the submission—if we assume the three per cent uptake, \$200 million raised and the one-for-eight leveraging that you mentioned before—if all goes according to plan, how many extra social or affordable homes will this scheme actually deliver on the ground in Queensland?

**Ms Longo:** It depends on the project itself. We do not take that modelling and then turn that into a one-for-one. Over the six grants that we have done, we have done varied projects. It can be shared crisis accommodation which is transitional. In those sort of facilities, you can leverage up to 70 people who come through turnover annually. We are also able to support projects that might provide a home for a family escaping domestic violence. Again, quite often they are transitional houses. We want to be able to leverage those for long-term, secure housing as well. We do know that there is a gap between people coming through social housing to affordable housing into the private sector. There has to be a range of different types of product across there. Our money is leveraged for all of those different types of projects—as long as, ultimately, the outcome is that it is providing a place for someone in need. Generally, the community housing sector—that is predominantly where our funding goes—also has wraparound services. That is really important, because it allows people receiving accommodation to get the right supports in order to contribute to their outcomes long term.

**Mr BERKMAN:** Not to devalue it in any way, but let's put to the side the temporary emergency accommodation. Do you have even a rough estimate of how many permanent, long-term homes might be delivered in Queensland?

**Ms Longo:** We have granted \$1.44 million to date, and that has housed 297 people. We look at it in the context of how many people rather than how many homes. \$1.44 million, which is not a lot, is still providing safe accommodation for 297 people.

**Mr BENNETT:** If anyone in Queensland wanted to join the advisory group—I am talking about regional and remote potentially—can they advocate to that group? Is that the best way to go?

**Ms Longo:** Absolutely. You can register your home on our website today.

**Mr BENNETT:** I was thinking about groups that might want a funding solution to provide the solution you were describing.

**Ms Longo:** Our housing advisory group in Queensland has been established, but we do regularly review them. Absolutely, people can leverage those who are on that housing advisory group. The list of those members is available. We try to get a cross-sectional view of that group as well.

**CHAIR:** Ms Longo, we have come to the end of our time. I thank you on behalf of our committee. Often we are judged for the contribution we make to the broader social good. I acknowledge Homes for Homes as a wonderful social enterprise or community-based organisation that contributes to creating greater equity and fairness across our broader society. The committee congratulates you for your work particularly in that area. Well done. We wish you well. The Queensland government certainly looks forward to working with you. Thank you for your time today.

**Ms Longo:** Thank you very much. I really appreciate it.

**AMBOR, Mr Leslie, Treasurer, Association of Residents of Queensland Retirement Villages**

**CHAIR:** Good morning. Thank you for giving up your very important time to contribute to the committee's deliberations around the bill. I invite you to make a brief opening statement, after which our committee members will have some very important questions for you.

**Mr Ambor:** Thank you. Good morning. My participation here might be fairly brief this morning because our association has already provided considerable feedback to the amendments and we are quite happy with the amendments as they stand. My real mission this morning, if the opportunity arose, was to talk rather to the upcoming regulations. I do not know whether that is appropriate at this point.

**CHAIR:** Yes, that would be very good.

**Mr Ambor:** There are a number of issues that arise out of the proposed regulations as they stand. The first is in relation to the income for both the general service fund and the maintenance reserve fund, where the proposal is to introduce four new lines of income which actually complicate the presentation considerably for both operators and residents. In actual fact, they miss the point. The point for residents, really, is that they are most interested in what their fees are going to be. What should be introduced into the income is in fact the number of units in each category of residence, such as apartments. If the number of units is introduced into that line, there should be another line which shows the monthly fees. It is monthly fees that residents are really most interested in. When you do a presentation of budgets and accounts to residents, that has to be brief; 15 minutes is about the attention span. Really what they want to know is what they are going to be paying.

The second issue I have is on behalf of the operators. The proposed amendments in the capital replacement fund are basically implying that the operator should set aside the amount of money that they are likely to expend in a financial year. For example, in our particular village at Albany Creek the expenditure by the scheme operator last year was \$500,000. That generally is provided on an as-needs basis so that if something has to be replaced the funds are there and they are provided almost immediately, if you like. What the regulations are asking for is that the total amount of money be put aside at the beginning of the financial year. If an operator has 20-odd villages, you are talking about in effect putting aside \$10 million. That is before you talk about the amount of money that is required to do the renovations, which could be another \$300,000 or \$400,000 in each village. Really, what we are talking about is asking operators that have multiple villages—say, 20—to put aside something like \$20 million. That is dead money, basically. The good operators provide the money on an as-needs basis. There should not be any need to demand that the money be put aside in a bank. I think the department's concern is really about the operators that are slow to provide capital replacement. This does not change that. The smart operator will find a way around that and will still dribble feed, if you like, the capital replacement that is required or, in fact, may try to divert capital replacing a maintenance reserve fund, and we have seen plenty of examples of that.

The third item that I have here is with respect to the maintenance reserve fund. The proposal is that the surplus is taken into account in the budget in the following year. The surplus in the maintenance reserve fund grows quite large. For example, in our village it is around \$500,000. That gets taken forward each year, but it is provided there for a specific purpose. It is provided to match what the quantity surveyor has set as a 10-year plan. To suggest that the maintenance reserve fund surplus should be taken into account and perhaps applied to reduce contributions really is a misnomer and is in contradiction with what the quantity surveyor is saying. Certainly you may have a surplus that is over and above what the quantity surveyor provides, but I would suggest that that should be disregarded because nobody can accurately gauge how requirements may change over the next 10 years. If we are talking villages that are already 20 years old, I would suggest that anything that is kept up the sleeve, if you like, in a surplus should be kept there and there should be no consideration to reducing contributions. What we are really doing is opening the door for, let's say, the not-so-smart operators to actually suggest to residents, 'Maybe we could use this surplus to reduce contributions,' and that is a backward move.

