




Speech By
Hon. Leeanne Enoch

MEMBER FOR ALGESTER

Record of Proceedings, 16 March 2023

HOUSING LEGISLATION AMENDMENT BILL

Second Reading

 **Hon. LM ENOCH** (Algester—ALP) (Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts) (5.38 pm): I move—

That the bill be now read a second time.

I thank the Community Support and Services Committee for its report tabled on 16 December 2022 regarding the Housing Legislation Amendment Bill 2022. I also offer my thanks to those who made submissions to the committee and those who appeared as witnesses as part of the committee's inquiry. Today I am pleased to table the government's response to the committee's report.

Tabled paper: Community Support and Services Committee: Report No. 24, 57th Parliament—Housing Legislation Amendment Bill 2022, government response [323](#).

The Housing Legislation Amendment Bill 2022 supports the Palaszczuk government's commitment to ensure vulnerable Queenslanders have access to safe and secure housing. In September last year the Premier convened a housing summit bringing together key government and non-government stakeholders to tackle one of the biggest challenges facing our state, as it is right across Australia. The summit resulted in a number of significant outcomes, including a \$1 billion boost in funding for the Housing Investment Fund—now a \$2 billion fund and the first of its kind in Queensland—and a \$5 million boost to the Immediate Housing Response Package, bringing the total investment to \$26 million, to support households in need of immediate assistance.

In addition, the government committed to provide \$500,000 seed funding to Homes for Homes, an independent, not-for-profit social enterprise established by the *Big Issue* street magazine. It generates private sector funds to invest in social and affordable housing projects by securing voluntary donations from landowners, including property developers, upon sale of a participating property. This bill will amend the Housing Act 2003 and the Housing Regulation 2015 to enable the Homes for Homes donation deed model to operate in Queensland. This initiative will increase private sector investment to help boost the supply of social and affordable housing in our state. These amendments are another step towards addressing the extraordinary market conditions we are facing nationwide which are causing unprecedented pressures on the housing market.

Under the Homes for Homes model, landowners and property developers can voluntarily enter into a donation deed to make a tax deductible donation, generally 0.1 per cent of the sale price of their property, at the time of sale. In other jurisdictions Homes for Homes uses a caveat on the land title of a participating property to remind selling property owners to make the voluntary donation under the donation deed. Queensland's land titling law does not support the use of caveats in this way. However, a similar outcome can be achieved through use of an administrative advice.

The bill inserts a new division into the Housing Act to allow a non-profit organisation prescribed under the regulation, in this case Homes for Homes Ltd, to require the Registrar of Titles to record an administrative advice noting the existence of a charitable donation deed on a land title's record. A charitable donation deed is defined in the bill as a deed entered into by a non-profit organisation and the registered owner of a lot under which the owner agrees to a donation from the proceeds of the sale of a lot and the non-profit organisation agrees to use the proceeds to provide or to assist an entity to provide a social housing service or to otherwise increase the supply of social and affordable housing in Queensland.

This definition ensures that funds raised by Homes for Homes Ltd in Queensland stay in Queensland. The administrative advice notifies people dealing with the land that the owner is party to a donation deed and provides a reminder of the donation to the landowner when the land is sold. If they wish, the buyer can leave the home in the initiative and enter into their own donation agreement with Homes for Homes. The administrative advice does not create any obligations on a property owner and does not prevent a person from registering an interest in the lot, exercising their rights under a registered interest or releasing or surrendering a registered interest. An administrative advice can be removed at any time by request of either party to the charitable donation deed. These changes will enable Homes for Homes to operate in Queensland as it does in other jurisdictions.

