

Manufactured Homes (Residential Parks) Amendment Bill 2024

Submission No: 24
Submitted by: Joint-HOC on behalf of home owners from residential parks in the
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Submission to Parliamentary Housing, Big Build and Manufacturing Committee

Manufactured Homes (Residential Parks) Amendment Bill 2024

Submission by Joint-HOC on behalf of home owners from residential parks in the Hervey Bay/Maryborough District.

(NB Submissions and representation by the HOCs have been formally endorsed by the home owners at each of the residential parks that are listed below as applicants)

Joint-HOC Member Residential Parks

Anchorage Lifestyle Resort, 835 Boat Harbour Drive, Urangan, Qld., 4655

Ingenia Lifestyle Hervey Bay, 2-20 Island View Drive, Urangan, Qld., 4655

Hazelmere – Over 50s Lifestyle Community, 14 Ibis Boulevard, Eli Waters, Qld., 4655

Latitude25 RV Lifestyle Community, 1 Latitude Boulevard, Nikenbah, Qld., 4655

Palm Lakes Resort Hervey Bay, 25-67 Pialba-Burrum Heads Road, Eli Waters, Qld., 4655

RV Homebase, 50 Lindah Road, Tinana, Qld., 4655

Thyme Lifestyle Resort Hervey Bay, 5 Serenity Drive, Eli Waters, Qld., 4655

Contact details for applicants:

[REDACTED]

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EXECUTIVE SUMMARY

Home owners in residential parks are seeking changes to the existing legislation and accompanying regulation for governing residential parks that are required to address the challenges they face as park residents, which they believe collectively constitutes “elder abuse” as defined by the Queensland Government.

Elder abuse is a single or repeated act—or lack of appropriate action—occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person.

(<https://aifs.gov.au/research/research-reports/national-elder-abuse-prevalence-study-final-report>)

Abuse towards home owners manifests in several ways: physical and verbal *threats* and *intimidation*; psychological and emotional *stress*; and financial *pressures* and burdens.

The challenges home owners face operate over both the short-term, such as the progressive and seemingly inexorable decline in the quality of their daily lived experiences as a park resident, as well as, over the long-term, such as the continued and escalating threats to their security of tenure as residents within the park as costs become increasingly prohibitive, unpredictable and unaffordable. These challenges are common across all parks included in this submission and most likely with others across Queensland based upon recent surveys by the Government.

Home owners select residential parks over alternative retirement living options on the understanding that they offer the lifestyles they are seeking at this stage in their lives. This includes (but not limited to) feeling safe, secure, respected and part of a supportive community. Regrettably, these expectations are not realised for many home owners. In fact, it is often the direct opposite where they feel insecure, threatened, intimidated, vulnerable and treated with disrespect; in summary, they feel abused by park management that is primarily focused on maximising financial profits above the interests and wellbeing of park residents.

Abusive behaviour by park owners manifest in many ways in their negotiations with home owners regarding the operational management of the park and the subsequent impacts on their lived experience as park residents. Invariably, the abusive behaviour is used by park owners to ensure that their desired outcomes are achieved in their negotiations with home owners. Park owners are able to employ this tactic of abuse due to the imbalances in power, control and influence between the negotiating parties, which is excessively biased in favour of park owners.

These inequities are embedded in the “flawed” legislation and its accompanying impotent regulation that establishes a governance framework that enables park owners to “do as they please” with impunity. Conversely, it disadvantages the home owner should they disapprove and wish to object by requiring them to instigate a challenge through a dispute resolution process that is flawed and also heavily biased in favour of the park owner. Not surprisingly, home owners feel trapped, exposed to unfair business practices and denied justice.

It is the misuse of the “dominance” advantage that park owners are afforded through the failings of the legislation and its regulation that they use to knowingly and intentionally exploit the inherent vulnerabilities of home owners in order to maximise their financial benefit to the detriment of home owners that constitutes “abuse”.

Home owners acknowledge that the success and sustainability of the residential parks industry is in their best interest and that it requires an ***equitable balance in the outcomes achieved for both participating parties***. However, this is currently not the case.

The industry is experiencing unprecedented high levels of capital growth (>30% pa) and profitability (65% pa) according to recent ANZ/Property Council Survey (2023). Consequence has been an influx of international property development and financial investment companies entering the Australian market to take advantage of these “boom” economic conditions. These companies have neither any interest, experience nor understanding of what is required to operate a “community” of residents as opposed to constructing the buildings in a “village”. Instead, their priorities are maximising profits for off-shore shareholders.

Conversely, home owners are increasingly feeling vulnerable, threatened and “soft targets” for exploitation by park owners, whom they believe are knowingly and intentionally exploiting their vulnerabilities for financial gain. They do so with impunity that is afforded them through power imbalances embedded in the governing legislation and its impotent regulation. They test the tolerance limits for what is acceptable, legal and/or permissible under these out-dated and ineffective current governance arrangements.

Another poignant finding from the ANZ/Property Council Survey mentioned above was that construction activity levels in retirement living (i.e. retirement villages and residential parks) are forecast to be greater than residential, office, retail and hotels combined. These statistics demonstrate that residents in retirement and lifestyle villages are significant funders of new housing constructions, with this continuing into the foreseeable future. Hence, home owners investing in residential parks are making the **greatest contribution to building new housing stock** and thereby easing the pressure on Governments to find **solutions to the current housing shortage and homelessness crisis** in Australia. When buying into a residential park, the majority of home owners down-size, thereby vacating established homes that are thereby returned back into the housing market stock.

These substantial contributions by residents in assisting the Government to address these pressing problems need to be recognised and they deserve to be treated with respect, honesty, fairness and justice; not subject to abuse. Consequently, this submission is a call for changes to the governing legislation and accompanying regulations required to realise the Queensland Government’s objectives for:

- a “fair and sustainable residential sector giving people who reside in... residential (manufactured home) parks ... a regulatory framework that delivers the best possible outcomes for consumers;
- “ensuring consumers and operators are better informed about their choices, rights and responsibilities and how to action them as well as increased transparency in contracts and financial statements; and
- (enhancing) the regulatory system to deliver reforms, to build protections and generate better housing outcomes for Queenslanders”.

Queensland Housing & Homelessness Action Plan 2012-2025

https://www.housing.qld.gov.au/__data/assets/pdf_file/0023/17429/QldHousingStrategyActionPlan2021-25.pdf

Proposed changes detailed in the Manufactured Homes (Residential Parks) Amendment Bill 2024 related to concerns regarding “site rent increases and unsold homes in residential parks” are supported in principle by Joint-HOC members. While these issues are definitely a high priority for residents, there are other equally important concerns that have significant negative impacts upon their living experiences in the park and leave them feeling “abused”. Although these additional issues of concern are not covered in the Amendment Bill, we sincerely hope that the Parliamentary Committee members are prepared to listen to the concerns of home owners on these matters and consider further changes are required to address them.

1. Introduction

Thank you for the opportunity to lodge a submission to this Parliamentary Committee. Home owners in residential parks face many challenges but rarely have the opportunity to discuss them with someone that is concerned, prepared to listen, as well as, being able to effect changes, if they so wished.

This submission is in response to the Committee's request for feedback on the proposed changes to the Manufactured Homes (Residential Parks) Act 2003 and associated regulation for the management of residential parks in Queensland, that they consider necessary to resolve the challenges they face as residents in these parks that collectively constitute "elder abuse".

The group supports the Bill and the proposed amendments but feel that there are a number of areas that have been missed and some proposed amendments that may cause detriment to home owners. The scope of amendments was limited to only 2 issues identified in the *Queensland Housing and Homelessness Action Plan 2021-2025* (the Action Plan). However, this limitation was based upon survey conducted in 2020 that involved only 7.4% of resident population in parks, which may not be a sound basis for identifying priorities across the whole sector.

The industry changed significantly over recent times and issues of concern identified by Joint-HOC members are common across all member parks & have been of priority concern for a long time. They are also common across parks in other regions based upon advice from the Queensland Manufactured Home Owners Association (QMHOA).

Hence, although scope of amendments proposed is limited to 2 issues, the applicants call upon the Committee to recommend that the other issues identified need to be addressed through changes in governing legislation and its regulation.

2. Applicants

2.1 This submission is from Joint-HOC that is comprised of members of the Executives of the Home Owners Committees (HOC) from seven (7) of the residential parks within the Hervey Bay/Maryborough district. All members of HOC are home owners that volunteer their time to advocate on behalf of all home owners in their parks in negotiations with park owners on matters as defined in the provisions of the Manufactured Homes (Residential Parks) Act 2003 (the Act).

2.2 The contribution from the individual members of the Joint-HOC in the preparation of this submission is listed in 2.3 below. Each applicant obtained formal approval to lodge this submission from the HOC in each of their respective parks.