The act also requires that the surplus in a general service fund gets taken forward and is considered in relation to the next year's budget. There are problems with the way that is being applied at the moment. The department, I think, is specifically asking that that surplus be applied against the monthly fees on a monthly basis. That is all good and well if the surplus is small. In our particular case—and we are not unlike other villages—we had a sufficient surplus last year to reduce the fees by seven per cent. That was good for the residents, but what is not good is that it means we have to recover that seven per cent as a starting point in the next year's budget. If you are looking ahead as

the economy is right now, we could have a CPI again of another six per cent, so we are looking at an increase potentially of 13 per cent. If we repeat the exercise again, what we are really doing is digging a deeper hole each year. What we believe should happen is that the surplus should be applied as a lump sum offset to the fees, in a one-off situation. That way the fees will rise as they should. The lump sum is then used in the same way as the surplus intends: to offset those increases.

One of the issues in the industry over the last two years has been insurance and the rate at which insurance premiums have risen. A year ago, the increases ranged from zero up to over 100 per cent. The unfortunate part about the act as it stands is that it is vague as to what retirement village insurance should provide. It basically covers the replacement costs of units or whatever it might be. It also talks about replacement costs of contents. What it does not say is what else the scheme operator can insure for. One of the additional policies, if you like, that has come into play over the last few years has been business interruption. Personally, I have no problem with the operator covering villages for business interruption. The operator should have the right to cover residents as he sees fit and introduce extra cover if it is needed. What is of concern, though, is that there are a number of operators that are including other assets outside of retirement villages. The act should specifically apply only to retirement villages and not allow the operators to introduce other assets such as care villages and so on.

My final point is in relation to the regulation which I think is implying that the operator should be required to explain how fees are calculated, and that is certainly a very valid requirement. The problem we have is that in a lot of villages there are a number of different categories of residence. For example, in our village we have four different types of residence. What we are suggesting in regulation is that we have to expand, if you like, the spreadsheet which shows all of the income and all of the expenditure. As I have already said, there are four new lines of income which are going to complicate that even further. What we need clear definition of in terms of the regulation is what the department is requiring in terms of the explanation to the residents. I am in your hands.

**CHAIR:** Thank you very much, Mr Ambor. I am sure the committee would agree that was a very thorough analysis and certainly demonstrates your knowledge of the bill. I was pleased to hear that some of your issues have been addressed through the amendments. I know that committee members will have some questions.

**Mr BENNETT:** Good morning. I refer to your statement about the maintenance reserve fund. I understand from historic workings that the maintenance reserve fund can be successful when you apply things like life cycle costings to a building, even if they are 20 years old. Can you explain to the committee a bit more your concerns about not being able to predict a maintenance cycle within the residences?

**Mr Ambor:** I am not quite clear on the question.

**Mr BENNETT:** During your statement you made a comment about the maintenance reserve fund and you had some concern about how that goes forward and how you cannot predict a maintenance cycle in theory. I am challenging that there are a lot of examples where maintenance can be predicted and can be budgeted and forecast. I am curious for your thoughts on that.

**Mr Ambor:** In my position as treasurer, one of my functions is to review budgets from other villages where required. I have seen a lot of those in the last 18 months. That has led to me to believe that there are a number of operators that do not correctly apply the maintenance reserve budget properly and do not calculate the contributions that are required to increase the surplus in line with the quantity surveyor's figure. For example, I am involved with a village at the moment that has a very minimal surplus yet the quantity surveyor is saying that in 10 years time they will need perhaps \$200,000. There is no chance of that happening in that village at the moment because they are starting from such a low base. That means that they have to set their contributions much higher over the next 10 years. That is one side of it. The other side of it is that none of us—not even the quantity surveyor—can really predict what is going to be required over the next 10 years. You could have floods. You could have all sorts of extraneous events that you cannot allow for. My belief is that if the quantity surveyor sets a figure aside for the next 10 years it means that you have to start now to get to that 10-year figure.

Our village is now 25 years old. When I first came into that village 12 years ago there was no surplus in the maintenance reserve fund. The surplus has, if you like, two components. The first one is to match what the quantity surveyor says. The second is to give the village manager the funds to do what she or he needs to do not necessarily next year but in two years time. That might be the repainting of all of the roofs. It might be mulching the gardens. It might be the external painting of all the units. When I got involved 12 years ago, those funds were not available for the village manager

to do those things. The surplus has two functions: to give the village manager the opportunity to do what she needs to do and to match the quantity surveyor figure. I come back to what I said earlier: it is better to leave a surplus as it stands even if it is more than what the quantity surveyor says.

**Ms LUI:** Your association provides support to your members. Could you speak to some of the problems that your members experience?

**Mr Ambor:** With operators in general?

**Ms LUI:** Yes.

**Mr Ambor:** Have we got a couple of hours! I think the first problem is a lack of communication between the top—the manager—and the residents, and particularly the resident committees. I will use as an example one of the villages I am working with at the moment. The scheme operator was very reluctant to talk to me in the first place. The residents committee has only been in place for a couple of years. They have been struggling to create a line of communication with the village manager and also with the scheme operator. One of the other problems with respect to that particular committee is that they have no financial acumen. In effect, their first reaction is that the scheme operator is trying to put something over them. In fact, in this particular case the scheme operator was going overboard to help them, and that is not understood by the residents. Communication is the first thing that needs to be addressed.

The second thing is that some operators do not have a clear understanding of the difference between capital replacement and maintenance. That creates a lot of issues within villages and, in some cases, discontent because residents see the maintenance reserve funding used for things that should be capital replacement. There is confusion about that. I think they are the two main issues that I have come across. There are a lot of little issues that come out of operators trying to get around the act, but generally they get fixed.

**CHAIR:** Thank you very much, Mr Ambor. If there are no other pressing questions, the committee thanks you very much for your time. We are certainly in awe of your knowledge in the area. Thank you very much for giving up your time today. We very much appreciate it.

**Proceedings suspended from 9.50 am to 10.21 am.**

**DEVINE, Ms Wendy, Principal Policy Solicitor, Queensland Law Society**

**DUNN, Mr Matt, General Manager, Advocacy, Guidance and Governance, Queensland Law Society**

**CHAIR:** I welcome representatives from the Queensland Law Society. The committee understands how busy you are, but we thank you for appearing before us today as we continue our deliberations on the bill. I invite you to make a brief opening statement, after which committee members will have, I am sure, many important questions.

