HEALTH, COMMUNITIES, DISABILITY SERVICES AND DOMESTIC AND FAMILY VIOLENCE PREVENTION COMMITTEE

Members present:

Mr AD Harper MP (Chair)
Mr MC Berkman MP
Mr MA Hunt MP
Mr MF McArdle MP
Mr BL O'Rourke MP
Ms JE Pease MP

Staff present:

Mr R Hansen (Committee Secretary)
Ms L Manderson (Assistant Committee Secretary)
Ms AM Groth (Assistant Committee Secretary)

PUBLIC BRIEFING—EXAMINATION OF THE HEALTH AND OTHER LEGISLATION AMENDMENT BILL 2018

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 24 JANUARY 2019

Brisbane

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The committee met at 1.42 pm.

CHAIR: I declare this public briefing of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee open. Today we will hear from Queensland Health. I welcome Dr Jeannette Young and Ms Tricia Matthias. Later we will hear from the Department of Housing and Public Works in relation to the Health and Other Legislation Amendment Bill 2018. I think you are well versed on the members of the committee. Thank you for being here this afternoon. We look forward to asking some questions on the bill, particularly in relation to issues raised around certain subsections of the Transplantation and Anatomy Act and medicinal cannabis.

YOUNG, Dr Jeannette, Chief Health Officer and Deputy Director-General, Prevention Division, Department of Health

MATTHIAS, Ms Tricia, Manager, Legislative Policy Unit, Department of Health

CHAIR: Would you like to make an opening statement, Dr Young?

Dr Young: Thank you very much for this opportunity to further brief the committee about the Health and Other Legislation Amendment Bill 2018 and to respond to a number of issues that have been raised in the submissions. I would like to address a number of issues that we have picked out from the amendments in the bill before I go to the questions that you have.

First, I will address medicinal cannabis. Several of the submissions to the committee sought additional reforms to the regulation of cannabis beyond those in the bill. These included, firstly, changes to the scheduling of medicinal cannabis products; secondly, allowing people to grow a limited supply of plants for medicinal use; and, thirdly, establishing a compassionate access scheme. Several submissions also argued for the decriminalisation of cannabis.

I would put to you that those are matters that are actually dealt with under other legislation, either at the Commonwealth level or under the state's criminal laws. Scheduling of drugs is set by the Commonwealth Therapeutic Goods Administration, so any changes to the scheduling of medicinal cannabis will need to occur at the Commonwealth level. Of course, it is important to remember that medicinal cannabis products in Australia must meet the standards set by the TGA for minimum quality requirements and microbiological standards. To ensure that safe prescription and dosage decisions are made by doctors, medicinal cannabis products must be consistent, contaminant free and of high quality. Any cannabis products that are not regulated under Queensland's medicines legislation will remain a dangerous drug in Queensland under the Drugs Misuse Act 1986 and the Drugs Misuse Regulation 1987, and that legislation of course is administered by the Attorney-General's portfolio.

Similarly, decriminalisation and compassionate access to cannabis are not part of this bill. The focus of the bill is to repeal the Queensland Public Health (Medicinal Cannabis) Act and regulate medicinal cannabis under exactly the same framework as other medicines in this state, that is, the Health (Drugs and Poisons) Regulation. These reforms will reduce duplication with the Commonwealth approval processes and streamline access for patients in Queensland.

Several submissions also raised concerns about the cost and availability of medicinal cannabis products. It is important to remember that many factors contribute to the cost of medicinal cannabis products. This includes production costs, wholesale and retail mark-ups and handling fees. The bill's focus is on simplifying the processes associated with the prescription of medicinal cannabis; it does not address those other issues.

One submission noted the current regulatory regime does not allow for repeat prescriptions of medicinal cannabis, which is true, and it causes delays and increases costs for patients. This will no longer be the case once the amendments take effect. As with other schedule 4 and schedule 8 medicines under the Health (Drugs and Poisons) Regulation, repeat prescriptions will be available.

I move on to the notifiable dust lung disease register. Many submissions to the committee express support for silicosis being included in the notifiable dust lung disease register and the draft health legislation amendment regulation that the minister tabled when introducing the bill includes silicosis as one of the conditions to be included on the register, so we have addressed those concerns.

