Manufactured Homes (Residential Parks) Amendment Bill 2024

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Ingenia

10 April 2024

Committee Secretary
Housing, Big Build and Manufacturing
Parliament House
George Street
BRISBANE QLD 4000

By email: hbbmc@parliament.qld.gov.au

Dear Committee Secretary

Submission on Manufactured Homes (Residential Parks) Amendment Bill 2024

Ingenia Communities Group (Ingenia) is one of Queensland's largest owners, operators and developers of manufactured housing communities (also known as residential land lease communities). Ingenia welcomes the opportunity to provide feedback on the Manufactured Homes (Residential Parks) Amendment Bill 2024 (the Bill).

Ingenia provided feedback in June 2023 on the Residential Parks Consultation Regulatory Impact Statement (C-RIS) and raised serious concerns regarding the proposed options. The key points of our submission, which aligned with the industry, were:

- The introduction of a blanket rent cap and removal of market rent review without a mechanism for operators to recover cost increases over and above the rent cap impose an unfair and onerous burden on operators and is not sustainable for operators. These measures have a severe impact on the long term financial viability of the industry which will lead to reduced manufactured housing supplies, particularly affordable homes;
- Aligning the regulatory regime of manufactured housing to retirement villages such as compulsory buyback and maintenance and capital replacement plan requirements disregard the different business models which have different return profile and provide housing choice and diversity to older Australians. Retirement village operators typically generate a deferred management fee on resident exit and their residents pay for the ongoing maintenance of the village whereas manufactured housing operators generate a profit from the first sale of the homes and all operating expenses and maintenance costs are paid out of the site rent revenue.

It is disappointing that industry submissions were by and large ignored and there had been no further consultation with the industry after submissions were made and prior to the Bill being tabled with Parliament, notwithstanding the Department's undertaking to do so. The Bill largely introduces reforms based on the preferred options in the Consultation Regulatory Impact Statement (C-RIS), without regard to feedback and concerns raised by the industry. This raises serious concerns about due process.

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Ingenia's submission on the Biii

Policy objectives

Ingenia supports improvements to the current legislative framework that are fair, and provide greater clarity and transparency for both the consumer and the operator. In our view, the Bill does not achieve the stated policy objectives as the measures are all about providing certainty to the consumer without regard to industry viability and impact on housing supply and affordability which are contrary to the Government's stated housing policy and inconsistent with the National Housing Accord. At a time when the Federal Government has delivered the largest increase in Commonwealth Rent Assistance in over 30 years and State Governments have moved towards limiting rent increases to once a year, the Queensland Government is regardless, proposing a rent cap for operators, less than six months from an election. The Federal Government, including the Prime Minister, has noted on several occasions that imposing a rent cap is not the answer to addressing the challenges facing the housing sector.

We submit that the Department and the Government have grossly understated the financial and administrative impact on operators, with the full extent unknown until supporting regulations are available. See our comments below on financial impact for each of the measures.

Proposed middle ground

- Unless these measures are materially wound back, we strongly recommend that the current process be paused to allow for proper consultation and full consideration of the impact of the proposed measures; or at the very least the effective date be pushed back at least six months from assent to allow operators to implement process and system changes to comply with the new law.

- We also submit that the review date of the Bill should be brought forward. The impact on operators and the industry is underestimated and given the lack of industry consultation, it is only fair that the new regime is reviewed in a more timely manner. We propose a review in 24 months.

Site rent increases

We reiterate our position on rent control;

- Rent control is not proposed to be imposed on any other private sectors. Apart from the ACT government, no other states are imposing rent caps on rental markets.
- Rent control measures in European countries (eg Spain, Germany, Netherlands) have been proven to negatively impact on housing supplies and development capital (both equity and debt).
- It is impossible for operators to accurately predict cost increases over time and it is unfair on operators to have to provide this certainty.
- Costs such as award wages, insurance, statutory charges and utilities typically increase more than CPI.

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We submit the definition of CPI which is the weighted average of eight capital cities all groups consumer price index is inappropriate. The premise of the rent cap is for certainty for the residents residing in communities in QLD – in that case the CPI should refer to the Brisbane CPI.