**Ms Devine:** Thank you for inviting the Queensland Law Society to appear at the public hearing on the Housing Legislation Amendment Bill 2022. In opening, I would like to respectfully recognise the traditional owners of the land on which this meeting is taking place, Meanjin. I recognise the country north and south of the Brisbane River as the home of both the Turrbal and the Jagera nations and pay deep respects to all elders past, present and future.

The Queensland Law Society is the peak professional body for the state's legal practitioners, over 14,000 of whom we represent. We are an independent, apolitical representative body upon which government and parliament can rely to provide advice which promotes good, evidence-based law and policy. The QLS appears today to speak to the technical drafting points we have identified in our written submission regarding the charitable donation deeds model to be inserted into the Housing Act 2003.

The model proposes that a landowner and an eligible non-profit organisation can enter into a charitable donation deed under which the landowner agrees to make a donation of a percentage of the sale price of their property at the time of sale. The non-profit organisation or the landowner can then register an administrative advice on the title of the property to record the existence of the donation deed. We understand that the administrative advice does not bind successors in title. It also does not prevent the registration of a transfer of title to a new owner. However, the administrative advice will be a notification or reminder to the landowner that when the land is sold the landowner has agreed to donate proceeds of the sale.

We have recommended clarification to ensure that subsequent owners of the land can easily remove the administrative advice if they are not parties to the donation deed. We also strongly recommend that when the land is transferred to a new owner the registrar should be required to remove the administrative advice from the title; otherwise, if left on the title the administrative advice will serve no real purpose.

QLS is seeking to ensure that titling registration processes are clear and unambiguous. This will help our members provide advice to any clients who might be considering entering into a donation deed. It will also help our members advising potential purchasers of a property where such an administrative advice is recorded. A purchaser needs to be certain that they can indeed remove the administrative advice if they are not taking on an assignment of the deed.

We would also briefly raise, which is in addition to our written submission, an anomaly that appears to be in the definition of 'charitable donation deed' in proposed new section 94I. We note that under paragraph (b)(ii) (A) the words 'in the state' do not appear; however, in paragraph (B) the words 'in the state' do appear at the end of the paragraph. We understand that the intent of the legislation is to encourage investment in Queensland's social housing. We would question whether that was an omission of those words from that first limb in (ii).

I am joined today by Matt Dunn, General Manager of Advocacy, Guidance and Governance at the QLS. We welcome any questions that the committee might have.

**CHAIR:** Thank you, Ms Devine. Thank you for picking up that matter within the bill. We will certainly provide that feedback to the minister and her department.

**Mr BENNETT:** Could you expand for the committee on the issues around removing the obligations on a new owner and how that is done in other jurisdictions around the country? My understanding from listening to Homes for Homes was that they were very clear that that would roll on. From your comments it appears the Law Society is trying to make it easier for that to be removed. I would like your thoughts around that.

**Ms Devine:** At present, the way the drafting is put together, it does make clear that under new section 94K a party to the deed can request that the registrar of titles remove the record of the existence of the deed—remove the administrative advice. Our concern is that because that is drafted as 'a party to the deed', if the land is sold the new owner will not be a party to that deed. You would

have to take a separate step to assign that deed to the new owner. Under the current drafting, as we identified in our written submission, we would suggest that the definition of 'party' be expanded to refer to the two original signatories to the deed but also any owner of the land in the future.

**Mr BENNETT:** My understanding is that a real estate contract—that is, at the real estate agent level on the sale of a home—would include this donation. Would your members, through conveyancing and sealing that transaction, confirm with the purchaser that they are aware they are making a donation?

**Ms Devine:** At this stage it is hard to know how this will play out in practice. In terms of a contract that might be signed for the sale of the property, I probably cannot comment on that because this is not yet in place and we have not looked at how that might sound in contractual terms.

The purpose of this legislation is to allow an administrative advice to be recorded on the title of the property. That is at the titles registry run by Titles Queensland. When you do a title search it would show up at the bottom of the title search as an administrative advice—a notification, if you like—that the owner of the land at the time had entered into some form of donation deed. I am not sure what that notation will look like. I am not sure if the registrar has had the opportunity to think about that yet. It would be on title deed itself.

As we read all the material, it would not prevent an owner of land entering into a charitable donation deed and then entering into a contract of sale. It may or may not be referenced in that contract of sale. As I read it, it does not need to be. It is listed on the title to the property. When a purchaser takes that contract, takes that title search, to a solicitor, a solicitor will look at that and say, 'Did you know this is here?' I presume the solicitor will say, 'Do you want to continue this arrangement? If you do not wish to, we need to take steps to take that off the title,' so it is sitting on title with no relevance to the new owner. Does that make sense?

**Mr BENNETT:** Yes, very much so.

**Ms LUI:** Thank you; that was interesting. As you read the bill, if the property passed to the Public Trustee would the Public Trustee be obliged to pay the donation?

**Ms Devine:** As we read the bill, no. We understand from the material we have seen that there is no intention to bind a successor in title, a subsequent owner of the property. If that was the intent, I do not think the legislation is drafted in that way; however, the Public Trustee might choose to assume the obligation. My understanding is that the deed only binds the original owner and the original signatory to the deed. Any subsequent owners will not be bound by it.

**Dr ROBINSON:** In terms of someone passing away and leaving a property within an inheritance, if the property is passed on to the Public Trustee what would happen in terms of the Public Trustee and any obligation it has around the donation? Do you have any insights?

**Ms Devine:** We have not seen the charitable donation deed so we are not entirely sure what is in the deed between Homes for Homes and the original owner; however, our understanding of the way the legislation has been drafted is that it is not intended to bind a subsequent owner of the property. I do not wish to comment on succession law issues—that is outside of the preparation we have done for this hearing. Each will might be prepared in a particular way and I could not comment on whether that would pass through any obligations.