2.3 Their background includes:

- **John Biggins** – Research Officer, Australian National Parks and Wildlife, Canberra, ACT (1 year); Senior Lecturer, Environmental Science, University of Adelaide, South Australia (17 years); Senior Manager, Information Strategy and Standards, SA Health, Adelaide, South Australia (10 years).
- **Neil Cooper** - Manufacturing/supply management in the United Kingdom, Zambia, South Africa as well as Australia.
- **Barry Cordon** – Private business owner and operator.
- **Bruce Davidson** – Project Manager, ABC National Broadcaster
- **Stephen Hart** - Wing Commander, Royal Australian Air Force, Rtd.; Permanent and Reserve (Army and Air Force) 1973 – 2018; Flying as Aircrew, Commanding Officer of No. 22 SQN (1992); Combat Support Squadron, RAAF Base Tindal (2002 -2004); Commanding Officer Combat Support Element - Middle East (Iraq War) 2003; Assistant Defence Attache Saudi Arabia (2006- 2007); Airport Technical Officer (Hervey Bay and Maryborough Airports) - Full Time and Part Time (2011- 2018).
- **Willian (Ron) Tobias** – NSW Government Officer.
- **Trevor Vandreike** - Electrical/electronic engineering mainly within the Queensland Government in mission-critical environments. Private sector mainly delivering training sessions within the mining industry in various culturally diverse situations around the world.

2.4 Actual examples and testimonies of problems experienced by home owners have been included. Wherever possible, the names of the actual home owners and their specific locations have been used. Those who wished to remain anonymous for publishing purposes are known to the authors and their details can be provided to the Committee in confidence. It should be noted that there are a number of elderly residents who are reluctant to speak out about their experiences for fear of possible abusive and intimidatory retribution. It is neither fair nor right for residents to be in this situation and feel that way.

3. Profile of Parks

3.1 Statistics for profiling the parks in our region and their resident populations are extremely difficult to obtain as the park owners are reluctant to provide access to this information. Not all parks are registered with the Government Department responsible for residential parks (i.e. the Regulatory Services unit) and only limited information is collected anyway.

3.2 The majority of people affected by the Act are over the age of 50, with (we believe) most falling into the over 65 years of age. The only information available is from the “Manufactured home owner survey” conducted by the (then) Department for Communities, Housing and Digital Economy between 17 June and 15 August 2022.

For the 2201 respondents:

- 91.5% live in purpose-built residential parks
- 60.5% lived with a partner
- Even split (50%) of male and female respondents
- 1.5% identified as Aboriginal or Torres Strait Islander
- Nearly a quarter (24.9%) identified as having an ongoing disability
- 43% were aged between 65 and 74 years of age
- 47% were aged 75 years or older

3.3 Critically important information is the identity of companies that own and run these residential parks. In response to the fast growth in profitability for this industry sector, there has been a substantial shift in ownership. We believe that the overwhelming majority of “purpose-built” manufactured home parks are owned by a “hand-full” of large companies. This is a continuing trend that is essentially anti-competitive and result in fewer choices for consumers.

3.4 Another concerning shift in park ownership witnessed in recent times has been a reduction in privately-owned Australian companies to a substantial increase in international companies buying into this market and securing majority ownership, exceeding 80% in some parks. Another trend is that the core business activities of these international companies is often property development or financial investment, neither relevant to building and managing “social” communities for residents with specific needs. Consequently, the majority of the huge profits received by these companies is leaving Australia to benefit shareholders overseas. Considering the large number of home owners in residential parks that receive Government pensions and/or rental concessions funded by Australian tax payers, these funds should not be going overseas.

3.5 As detailed in our submission, for many home owners on fixed incomes, whether on Government pensions or self-funded through superannuation, the increases in site rent fees are excessive and not sustainable. Many home owners have had to respond to these financial pressures through reduced spending, both on essentials as well as discretionary expenditures. This results in a reduction in the flow of monies into local businesses because they are funding profits for overseas shareholders.

3.6 The Regulatory Services unit (Department for Housing, Local Government, Planning and Public Works) that is responsible for regulation of the Manufactured Homes (Residential Parks) Act, stated that the Hervey Bay/Maryborough region is experiencing the most rapid growth in the establishment of new residential parks throughout Queensland. Similarly, Hervey Bay currently has the highest density of residential parks in any region across Queensland.

3.7 In light of the above, there needs to be detailed and comprehensive investigations into the level of profits enjoyed by the residential parks industry sector and the extent to which they move offshore to the benefit of overseas investors. This is particularly important when these profits are funded indirectly from tax revenues through Government-funded pensions and rental subsidies that are paid to many park residents.

4. Issues Of Concern

4.1 Some of the main issues of concern to residents in residential parks were described in the *Residential Parks – addressing concerns about site rent increases and sales of homes* Consultation Regulatory Impact Statement (C-RIS) released on 16th May 2023. Regrettably, this report failed to include several issues that were considered a high priority by the home owners in the parks represented in this submission. These are detailed below.

4.2 Each issue is presented as an example to illustrate the abusive nature of the park management's interactions with home owners, particularly when they are related to financial matters. Each is important in their own right as they have direct impact upon the living experience of the home owners. However, they share a common "theme", which is that home owners have felt the victims of abusive and unfair business practices.

4.3 The issues are presented in two (2) sections:

- Issues detailed in the Amendment Bill and directly part of the review:
 - Issue 1 - Increases in site rent fees, including Market Reviews (Neil Cooper, Ingenia)
 - Issue 2 - Sales of pre-owned homes and Assignment of Site Agreements (Trevor Vandreike, Latitude25)

- Additional issues not included in the Amendment Bill:
 - Issue 3 - Bullying (John Biggins)
 - Issue 4 - Flawed dispute resolution (John Biggins)
 - Issue 5 - Failing to honour commitments made/Withdrawal of services (Barry Cordon, Ron Tobias)
 - Issue 6 – Health, safety and security of residents (Neil Cooper)
 - Issue 7 - Changes to operational rules (Stephen Hart)
 - Issue 8 - Utility charges (Trevor Vandreike)
 - Issue 9 - Breaches of the Act (Stephen Hart)
 - Issue 10 - Maintenance/Replacement Funds (Bruce Davidson)

4.4 These issues are listed in no particular order of priority since all are of major concern to home owners across all parks. However, "Bullying" and "Flawed dispute resolution" are common to and underpin all of the other issues as they serve as "enablers" and/or tactics used by the park owner to achieve their intended outcomes during interactions with home owners on each of the issues discussed.

4.5 For all issues included in this submission, **effective regulation is a critical success factor for realising the intended benefits of legislative changes**. For example, feedback from public consultation regarding the new *Aged Care Act* repeatedly expressed that "the enforcement of rights is critical for sector change". Submissions stated the legislation must clearly outline how rights will be enforced and what remedies will result. "Implementation was viewed as key to the success of the Act. In particular, the transition of rights into practice." All of the time, effort and goodwill invested in reforms to the legislation will be wasted if not successfully realised through good governance and regulation.

4.6 The "main object of the Act is to regulate, and promote fair trading practices in, the operation of residential parks — (a) to protect home owners from unfair business practices; and (b) to enable home owners, and prospective home owners, to make informed choices by being fully aware of their rights and responsibilities in their relationship with park owners". Based on the evidence presented below, these objectives are clearly not being realised. This submission is a call for changes to the legislation that will ensure that it's stated objectives are actually realised and the intended outcomes for home owners are delivered.

4.7 Normally, home owners have essentially no opportunity to discuss their concerns with anyone concerned enough to listen, as well as being in a position to effect changes, if they wished. This is primarily a consequence of the flawed complaints process (detailed below) as well as the genuine fear of retribution by the park owners for "speaking out". This is intolerable and denying them justice with regards to their basic rights as citizens.

5. Conclusions

On behalf of the home owners in the seven (7) villages listed above, we are sincerely grateful for the opportunity to lodge our submission to the Parliamentary Committee for their consideration. In many ways,

we feel “trapped”. We are treated with disrespect and abused, but powerless to defend our basic rights to justice. Hence, we do not take this opportunity for granted given that our lived experience as park residents is so directly dependent upon the outcomes of the decisions by the Parliamentary Committee regarding changes to the governing legislation and its regulation.

Upon consideration of our submission, we would welcome the opportunity to present our case before the Parliamentary Committee. The issues raised in our submission are many, varied and complex. Hence, we would be grateful for the opportunity to answer any questions from the Parliamentary Committee.

ISSUES OF CONCERN

(a) Issues included in Amendment Bill and directly part of the review

1. Increase in Site Rent Fees (Including Market Reviews)

1.1 Introduction. My name is Neil Cooper. I have worked in manufacturing/supply management in the United Kingdom, Zambia, South Africa as well as Australia where I have lived since 2000. I live at Ingenia Hervey Bay where we have been for three and a half years, and I am the lead applicant for a group of residents in a QCAT dispute against the park owner emanating from October 2023. This submission is drawn up from the firsthand experiences of the applicants and myself.