<u>Removal of market rent increase</u>

Reference to market rent increase in other states is not strictly correct, eg NSW allows for site rent increase by notice and have provisions to allow for special rent increases; VIC allows for non-fixed method for increasing site rents.

By removing market rent review with no mechanism to allow operators to increase rent to cover costs beyond the rent cap, the operator is forced to absorb these costs which it has no control over. The removal of the requirement to assign existing site rent agreements, allowing the operator to mark to market the rent for a particular site, does assist but is highly unlikely to cover cost increases over time. The ability to increase site rent is limited where the home is aged and/or in disrepair (see below our comments regarding the inability of operators to require the home owners to reinstate homes for sale). It should also be noted that resales average circa 6% to 8% per annum for our communities.

This, together with the buyback and capital maintenance plan requirements, will be detrimental for the operator, particularly private and mixed-use park operators.

Proposed middle ground

- Amend Division 3 of the Act to make it easier for operators to increase site rent to cover certain costs where the operator can substantiate increase in those costs without the need for residents' approval or Tribunal process; the defined costs should include as a minimum award wages, insurance, statutory charges and utilities.
- Remove the ability for residents to challenge rent increase as it will be capped and dictated by the regulations; increase by fixed method in NSW cannot be challenged.
- The transitional provision of section 194 provides the ability to apply to the QCAT to allow for another basis for rent increase where the removal of market rent review has significant impact on the operator. We submit that the scope for the application is too narrow and the carving out of rent increase based on CPI is inappropriate. Where the operator can substantiate that removing the market rent review and the alternative basis for site rent increase has a detrimental impact on financial viability, regardless of whether the alternative basis is based on CPI or not, the operator should be allowed to apply to QCAT for another basis for site rent increase.
- Alternatively, there should be transitional provision allowing the next market rent review to take place.

<u>Discounted site fee and buyback scheme</u>

Again, we reiterate that the intention to align buyback requirements with retirement village operators is misguided. Manufactured housing operators do not profit from resale in the form of deferred management fee and have little to no ability to ask the homeowner to reinstate the home at their cost.

While the Bill contains some protection mechanisms for operators, in practice they benefit newer developments and the burden falls disproportionately on operators of more established communities with an older cohort of residents (and there are many) and smaller operators particularly mixed use assets. The more established communities and the mixed use parks typically provide affordable housing to the more vulnerable cohort. The combined impact of the reforms act to disincentivise these operators to continue to provide this affordable accommodation.

Proposed middle ground

- Should the Government persist with the buyback scheme, additional time must be allowed for the parties to agree value or to engage with a valuer. We propose 21 days instead of 7 days.

- The cost of the appointment of the valuer should also not be borne solely by the operator in the first instance. Should the resident choose not to agree to a value, the cost should be shared upfront rather than it being deducted from sale proceeds or buyback.

<u>Maintenance and capital replacement plan</u>

We are not opposed to providing information to residents per se however are concerned about the lack of clarity as to what is required given that the regulations are yet to be drafted. Our concern is that the regulations will impose onerous requirements and lack the flexibility required to make changes to the plan to adapt to the operator's financial and other circumstances. For instance, an operator may not be able to fund the works in the plan due to budgetary constraints for a particular year (for example, there are multiple compulsory buybacks in that year).

Proposed middle ground

- There has to be flexibility as to the timing and scope of works, as well as the ability to increase site rent, to fund the works.

<u>Other clarification required</u>

Amendments to Section 63 (which commence 6 months after assent) do not list direct debit as an approved way for payment of site rents, and it removes the previous provision that allowed "another way agreed on by the park owner and the home owner" which was how direct debit was captured.

The effect of these amendments will be to exclude direct debit as a payment method entirely for new site agreements going forward, and will give existing home owners the option to move from direct debit to one of the other approved ways, which makes little sense and will just add to park owners' administrative time and costs.

Financial impact on proposed measures

Ingenia's manufactured housing portfolio (Ingenia Lifestyle)

Ingenia has invested heavily in Queensland and now has a well-established business in the state. The Group currently owns and operates 13 manufactured housing communities (in addition to built to rent communities and holiday parks), with over 2,200 homes and a pipeline of over 1,900 homes to be built. In addition, the Group has secured additional development sites across the state.