**Mr SKELTON:** Your submission contains a number of technical drafting amendments to the bill. Is the QLS supportive of the bill's objectives in relation to laying the groundwork for this kind of charitable donation?

**Mr Dunn:** It is probably fair to say that some of the drafting is a little bit squiffy. The underlying policy objective is certainly a matter for government; it is a matter of policy. If the government wants to progress that model of charitable giving, this is a way to achieve that in Queensland, given that we cannot create caveats in the same way that they can in the other states. It is a perfectly legitimate and appropriate method to do that in the circumstances. There is the ability for other charitable non-profit organisations beyond Homes for Homes to be listed and to follow in that same kind of model.

In effect, there is nothing inappropriate about the model that is being introduced. We have just raised a couple of drafting issues that probably need to be cleaned up in terms of implementation. There may need to be more thought given to what happens when a new purchaser comes in and there is already one of these advices on the title—what rights that person has and how that is to work.

**Mr BERKMAN:** If I have understood your submission and what you said earlier, the issue around the obligations on a new owner could be dealt with in one of two ways: either an amendment to remove that administrative advice on sale of the property or a change to the definition of party to Brisbane

the deed so that it applies to a new owner. What would be the flow-on effects of either of those two options? It seems to me that they would drive quite different outcomes in terms of future obligations on sale of a property. Can you clear that up for us?

**Ms Devine:** In my mind, the outcome would be the same for both of those options. The first recommendation we have is that the definition of 'party' be amended to include an owner of the land so that it would apply to a subsequent owner of the land and not only to the two original parties to the charitable donation deed. That would give any subsequent owner the right to rely on section 94K to request the registrar to remove the administrative advice. If that subsequent owner chose to continue the deed, that is a separate process and a separate step they would need to take.

We also, though, recommend that consideration be given to an automatic requirement that the administrative advice be removed on the transfer of the title, because this administrative advice is intended to be a reminder to the original owner that they have entered into the donation deed. We think it is much cleaner and neater to have that administrative advice removed automatically on the sale of the property, unless the new owner specifically chooses to continue the deed in some way. Otherwise, I think you run the risk that this might get missed in the conveyancing process, because it does not hold up the transfer, and you will end up with administrative advices just rolling over with no real effect because they are not relevant to the current owner of the property.

**CHAIR:** Ms Devine, the QLS submission speaks of a number of issues in relation to removing the administrative advice from a property title. Do you hold concerns about the transfer of the charitable donation deed to a new property owner?

**Ms Devine:** On the reading we have done of the materials available, we understand that the deed does not bind a subsequent owner. Our concern is that, even though it does not bind a subsequent owner, the administrative advice could continue to be listed on the title and it effectively clutters up the title, if I can put it that way. It is a notation on the title that is not relevant to a subsequent owner and it raises questions, every time you go to deal with that title, about what that administrative advice means. You might need to do an extra search to figure out what it is about. That is an extra cost and inconvenience to subsequent owners. We would much prefer that the record of titles in the titles registry remain as clean as possible. I understand it is about \$30 to \$35 to remove an administrative advice. It is not a lot of money, but it means paperwork and inconvenience to a subsequent owner who really should not be put to that inconvenience when it is not relevant to their ownership.

**CHAIR:** Is there a way we can deal with that prior to the point of sale? Is there a way that existing property owners can address that? Could it be incorporated into the process of registering a property for sale—similar to the need for smoke alarms et cetera and other requirements prior to selling a property? Is there some advice as to how that could be cleaned up?

**Ms Devine:** Our recommendation is that on the transfer of the title—not at the point of signing a contract but at the point of settling the sale—the registrar is automatically entitled to remove the administrative advice. As a transfer document gets registered at the titles registry—that signifies that the sale has completed or settled—our recommendation is that at that point this administrative advice falls away so that it does not continue onto the new owner's property.

**CHAIR:** If that did not happen, there is still no legal understanding that it is a default in process?

**Ms Devine:** No. That is not my understanding from the material put forward by the department.

**CHAIR:** No, that is right. Thank you.

**Mr BENNETT:** I am confused, because doesn't proposed new section 94J specifically want the deed to travel with the property? It says it will remain on title unless removed. There is a clear undertaking in the bill that the deed will stay with the new owners. I understand your point about trying to have it removed, but isn't it contrary to the bill's intent of trying to raise revenue for a charitable organisation? You have said a couple of times that you do not believe that it is binding on the new owners, so 94J might be a contradictory new clause. I am not asking you to comment; it is my observation.

**Ms Devine:** I can comment if you wish. The intent of this legislation is to provide a mechanism for the current owner of the property who has entered into a deed to effectively consent to the charity registering the existence of the deed by recording the administrative advice on the title. That administrative advice sits there on the title and is a reminder. Say I enter into a deed. When I go to sell the property, I would speak to a lawyer and my lawyer would ask, 'Do you remember the administrative advice?' That would be a prompt for you to follow through with the donation in accordance with the agreement that you have made with Homes for Homes or another charity. The

intent, as I read it, is that it is a reminder to the owner who enters into that charitable deed. The administrative advice then has no effect for any subsequent owner, unless they choose to continue it. That is a separate step.

**Mr BENNETT:** Thank you. That clarifies it, I guess. It would be great if it could continue, if that is the desire of the new owners.

**Ms Devine:** It should be an election of the new owner whether they wish to continue the arrangement.

**Ms LUI:** Ms Devine, can you comment on why there needs to be greater clarity around these processes? The impression I am getting is that there are a lot of grey areas and it is still a bit vague in terms of processes. Correct me if I wrong.

**Ms Devine:** In terms of the right to remove the administrative advice from the title, the way section 94K is currently drafted says that only a party to the deed can make that request. We are concerned that a party to the deed is the charity and the landowner. Our concern is that, if the property is sold, that right to remove the deed needs to be extended to any subsequent owner. Otherwise, a subsequent owner has no right under section 94K to apply to have the administrative advice taken off the title. That is one of the clarifications we would suggest. If that is done, that answers one of our concerns. Connected to that, though, we recommend that, ideally, the way forward would be that on the transfer of the title the administrative advice falls away and is taken off automatically so that no-one has to make a request to remove it under 94K. There should be an automatic removal of the administrative advice from the title search and the title record so that no-one has to take that additional step. That is the concern that we have. At the moment, section 94K does not clearly give a right to a subsequent owner to remove the document from their title.