1.2 Background.

1.2.1 The Manufactured Homes (Residential Parks) Amendment Bill 2024 has addressed, to some extent, the inadequacies of the previous Act, but the extent of the damage done to some residents needs discussion. Site agreements were drawn up by Park Owners, in our case two years of CPI plus 2%, and the term “market review”, a seemingly innocuous phrase that had no further explanation nor warning. The extent that site fees could be varied was not fully understood by legal practitioners let alone by potential residents who signed the contract.

1.2.2 There was no apparent reason these people quite rightly believed they would not be afforded legal protection against the predatory corporations owning the site. Despite the term “Lifestyle” village most of the people are in the 65-85 age group, the significant majority being age pensioners; an elderly and financially vulnerable group. The park owner’s response was “We are doing it because the law allows it.”

1.2.3 The market review at Ingenia Hervey Bay was between 16% and 29% for 171 out of the 300 plus houses on site, while the remainder being new homes were immediately contracted at the higher rate. This was an additional income for Ingenia of approximately \$306,000 pa, and a total of \$3.3 million pa, mostly from age pensioners, and of absolutely zero benefit to residents.

1.3 Effect on residents.

1.3.1 There was a range of increases inflicted on Ingenia residents, the largest representing most homes was \$48.13 per week; an increase of 28.82%. To get this in context, a ten-year CPI average was 2.4%; so 28.82% is equivalent to 12 years average of CPI at one fell swoop.

1.3.2 The justification was that a valuer has completed a comparison with other local parks to get an average of site fees in the area. Now that figure exceeded the federal pension increase intended to compensate recipients for high inflation rates, so not only did the residents get no benefit, but their standard of living fell by 6-8% all due to corporate greed. For single people it was worse as their pension rate increase was less, and so the negative effect worse.

1.3.3 The consequences are taken from people in my dispute application:

- an 85-year-old ex-Motor service manager thinking of giving up his car despite there being no bus services here;
- a mid 70’s retired nurse considering returning to work;
- a couple reducing contact with family due to transport cost; and
- another couple selling their home as they had no spare discretionary funds.

1.3.4 Conversely, how did the park owner fare? Income received from rent 2021 (\$122.6M), 2022 (\$165.4m) and 2023 (\$202.8m). This is only from site fees and rentals but does not include the sizeable profit they make from the sale of each house, all of which comes from the elderly residents. The CEO also struggles on a salary of \$1.287m per annum. Overseas monetary interests significantly own most of the company. They do have an “hardship” policy which is a six-month reprieve, with sometimes only the deferment of payment rather than a reduction.

1.3.5 So, if there was any slight thought of sympathy for park owners, I hope this information dispels that. Also, the Hervey Bay site was scheduled for 240 houses, where there are now currently 339, and a total planned eventually for 468. This means they are additionally receiving fees for more homes than facilities provided.

1. 1.4 Summary.

1.4.1 Prior to the presentation of the Manufactured Homes (Residential Parks) Amendment Bill 2024, the situation can accurately be interpreted as the financial and physical abuse of residents with the terms “bullying, threatening, and hopelessness” the most frequently used phrases. The “Lifestyle” market has been intentionally infiltrated and exploited by companies representing overseas interests and introducing the worst excesses of corporate greed, aided and abetted by so-called valuers employed by the park owners.

1.4.2 The result is that an increasing number of elderly and vulnerable people are placed under duress by the application of financial pressure with diminishing standards of living and a general loss of the quality of life they so richly deserve. The existing process at QCAT has been found wanting and the legal process a minefield for residents with some 82 % of cases found in favour of the park owner. On the rare occasions when they have won a tribunal hearing the park owners have used their financial power to engage expensive legal resources submitting appeals that may go on for years. Where are the pillars of justice “Equality before the law” and “Justice delayed is justice denied?”

1.5 Recommendations.

1.5.1 Since these site operators seem to be motivated exclusively by profit motive and appear to be devoid of any empathy or morality, any changes in legislation needs to be both comprehensive and watertight. This extends far beyond the abolition of market reviews and CPI-plus laws to give residents greater participation in the negotiation of fees, and more importantly how, that money is spent. For instance, if the park owners claim safe accessible sites, they are held accountable for providing this.

1.5.2 The number and quality of facilities they assert are available must be readily accessible by all residents. For instance, at Ingenia they have a clubhouse with a 124 people capacity, whereas there are already over 400 people on site, and another 300 planned to use the facilities. This may require a computation of how many heads per hall/pool/games room would be acceptable thus preventing what is a withdrawal or dilution of facilities.

1.5.3 Failure to respond to basic maintenance or maintain equipment functionality must be met with financial penalties that do not end up being fobbed off by corporate lawyers. The point is that these sites’ infrastructures which quite often are constructed with inferior materials and labour will require extensive attention in future years and already many of the park owners make little attempt to fulfil their contractual obligations.

1.5.4 There must be change in the way the state government views the operation of these sites as labelling them “Lifestyle” sites detracts from the reality of what they really are, and Park Owners should only be licensed if they can prove ownership of a skillset where they understand what is needed for the elderly people in their care. They must be forced to stop bullying and harassment and not subject their sole source of income to financial abuse that has occurred and is still happening.

2. Re-sale of pre-owned homes (including Assignment of Site Agreements)

(a) Re-sales

2.1 Problem

2.1.1. Selling the home is the only practical way for a home owner to leave a residential park as relocating a manufactured home is usually impractical and unaffordable. Although the home owner leases the land from the park owner, they actually own the house outright. However, when attempting to sell their houses, home owners are often forced to comply with **re-sale processes that do not serve their best interests, and in many cases, disadvantages them**, particularly with regards to delays in time to sell and sale prices achieved.

2.2 Causes

2.2.1 Many residential parks in this district are still under construction, whereby there are newly built houses ready for sale. Park owners selling houses in a village still under construction have **no incentive to sell a pre-owned home** when there are newly built houses for sale. Park owners receive site rent from home owners who are selling their home, even if the home owner no longer lives in the park, but derive no income from a new manufactured home until it is sold. This incentivises park owners to prioritise the sale of new

homes over existing homes, which constitutes a potential conflict of interest between their duty as an agent of the selling home owner and their financial interests as owner of the park.

2.2.2 Another strategy adopted by the park owners' sales team to persuade prospective buyers towards new homes is to set sale prices for pre-owned houses that are not comparable with the wider real estate market values.

2.2.3 In a competitive market, where there are other pre-owned homes for sale, **transferring ("assigning") the Site Agreement is often attractive to the prospective buyer** as opposed to having to establish a new Site Agreement when the terms of an existing site agreement are often (invariably) more beneficial than the terms of new Site Agreements. However, the assignment process is often not well understood by buyers and sellers, and park owners often have a strong preference towards new site agreements as they create the opportunity to increase site rents fees.

2.2.4 Park owner management uses a variety of tactics to frustrate attempts by home owners to **engage the services of private real estate agents** to sell their home. These may include (but not limited to):

- Restricting private real estate agents access to the village;
- Prohibiting open inspection of house & communal facilities;
- Objecting to real estate agents photographing communal facilities for marketing purposes.

2.3 Recommended Solutions

2.3.1 Simplify and increase transparency in the sales and assignment processes for pre-owned homes whereby the interests of home owners are better protected.

2.3.2 Create effective incentives that will encourage park owners to facilitate and not actively frustrate the process for re-sales of pre-owned homes. These could include:

- Establish a **site rent reduction scheme** when selling pre-owned homes. This would involve two components: related to site rent fees; and, related to fees for services and use of communal facilities, which would be applicable when the pre-owned home is unoccupied (resident moved into care or deceased estate).
- Establish a **buy-back scheme** that is coupled with the rent reduction scheme. Buy-back option should apply at 4 months where the rent reduction is 25%. If property not sold after 8 months, then rent reduction is 50%. Options becomes mandatory after 12 months and rent reduction is 75%.

2.3.3 Provide greater transparency for home owners, both current (sellers) and prospective (buyers) about living in residential parks, as well as the details of both buying and selling homes in the park. Standardised park/village Comparison Documents are a success model employed within Retirement Villages that could form the basis of similar documents for residential parks?

2.3.4 The *Retirement Living Code of Conduct* released by the Retirement Living Council in NSW is an industry-lead initiative designed to help village operators provide a trustworthy and high-quality service for those living in and/or considering moving into a retirement village. Compliance with this Code is independently monitored and report on a publicly available web site. It has become a principal source of information for prospective "buyers" in selecting villages that best meet their needs, especially with regards to relationships between residents and village management. This is a successful demonstration of a model that could be adopted for residential parks in Queensland (see 3.3.1 below).

2.3.5 Fundamental to 2.3.3 and 2.3.4 above is the need for mandatory registration (and maybe licensing?) of all residential parks in Queensland. As this is currently not the case, it is impossible to provide access to information for comparison across all parks operating in Queensland. Given the:

- current size and growth of the industry sector;
- current size and growth in the resident population; and
- increasing age and vulnerabilities of the resident population

it is surprising that park owners are permitted to operate without being formally registered as a major provider within the housing sector?

