



Speech by

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MEMBER FOR GAVEN

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MANUFACTURED HOMES (RESIDENTIAL PARKS) AMENDMENT BILL

Dr DOUGLAS (Gaven—LNP) (6.06 pm): There is not always a long journey between choice in housing and getting any shelter that one can. Having a home or being homeless after good or bad health is probably the most powerful of all human needs. This bill has a basic aim of delivering some certainty to a critical group of Queenslanders—those defined as living in manufactured homes. A manufactured home is defined as the end result option, that being where the owner rents the site of a manufactured home, owned not by the residential park owner, and owns the home, according to the minister in his second reading speech.

But what if the owner rents the site from a residential park owner and the residential park owner owns the manufactured home too, as is often the case on the Gold Coast, and critically where the previous owners of that manufactured home did not live in that structure for the three years immediately prior to the commencement of these amendments? All these points are critical not because the bill and the minister's department have not tried to address the complete issue of definitions but because the bill may not resolve many of the problems facing the homeowners of certain manufactured homes.

For the majority, some of their issues are addressed, but they as a group remain an unhappy lot. After defining manufactured homes, the minister has also taken a big focus on the clarification of what a caravan is when a caravan is not a caravan and when it either becomes a manufactured home or close enough to becoming a manufactured home and when a caravan becomes an entity covered under the Manufactured Homes (Residential Parks) Act 2010 and also when it remains under the RTRA, the Residential Tenancies and Rooming Accommodation Act. It is all pretty confusing.

There is an attempt within the bill to clarify this. I actually think the minister has attempted to work his way through this, as the shadow minister said. There is really some quite interesting detail here that has reached a crescendo in the case of *Tamahori v Roofley Pty Ltd* 2009. It followed on the review of the Manufactured Homes (Residential Parks) Act 2003 outcome report.

It must be said that the current undecided court cases will be heard as though the amendments had not been made, but converted caravans would not be covered under this act. A site agreement can be made between the park owner and the caravan owner under the provisions of the act. Respectfully it might be said that we have at best a two-stream system of judicial fairness and at worst a contradiction of the facts that may lead to a severe judicial and legislated unfairness. This occurs because there are very tight definitions regarding the quantum of modifications to a caravan that define it as a manufactured home but it is loose with the definition about what is and what is not transportable. Realistically in a modern world, nearly anything is transportable. What generally limits that transportability is cost. Everything else is essentially flexible, but if the budget will not allow it and nor is it economically practicable then that alone would seem to be the key ingredient to determine whether a home is transportable or not.

I suspect transportability will be tested in courts. The most likely determining factor will be those seeking access to Commonwealth benefits in planning terms to both rental allowances on their homes and whether they have been accepted for those benefits. This benefit may be making a lot of these types of housing developments popular, especially for retiring or the retired population. What some members may

not be aware of is that the benefits flow after the property meets the test of the non-freehold or rented land, and that includes nonleased and the dwelling on it theoretically being transportable. In reality, these homes are not really very transportable at all. In a modern world they have less in common with the old Logan unit or kit home and more in common with modern non-brick veneer on concrete floor base-to-ground structures. The closest parallel is the donga—the detachable on-site general purpose annexe. This is either that loved or loathed dwelling now ensconced in Australian folklore.

Is this relevant? It certainly is, for this is where the bill will certainly lead many of the existing residents of residential parks or enclaves which are essentially the same. In an era where there is a rapidly ageing population who are seeking less complication in their lives, downsizing of their homes and financial obligations, these manufactured homes will be a very sizeable part of the housing equation in absolute terms as a proportion of these dwellings. It may be that all of the changes are coming too late for many and will not be all embracing enough for the great numbers who in the next 10 years will find themselves either in a residential park or considering buying or renting a manufactured home in a park or an equivalent of it.

Australia has a housing shortage of 300,000 homes or \$100 billion worth of homes. This shortage of 300,000 homes in Australia has an enormous immediate knock-on effect in our community. It is particularly compounded in the growing communities in South-East Queensland. The shortage is not generalised. It is very lopsided and is amplified by economic, social and physical demands. In an economy where mining is booming, we are being pulled between housing shortages in mining or near-mining towns where there is fly-in and fly-out staff and there is a disconnect between demand and supply. Older Australians are also reticent to move because of divorce in their children and themselves, children staying at home longer, loss of social supports because of moving and an equity problem in their savings. Australians, whilst enjoying a high percentage of homeownership, which is still at the 70 per cent mark, have declining home equity and rising mortgages, with an average home mortgage on the Gold Coast of \$400,000. This is driving homeowners to look at manufactured homes as a serious option because of the attractive Commonwealth effective subsidies and a liberation of locked up equity found in their retirement options.