**Mr BENNETT:** It has been enlightening to hear of the issues and the complexities of what this may mean for future owners. It has been quite illuminating. There is probably more work to do in terms of what the unintended consequences might be.

**CHAIR:** Thank you very much to both of you. We can always rely on the Queensland Law Society to provide a very diligent analysis of the work that we do as a government. We thank you for your very thorough assessment. We look forward to working with you again in the future. We hope we have not taken too much of your busy day. Thank you very much.

**Ms Devine:** Thank you very much, Chair and committee.

**LYONS, Mr Robin, Deputy Chair, Queensland Retirement Living Committee, Property Council of Australia**

**PONTING, Ms Rachel, Senior Policy Adviser, Property Council of Australia**

**CHAIR:** Good morning and thank you for giving up your time to help us with our deliberations on the bill. I invite you to make a brief opening statement, after which our committee will have some very important questions for you.

**Ms Ponting:** Thank you for the opportunity to provide feedback on behalf of the property industry in relation to the Housing Legislation Amendment Bill. We are specifically concerned with the amendments to the Retirement Villages Act. Unfortunately, Daniel Gannon from our Retirement Living Council could not be here today, but joining me today is Robin Lyons, a partner at MinterEllison and a leading specialist in this area of property law. The Retirement Living Council is the national leadership group representing the retirement living sector, championing policies that support greater investment in age-friendly communities across Australia. We focus on investor confidence, ensuring and promoting best practice, fair and balanced regulation, promoting age-friendly communities and telling the industry's story, and that is why we are here today.

We take this opportunity to reiterate our submission to the Department of Communities, Housing and Digital Economy on 26 August as the bill currently being considered by the committee appears to be substantively similar to the consultation draft. For the committee's benefit, there are a number of different operating models for retirement villages used here in Australia including freehold, leasehold, licence and company title, with leasehold and licence arrangements the most commonly used models. In the majority of cases, villages are funded by residents. It is apparent that the effect of the bill will result in greater compliance obligations on operators of retirement villages, the cost of which will be borne by residents. These greater obligations take the form of the numerous information requirements within the bill which are duplicative and unnecessarily burdensome to operators. This will have a particularly significant effect on small operators, who will have to engage external accounting services in order to meet these requirements.

Adding more red tape simply transfers more cost in return for more bureaucracy to older Queenslanders. Further, it adds another layer of cost to the perfect storm smashing into struggling pensioners at the moment, including the recent 15 per cent wage increase arising from the Fair Work Commission's Work Value Case—Aged Care Industry decision; massive increases for electricity, gas and fuel prices; big cost increases in building products and maintenance; record inflation; and devastating cost-of-living increases for basic food, care and transport. In the wake of the Housing Summit, the Queensland government has stated that improving housing affordability and increasing housing supply is a top priority, and we fundamentally agree. However, the bill in its current form appears to be counterintuitive to this priority and further fails to plan for the almost 180 per cent increase in the number of people aged over 85 in Queensland that CEPAR has forecast over the next two decades.

Finally, it must also be noted that the department's engagement and communication with industry has been substandard at best and must improve. Over the past several years there have been multiple instances, including this bill, where the department has either not consulted with industry adequately or asked for industry feedback and then not taken any steps to address or implement this feedback. Given the extent of the property industry's contribution to the Queensland economy and that most age-friendly communities are funded by residents, we ask and encourage you to tread lightly and to make decisions thoughtfully. We are in your hands for questions and if we are unable to provide an immediate response we will obviously commit to taking it on notice and bringing back an answer. Thank you.

**CHAIR:** Thank you very much, Ms Ponting.

**Mr BENNETT:** Acknowledging the comments in your submission that most of the costs come from residents indirectly through different bank accounts that they have for operating, what would be the advantage of access to the financial documents by residents in your assessment of the bill's purpose? That is essentially what it is trying to do—that is, give greater access to the financials of the village.

**Mr Lyons:** I think the issue here is really about the approach that is taken to detail and getting the balance right between making full and proper disclosure to residents—which the industry completely supports—and not, I guess, oversaucing the pudding and putting enormous burden on operators to run off to accountants and getting a much more detailed and expensive process in place that may not in fact benefit residents particularly well, so it is about getting that balance correct. If you look at the sort of information that is anticipated under particularly proposed new section 113AA, Brisbane

which is the heart of the bill in terms of setting out the sort of information that can go into the form and content requirements that the regulations will eventually prescribe, it does concern the sector that there is a lot of detail envisaged here—and I guess we are seeing that as a sign that that is probably what is going to be required in the regulations, although we have not seen them yet. To make the point, we are also all at a bit of a disadvantage in that we have not seen what is intended yet, because the devil will be in the detail of the regulations. There is quite a lot of information that potentially is going to be required, so we are concerned that that will put an unnecessary burden on operators in terms of compliance costs which then will ultimately be passed through to residents, because resident villages are resident funded operations.

**Mr BENNETT:** With regard to greater access to financials by residents, that is still not going to necessarily resolve the fact that there might not be enough in the accounts for things like the maintenance or the capital replacement line items. Unless they have a really astute residential committee I guess, it could be for zero outcome.

**Mr Lyons:** Currently there is provision in the act for the residents committee to require that information and to—

**Mr BENNETT:** Yes, already.

**Mr Lyons:** The way the act is currently structured is that the residents committee is effectively the voice of the residents from a practical point of view—that is, a small committee of residents voted by the residents under the act. It is a bit like the board of the retirement village and they get the opportunity to collaborate with the operator, ask these questions and get the draft budgets. That is a very intense process typically of villages and there are committees that do ask lots of questions and hold operators to account, which is completely appropriate, and get provided information. Operators obviously need to cooperate because they need to get their budgets ultimately approved, so I guess what this is doing is broadening that base out beyond the committee and making it much more of an intense process. Again, it is just about getting that balance right so that we do not overdo it.