(b) Assignment of Site Rents

2.4 Description

2.4.1 The MHRP Act currently permits the assignment of site agreements from a seller to a potential home buyer. Under the Act, the site agreement can be assigned as a whole agreement which may include beneficial clauses within the original agreement. Currently, park owners, in particular corporate owners, are refusing the assignment with no reasonable excuse given and are then able to, amongst other actions, raise the site rent.

2.5 The Issues

2.5.1 As home owners rent the land and have access to common facilities, the terms and conditions form part of the Site Agreement between the Park Owner and the Home owner. Part 7 of the Manufactured Homes Act, known as the Act, allows for transferring, by way of assignment, those terms and conditions to a buyer when a home owner wishes to sell the home. This requires amongst other provisions the consent of the park owner however in clause 43 of the Act under the Heading

'Hinder proposed assignment'

The Act states,

'(1) The park owner under the agreement must not hinder the proposed assignment of the seller's interest.

Maximum penalty—100 penalty units.

(2) The park owner does not contravene subsection (1) if, under this part, the park owner reasonably refuses to consent to a proposed assignment of the seller's interest.'

2.5.2 The Park Owners have and continue to refuse these assignments without giving any reasonable reason, thus hinder the rights of a Home owner in selling their home. Part of the value of owning a home in a Manufactured Park are the terms and conditions contained in the Site Agreement that the seller wishes to assign. Instead of permitting an assignment, the Park Owner is creating a new site agreement and, in most cases, includes an increase in the Site Rent.

2.5.3 An example of the effect on Site Rents can be found at Latitude 25 where some 40 'Preloved Homes' have been sold with no assignment permitted in all cases in a park that operating for less than 6 years and still developing. This action together with an increased site rent for new homes has resulted in around \$30 per week or \$1500 per annum rent difference across site agreements at Latitude 25 and a rent increase adding 2% to the CPI. The Act generally allows for increases in site rents to be increased by an agreed method within the site agreement only. However, the park owner is using the refusal of consent as a means to increase the site rent on that site and using this in a market review to justify the current market rent requirements for a rent increase for those who enjoyed a beneficial rent level being 'early settlers'. They are doing this by extinguishing the existing site agreement together with its often many beneficial terms and creating a new one without those benefits.

2.5.4 A Home Owner who is selling has no choice at all in this matter for the following reasons. Normally there is an imperative to sell the home time wise and usually a buyer wishes to move in right away. The Park Owners know that this is the situation and that a challenge to the refusal to assign will not occur due to the protracted dispute processes in place with in the Act. In addition, as the clause in ss(1) *'(1) The park owner under the agreement must not hinder the proposed assignment of the seller's interest. Maximum penalty—100 penalty units.'* has a penalty attached for hindering the assignment process.

2.5.5 The Regulatory Unit of the Department of Housing is the only body empowered to investigate and prosecute any breach of this clause. However, this process can be lengthy including probable court actions taking in excess of 12 months. The Park Owner knows this and takes measures to ensure that communications between Seller and Buyer are always via the selling agent of the park owner. Thus a buyer will not be made aware that they have the right to accept the terms and conditions of an existing site agreement by way of assignment and no buyer or Seller would be prepared to wait 12 months or more for an outcome of any tribunal or Regulatory Services investigation.

2.6 Areas of concern

2.6.1 This is clearly an unfair business practice amongst many. Of note, the Manufactured Homes Act 2003 was enacted by the legislature, as well as all amendments to date, to protect home owners while at the same time maintaining the viability of the parks as a business operation. Home Owners feel let down by this lack of regulation which should underpin the legislation, in particular the disregard by park owners of this clear benefit for the home owner. This situation is being exploited, in particular by developers often in concert with the park owners, to raise rents outside the site agreements and provisions of the Act. When this occurs across the industry, these developers and park owners can then, given the statistics given by the Deputy Director General in the briefing to this committee dated 2nd April 2024, where 6 corporate entities own 80% of purpose-built parks and that number is increasing each day, have a direct influence on the market without any sort of review. This then turns the Manufactured Homes Industry into a market-based operation not regulated by the appropriate legislated bodies.

2.6.2 To address this situation, a home owner has no option but to commence the dispute process, including an application to QCAT and as discussed here, that is not a practical or often a fair outcome. Home owners, who after entering into a site agreement, discover that they may have been entitled to an assignment of a previous agreement, feel misled and even feel cheated, as these matters are never disclosed prior to entering into an agreement as the Act demands via pre disclosure clauses.

2.7 Recommendations

2.7.1 The ability to assign a site agreement must remain an option for all sellers to choose. To remove that right to assign removes a right of the home owners who is selling to gain the full benefit of owning an unmovable home with an attached site agreement forming part of the value of the home.

2.7.2 If a park owner feels disadvantaged by a rent level not matching the market, there are clear provisions in the Act for the park owners to take up the issue through the same dispute process as applies to a home owner for any other type of dispute. This brings us again to the dispute processes which are discussed in further detail under other topics but apply equally here. If the dispute process was streamlined together with the QCAT portion, a dispute raised by a park owner could be resolved without long time frames currently experienced with the dispute resolution processes.

2.7.3 Again, we petition the committee to consider not changing the assignment provisions as it will deregulate part of the rent increase process and to make changes to the dispute resolution processes.

(b) Additional issues not included in Amendment Bill

3. Bullying

3.1 Description

3.1.1 To ensure that their preferred outcomes are achieved in negotiations with home owners, park management frequently employ “bullying” tactics, such as threats and intimidation to dissuade the home owner from objecting and ensuring that they succumb to the demands of the park owner.

3.1.2 Park owner management engages in these activities with complete impunity with the home owner having limited grounds for meaningful objection. This constitutes a clear misuse of the imbalances in power and control that park owners have over home owners. When it is used for financial benefit of the park management at the expense of home owners, it constitutes abuse.

3.1.3 Examples include (but not limited to):

- **Direct threats** – When a group of home owners questioned the park owner regarding their decision to alter the communal facilities, the latter’s response was “You do not have to live here, so if you do not like it, then leave”. This was expressed in a manner that was unquestionably a direct personal threat from a bully intended to intimidate the home owners. It was definitely not an invitation to discuss the proposal with home owners. Instead, it was a non-negotiable edict from management with a clear directive that any objections would not be tolerated.

- **Intimidation** – During a meeting for the initial stage of negotiation regarding a dispute (Form 11), home owners felt so intimidated by the behaviour of park management during this meeting that they decided not to lodge the Form 11, but instead, destroyed it so as to remove any evidence for the lodgement of their complaint. One of them left the meeting in tears.
- **Non-negotiability of Site Agreements** – Site Agreement is a “contract” between the Park Owner and Home Owner, that is wide in scope covering all aspects of living in a land-leased residential park. Some clauses provide a choice of options. Normally, for a contract of this nature, both parties would initially enter into negotiations regarding any proposed changes to the T&C as well as selections of options listed. At the Anchorage, Site Agreements are non-negotiable with no opportunity to discuss possible changes. Standard response was if not accept the Site Agreement as presented, then withdraw interest as “other buyers are waiting in the wings”. This is threatening for the prospective home owner, especially as they are the significantly disadvantaged party. Furthermore, signing a Site Agreement that is essentially a *fait accompli*, which is of major concern when the document includes so many caveats releasing the Park Owner from honouring commitments made in this agreement: e.g. “proposed development of the Park (including Common Areas and proposed amenities and facilities within the Common Areas) are statement of intentions only”.
- This is not “fair trading” practice. Furthermore, it is in direct conflict with the objectives of the *Queensland Housing and Homelessness Action Plan 2012-2025*, which is “ensuring consumers and operators are better informed about their choices, rights and responsibilities and how to action them as well as increased transparency in contracts and financial statements”.
- Home owners at the Palm Lakes Resort have reported to senior management incidents of bullying and harassing behaviour by caretakers over the last 12 months. Management has repeatedly refused to investigate these reports, thereby effectively sanctioning this bullying by the local staff.

3.1.4 Home owners subjected to these types of bullying behaviours end up feeling stressed, intimidated and vulnerable to being exploited. They are adopted in order to deliver an intended outcome, which is the unchallenged dominance of the park owner in any negotiations with home owners. This is totally unacceptable and intolerable in any relationship. It is a definite abuse of power by the park owner over the home owners aimed at benefiting the former at the expense of the latter.

3.1.5 Testimonies provided by home owners describing their direct experience of bullying by the park owner are included in Annexure 1.

3.2 Causes

3.2.1 Possible explanations for the park management using these tactics are that:

- It is a product of their assured confidence in the high likelihood that there would not be any repercussions from their actions; i.e. they consider themselves “untouchable” and “above the law”. They are fully cognisant of the imbalance in power and control between the two parties, with home owners being seriously disadvantaged, especially with regards to lodging complaints that have limited chance of them being successful.
- It reflects the culture of the corporate enterprise that is currently enjoying a business environment characterised by continued levels of high demand for their products at a time when supply levels are low. Fair, courteous and just treatment of customers is less important in a market of this nature, where demand exceeds supply. Quality of service is no longer an important market differentiation.
- Companies moving into this growth industry often come from a background in property development for large-scale housing projects. This involves a completely different skill-set to managing a “community” of residents, many with special needs.