The next issue I would like to go through is research involving children. I would like to clarify some of the issues raised about the amendments to the Transplantation and Anatomy Act regarding the taking of tissue for research and particularly how they apply to children. The submission from Health Consumers Queensland included comments from some of its members who had concerns about whether consent would be obtained and how the taking of tissue would operate. The amendments in the bill in no way weaken the existing requirements for consent. They do not affect the family's right to make decisions about the use of their child's tissue for research. The bill strengthens the regulatory framework by providing certainty about the requirements for the removal of tissue for its use in research.

Among other requirements, the bill will ensure that the research is approved by a human research ethics committee in accordance with the National Statement on Ethical Conduct in Human Research. The national statement is a detailed document that sets out, among other things, robust principles for how consent is to be given by participants. The guiding principle is that a person's decision to participate in research is to be voluntary and based on sufficient information and adequate understanding of both the proposed research and the implications of participation in it. Information must be presented in a way suitable to the age of the participant. Doctors are required to consult with patients in the clinical setting when tissue is proposed to be taken for research purposes and this consultation is tailored to each family's individual circumstances. The department considers this to be the most appropriate way to consult with families about any research being undertaken on their loved one's tissue.

In conclusion, thank you very much for the opportunity to address the committee on the issues that we have picked up by going through those submissions. Of course, I am happy to answer any questions.

CHAIR: Thank you very much, Dr Young. There are several moving parts to this particular bill. This morning we have heard from the Medicinal Cannabis Users Association, whose representatives raised issues about cost in other jurisdictions and Tasmania was used as an example. I am not familiar with that. If I recall correctly, one of the witnesses spoke about a scheme underway in Queensland Health to reduce costs for the supply of medicinal cannabis. Can you comment on that?

Dr Young: We have a number of systems in place at the moment, depending on different areas that we are working on. We have the Compassionate Access Scheme for children with intractable epilepsy. To date, 38 children are receiving access to a cannabis product for their epilepsy. That is at no cost to those families. That is a very specific program. Where clinical trials are happening, and we have a few of those through the state, as with any clinical trial there is no cost to the participant because it is research and it is funded. In terms of people who go and see their general practitioner or their specialist medical practitioner, if they are receiving scripts then they pay the full cost.

CHAIR: Do you know the cost associated with a script? Is it per dose? How do you put a dollar figure on that?

Dr Young: It is very specific to the individual. It depends on the dose. It depends on where they are sourcing it. At the moment, there is only one site in Australia that is growing and producing cannabis and they are only producing small amounts at this point in time. That is Western Australia. There are a number of wholesalers who are bringing in bulk importation of cannabis products, which reduces the cost. In Queensland, we have two groups that are reasonably well advanced along the process to getting approval from ourselves and the Commonwealth to start producing. We believe that should reduce some of those cost pressures.

CHAIR: I was going to say surely having local supply would impact on the cost. That is good. In relation to the Transplant and Anatomy Act, this morning witnesses from QUT talked about the process for the ministerial permits that are required for trade and a whole heap of other associated processes for each tissue being used for research. I thought it was common sense that they ask to try to streamline the process, rather than each time having the burden of getting a ministerial permit. Can you comment on that? Is there an ability to streamline the process?

Dr Young: The process for those institutions should be that, when they go and seek ethical approval for whatever it is that they wish to do, at that time they should put in a permit to the department for a ministerial approval, which is delegated to myself, to seek permission to do whatever it is that they want to do with that tissue. They would need to do it once for each time they are planning to put in place a research project. I think that is reasonable. They do a lot of work to go to human research ethics committees to seek ethical approval and then they need to come to us to seek approval to cost recover. It is only if they want to cost recover. If they do not wish to cost recover, they can just do that. Personally, I do not think there is a significant impost on them as researchers by doing that.

CHAIR: Thank you, Dr Young. I will open up to questions from fellow members.

Mr McARDLE: Dr Young, going back to the process of consent for cost recovery, what does the department do that is distinct from the national statement and the ethical body? Why is it important that you approve that? Wouldn't it be sufficient to use the national statement and the ethical process?