This bill also progresses important reforms to the Retirement Villages Act 1999 to increase the transparency, accountability and consistency of financial reporting in retirement villages. These reforms and subsequent amendments to the Retirement Villages Regulation 2018 will deliver on the government's commitment in the Queensland Housing and Homelessness Action Plan 2021-2025 to finalise implementation of retirement village reforms to village financial statements. Importantly, the bill inserts a new object into the Retirement Villages Act to strengthen its purpose and maintain public confidence in Queensland's retirement village industry by enhancing financial transparency and accountability. To achieve this objective the bill introduces new consumer protections and clarifies and strengthens existing provisions in the act on financial reporting. These commence on assent. It also creates a new regulation-making power for the form and content of prescribed financial documents; namely, village budgets for funds for general services, maintenance and capital replacement, quarterly and annual financial statements, audit reports and quantity surveyor reports. An amendment regulation will be made after passage of the bill, following consultation with key stakeholders. The bill increases access to draft budgets and quantity surveyor reports for all residents of a village and will apply from 2023-24 financial year budgets and corresponding quantity surveyor reports used to prepare the capital replacement and maintenance reserve fund budgets.

This significantly increases the transparency of village operations and facilitates the participation of residents and the residents committee in the budget process and affairs of the village in line with the objects of the act. The bill provides for quantity surveyor reports to be given to the department annually and go on the public register. It also clarifies that the audit report must be included with the annual financial statements given to residents and the department and the public register.

The bill also clarifies the operation of the capital replacement fund as intended under the act which is to protect residents' interests in this village trust fund for capital replacement over the long term. It will strengthen and ensure compliance across all operators concerning their obligations to have regard to the quantity surveyor report when preparing the capital replacement fund budget, fix a reasonable amount for the capital replacement fund contribution for the financial year and accumulate an appropriate proportionate share of amounts for anticipated major expenditure over the next nine years and pay that contribution into the capital replacement fund each financial year from the operator's own money. The bill clarifies that the operator must carry forward any surplus or deficit into next year's budget and take this into account before fixing the total general services charge.

The bill also provides for the chief executive to make and publish guidelines to assist persons to comply with the act and includes a definition for quantity surveyor. Several new and amended penalty provisions will ensure a consistent and proportionate approach to offences for operator noncompliance which will include complying with the regulation for financial documents when it comes into force.

The proposed amendment regulation may include new financial requirements, such as those exemplified in the bill about accounting standards and principles, the presentation and types of information in budgets and financial statements, shared expenses with other entities and disclosure notes to increase transparency about how resident charges and operator contributions are fixed, related party transactions and liabilities to former residents.

As I have stated, there will be ongoing consultation with key stakeholders about the detailed requirements in the regulation. We will ensure a reasonably timed and smooth transition to the new regulation requirements, noting that they will deliver benefits of increased transparency and

accountability well into the future. These improvements in financial transparency and accountability are necessary and important to residents as they make a significant initial financial investment to move into a village, pay ongoing fees to live in the village and exit fees when they leave. The bill we are debating today will deliver the adoption of best practice financial reporting, reduce disputes about financial matters and balance the interests and views of operators and residents.

The committee recommended the bill be passed, along with eight other recommendations. I note the committee's acknowledgement that most stakeholders were in support of the amendments that enable the operation of the Homes for Homes donation deed model in Queensland. The report also acknowledges a range of stakeholder views on the retirement village amendments in the bill. Several recommendations refer to ongoing consultation with key stakeholders about the next stages of the work to implement the financial reporting reforms. The government fully accepts six of the nine recommendations from the committee and partially accepts two recommendations. One recommendation is not supported, and the rationale for that is outlined in the government response.

I welcome the committee's recommendations to ensure clarity with respect to the lodgement and removal of an administrative advice provided for by the Housing Act amendments. The government accepts the intent of recommendation 2 to clarify the definition of 'party' to a charitable donation deed to ensure that a registered owner of a property can remove an administrative advice even where they are not a party to the donation deed. The government does not consider it necessary to clarify the definition of 'party' to achieve this outcome. However, I will move amendments during consideration in detail to ensure that either a registered owner or a party to a charitable donation deed is able to remove the administrative advice. With respect to the remainder of recommendation 2, the government does not consider it necessary to make changes to the bill. The government considers that the process and evidentiary requirements for the lodgement and removal of the administrative advice will be made clear in the forms and instructions provided on the Titles Queensland website and in the Land Title Practice Manual.