3.3 Recommended solutions

3.3.1 A Code of Conduct for park owners is required to define and reach agreement on what types of behaviours are acceptable and should be promoted in their interactions with home owners. Conversely, it should also determine and describe the behaviours that are neither acceptable nor permitted.

3.3.2 To be effective in achieving the intended changes in the nature of the relationships between park management and home owners, there needs to be formal procedures and protocols for reporting breaches of the Code of Conduct, as well as, the subsequent investigations of any reports by an independent body, such as an ombudsman. Finally, there must be penalties for offences that serve as genuine and effective deterrents.

3.3.3 Successful models already exist that demonstrate the establishment and operation of a Code of Conduct, as well as, the benefits gained for both parties. The *Retirement Living Code of Conduct* released by the Retirement Living Council is an industry-lead initiative designed to help village operators provide a trustworthy and high-quality service for those living in and/or considering moving into a retirement village.

3.3.4 Hundreds of owners and operators have become signatories, agreeing to operate with integrity, transparency and maintain best practice across their industry. By signing up, operators agree to align their businesses with the set of standards so that every resident understands that village managers are fully accountable to them, particularly when it comes to conflict resolution.

3.3.5 Residents are able to contact the Code of Conduct administrator if they believe that the village operator has failed to fulfil their obligations. It is highly likely that such a successful model could be adopted across the residential park industry sector.

3.3.6 This is an industry-lead initiative with village owners and operators willingly and keenly becoming signatories, whereby they are listed on a dedicated web site available to the general public (<https://www.awisemove.com.au/code-of-conduct/>). This constitutes important promotion and market differentiation for village operators that are listed as signatories because prospective residents are increasingly searching for village operators that are listed signatories to this Code of Conduct.

3.3.7 There are close similarities between the changes that residential park residents are seeking compared with several of the key reforms that have been proposed in the new Aged Care Act (https://www.health.gov.au/sites/default/files/2023-12/a-new-aged-care-act-the-foundations-consultation-summary-report_0.pdf). While Residential Parks and Aged Care facilities service different markets, they have a lot in common in providing accommodation for a specific demographic that is predominantly elderly and vulnerable to abuse and exploitation; more of a continuum than a dichotomy.

3.3.8 The new *Aged Care Act* will adopt a rights-based approach, outlining the rights of older Australians in a proposed Statement of Rights, and placing older Australians and their needs at the centre of the legislative framework. This establishes the overarching “context” for the legislation in terms of its intended outcomes for protecting the rights of residents. The Statement of Rights is closely aligned with our request for a Code of Conduct to be established to deal with the widespread issue of bullying and adversarial behaviour by park owners towards residents. Key advocates Older Person’s Advocacy Network (OPAN) and Council of the Aging (COTA) recommended that “an obligation (be) inserted into the Code of Conduct for providers to further protect residents’ rights” (The Senior, Wednesday February 07, 2024, p.5).

4. Flawed dispute resolution process

4.1 Description

4.1.1 The Act mandates a three-step process for managing complaints and resolving disputes. However, this process is flawed and thereby ineffective as evidenced by:

- protracted timeframes to execute (e.g. current estimate from QCAT of a 12 month delay for a hearing);
- inequities in access to the process, with many home owners effectively excluded; and
- significant bias towards park owners while disadvantaging home owners.

4.1.2 In summary, if home owners decide to lodge a formal complaint against the park owner, they are required to follow a process that is biased in favour of the park owner and that in many cases, is not accessible to them as it is complex to implement, requires legal counsel throughout the entire process and exposes home owners to potential costs that are prohibitive. For example, for a single dispute at one park

that still remains unresolved after three (3) years with QCAT, the commitment by home owners has been over 1,000 hours of work and \$9,500 in legal fees.

4.1.3 These are excessive and unreasonable demands on the limited resources available to home owners. More importantly, the requisite amount of effort in terms of time and costs is prohibitive to most home owners yet easily accommodated by the park owner with access to disproportionately more resources.

4.1.4 Once again, this effectively constitutes abuse by the park owner where they knowingly and intentionally exploit the inherent imbalances in power, influence and control that are embedded in the mandated dispute resolution process to essentially frustrate home owners exercising their rights to lodge formal complaints.

4.1.5 Testimonies from home owners describing their direct experience of frustration with an ineffective and inefficiency process for resolving disputes are included in Annexure 1.

4.2 Causes

4.2.1 Procedures for resolving disputes as defined in the Act are administratively complex and conducted within a legal framework. Consequently, to have any chance of success, home owners need advice and guidance from legal counsel, as is certainly the case for the park owner. This applies to each of the three (3) steps in the mandated process from negotiation, to mediation and eventually to tribunal (QCAT) hearing.

4.2.2 The ***process is inequitable due to the imbalances in market power, knowledge about consumers' rights and expertise in legal negotiations***. Home owners are mainly retirees on limited incomes such as the age pension, and are likely to be increasingly vulnerable as they age. Conversely, park owners are increasingly operators of multiple parks with significant resources, expertise and sophistication.

4.2.3 Management knows that they have the upper hand and consistently stonewall on most issues. Unless an individual and/or groups of residents keeps pushing an issue, park management just puts out a negative response and ignores any further correspondence. This constitutes an adversarial and confrontational approach to negotiating with home owners over disputes. It is effective and hence a common practice because they simply "get away with it".

4.2.4 The residential park regulatory framework relies on home owners to advocate for themselves, individually or collectively, using dispute resolution processes that many find onerous. Home owners can feel that they are not well-equipped to participate in this process and their fixed income limits their capacity to pay for legal representation in a dispute with the park owner that has ready access to legal counsel.

4.2.5 If a home owner thinks that they will be unable to afford to remain in a park, they can feel trapped because they must continue paying site rent until their home is sold or relocated, while park owners are guaranteed income from site rent. This results in an unequal sharing of risk and contributes to an imbalance of power between home owners and park owners.

4.2.6 If and when a dispute is not resolved satisfactorily for the home owner, there are ***limited (if any?) options for home owners to escalate the dispute to an independent body***. The Regulatory Services Unit (RSU) with the Department of Housing, Local Government, Planning and Public Works is responsible for regulating the residential park industry sector. However, the scope of its responsibilities are very limited given that:

- it is not mandatory for all manufactured homes residential parks to be registered;
- it only deals with matters relating to the Act;
- only two (2) staff are assigned to the task of regulating manufactured homes residential parks across the entire state; and
- there is a potential conflict of interest given that as one of its roles is to "encouraging continued growth and viability of the industry".

4.2.7 Furthermore, they are not trustworthy as there are several reported accounts of the RSU breaching privacy policies related to protecting the personal information of those seeking their services.

4.2.8 Caxton Legal Services are available to provide free advice to home owners. However, the ***value of the service they provide is questionable***. For example, on one occasion when a home owner sought advice about lodging a Form 11 regarding their rights to refuse requests from the park owner to change their Site Agreement in ways that were not favourable towards the home owner, the response from Caxton Legal Service was to "not submit a Form 11 as it will annoy the park owner". On another occasion, when a home

owner received “generic” advice from Caxton Legal Services and requested more detailed information relevant to their specific issues, the advice was that “one would normally expect to pay for that sort of advice”. On both accounts, the advice received was inappropriate and unhelpful.

4.3 Recommended solution

4.3.1 A key requirement for protecting the legitimate rights of residents is an effective and accessible pathway for handling complaints. The current dispute resolution process is flawed and we are calling for the current 3-step process to be replaced with the office of an independent ombudsman being responsible for hearing cases from both parties and being responsible for making the final decision.

4.3.2 This is consistent with the call from the CEO of COTA “for an independent official to handle complaints” in their recommendations regarding the new *Aged Care Act*. Both OPAN and COTA argued that “a system that relies on individuals to raise complaints is problematic due to the power imbalances between recipients and providers”. These same power imbalances are embedded in the MH(RP)A legislation and regulation.

4.3.3 Provisions under the proposed new Aged Care Act includes establishing an independent authority for handling complaints. Extensive public consultation revealed broad support for using complaints pathways to safeguard the rights of older Australians, although it was noted that additional measures and clarity are needed to ensure complaints pathways are practicable and accessible. It was reinforced that complaints pathways, while supported in-principle, need to be accessible and ensure the rights-based approach is effectively realised.

4.3.4 In 2021, the Queensland Government commissioned ARTD Consultants and the University of Queensland to review dispute resolution processes in residential parks as part of its commitment to “explore options to improve Queenslanders’ access to timely and consistent decision-making to help them resolving housing issues and disputes” (*Queensland Housing and Homelessness Action Plan 2021-2025; Clause 20*). The areas of review included:

- accessing the dispute resolution processes;
- identifying the strengths and weaknesses of the dispute resolution process; and
- receiving timely and consistent decision-making to help resolve issues and disputes.