Ingenia Lifestyle*	Existing home sites	Potential development home sites
Chambers Pines	586	76
Bethania	318	
Nature's Edge (Buderim)	269	20
Seachange Coomera	110	14
Seachange Toowoomba	111	57
Seachange Emerald Lakes	107	
Seachange Arundel	415	
Hervey Bay	269	183
Bargara		330
Seachange Victoria Point	15	205
Rochedale		168
Millers Glen (Beaudesert)	14	358
Branyan (Bundaberg)		208
Gordonvale (Cairns)		336
Total	**2,214**	**1,955**

Note 1: Ingenia Property Portfolio, December 23

As explained below, our site rent increase is typically CPI+ per annum with a market rent review every three years. The rent caps together with the other requirements will have a material negative impact on our operating margin and our ability/preparedness to continue to expand the development pipeline, particularly in affordable housing as we would need to generate a higher profit on the first sale of the homes to compensate for the longer term lower operating margin.

Comment on financial impact of each proposed measure

We submit that the cost to operators is grossly underestimated, and does not take into account the impact on investment value.

The benefit to residents and home owners from rent caps will be eroded over time as there has to be a trade-off for it to be financially viable for operators to continue to operate.

Proposed measure	Ingenia's comments on financial impact
Option 2 – require residential parks to publish a comparison document	**Home Owner:** Minimal impact on home sales as prospective home buyers already do their research however a standard template makes it easier for comparison purpose **Park Owners:** Minimal impact however the main cost will be in extra administrative cost and time required to compile and update the documents. We estimate the cost of preparing the initial document exceeds the Government's estimate of $687 per park taking into account staff cost and website costs. Having a consistent approach to this comparison document is preferred e.g. a QLD Government created template. **Government:** Whilst savings are mentioned due to reduced QCAT disputes, some administration and accountability to this new standard will be required by the government
Option 3 – simplify the sale and assignment process	**Home Owner:** Ingenia does not agree this change will result in an improved sales time for home owners. In fact, home owners will most likely experience a delay in selling their home due to the new market rental rate being significantly higher than existing. This resale event will become the sole mechanism under the new legislation for park owners to increase below market rents. We anticipate this change will result in new disputes between home owners and park owners with respect to what is the fair market rent for their home. **Park Owners:** The represented $7.7m rental increase benefit over ten years is grossly overstated. At Ingenia we have 3-yearly market rent reviews, therefore any increase in rent from the new assignment provision is already realised in our market rent review process. In addition, capital investment in the home changing hands may be required depending on the upkeep and age of the home. The level of investment and upkeep of the home by the existing owner may limit the park owner from achieving a market level rent upon resale. Whilst this new assignment legislation will allow for rental uplift in the absence of a market rent review, it will not result in an improved net rental increase for Ingenia over ten years. **Government:** The savings due to reduced QCAT disputes will be limited. We believe new disputes over fair market value site rental on resale will result. This will lead to more administrative burden on the government as many new individual resident QCAT cases will result in the absence of large home owner groups who currently challenge market rent reviews at QCAT.
Option 4 – limit site rent increases to a prescribed basis	**Home Owner:** Clarity for home owners is welcomed. Ingenia has CPI+ contracted rent increases in all new site agreements.