The government accepts recommendation 3 of the committee's report and will ensure that community messaging by government about the process for lodging and removing an administrative advice and the voluntary nature of the donation deed will be clearly communicated. The government also accepts recommendation 4, proposing minor drafting corrections to the definition of a 'charitable donation deed'. I will move amendments during consideration in detail to achieve that.

I also welcome the committee's recommendations emphasising the importance of continuing to consult with key retirement village stakeholders on the drafting of the proposed amendment regulation, developing guidelines under the act and transitional arrangements and implementation of the reforms. The department will continue to consult with representative groups for village operators, residents, seniors and legal groups through the Housing Legislation Consultative Group.

The Australian Institute of Quantity Surveyors will also be consulted regarding any regulation and guidelines for quantity surveyor reports for capital replacement and maintenance. Further stakeholder consultation will enable careful consideration of the detailed financial reporting requirements to be contained in the proposed regulation, including transitional provisions and realistic commencement time frames. This recognises both the complexity of this work and the need for clear, appropriate and workable financial reporting requirements across the whole of the Queensland retirement village industry that will deliver on the objects of the bill. In addition, the department will take a supportive and capacity-building approach with operators and residents to assist with understanding and implementing the new reporting requirements. Smaller, standalone and regional operators will particularly benefit from the department's approach and accompanying financial guidance material.

The government does not support amending the definition of 'quantity surveyor' in the bill but acknowledges the committee's intent to ensure the availability of suitably qualified quantity surveyors, especially in regional Queensland. The Retirement Villages Act requires operators to obtain yearly independent quantity surveyor reports for capital replacement and maintenance reserve funds for the village for a 10-year period. These requirements for independent quantity surveyor reports are not new. The bill does provide an appropriate level of assurance to residents and operators that the quantity surveyors preparing these reports hold the required membership of the Australian Institute of Quantity Surveyors and, therefore, are subject to professional qualifications and standards, continuing education and a code of conduct.

The quantity surveyors' code of conduct contains provisions on conflict of interest and how these are to be managed with the client and other interested parties, including disclosure in reports and allowing parties to agree to continue with the service if the conflict cannot be removed or mitigated. This

supports the bill's policy objectives of transparency and accountability and more appropriately deals with these issues than amending the definition in the bill in an attempt to narrow any likelihood of conflict of interest.

I am advised that in 2022 approximately 308 quantity surveyors held the required membership across Queensland, including in regional areas. If the bill is passed, my department will monitor any impacts of the availability of qualified quantity surveyors in regional areas.

In supporting the committee's recommendation to consider compliance measures regarding costs being passed onto residents, the department's compliance approach will ensure that any increased financial reporting costs are legitimate, justifiable, accounted for in budgets and financial statements, and allowed under the Retirement Villages Act. Under the act and retirement village model, residents pay a general services charge that covers costs such as the management and administration of the village, including staff costs and accountancy and audit fees.

The government does not intend to change this established model, noting that the act includes safeguards by setting out the requirements for fixing the general services charge each year, including allowable increases. However, operators may choose to meet any additional costs from their own operator funds given their genuine concerns expressed to the committee about passing on costs to residents.

Minor issues have been identified in the bill and I intend to move two amendments during consideration in detail to address those. The first amendment is to add the words 'in the State' to subsection (b)(ii)(A) of new section 941, which defines 'charitable donation deed'. This amendment will leave no room for doubt about the intent that funds raised in Queensland must be used in Queensland. The second amendment will ensure that the registered owner of a property that is subject to a charitable donation deed is able to remove an administrative advice even where they are not a party to the donation deed.

Once again, I thank the Community Support and Services Committee for their careful consideration of the bill. I thank all of the stakeholders who have participated in consultation processes and in so doing have made an important contribution to this bill. I commend the bill to the House.