4.3.5 Final report submitted to the Government identified concerns with the dispute resolution process as well as identify options to improve the process. These findings were intended to “contribute to the development of a consultation Regulatory Impact Statement”. Four (4) years later and the recommendations from the consultant's report have not been actioned.

4.3.5 The Government’s intended outcomes from amendments to the Act will not be realised in the absence of effective and efficient complaint-handling pathways. These are critical success factors for achieving “system” changes in the way that organisations operate. Customers (clients) must be able to raise concerns and/or lodge complaints about any problems/issues they encounter with the products and/or services provided without any fear of intimidation or retribution. These lead to changes to address these problems that can be adopted more widely through “system” changes that benefit other customers. This iterative process of identifying any problems, finding effective solutions and implementing them as new improved practices for the organisation, forms the basis of continuous change and improvement in the organisation in it’s dealing with customers.

5. Failure to honour commitments made and withdrawal/dilution of facilities and services.

Refer to separate document – “Failure to honour commitments made and withdrawal of services offered”.

6. Health, safety and security of residents

6.1 Introduction.

6.1.1 Changes made in 2019 to the Manufactured Homes (Residential Parks) Act had unplanned results whereby it attracted the attention of financially orientated corporations into the “Lifestyle” type villages with the sole objective of profit margin maximisation in line with their business models. One of the unintended

consequences of the legislation was the significant negative effect on the target market for these businesses, the elderly and subsequently physically/ financially vulnerable segment of the population.

6.1.2 The term “Lifestyle” can be misleading as it can mean anything, whereas the reality is that most of these people fall into the 65-85 age group; in the main, pensioners. This group therefore have limited financial means and so rely on a fixed income, and subsequently need the law to protect them from predatory site operators, which unfortunately it not currently the case.

6.2 Legislation.

6.2.1 An amendment made to the 2003 Act unintentionally gave unfettered power to organisations that have neither the skill, empathy, nor inclination to respond to the needs of their elderly clients, with the direct consequence that there was a significant unexpected negative impact on the daily lives of these citizens. A common factor that all the recent business entries to this market have in common is that when they are confronted with any legal challenge the response is “We are doing it because we can.”

6.2.2 I have had personal response at my village that matched exactly that type of response. A further issue is what should be a cornerstone of the Australian legal system; equality under law. These large companies have access to the most high-quality legal counsel, with other sophisticated and extremely expensive professional services, whereas the residents being in the majority are pensioners who have minimal financial resources.

6.2.3 Examples - I will use the site operator where I reside, Ingenia Hervey Bay, as an illustration of just how avaricious and uncaring they all are in the discharge of their obligations in terms of health, safety and security. We have resided here for over three years and in that time have never been free of ongoing earthworks and building activity. Up to nine excavators, water carriers, concrete trucks, supply trucks, cranes with incessant vibration, attendant noise, dust pollution, and restricted access to the homes. Every day from Monday to Saturdays, from 6-30am to late afternoon, the sole target of Ingenia is the minimisation of cost, and absolutely zero consideration for the wellbeing of their residents. This included demolition of previous structures due to their purchase of additional land. We have and continue to live, not on a lifestyle site, but a construction site.

6.3 Health Impact.

6.3.1 The resultant effect on residents is that it is a most unpleasant place to live, with dust coating the homes, the noise/vibration being never ending and unbearable, the latter causing damage to homes, as well as ground disturbance. This has led to the ingress of vermin into the homes. The outcome from all these site operator activities, culminates in a serious effect on the health and living standards of the residents.

6.3.2 Multiple contacts were made to the Hervey Bay health inspector, which were initially ignored, and when attended, advised he was not allowed to access to the area, thus affording no basic protection from the transgressions of the site operator. Again, a vulnerable group receiving none of the support one would expect from the law regulatory or local authorities. To reiterate, most residents of lifestyle villages are elderly with many having pre-existing or new health issues exacerbated by the unacceptable activities of the park owners.

6.3.3 Another unacceptable action on the part of park owners is the lack of clarity as regards street signage. Many of the lifestyle sites in Hervey Bay have inadequate or misleading street signs that can cause a critical time loss when emergency vehicles arrive and need to attend to problem related fire, police or ambulance activities. The reaction from Park Owners has on many occasions been dismissive or unhelpful.

6.4 Security.

6.4.1 This site was advertised as a ‘Safe and secure’ gated community, yet is anything but. Multiple security gate malfunctions, with two gates out at the same time and for periods of months, plus hundreds of metres of builder’s fences cluttering the area, a result of the everlasting development on this site, with huge gaps, causing panels to blow down in even moderate wind.

6.4.2 In any interpretation this “fencing” would hardly be regarded as secure. In an area where youth crime is endemic as instanced by recent incursions the lack of reassurance that a secure site would give cause severe mental stress to the people on site, effecting their general health. This particularly applies to residents in their seventies and eighties. Ingenia claim that this site is secure and gated is unjustified and with zero enforcement by regulatory authorities they get away with a meaningless statement.

6.5 Safety.

6.5.1 Constant impaired access due to builders fence the length of the main thoroughfare on site, has created a single vehicle access obstruction with the consequent dangerous entrance from all sub-roads. This also creates a major restriction if any emergency vehicles need to access any parts of the site, with the lack of security increasing the chance of criminal incursion.

6.5.2 Damaged roads and pathways seem a common occurrence on a number of these sites, with the danger this causes to pedestrians, walkers, and mobility devices. On the RV Homebase site problems such as restricted exits, uneven surfaces, walkways flooding and gutters leaking resulting in the risk of slipping.

6.5.3 Also poorly maintained or located first aid kits/defibrillators. Restricted or obstructed access on a site comprising of elderly residents can have grave consequences should an emergency fire or medical issue arise.

6.5.4 Very few of the site operators have the skillsets or inclination to accommodate the provision of a safe living habitat for its vulnerable group of people. What is even more concerning is the park owner's response to reports of dangerous or unhealthy conditions: "If you do not like it here, there's the gate." Most contracts require the site operator to practice safe procedures and basic maintenance is a prerequisite of a secure and healthy lifestyle, but these requirements are frequently ignored, with impunity.

6.6 Summary.

6.6.1 The Manufactured Homes (Residential Parks) Act 2003 and subsequent amendments provide limited guidelines regarding the obligations of site operators attracted by the weakness in existing legislation that they exploit with seeming impunity. This unfortunately has left the welfare, health, safety and security of a group of elderly and vulnerable people with almost no protection under law and in the clutches of unscrupulous corporations who have only monetary motivation and little or no interest in their tenant's quality of life.

6.6.2 These elderly citizens who have worked hard and honestly all their lives deserve far better in the time they have in their remaining years. One additional recommendation is that it should be mandatory for each site operator to employ a qualified OH and S professional practitioner to ensure safety standards are met. Another provision is that all road and concrete paths should facilitate the free and safe movement of mobility scooters.

7. Abuse of Power through imposition of rules by Village Owners

7.1 Introduction

7.1.1 The Act is very clear on what constitutes a Rule in a lifestyle park in QLD and the Act is very clear that only a limited number of topics can be included as Park Rules. Many manufactured homes parks owners believe that they can add or change or impose new rules on homeowners by implementing "policies" outside the Act. This is an abuse of Power since within the Act, the process for implementing or changing park rules is also very clear. However, for a homeowner or homeowners committee to argue against a new rule is very difficult as the park owners regularly ignore any argument about new rules by saying but it is their right to manage what goes on in their park.

7.2 Impact on Homeowners

7.2.1 Homeowners in a Park where rules are issued outside the Act Process suffer depression, lack of empowerment, feelings of worthlessness, confusion and anger at the inability to have any real say in how their lives are managed or conducted. More than 12 months can be spent dealing through the dispute process to have the Park Owner be shown to be wrong but still ignore any ruling by just ignoring it.

7.2.2 One example is from 2017 when Palm Lake Resort Head Office decided to implement a new set of rules at all their parks to make life easier for their administrative staff. The rules that were distributed were a common set to be used at all parks owned by Palm Lake Resort which is against the Act as each Park is supposed to have its own set of Rules. The rules were distributed at the parks by management sending them to the homeowners committee for distribution to homeowners on the basis that the rules were fine.

7.3 Causes

7.3.1 The implementation of the Rules that Palm Lake followed were totally outside the process laid down in the Act. When residents argued that the rules were invalid or not applicable at Hervey Bay, the arguments put up by Palm Lake management were illogical and had no basis in fact. The homeowners committee at the time also complained and suggested changes some of which were accepted but many not.

7.3.2 The homeowners in general did not understand the process or did not want to rock the boat too much due to implied backlash and only one formal objection was notified. That one homeowner ended up taking the issue to QCAT and the final decision, after nearly 12 months, was that 11 of the rules were invalid or outside the terms of the Act. Regardless, Palm Lake Resort management made no changes and in fact continue to use a set of rules for the rest of a park which were actually declared invalid by the QCAT member. This matter has been raised a number of times to no avail.