Proposed measure	Ingenia's comments on financial impact
	Park Owners: a limit on prescribed rental basis does not benefit future rental growth for park owners as stated, it certainly is not the case for Ingenia. Given the proposed rent cap and removal of market rent reviews, Ingenia believes further restrictions are not warranted. **Government:** minimal impact given other legislative changes will derive the most savings from QCAT disputes.
Option 6 – prohibit market rent reviews	**Home Owner:** Ingenia cannot reconcile the large variance between the home owner rental savings modelled here of \$3.5m when compared to the proposed rental increase for park owners of \$7.7m outlined under option 3 (simplification of the assignment process) **Park Owners:** Ingenia conducts market rent reviews every 3 years and achieves market level rental adjustments at this interval. In comparison, Ingenia experiences 6-8% of total homes being resold each year in our communities. Over a 10-year period we are unlikely to see a whole community turn over in resales, meaning the increase in rental from the simplification in the assignment process will take over 10 years to provide any positive impact versus what we are experiencing under our existing 3 yearly market rent reviews. The numbers represented by the Government here are inaccurate and are overstating the benefit of the simplified assignment process whilst understating the home owner savings from the removal of market rent reviews. **Government:** n/a
Option 7 – limit site rent increase to higher of CPI or 3.5%	**Home Owner:** We provide high quality facilities as our point of difference and have a higher rent structure in order to maintain the quality. We were transparent during the home sale process on the ingoing rent and rent increase mechanism, ensuring prospective home owners understand their rights and obligations. This commercial model is now being eroded by this proposed rental cap which will impact the value of Ingenia's existing investments. Moving forward, home owners will most likely experience a reduction in the services offered in new manufactured home communities as owners cannot profitably maintain such high quality facilities and services with a cap placed on their rental income. **Park Owners:** Ingenia strongly opposes this legislative change. Ingenia has recently experienced significant increases in community operating costs including examples of statutory charges over 20%, insurance costs over 20%, electricity costs over 15%, award wages over 10%. All these costs are well above CPI and 3.5%. This limit on site rent will

Proposed measure	Ingenia's comments on financial impact
	negatively impact Ingenia's profit margins as expense growth is consistently greater than 3.5% and CPI. Our investment model utilises CPI+ as this supports recovery of expenses above the levels prescribed above and allows Ingenia to maintain its offering of high levels of service and facilities. This rental cap is extremely disappointing especially as it is departing from the legislation in place in other states across Australia. Currently QLD is winning the battle for capital investment in this sector thanks to more flexible planning laws, unfortunately this cap will erode any planning benefits and will result in large scale capital investment moving from the state. The Government has also not quantified the impact on investment value, which is based on rental revenue less operating costs. **Government:** n/a
Option 10 – require maintenance and capital replacement plans	**Home Owner:** n/a **Park Owners:** Unsure of what the governments $10k cost estimate entails in year 1 and then $5k thereafter, as supporting regulations are not available. The stated costs to park owners are significant and requires careful consideration. Having a consistent approach to this maintenance and capital replacement plan across the industry is critical. More time is required to consult further with the industry on this proposed change. **Government:** n/a
Option 11 – establish a limited buyback and site rent reduction scheme	**Home Owner:** n/a **Park Owners:** Significant rental reductions and capital investment may be required by park owners under this legislative change. Park owners will face increased financial risk of major changes to existing market conditions. Currently, Ingenia does not experience lengthy days on market for the resale of homes. However, any significant future market shifts/shocks place significant rental and capital liability risks on park owners. Ingenia also believes there is an inappropriate balance of the selling costs under this proposed change. For example, the park owner is required to bear the full cost of a valuation of the home owners house. The selling costs created by this legislative change require further review to deliver a more equitable distribution across both park owners and home owners. **Government:** n/a

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Closing comments

The manufactured housing/land lease sector plays an important role in providing housing and an alternative senior living option to traditional retirement villages.

Aligning different business models limits the choice for the consumer, and ultimately it is detrimental for consumers as operators are forced to charge more to sell homes, set higher initial rent and pare back expenses in order to maintain financial viability. There is a real risk to the financial viability of some communities with the unintended consequence of financial distress on operators leading to forced closures and sale which are in no way in the interest of the consumer.

Developers, operators, investors and financiers in this sector require a balanced approach to a regulatory framework to continue to support and invest in the sector. **We urge the Committee to reconsider these proposed reforms and pause in the process to allow for proper consultation and consideration, or at the very least, defer the start date or have broader transitional provisions to allow operators to work through the changes.**

We welcome the opportunity to discuss and work with the Queensland Government on improving the current legislative framework for the benefit of all stakeholders. Please contact in the first instance Natalie Kwok, Chief Investment Officer and General Counsel on [redacted] or Justin Blumfield, Executive General Manager Residential on [redacted] to discuss.

Yours sincerely,

[redacted]

John Carfi
Chief Executive Officer
Ingenia Communities Group

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