For those nonowners it gives an affordable option that ensures for many the security of a home free from everything from rates to under 50-year rental families whose lives may not necessarily be acceptable to an older group. This pursuit of a later life of security, not wishing to live near rental properties, being close to those with similar aspirational goals and a flexibility of selling options is very common to many of these. In my electorate of Gaven there are three very large such premises that address the three major market sectors. The public likes it and it wants more of it. The tragedy of this bill is that by limiting incentives to park owners we may see little future investment in these areas. The minister has correctly stated that the bill—

... proposes important amendments to strengthen provisions of the act that protect the interests of manufactured homeowners.

He goes on to say—

After having moved into a park, the opportunity for a homeowner to change providers and get a better deal for themselves is very limited.

For most a home is a personal choice subject to many conflicts, much happiness and sanctuary. It follows that when a resident either feels powerless or is threatened by loss of control over their own home they might choose security over both convenience and cost savings. The minister is reassuring owners that the bill—

... strengthens provisions of the act ... from engaging in threatening, intimidating or coercive conduct regarding site rent issues.

He adds—

... the act limits the grounds on which site agreements may be terminated and provides for compensation to be payable to homeowners in certain circumstances.

Specifically, it might be said that there are some very good examples where both park owners and residents, local governments and state government have got it right for manufactured home owners and some where they have not. I want to raise some of these. Land resumptions for specific purposes over and above that of the needs of the residential park owners is a significant issue. It may be that in some ways park owners may become the poor cousins in comparison to the residents, the adjoining urban residents and governments—mainly local government. We must be careful not to make these parks economically unsustainable because not only will that impede greater investment by future developers and investors—that is, superannuation funds primarily, and there have been some recent failures—but seriously affect those residents whose dwellings are within the confines of the park. The minister correctly highlighted this in his second reading speech when he said—

... by substantially limiting the grounds on which a park owner may seek an increase in rent outside the terms of a site agreement.

He then says—

A 'market review' of site rent will not be permitted unless it is specifically provided for in the site agreement.

This reflects the very legitimate concerns of all those living or wishing to live in manufactured homes who live on fixed incomes, self-funded superannuation and have a very tight budget. The certainty of knowing their probable on-costs is critical to ensuring their personal security.

Several years ago at Riverside on the Gold Coast, which is within my electorate, homes were resumed for the construction of a major critical bridge expansion. Some owners and the park owner were dealt with very harshly. The learning curve out of that appears to have not made it into this bill. In fact, the same situation seems to have occurred and has been massaged in terms that were weighted by politics and not in reality. It is stated that the bill—

... specifically prohibits the establishment of fixed-term site agreements between homeowners and park owners.

The minister has defended the decision by stating—

They disadvantage homeowners by excluding their entitlement to compensation if the park owner decides to end the homeowner's right to reside in the park because the park owner wishes to use their land for another purpose.

This is the argument between certainty of tenure, leasehold versus freehold title and fairness to all. It would seem to be lacking in sense to limit a property's ability to be made more relevant to community need over time by restricting the freehold property owner to how the property can be used. This seems consistent with Labor's current addiction to the idea of defeating market economics by land locking property through introducing legislation such as the wild rivers legislation that effectively forever restricts economic return from freehold property. The market historically will usually get the best result. In the case of a property where the manufactured home might be sited, if a site agreement was in place and had a 30-year time frame that property would sell or would rent for a much lower price towards the end of the agreement and it may well significantly decline in the last five years of the agreement. This then both facilitates cheaper, more affordable and relevant housing, greater site utilisation, greater capacity for urban renewal and certainty for all.

Honourable members, these issues are very real and we must be responsible and look to the future here. Many of these residential parks are critically located close to major transport routes, retail properties, rivers, beaches and central city locations. To permanently lock up such large parcels at the whim of very small individual residential renters will give a terrible long-term potential for trouble, not to mention dreadful planning outcomes for local governments and for the state as a whole. The Footscray situation in Melbourne, which has been subsequently corrected, and then the Olympic village in Melbourne and then the issue of Modbury in Adelaide are testaments to these types of disasters—certainly on broader terms, but they can be examined in their own way.

I am all for the protection of vulnerable consumers, but we should pass legislation that has been clearly thought through. I do not think this legislation has been clearly thought through. There are significant alternatives. In manufactured home parks, owners have concerns that extend from concern about park owners finishing off the parks to the letter of their stated intention as to whether or not there would be a body corporate to provide maintenance, to the appointment of staff, who is allowed in, who is not allowed in and how their homes will look externally. In general, most want the village to conform to that which they signed on to and resent when the exemptions occur.