Dr Young: They do not look at the actual costs, whereas we look at whether the costs that they are putting forward are reasonable. That is the role of it. At the moment, the intent of the act as it is written is that there should not be trade in human tissue. It is the role of the department to ensure that that does not happen. It is not an onerous process, I assure you. It is quite a simple one. We have templates and we are always very happy to talk to people who want to put in for the permit. They do not need to do it multiple times. They need to do it once for each project. A project might last several years. I think it is a reasonable balance of making sure that we meet the intent behind the act, which is about limitation in trade of tissue.

Mr McARDLE: How long would it take for you to approve an application, generally speaking?

Dr Young: Usually those sorts of things take me 48 hours.

Mr McARDLE: It is a very small turnaround.

Dr Young: Yes.

Mr McARDLE: There is no impediment in that time line, I would have thought, to the processes that they are putting in place?

Dr Young: We would not duplicate the ethical considerations, so we say to people, 'Put in your application and we can make a rapid decision, and then let us know when you have the ethical response'. We would not duplicate looking at whether or not it was ethical. We are only looking at the cost recovery.

Mr McARDLE: If they say, 'Yes, we have it' and then they come back to you, 48 hours later they will have their documentation?

Dr Young: Yes.

Mr McARDLE: We import medicinal cannabis into Australia, as I understand it.

Dr Young: Yes.

Mr McARDLE: Under the old scheme there used to be a very long time lag involving going to Canada or somewhere else. Now what is the time between the approval process being finalised and accessing the medicinal cannabis in Australia?

Dr Young: It will very much depend on the product. The turnaround time for approval between the Commonwealth and the state is now, for the vast majority, 48 hours. It is done simultaneously. They get that approval from both the Commonwealth and the state. In terms of how long it takes to get the product, it really depends whether they are going to access a product that is warehoused in Queensland or whether they want to get the product from Western Australia, which is being grown locally there. Then it is just a matter of them organising the transport and working that through with the pharmacist.

Mr McARDLE: Who works that out? Is it the TGA or the doctor who prescribes?

Dr Young: It will be the pharmacist, so it is going to the pharmacist with the script.

Mr McARDLE: That could take one day, it could take one week, it could take whatever?

Dr Young: It really depends on the product they have asked for and whether that pharmacist has an easy way of getting it or whether it is a different product. I have seen a few approvals come to me because the product that they had originally prescribed is no longer being produced, so they want a new product. There are those sorts of things.

Mr McARDLE: Would you say there has been a significant reduction between what it is at the moment and what it will be if the act becomes enforced with the amendments?

Dr Young: I do not think there will be a significant reduction. I think the reduction will be when Australia itself is producing more product. I do not think this change to the act will significantly reduce, because at the moment the turnaround time for approving is 48 hours. That will not happen for most people under these changes, but they still will need to get Commonwealth approval, which will still take 48 hours. I do not think these changes will significantly improve the turnaround time.

Mr HUNT: I was under the impression that there is a facility in my electorate at Yandina that is producing cannabis products.

Dr Young: No-one is yet. Two have applied or are on the way to applying. No-one in Queensland is currently producing cannabis products.

Mr O'ROURKE: I want to return to the associated costs and approvals in relation to the trading of tissue. There is ministerial approval around those costs, but to me it seems like it would probably be a fairly standard tick and flick, 'yes, it's approved.' I do not quite see the value in having ministerial approval around that cost. Could you elaborate a bit more on that, please?

Dr Young: There are a lot of reasons why someone has costs when they are doing research, what costs they want to recover and whom they want to recover them from. It is very important given the essential intent behind the act, which is that in Queensland we do not allow trade in human tissue. We need to have strong oversight for people to go and start charging to do things. For instance, when we transplant kidneys or hearts there is no cost passed on to the patient. It is all done in the public sector. Here we are moving away from the intent, there being no cost, and saying that you can recover costs but they have to be reasonable. There needs to be some oversight about what is reasonable, otherwise you are just opening that up. Yes, I am sure that most people will do the right thing, but I think it would be difficult to work that through without having a process to do it. It is not an onerous process and we do not get a lot, so I think it is a reasonable thing to require.