The other point to make is that this is likely to be a much bigger burden on smaller operators. There are some quite small villages in the marketplace and I think that is healthy. What is tending to happen in the sector is: as compliance costs increase and the complexity of requirements on operators increases, smaller operators are getting squeezed out of the sector and so we are reducing competition, and that is a pity because there are some exceptionally good small operators who provide a very custom service to their residents and it is a pity to see them under this sort of pressure.

I will make one point: if you look at the New South Wales legislation—I think in the explanatory memorandum the department did indicate that it had looked at the legislation in other states—it has a provision that allows the resident body to opt out of some of this detail if they think it is appropriate. In fact, in Queensland it says that residents of the village are able to opt out of some of the more onerous and expensive administrative processes such as annual budget approvals, annual audits and quarterly financial statements where the total recurrent charge as proposed to be levied is under a particular threshold—in other words, it is quite a small operation and it just cannot handle expensive accounting costs.

**Mr BENNETT:** It would save those residents money, because they pay for it ultimately—the residents.

**Mr Lyons:** Absolutely, yes. I think the point here is that we may be imposing this on resident groups that do not necessarily want to bear that cost either, but the way the legislation is currently drafted they will not have a choice. It will be mandatory and we are imposing mandatory costs on residents. I believe that a community of residents, even a small one, should have the ability to control their own destiny and make these decisions if they do not want to bear that cost.

**Ms LUI:** In your submission you referred to the economic challenges facing retirees and prospective residents who may be shopping around for a village. Do you think these reforms will allow people to make more informed choices given your comments about the market becoming a bit non-competitive, especially with the small players?

**Mr Lyons:** Yes. My response to that would be that there is already a very detailed disclosure regime in place under the act and so we are talking about residents understanding what they are buying into, coming into the village. The disclosure materials that are currently issued provide all of the information a resident would require to make that decision. A lot of this information we are talking about is really being provided to residents once they are in the village, so after they have made their decision. These provisions are really more aimed at living in the village rather than people making a

decision to enter, because the disclosure regime does require disclosure around all the funds, the balances in the funds and fundamentally basic financial information that would allow residents to compare one village to another quite adequately. I do not think it makes a difference necessarily to people who are looking around to make a selection between villages.

**Dr ROBINSON:** My question is in terms of the buyback issue and the shortening of time frames, I believe, from 18 months to 12 months and potential impacts that that could have, for example, when markets are flat, with smaller operators or in regional and rural areas. Obviously the sustainability of the retirement villages is very important. Do you have any comment about the reduction of that time frame and the buyback?

**Mr Lyons:** I do not support it, for the reasons you mentioned. My experience is that the factor that is most influential in resale is not what the operator is or is not doing; it is the marketplace. You are quite right: particularly in the regional areas, they do have much more significant swings in their property markets. The reality about retirement living is that, by and large, in most cases people are looking to sell their family home in order to move into a retirement village and that decision is dependent on their ability to sell and how quickly. It is all very connected. If the residential property market is flat, sales in retirement villages flatten or slow because they are very linked to the sale of family homes.

The reality is that 12 months sounds like a long time, but there are processes that have to occur under the act to get a retirement village unit on the market. There needs to be agreement between the resident or their estate and the operator about the price. There needs to be a discussion about reinstatement and what is involved in that and an agreement about the cost of reinstatement. The reinstatement works have to be done. Often that whole process with an exiting resident or their estate can take quite a lot of months, frankly. Often it is very dependent, too, on the extent to which the exiting resident or their estate is prepared to cooperate with that process. It is a two-way street. At the moment, the way the legislation is, it is very much just a hard deadline. There are no factors that take into account how long that process at the front end takes and whether that delay could be potentially caused by the exiting resident or their estate. Six months comes around pretty quickly. To resell a unit, 12 months will come around very quickly. Personally, I thought 18 months was a good balance.

Operators have an enormous motivation to resell. The reason is that they make a profit on the sale of the home and/or resale of a home because that is their deferred management fee. Apart from their development profit when they first build then sell a unit, their sole source of profit is the exit fee or deferred management fee. Operators are very motivated to accrue their profit by onselling a unit and collecting their exit fee. There is strong motivation, particularly if an exit fee is maxed out. You are familiar with the fact that exit fees may max out after five or 10 years and the operator is not accruing any more exit fee after that point in time. That is an extra motivation because if they can resell a home and get a new resident in, a new exit fee starts accruing again. They do not necessarily get any more from the exiting resident if they do not sell it in two years. There are a lot of motivations for operators to be doing the right thing, and I think that is somewhat overlooked at times. I do think market conditions are the key driver in the whole resale exercise.

**Mr SKELTON:** With reference to the proposed definition of 'quantity surveyor' in the bill, you express concern that the definition may be too broad. Can you elaborate on your concerns on that issue?

**Mr Lyons:** I am not a quantity surveyor myself. I believe that quantity surveyors are supportive of this definition. I am not sure whether Rachel has heard from the quantity surveyors. Do you think it is too broad because of subparagraph (b), which refers to 'an equivalent grade of membership with a successor'? I personally could not see that it was too broad because it is saying that a quantity surveyor needs to be a member of the Australian Institute of Quantity Surveyors. Is that a concern, do you think?

**Mr SKELTON:** I think it came up before that quantity surveyors do not necessarily all fit into that category and they may be utilising others. Maybe that is where the conjecture was. I am not sure.

**Mr Lyons:** Personally, I do not think there is an issue with the definition of 'quantity surveyor'. I think that is logical. To require them to be a member of the Institute of Quantity Surveyors would be an appropriate requirement to have. One of the issues that might have been raised by the Property Council was that there is another provision of the act that requires them not to have any direct or indirect interests that conflict or would conflict with the appropriate preparation of the report. It might be about whether quantity surveyors are conflicted.

**Mr SKELTON:** There is a conflict of interest?

**Mr Lyons:** The thing that we do find—curiously—is that a lot of quantity surveyors also act for operators. I am not sure that that is really going to give rise to too much concern, other than the fact that there are not a lot of quantity surveyors. We have to make sure there is a sufficiently large pool to do this work, particularly given the increasing role they are playing.