On the Gold Coast, the trend in these areas is for non-body corporate structures, because the parks have singleton owners with residential homeowners and renters in some. Strangely, this bill does not change the most difficult part of the issue, which means that compensation takes the form of an assumed cost of removal to another site. The failure of this legislation is that currently there is not one relocation site in Queensland and it looks like there will never be one. Therefore, owners have nowhere to move to after compensation and removal costs are taken into account and in most cases they will have to abandon their homes. With no housing, they then may have to seek public housing.

Historically, residential park owners have been either building or moving homes on to available sites and either selling or renting them where the rules—that is, the agreements—may allow. By baulking at one of the most critical areas, the minister via this bill totally imperils a small group who may have legitimate reasons for grievance. The department compounds their tragedy by effectively rendering them homeless under the guise of a very modern view—and I think it is a very loose view—of transportability, which is where I started in my speech tonight.

I cannot accept that in one part of the bill the minister's view of transportability is very low, but when it all gets too hard for a resident the minister's view of transportability is very high. To me, that implies that the bill will be tested in court and the issue of transportability will enable manufactured home owners to demand far greater compensation than anyone ever previously conceived. The flaw is critical. It demands immediate amendment. The drafting intention was to leave well alone, but this bill consigns residents threatened with eviction to a different class of resident as soon as they are deemed to be eviction-potential candidates. That lower class of resident means that these people are not just treated differently but also may not be fairly compensated for their loss because, in reality, the ease of transporting their home is low and there is nowhere else to go.

The sensible option is resumption at market cost of a dwelling, with reasonable expenses and with right of judicial review. This recognises that this is housing that allows residential park management to manage their properties according to the expectations of the community. This is rightfully what they expect of a freehold property owner. There are plenty of examples of significant similar issues attached to these dwellings. If the department had truly committed itself to transparency, public submissions and consultation, most of these issues would have been addressed. A one-sided approach tends to yield not just an imperfect result but often an unworkable one.

As I said, I have some issues with regard to people who live in my electorate in Gaven, in particular the Riverside Home Park. Ninety-five per cent of those at the Riverside Home Park are pensioners. Although they do indeed pay for their own water and pay council rates, they are not able to claim the annual pensioners water rebate. That is because they lease the land on a perpetual lease rather than own it. Currently, under the government's scheme, pensioners must be legally responsible for paying council rates. However, it seems unfair that these residents, who pay their own bills and who pay their fair and proportionate share of council rates, who own their own homes and who hold a pensioner concession card, are not entitled to the government's rebate because they choose to live in a manufactured home park. Equally, currently these people are paying surcharges on their water charges, on top of what are soaring water bills. The situation is intolerable.

When looking at the bill as the sum of all parts, the critical piece of legislation that is of most concern is the one that the minister is keen to assure homeowners of, and that is the issue of denial of the establishment of fixed-term site agreements between owners of residential home parks and homeowners. The minister highlighted the problems occurring in the absence of perpetuity agreements—those being denial of compensation if the park owner 'decides to end the homeowner's right to reside in the park because the park owner wishes to use their land for another purpose' and it is against the policy intention of the legislation. What has resulted in practical terms is that, in the Gold Coast environment, manufactured home park owners will buy manufactured homes, which is occurring, and shut them up empty. Also, the park owners are spending very little in capital improvements on their properties. This is very disturbing. If the trends continue, homeowners will be living in near-dead zones with limited lawnmowing and the rubbish emptied, but beyond that not much will be spent on capital expenditure. I think the minister has consigned some people in manufactured home parks to live in empty communities, in derelict, bland blocks of decaying streets. These homeowners were wanting something different. They wanted some identity and they are sorely challenged. The perpetuity that all sought is the very thing that may kill the goose that laid the golden egg.

The bill ensures that a record of new manufactured home parks needs to be kept. What the bill should do in view of the problem—which in part is created by the bill—is compile a complete list of homes in parks as well as what happens to them and that list needs to be published annually. With regard to those changes to the bill that relate to caravans, it is very complex. I accept what has been discussed here today with regard to the difficulties of determining that issue of caravans.

In summary, I think the legislation will be a plus for existing residents and a net negative for future developments. This is a very poor result, on reflection, for many who are soon to retire or who are seeking housing or residential alternatives in these residential manufactured home parks. The bill reflects lopsided consultation with the manufactured home and park owners. The drive appears to be have been ideologically oriented. This bill is the mistaken path of reconciling what is the balance of all situations.