CHAIR: Given the number of heart and lung transplants, that is a very good point. There would be significant costs associated with organ retrieval—and this is only a comment—but Queensland should be very proud that there is no cost to the patient. That is a very well-articulated point.

Mr BERKMAN: You may have earlier heard my very clumsy question for the RCPA around concerns they expressed about whether the exemption from the prohibition on trading will extend to all quality assurance materials. Based on the very capable work of the secretariat, I quoted to them the department's position that processing does include packaging to enable distribution and examination. Can you confirm for us that that is the case? Given that in the RCPA's response they did not feel it was clear on the face of the legislation, how might the department go about clarifying that for them?

Dr Young: To me it is very clear that processing, if you just take that word, means doing something to the tissue: you have had to take it from somewhere; you have had to take it from a patient; you have then had to store it some way; you have had to package it—you have definitely handled it. I do not see that there is an issue, but of course now that I have been made aware they think it is an issue I will talk to them and explain that, just the fact they have taken the tissue from somewhere and they are sending it to somewhere, that is processing.

Mr BERKMAN: That is something that could very easily be clarified in the second reading speech.

Mr McARDLE: With regard to the Transplantation Act, QUT spoke about the definition of what constitutes human tissue, and the Queensland legislation was different to the national statement. They suggested that the derivatives be included to achieve harmonisation. Do you have a comment to make about that?

Dr Young: I completely agree. The health minister has taken that to his colleagues to get a review at a national level. That act, as all of the transplantation and anatomy acts around the country, is very old. It is really time for another review to be done by the Commonwealth Attorneys-General to look at a new model act and some harmonisation. Yes, that is a very sensible issue.

CHAIR: Thank you very much, Doctor; we appreciate your time and responses to the issues raised by submitters. It is very valuable for the committee to hear from you directly.

POLLARD, Ms Lisa, Manager, Legislation and Reform, Department of Housing and Public Works

SAMMON, Mr Damian, Director, Strategy, Policy and Programs, Housing, Homelessness and Sport, Department of Housing and Public Works

WALL, Mr Mark, General Manager, Strategy, Policy and Programs, Housing, Homelessness and Sport, Department of Housing and Public Works

CHAIR: Thank you all for being here. I am not sure if you were in the chamber earlier when we had a significant audience from the various retirement villages, the Property Council of Australia and the Caxton Legal Service. They all raised some relatively good points in terms of the issues raised around freehold. If you heard my summary, everyone agreed that the leasehold side of things is accepted as good policy intent moving forward, but freehold still held some issues. Mrs Lynette Shorthouse raised a good point around if a husband and wife are living in a freehold retirement housing complex and one becomes ill. We are the health committee. This is not our area of expertise, but we are looking at the aged care sector at the moment in concert with the royal commission. It has become apparent there is a significant burden placed on people, whether they are in a retirement village or not, to gain access. There are bonds and certain moneys transferred to access aged-care facilities. I wonder if you could respond to some of the issues that were raised, perhaps make an opening statement and then we will move to questions.

Mr Wall: Thank you for the opportunity to have some more conversation on this matter. Again we are here to assist the committee to consider the bill as it relates to retirement villages. In November 2017 the Retirement Villages Act was amended to require that, where a unit remains unsold, the former resident must get their exit entitlement—the money left over after the operator's exit fee is paid—no later than 18 months after they permanently leave the village. Operators may apply to QCAT for an extension of time where making this payment could be a financial hardship. I think that is something we should continue to consider as an option. Previously, former residents usually received their exit entitlement once the unit was sold, and this could take a long time—we have heard that in some of the conversations today—and result in significant hardships for former residents, particularly those who required funds for health reasons, in relation to finding other accommodation or to continue in that transition of life as they move through different forms of care. The 2017 amendments improved consumer protection in relation to retirement villages by providing certainty on the maximum length of time before receiving these funds. The amendments in this bill will clarify the situation in that these reforms also apply to owners of freehold retirement village units as well as residents with lease and licence tenure.