**Mr BENNETT:** Was the concern that there would be enough to service the industry?

**Mr Lyons:** Is that the problem?

**Mr SKELTON:** That was the conjecture.

**Mr Lyons:** I am not really that qualified to comment on what other qualification might be appropriate for quantity surveyors, but the way it has been prepared makes sense to me.

**Mr SKELTON:** Thank you.

**Mr BERKMAN:** It seems to have been taken as a given in the questions and your submission that any additional costs will be borne by residents. Can we get clarification? That is not an immutable fact, right? There is an option for operators to bear that cost in other ways—for example, from their profit margins—as opposed to just handing it on to residents?

**Mr Lyons:** They could choose to do that, yes. I guess that is always an option. They are running a business, though, and obviously costs have to be accounted for somewhere. In terms of meeting their financial targets for their owners and shareholders, if costs increase that has to reveal itself somewhere—in increased prices, if they are maintain the same return. The current Retirement Villages Act structure requires operating costs to be passed on to residents in the budget. That is the model—no profit in operating costs but cost recovery from residents. These are genuine costs of running and operating the village, so they would appropriately fall into the operating budget for the village—no question. Operators could choose to say, ‘Look, we will not put that in the budget; we will fund it ourselves,’ but it will ultimately reflect itself in exit fees or in some other way if operators need to recover the same form of return. If there is any suggestion that operators in this sector are making super profits, that is certainly not my experience. It is a competitive market. Like all competitive markets, it finds its price levels. It is a sufficiently competitive market that certainly operators are not sitting there enjoying super profits, by any stretch. They have to manage their costs very carefully.

**CHAIR:** Sadly, our time has come to an end. I thank you both for your contribution today. The committee very much appreciates the time that you have taken and certainly acknowledges your expertise in the area.

**Mr Lyons:** Thank you very much for the opportunity to present.

**BROWN, Miss Venetia, Lawyer, Queensland Retirement Villages and Parks Advice Service, Caxton Legal Centre Inc.**

**HESS, Mrs Amanda, Senior Lawyer, Queensland Retirement Villages and Parks Advice Service, Caxton Legal Centre Inc.**

**CHAIR:** I thank you both for joining us today. This is a very important bill before the committee. We do appreciate the time you have taken to make some assessments of the bill. We ask that you make an opening statement, after which our committee will have many questions for you.

**Mrs Hess:** Let me begin by acknowledging the traditional owners of the land we are meeting on today, the Jagera and Turrbal people. I pay my respects to their elders past, present and emerging. Thank you for inviting Caxton Legal Centre to present evidence today. For the past eight years, Caxton Legal Centre has delivered the Queensland Retirement Villages and Parks Advice Service, QRVPAS, which is funded by the Department of Communities, Housing and Digital Economy. Over these eight years we have assisted more than 17,000 people with free legal advice and assistance, community legal education, information and referral services to residents of retirement villages and manufactured home parks across Queensland.

The Housing Legislation Amendment Bill seeks to amend the Retirement Villages Act in three main ways: firstly, by creating a new regulation-making power for financial documents; secondly, by providing increased access to financial documents; and thirdly, by allowing the chief executive to make and publish guidelines. We welcome these reforms. Access to information in a form that is both clear and meaningful is essential for our clients as they seek to understand and make decisions about two of the most fundamental parts of life: housing and finances.

Each week, QRVPAS staff speak with village residents who are concerned about the financial reporting in their villages. Many struggle to understand the financial documents and budgets that they are presented with. They feel uncertain about the fee increases that are based on these budgets. They want to know where their money is going. They want to be sure that funds are being managed properly and that they are being treated fairly. Most of all, they want to have security and stability around their housing arrangements.

To understand the level of anxiety our clients experience in relation to this issue, it is important to note that they typically have a fixed income. Many are pensioners with little to no margin in their budgets to accommodate fee increases. If fees rise beyond what they can afford and they are forced to leave the village, they will likely lose a large amount of the capital they invested when they moved in, with the exit fee we were talking about previously.

In the midst of the current housing crisis, with few affordable options for these older Queenslanders, it is little wonder that clarity, transparency and accountability in the financial reporting at their village is of keen interest to them. Access to understandable, meaningful information is important, but it is not enough on its own. These reforms will allow many residents to access and understand the financial documents and to self-advocate where necessary, but there will always be those more vulnerable residents who need assistance—those who are frail or have health problems, those with impairments and those for whom English is a second language.

The average age of QRVPAS clients has increased in recent years. Eighty per cent are aged over 65 and 40 per cent are aged over 75 years. This increase in frailty means that QRVPAS clients are more vulnerable and less able to represent themselves in disputes. Many are fearful and ill-equipped to advocate for themselves, even in informal discussions with the scheme operator. For this reason we believe it is essential that these reforms be accompanied by increased investment in services that support and assist village residents.

Access to adequate, affordable housing is essential to human survival with dignity. The amendments proposed under this bill may seem dry and technical at face value, but they are part of a suite of reforms aimed at protecting the rights of some of the most vulnerable Queenslanders. The concerns of village residents about financial reporting and housing affordability must be taken seriously both in lawmaking and in financial investment in services. It is at its heart a human rights issue.

**Mr BENNETT:** Those numbers do not surprise me—the 17,000 advocacy issues you have had on your books—because we see it across the sector in our electorate offices so many times. In terms of residents being able to better understand and have confidence with more access to financial documents, why are we making that assumption that residents will necessarily be able to read a balance sheet or a financial statement? Do the operators have to provide an auditor's report within

an annual reporting process? I guess that would be my go-to if I were non-financially inclined, to make sure the auditor had made an assumption on the operator's capacity to provide the services. Does a financial audit have to be provided in, say, an AGM document or something like that?

**Mrs Hess:** They are usually provided with a draft budget and they are usually provided with audited statements at the end of the year.