7.3.3 Since the 2017 changes, many policies have been issued at Hervey Bay and enforced along with rules which have been declared invalid. The issue of the invalidity and the wrong rules being enforced was raised with management only recently and to date no changes have been made whatsoever. In the 2017 change process, at a number of other Palm Lake Resort parks, the homeowners were unsuccessful in changing the rules due to lack of knowledge and or lacked the will to argue and the rules as originally issued continue to be enforced.

7.3.4 The Act states that it is the Park Owners who can bring in or change Rules. The only recourse a Home Owner has is to ignore invalid rules and that creates tension and conflict with the Caretaker/Managers who are instructed to implement and enforce the rules in an environment that is supposed to be enjoyable for Residents. A Park Owner can, and often does, ignore any request to change Rules without explanation or negotiation.

7.3.5 The example above of Rules implementation and enforcement across many Manufactured Homes parks is not an exception.

List of PLR HB Rules and Policies 2024

Rule or Policy Title	Date Issued	Issued Validly (IAW Act)	Need Revision
Park Rules (inc Invalid rules)	Jul 2017	No	Yes
Park Rules (inc Invalid rules)	Aug 2017	Yes	Yes
Park Rules (Invalid rules removed)	Aug 2017	No (apply to one Residence only)	Yes
Facilities Use (not part of rules)	Dec 2023	No	Yes
House Sitter Policy (not part of rules)	Nov 2023	No	Yes
Alterations Form (not part of rules)	Nov 2023	No	Yes
Bus Use Policy (not part of rules)	Aug 2016	No	Yes
Meals Policy (not part of rules)	Oct 2021	No	Yes
Volunteers (not part of rules)			

Guests (not part of rules)	19 Jan 23	No	Yes
Green Waste (not part of rules)	1 Dec 22	No	Yes
Pet Registration (not part of rules)	11 Jul 22	No	Yes

8. Utilities Charges

8.1 Description.

8.1.1 Utilities are supplied to the Home Owners site by the Park Owner who owns the private infrastructure which delivers each utility. These utilities are delivered to the park by relevant supply entities and the park owner pays or arranges for the utilities to be paid to the park and then charges or arranges for the home owner to be charged for the quantities of each metered utility consumed.

8.1.2 Today we wish to highlight a few of these situations. In some parks, there is an allowance in water charges of, for example 15 kilo litres per month, for each home site as measured by a meter as part of site rent. However, if the home owner does not use the allowance, for example away from the home for the billing period, the charge incorporated with in the site rent is still payable even though the water meter figure shows no usage.

8.2 The issues

8.2.1 Other practices being adopted include averaging electricity costs by taking electricity accounts total dollar amount and dividing it by the total consumption by the park to arrive at a kilo Watt Hour rate for the Home Owners. By doing this park owners are incorporating the supply charges into the cost passed on to home owners, that cost being a prohibited amount under the manufactured Homes Act. Also, the park owner has structured their charges to the home owner such that the park owner is not charged any cost for the supply connection of electricity to the common areas meaning that the home owners are paying those costs which are already incorporated into the site rent.

8.2.2 The most disturbing practice undertaken by Serenitas is to lease the entire electricity embedded network to a retailer who then directly 'supplies' electricity from the Market Distributor to the Home Owner, charges near market rates for use and supply of electricity and then claiming that s99 and s99A does not apply because the supply and charging of electricity has nothing to do with the Park Owner. This has caused a 'Cost Shift' for the supply of electricity from the Park Owner to the Home Owner in addition to that cost remaining in the Site Rent.

8.2.3 Regarding, utilities supplied to the park by a local government authority, being sewerage, and water, a practice being increasingly adopted and seemingly supported by the regulators is being passed on or on charging to the home owners. The reasons given are that this is a common business practice by agreement between parties. This business practice is supported, according to the park owners, by statements contained within site agreements, however, those statements are often inconsistent with the Manufactured Homes Act which park owners tend to ignore. There is a growing move by park owner to have the site agreement over ride the Act by emphasising to Home owners the 'power' of that site agreement thereby ignoring the legislative power of the Act. In addition to this, some park owners are structuring those on charges such that the relevant charges for the common areas are on charged to the home owners as what is occurring at Latitude 25 and at Thyme Eli Waters.

8.2.4 Further to these, some park owners have changed the description of the charge from the local council to make it look like a valid utility, for example a 'Waste Management Utility Charge', a charge by the Fraser Coast Regional Council to support waste collection facilities (transfer stations and the like) to a 'Water Management Utility Charge' a charge which does not exist with that council charging tables but looks like a utility charge under the Act.

8.2.5 There is a clear trend occurring within this regulated industry of corporate entities making up the majority of Park ownership in Queensland. With that comes strengths in the legal capabilities of the park owner to attempt to introduce new charges contrary to current laws together with some unfair practices often seemingly supported by the regulators of the legislation covering the operation of these parks.

8.3 Areas of concern

8.3.1 The previous issue is currently a case before QCAT and has been for nearly two years. The current dispute process is cumbersome and seems to be too legalistic. The QCAT recommendations are that the parties be self-represented however a clear imbalance affecting the rights of the home owners emerge here. The park owner, in particular corporate entities with the multiplicity of company structures, employs the resources of legal firms to advise and act on their behalf paid for by funds received by way of site rent from home owners. Home Owners, in general, do not have the financial and organisational resources to balance disputes brought before the tribunal and are often subjected to reams of legal paperwork designed to bewilder home owners and more than often having no relevance to the dispute at hand.

8.3.2 The cumbersome three step dispute process contains duplicity in actions which, in the end, result in no agreements and therefore adding to the time taken to obtain a decision from the tribunal. At least three months of time for all parties including the tribunal itself, if these mediations steps were either removed or at least having realistic timeframes legislated or regulated.

8.3.3 Finally, the issue of solar generation with in an embedded network continues to cause concerns in Manufactured Homes Parks. While federal legislation does not require a park owner to pay a feed in rate for solar generated power, the park owner or retailer of electricity for the park is benefiting from the excess electricity generated by home owners who have solar and selling it to home owners who do not have solar generation at no cost to the park owner or retailer. In addition, it is highly likely that the energy generated by Home owners solar systems is supporting the energy needs of the common areas, the costs of which are already incorporated in the site rent paid by the home owners. This practice is against the intentions of s99 and s99A of the Manufactured Homes Act and the aims of community energy generating systems, as stated in Australian Energy Regulator guidelines, which both aim to prevent the park owner from profiting from the supply of a utility to home owners, in other words double dipping.

8.4 Recommendations

8.4.1 Some of these preceding statements are currently the subject of cases before the Queensland Civil and Administrative Tribunal, QCAT, brought by multiple Home Owners in various parks. The QCAT process is slow which tends to go against the interests of Home Owners often resulting in home owners removing themselves out of these parks. There is the current example of a case which has been underway for some 3 years, currently under appeal causing great level of stress to the home owners involved. We must be reminded that the Manufactured Homes Act is there to protect the interests of home owners against unfair trading practices of a park owner.

8.4.2 We petition this committee to consider reforms to the dispute process for Manufactured Homes Parks. As stated, the current process is out of balance time consuming and has, by way of corporate Park owner actions become highly legalistic. Home Owners are seeking an enforceable, speedy mechanisms for resolving disputes. The QCAT process seems to have become clogged as parties to a dispute wait in line with a multitude of other dispute types brought before the tribunal. It is clear that due to the expansion of these parks together with the increasing number of corporate entities owning these parks as evidence by statistics given by the Deputy Director General in this committees briefing on the 2nd April 2024. Consideration should be given to a separate category of tribunal cases dedicated to Manufactured Homes Parks and staffed by dedicated members with good legal knowledge of this legislation and associated laws.

8.4.3 In addition, we would recommend the strengthening of the Regulatory Services Unit of the Department of Housing, 'the Regulator of the Act' to enable that unit to enforce the proper charging of utilities as prescribed in the legislation so that lengthy time frames do not result in that unit acting as a disincentive to park owners who wish to attempt to evade the provisions of the Act.

9. Abuse of Power by Park Owners through breaching the Act

9.1 The Act is quite complex and has many provisions that require both Park owners and Homeowners to follow but a prime example is provisions of the Site Agreement. Many manufactured homes park owners believe that they do not need to follow the Act or just plain ignore it. This is an abuse of Power brought about by the cumbersome and time consuming process for a Homeowner who believes a Site Agreement provision has been breached, to remedy the breach. A site Agreement breach is separate from other disputes about the Act which require either a Dispute Notice process or a complaint directly to the Department of Housing, Regulatory Services Unit (RSU).

9.2 For a homeowner or homeowners committee to prove a Site Agreement breach requires a process similar to the Dispute process and as so often occurs, the park owners can ignore any argument about breaches of the Act by not responding to a Breach Notice. Many Homeowners in a Park where such actions occur suffer depression, lack of empowerment, feelings of worthlessness, confusion and anger at the inability to have any real say in how their lives are managed or conducted. More than 12 months can be spent dealing through the breach process, if the Park Owner responds, to have the Park Owner to be shown to be wrong.