We have provided a response to the committee. You have seen the responses that have come through people. We will not go back through that. We are here to have a conversation, but I think what came from people today—and one of the reasons why this is so important—is that people need certainty as they transition through life. We have all been around and started off just renting, as you know, and then bought a home, sold that, and now we are moving to other arrangements. Some of these decisions were made 10, 15 or 20 years ago. There is still an opportunity to sell your property so that you can move to the next stage, where you probably have less ability to deal with the stress of it all and need some certainty, not just for leasehold residents but also people who decide to buy freehold. That is why from the conversations today clarity is required around the legislation to give certainty so that people understand where they are going to be as they move forward.

CHAIR: Some of the observations I made were around the contractual obligations of residents within a retirement village, some being associations. Aveo is a very good example of that. Do you have any commentary with regard to the differing complicated arrangements that affect people in these freehold or leasehold retirement villages per se?

Mr Sammon: This bill seeks to provide a base level of protection. With the housing legislation amendment act that went through last year, we have already seen that those provisions clearly apply to leasehold licence tenure arrangements. It has been revealed that they do not apply to freehold residence arrangements. This bill seeks to provide an equal level of protection. The committee heard from witnesses earlier today that there are some villages where they have a variety of tenures, so even within the same village environment this creates a different set of protections depending on the tenure arrangements that you have.

A person with a lease or a licence tenure over their village unit can expect that they will get the return of their capital through the payment of their exit entitlement 18 months after they vacate the premises, but as things currently stand with the way that that legislation is worded if you have the

freehold title to the unit and the unit is unsold for 18 months, then you will not receive that exit entitlement. If it has not sold for 24 months you will not receive that exit entitlement et cetera. The witnesses who appeared before the committee today outlined a variety of scenarios where that could create a sense of inequity within a village itself. This bill seeks to address that by providing that equal level of protection to all residents of retirement villages notwithstanding the tenure arrangements that they do have.

Mr Wall: The potential level of inequity where properties are sold first and by when and whatever because there may be leasehold, freehold or other tenures in those arrangements, if you are a single residence you are unsure about where you sit in that arrangement depending on what your tenure is, and that is not the intention of where we want to be at.

CHAIR: I think that explains it well. Thank you very much.

Mr HUNT: This morning we heard from a group from Pebble Beach. It is a self-managed village. They are not a big company and they are essentially taking on the liability of the resale of properties within the area they manage. On the sale of a property to somebody entering into that scheme, has the department considered any sort of requirement by them to disclose the liability they may be taking on by buying into a self-managed retirement village insofar as, if somebody else wants to sell theirs, then they might be liable amongst the others for the sale of that property?

Mr Sammon: In response to that, the committee also heard from some witnesses earlier today about the standard contracts that are being developed by the industry as a way of responding to some of the contractual issues that have arisen over time. There was also some discussion about the Retirement Villages Act. Mr Lyons mentioned there is a second stage of reforms to be implemented to deal with standard contract terms and potentially prohibited contract terms.

Where a freehold village is owned by the residents themselves, that could certainly provide an opportunity to have some sort of explanation in a contract about how those issues could be addressed and to make it clear for potential residents that the village they are buying into is owned and operated by other residents, and therefore there are certain other issues that they need to be aware of in terms of the saleability of the units and the other obligations and the relationship with the operator, essentially being themselves.

Ms Pollard: Commencing on 1 February are some new precontractual disclosure requirements. What we have now is a public information document, a PID, which can be a hundred pages long, which forms part of the contract. It serves multiple purposes but it does not at the moment provide an awful lot of clear information for people wanting to move in. From 1 February we are moving to new shorter, clearer precontractual documents which will include things like financial costs—when you would get your money; what sorts of costs you would have, including body corporate type costs for a freehold village; and any costs of the actual village. That should also help with any incoming residents to be clear up-front before they sign anything or before they even get the contract. It would be more clearly identified than perhaps it is now.

CHAIR: I think it is important for the committee to consider in its recommendations that we do get good clarity around those contractual arrangements so that people are not trapped—that it is transparent and they know what is happening in these particular situations with the operators.

Mr O'ROURKE: You have already touched on this partly in regard to having prescribed contracts under the Retirement Villages Act. Can they be enforced across-the-board or would a retirement village be able to say, 'Thanks very much but no thanks'?