**Miss Brown:** But not an auditor's report necessarily.

**Mr BENNETT:** They do not have an auditor's report?

**Miss Brown:** It is not necessarily required under the legislation.

**Mr BENNETT:** The people who come before us are obviously very educated and involved. A large percentage of residents may not necessarily have that capacity or want to be involved.

**Mrs Hess:** I think a lot of them want to understand what is happening. I think part of the problem is that they get these documents and it is really hard for them to understand how the funds are being managed. They are seeing their fees go up.

**Mr BENNETT:** But they go up every year.

**Mrs Hess:** A lot of them are in hardship. That is what causes them to call us. This will come down to what is in the regulations, I suppose, and what the prescribed forms are. The documents need to be understandable I think not only for the clients but also for us. Sometimes we have difficulty figuring out whether or not the fee increases are appropriate, whether various things are going into the right funds and those sorts of things.

**Mr BENNETT:** Is there going to be a percentage? We hear about the maintenance fund and the capital replacement fund. There must be a formula that says there must be such-and-such in those accounts at some point in time to be financially viable or to provide the service that you expect.

**Mrs Hess:** Generally they need to have a budget which sets out the costs for the next 10 years to make sure they can meet those costs.

**Miss Brown:** I hear on a weekly basis—in phone calls generally now, thanks to COVID—from advice clients who are really afraid and scared and they just want to have some clarity and to know. I agree that they do not necessarily need infinite amounts of information, but they do need some reassurance and certainty that things are the way they are being told. The current state of the single piece of paper with a couple of lines of really large figures on them does not give comfort to the people I am speaking with, who say, 'I just don't understand,' and they really want to understand. Once there is some clarity given, they are reassured and they can continue on with hopefully a happier life.

**Ms LUI:** You spoke briefly in your opening statement, Mrs Hess, about the vulnerable cohort that your organisation works with. I am coming from the point of view of the social impact that it has on your members and the experiences they share with you. I imagine it would be a very stressful time, especially with gaining and understanding information. I am keen to hear your views on the types of experiences people are sharing about the impact on their social and emotional wellbeing.

**Mrs Hess:** Would you like to speak to that?

**Miss Brown:** One example comes to mind immediately, where one particular client in a village came to me and expressed some difficulties and issues in understanding the fees and budgets. There had been a particular fee that had been plucked out and removed from their fees that had been there for many years and it had been absorbed into a different fee. To make a long story short, it was all very confusing. I myself spent at least four hours just looking through the documents—not entirely on the phone with the client but working through it to understand what was going on. I had some conversations with the village as well.

The impact was that not only this client was very distressed but also she explained to me that her connections with other residents in the village were starting to deteriorate because she was obviously distressed but other people in the village did not necessarily feel the same. 'Don't upset the village manager,' was something I was hearing a lot. Other people had a different point of view. It led to a breakdown in the relationship between her and those around her. She just wanted to understand what was going on and there was no clear explanation given.

The client and the village manager were struggling to maintain amicable relations. Understandably, the poor village manager did not know how to interpret the weird accounting irregularities in their attempt to clarify it. The village manager was time poor. It was probably the 56th time that she had attempted to explain it. There were lots of these relationships, in a community that is otherwise close-knit, that were breaking down purely as a result of something like \$70 a month being removed from one magical thing and put into the GSC.

**Mrs Hess:** Once residents start to approach scheme operators about difficulties they are having, they can sometimes be marked as problem residents. If they go to management to speak about other issues, there is a tendency to maybe dismiss them or not want to deal with their concerns.

**Miss Brown:** I spoke with somebody in a rural area earlier this year. She is in her nineties and she had been a bookkeeper in her 'previous life', as she described it. It was a small rural village. The village manager asked her to come and help her to work out the books because the village manager did not have those skills. There they were assisting each other and sorting things out but, as often happens—anybody who has an accounting background will know that often the accountant will find something and point it out and that will really upset the owner of those books. This is what happened to this 90-plus-year-old lady. She pointed something out that was a problem and the village manager from then on did not invite her back and no longer answered any calls around the concerns with the fees. I link that to why it is so wonderful to see that, instead of the residents needing to go only to the scheme manager, perhaps there will be a receptacle for these documents that is an independent place where they can access information.

**Dr ROBINSON:** My question was along the lines of examples of feedback from your clients, and I think you have pretty much covered that.

**Mr BERKMAN:** I think you were here for most of the Property Council's evidence. They have raised concerns, in both oral evidence and their submission, around the cost impost that these sorts of changes might have on residents or operators potentially. Can you speak to that kind of balancing act, as they referred to it, between finding the right level of transparency and accounting disclosure and the extent to which that will benefit residents but also whether they might be prepared to wear any additional costs for that additional transparency?

**Mrs Hess:** I am probably not in a good place to understand fully the additional cost it is going to create for operators in terms of the changes that are being made with reporting. I think it is important that people have access to the documents. I liked what you asked the Property Council earlier around whether that cost needs to be passed on to the residents and whether that can come out of village profits. I think it is important that we do not burden residents with increased costs.

As I said in my opening statement, affordability of housing is a big issue for vulnerable Australians at the moment. I understand that industry viability and sustainability is important for our economy. If the industry is not sustainable in order to be affordable for clients then perhaps it is not an industry that we want in Queensland. What I am trying to say is that I do not think the costs should be passed on to the residents and I think there is potentially scope for that to be borne by the scheme operators. I am not sure what the balance is.

**CHAIR:** We have come to the end of our time. Ladies, thank you very much for the time you have given today. The work that your organisation does is really important for some of the most vulnerable people in our communities. We thank you for the work you do every day. We particularly thank you for the discerning way in which you have assessed the bill. We appreciate your feedback. Thanks again for all that you do for our committee and for the other committees of the parliament. Thanks for your support.

That concludes our hearing this morning. On behalf of the committee, I thank all of the witnesses and stakeholders who have participated today. I also take this opportunity to thank submitters who have engaged with the inquiry. Thank you, as always, to our Hansard reporters. A transcript of these proceedings will be available on the parliamentary webpage in due course. I now declare this public hearing closed.

**The committee adjourned at 11.25 am.**