9.3 Even though Site Agreements are generally common to many Homeowners, since a Park Owner normally reuses the Document for all new Homeowners, unless a change is determined to be required, any action brought by a Homeowner only relates to that single Homeowner unless other individual Homeowners join in the dispute and any Home owner who doesn't join misses out on any favourable outcome. This restriction can be cumbersome for a Homeowner, especially if there may be over 200 homes in a Park and is a major roadblock to remedying a known breach.

9.4 An example of the above is the instance where Palm Lake Resort Pty Ltd in about 2018 at Hervey Bay inserted a clause in new Site Agreements placing the responsibility for maintaining Fences and Driveways on a Site onto the Homeowner. No changes were made to existing Site Agreements and effectively, no homeowner was aware of the change. New Homeowners accepted the clause as part of the normal process and existing Homeowners had no knowledge of its existence until a homeowner asked for a rusted fence to be repaired and was told it was their responsibility. The clause is in fact in all Palm Lake Resort site agreements across all Resorts.

9.5 Following a lot of correspondence with Palm Lake Management about the issue, a dispute was commenced, with approximately 400 individual homeowners being involved. After well over two 2 years of dispute and close to \$1500 costs, Palm Lake Resort management, in a QCAT Conference, accepted that they were responsible for fences and driveways and all infrastructure at Hervey Bay and agreed to complete a number of other actions within 6 months of the agreement. After 15 months, no damaged driveways have been fixed or properly assessed, no site agreements have been amended, only partial actions in the Agreement have been completed and Palm Lake continues to maintain the clause in other Park site agreements and in new site agreements issued in Hervey Bay.

9.6 The Act states that certain breaches of the Act by Park Owners are statutory offences but there is little that can be done due to lack of Regulatory oversight and resources to investigate breaches. The only recourse a Home Owner has is commence dispute and that creates tension and conflict with the Caretaker/Managers and senior management who create an environment of blame and vilification of residents who complain when it is supposed to be enjoyable environment for Residents. A Park Owner can, and often does, ignore any notice of Breach without explanation or negotiation.

10. Asset Depreciation Schedules & Maintenance Program

It should be reasonable to expect that the services and facilities provided for the use of residents would be functionally maintained and/or replaced as needed.

Currently, there is no indication from park owners that any provision for replacement/upgrade of current facilities and services exists. Despite these companies submitting depreciation schedules for tax benefits.

As private companies, there may not be any requirement for such disclosure? Obviously, this is very concerning for residents.

To maintain the structural and functional integrity of facilities and services within these communities there needs to be:

(a) Asset Register

(b) Financial Allocation to provide for replacement / refurbishment of existing and future services and facilities.

(c) Time in place for scheduled maintenance / replacement of assets and infrastructure.

This information needs to be available for current and prospective residents to allow them to make **informed decisions** on whether these residencies are suitable for their requirements and expectations.

Solution

There needs to be appropriate empowerment of government agencies to require that the assets, amenities and facilities at each site are maintained at a high level implied as advertised by the park owner.

This could easily be made possible by requiring park owners to be licensed. **Breaches of their Licence Agreements should attract suspension / payment of fines for non-compliance.**

Submission to Housing, Big Build and Manufacturing Committee.

Submission on the Core Issue of Failure to honour commitments made and withdrawal of services offered.

This submission will highlight many issues raised by residents living in parks/villages within our catchment area. This will be done in the way of providing emails sent, written reports and photographs.

Some residents have requested redaction of their names due to fear of retaliation.

However, all information gathered is believed to be an honest account of actual concerns.

This submission will show the commitments not honoured and withdrawal or reduction of services offered by park management.

This submission will also indicate the impact on park/village residents, and how the core issue contravenes site agreements and the MHRP ACT.

List of services withdrawn.

1. Recovery Service: **Appendix A**
2. Provision of use of communal facilities without restrictions: **Appendix B**
3. Unmetered water supply and unmetered non potable water supply; **Appendix C**
4. On-site live-in manager, supply of skip bins, telephone service. **Appendix D**
5. Croquet court: **Appendix E**

Impact on park/village residents

Given the grossly lopsided power dynamic in the relationship between the park/village owners and residents, the residents find themselves in an abusive manipulative relationship, *a relation that should be a partnership formed to enhance positives outcomes for both parties.*

They find themselves unable to report issues to management for fear of recriminations and bullying.

The removal of the above services impacts residents in many ways.

It leads to financial stress if the residents go to another venue to access these services that were once provided free.

With the cost of living reaching a crisis stage, this financial impact on residents is not sustainable.

Many residents feel they are being discriminated against due to restricted use of facilities as certain groups have unlimited sole use of some of the facilities.

This also causes stress, friction between residents and feelings of inequality of residents denied access to some facilities.

List of commitments made and not honoured.

1. Decline in maintenance within parks/villages of boundary fences, trees, and bushes. **Reference:**
Appendix F

Impacts on parks/villages residents.

When residents buy into a manufactured park, they buy into a lifestyle that is suitable for their age bracket i.e. over fifties lifestyle villages.

They expect a lifestyle free of stress, harassment, and intimidation.

No person in the elder age bracket should be subjected to **elder abuse** as occurs in some of our parks/villages. As elder abuse is defined as *"a single or repeated act -or lack of appropriate action occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person"* we need to focus on eliminating this elder abuse in our parks/villages.

With statistics reporting *1 in 6 older Australians report experiencing* abuse it is a very serious issue in our parks/villages and every effort must be taken to eliminate the abuse shown in testimonials submitted in this submission.

Residents also believe they are buying into a regulated park that is affordable going into the next stage of their life journey. If the current rate of rent increases is allowed to continue then many residents will be in financial difficulty.

Many residents have reported abuse from park employees for reporting maintenance issues that have not been addressed by management.

Several residents also advise they have felt intimidated when reporting these issues. Financial impacts have also occurred as residents have had to purchase their own lawn mowers and whipper snippers to do the mowing of their lawns as management has not done the mowing of their lawns on a regular schedule. Again the cost of living crisis is impacting more and more residents living in our parks/villages.

Residents have also had to purchase hedge trimmers, branch cutters etc, as management is deficient in trimming hedges, bushes, and trees.

Damage to residents' houses can occur from tree roots going under the houses. Also falling limbs/branches from trees could cause personal injuries. Park owners/managers do not do regular inspections of trees to determine the safety of the trees.

The financial impact on residents can be quite daunting while the park owners can simply absorb the costs associated with the QCAT process which is the only avenue for residents to pursue resolutions of removal or decreases in maintenance or services being withdrawn.

How to prevent: Failure to honour commitments made and withdrawal of services offered.

To prevent this core issue continuing in our parks/villages several changes need to be addressed.

As outlined in the synopsis of the entire submission a Code of Conduct for Park/village managers and owners should be implemented.

Also needed is a streamlined Dispute Resolution Process and Regulation of the MHRP ACT 2003.

A code of conduct for park/village owners should be applied and made available to all residents in the parks/villages.

Queensland Housing Strategy 2017 to 2020 Action Plan states an action of *“Explore improvements to dispute resolution arrangements to ensure housing consumer complaints are resolved as quickly and cost effectively as possible, including the possibility of a dispute resolution body.”*

Further actions from the Action Plan include *“Amend the Retirement Villages Act 1999 and the Manufactured Residential Parks Act 2003 to improve pre-contractual disclosure processes and introduce new behaviour standards to make it easier to address undesirable behaviour in residential parks and retirements villages, and if necessary undergo dispute resolution processes.”*

“Provide advocacy and support through peak groups and resident and homeowners associations to retirement village residents, manufactured homeowners and vulnerable residents living in residential services, including helping to prepare for proposed legislative changes.”

Highlighted in the Queensland Housing Strategy 2017 -2020 Action plan are the principles.

- *“Housing is an essential service*
- *Safe, secure and affordable housing enables better connection to support services, improved health, and greater social, economic and cultural participation.*
- *Better integration of housing and human services will deliver improved life outcomes for vulnerable Queenslanders”.*

These changes are needed because at present park/village owners know they face no consequences for breaches of the act due to the long dispute resolution process, and the imbalance of power between park/village management and residents.

To overcome this inequality a separate tribunal should be set up to handle residential residents and park/village owners' disputes in a timely cost effective way without residents facing enormous costs if they need to employ the services of a solicitor.

The reason for this is that at present QCAT is the tribunal handling these disputes and QCAT is overwhelmed with cases resulting in very long delays in handing down decisions.

This imbalance of financial resources impacts the residents that leads to stress and **elder abuse** by park owners.

Park/village should have a maintenance plan outlining what need maintenance within their village and when this maintenance will be carried out. This needs to be a comprehensive plan of all maintenance for the village.

Timeframes also needed to be attached for frequency of maintenance.

To ensure compliance with the management plan the plan should be made available to all residents living in the park. The maintenance plan should be regulated and consequences put in place for breaching the plan.

If implemented this would go a long way in solving the issues raised in testimonials cited in this submission regarding maintenance issues.