Mr Sammon: The parties would be bound by the contractual obligations. If there is a mandatory requirement to have a certain term in a contract then that must be included in the contract by force of the law. Therefore, it would give parties rights and obligations under that contract and they can be enforceable in the ordinary way.

Mr O'ROURKE: It was interesting listening to the residents from Pebble Beach Retirement Village and The Domain and to hear the different thoughts around the freehold components—in particular, not being able to reside in the property while it was on the market. Robin Lyons from MinterEllison was saying that the sale of a property when it is vacant attracts more dollars. Would you agree with that comment?

Mr Wall: We have all been involved in markets—buying and selling. People buy and sell properties every day while at the same time living in them. The market will be involved. Someone may have just upgraded their property and put it on the market and someone may have their property on the market without it being upgraded. In those cases a valuation would be provided which would probably show the difference between a brand-new upgraded property and one that may not have

had that work done. It is one of those things—ifs and coulds. As was said by some of the witnesses, most people want to sell their property fairly quickly to move on. This group of people would be wanting to move on a lot quicker than others because of the fact that they need to in order to transition. It is about providers and residents working together. You may not need 18 months to do your business if you are looking at an appropriate sale.

Mr O'ROURKE: What consultation process will there be for that prescribed contract work around the sale of property et cetera? How do you intend to engage with people in Queensland around that?

Mr Sammon: Sorry, what sort of consultation process will be undertaken around the development of the standard contract terms?

Mr O'ROURKE: Yes, that is right.

Mr Sammon: That is to be determined. The stage 1 process has just been concluded at the moment. The department is currently doing some work on developing its approach to stage 2 to make recommendations to the minister about that. The consultation process would likely involve the Ministerial Housing Council. There is also a consultative group that has been established to support the implementation of the housing legislation amendment act that was passed in 2017. That group would be used to consult with about these ideas and about these matters going forward.

Ms Pollard: The Property Council is on that group, so they are part of the group. Just to clarify, for contracts that we could have for the mandatory buyback, if we wanted a standard form contract or to require certain terms or prohibit certain terms, we would need to do that in a regulation. At the moment the department does not have plans to do that. It is not intended that we will have a standard form contract for the mandatory buyback commencing at the same time as this. It is more monitor the market and see what is happening and in due course if we need to make a standard form contract for the mandatory buyback we can do that.

Mr BERKMAN: There was a bunch of related concerns from the PCA around the perceived risk that freehold owners might not cooperate or somehow be obstructive in the sale process in that 18-month window. The response from Caxton I thought was intuitively sensible—that they have an interest in selling and getting out of there and moving on. Has the department in its consultation seen any evidence to bear out that concern—that scheme operators might be left in the lurch and be unable to move towards sale within the 18-month period?

Mr Sammon: I cannot critique the observations that were made by the Property Council or by Caxton. They are made on their own merits of course. I agree with Mr Wall when he makes the point that in a well-functioning market both the operators and the residents will be doing their best to sell a property. It can be difficult to imagine that a former resident or their estate might be wanting to sit on their hands and not see that sale go through. Generally the sorts of complaints we get at the department are about the desire of the resident or the former resident or their estate to see the property sold but it not being sold. I cannot say that that is the universal situation, but it is certainly the situation that is brought to our attention more than any other.

Mr BERKMAN: That is very helpful. To ensure that I am on the same page, the inverse problem seems to be what the department sees more often—not so much that the freehold owners are interrupting the sale process but that they are not able to get it done as quickly as they might like more often than not.

Mr Sammon: That is right. There are some matters in the bill that seek to address that too in terms of the buyback requirements. In terms of the sale process, the seller of the property cannot frustrate the sale. If they fail to take an action that is reasonably necessary to facilitate the sale then that effectively stops the time running for the operator to sell within that 18-month period. That is the point.

Ms Pollard: As Damian said, if the resident or their personal representative neglected to secure the release of a mortgage, for example, or absolutely refuse to sign documents despite repeated requests or refuse to sign a buyback contract—for whatever reason I cannot imagine—then the operator will be deemed, if the bill goes through, to have a reasonable excuse for not completing the contract. In that instance, the operator would not be subject to compliance action as long as they had made reasonable attempts to try to secure the contract and deliver it.

Mr McARDLE: As I understand the dynamics, the Property Council says it never applied nor intended to apply to freehold. Caxton says it was always required to apply to freehold. Therefore, we have a major dichotomy between two major players in regard to the bill back in 2017—now the act.

As I understand it, the number of freehold titles in villages is not the largest number of titles in villages, but it is significant because it impacts upon people who have outlaid a lot of money. I am concerned that we now have to deal with this matter.

How did this come about? With all of the processes that take place within a department—there is not just one draft done and then it is whacked up to cabinet. It goes through a very detailed process. It goes to consultation. The minister then signs off on a cabinet submission form. It then goes to cabinet. It is reviewed by cabinet and then approved. What was the problem in that process? I am not trying to nitpick. I want to understand this because we have Pebble Beach who are very unhappy and we also have the DRA, as they are called, equally unhappy. What did not quite gel along the way?

Mr Sammon: I think what the committee has heard this afternoon is that different stakeholders have had different understandings about what that legislation was going to do. When the matter was being developed, initially there was a regulatory impact statement done that identified a number of issues in the retirement village industry. One of them was the problem of unsold units. However, from recollection that regulatory impact statement process did not disaggregate that into the various different lease and licence and tenure types. There are a great many number of tenure types. Even within those tenure types you have contractual arrangements that are built around those and you have a variety of contractual arrangements built around those again. We have heard from the residents from The Domain that there are a large number of different contractual arrangements that residents might have in that village.

The way that the legislation was developed sought to address the problem of people moving out of retirement villages and not being able to get the return of their exit entitlement after a significant period of time. The legislation was developed in response to that. It was brought before the House. That is a matter of public record. It was not apparent to the department until earlier this year that certain stakeholders formed the view that the way the legislation was drafted did not cover the situation where the tenure hold over a unit was a freehold tenure type. That situation was, I understand, revealed to the representatives of the Retirement Villages Residents Association. Their take on it was one of surprise. They thought that it did. Then you have heard before you this afternoon a playing out of how different stakeholder groups thought the legislation has worked.

The position that is taken in the bill is to very clearly and expressly deal with freehold residents and to ensure that the 18-month obligation to return the residents' exit entitlement, or to buy back the unit in the case of freehold, will be included in the Retirement Villages Act.

Mr McARDLE: Mr Sammon, you have repeated my question perfectly, but I still do not understand why it was missed. Why was an exit entitlement deemed to cover freehold when now we find that it does not cover freehold and we are amending the act? Why was that missed?

Mr Sammon: I cannot say other than to say that it was understood that it would cover all retirement village tenure types, but it was made clear to the department after that legislation was passed that it did not cover freehold units.

Mr McARDLE: How many drafts were prepared of the bill?

Mr Sammon: There are multiple drafts that are prepared by Parliamentary Counsel.

Mr McARDLE: Ten?

Mr Sammon: A consultation draft was prepared and released.

Mr McARDLE: Before then, 10 or 15 drafts were done?

Mr Sammon: I could not tell you.

Mr McARDLE: The minister signed off on it to go to cabinet?

Mr Sammon: I cannot talk about those government processes.

CHAIR: That is possibly stepping a little outside, Deputy Chair. During the consultation draft period, was the freehold issue raised then about the tenure of freehold? It was not raised. Stakeholder groups would have been engaged regardless of the different tenures. It was not raised by them then. You have actually answered one of my questions about whether a RIS was done: it was.

Mr Sammon: That is right.

Mr McARDLE: But the RIS did not pick up the issue we are dealing with today, did it?

Mr Sammon: It did not pick up the distinction between freehold and lease and licence tenure holders.

Mr McARDLE: Correct. Did you raise the issue of freehold in the consultation and did you indicate that it would apply?

Mr Sammon: I cannot recall doing that.

CHAIR: Thank you very much. It is obviously a complex area, but you have articulated the intent of the bill and the amendment before us. We thank you very much for your time this afternoon. There being no other questions from members, I declare this public briefing closed.

The committee adjourned at 2.30 pm.