



# **Manufactured Homes (Residential Parks) Amendment Bill 2024**

**Report No. 6, 57th Parliament  
Housing, Big Build and Manufacturing Committee  
May 2024**

## **Housing, Big Build and Manufacturing Committee**

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All web address references are current at the time of publishing.

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## Chair's foreword

This report presents a summary of the Housing, Big Build and Manufacturing Committee's examination of the Manufactured Homes (Residential Parks) Amendment Bill 2024.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

The committee has recommended that the Bill be passed.

The measures contained in the Bill are the most comprehensive reforms brought to the manufactured homes parks sector in the last 20 years, certainly the most important and equitable changes seen since I first entered public office in 2000. They deliver long-awaited improvements to the rights and protections to the many Queenslanders who rely on home parks to provide safe, affordable and secure housing.

It is clear that the strengthened protections for home park residents in this Bill complement the strong and effective suite of measures contained in the State Government's Homes for Queenslanders Plan, the Queensland Housing Strategy 2017-27 and the Queensland Housing and Homelessness Action Plan 2021-2025.

I welcome all the contributions from home owners and parks owners, which greatly enhanced our understanding of the sector. I would also welcome more details of the alternative plan for the sector from the Opposition, as briefly mentioned by the Member for Burleigh during the hearing at Deception Bay, which would also enhance our understanding of their plans for housing in Queensland.

Finally, it became apparent during this inquiry that this sector of the housing market is undergoing significant change and realignment, and I feel that an assessment of the structure and direction of the home park sector would be warranted.

On behalf of the committee, I thank all those who made written submissions to the Inquiry or appeared at our public hearing for their valuable contributions. I also thank our Parliamentary Service staff and secretariat for their professional support throughout the Inquiry.

I commend this report to the House.



Mr Chris Whiting MP

Chair

## Recommendations

<b>Recommendation 1</b>	<b>4</b>
The committee recommends the Manufactured Homes (Residential Parks) Amendment Bill 2024 be passed.	4

## Executive Summary

The objective of the Manufactured Homes (Residential parks) Amendment Bill 2024 (the Bill) is to increase certainty for existing home owners by giving immediate relief from large, unpredictable and unsustainable rent increases. The Bill aims to improve consumer protections in residential parks, while balancing reasonable industry viability.

The Bill seeks to address concerns about:

- site rent increases by limiting the bases that can be used to increase site rent and the amount by which rent can be increased annually to ensure greater clarity and predictability for home owners; and
- delays in selling manufactured homes by streamlining the sales process and introducing a scheme which requires park owners to reduce site rent and to buyback vacant manufactured homes that remain unsold after 18 months.

To provide greater transparency for home owners and prospective home owners, the Bill will introduce new registration requirements for residential parks and information and disclosure requirements for park owners.

### Issues canvassed by the committee

The committee examined the evidence provided through submissions and by Inquiry participants.

Home owners, home owner committees and their associations discussed the impact of site rent increases on home owners' financial security, the challenges they experienced in communicating their concerns to park owners and the extended time taken for the settlement of disputes through the Queensland Civil Administrative Tribunal.

Park owners, investors and industry representatives discussed issues relating to the financial viability of, and future growth in, the manufactured homes/residential parks sector if a cap on site rent increases was to be introduced.

The committee acknowledged that the personal, social and financial viability of this sector is dependent on recognising that the relationship between park owners and home owners is one of co-investment.

**The committee considered the evidence before it and has recommended that the Manufactured Homes (Residential Parks) Amendment Bill 2024 be passed.**

### Legislative compliance

The committee's deliberations included assessing whether or not the Bill complies with the Parliament's requirements for legislation as contained in the *Parliament of Queensland Act 2001*, *Legislative Standards Act 1992* and the *Human Rights Act 2019*.

The committee was satisfied that potential breaches to fundamental legislative principles were reasonable and sufficiently justified in all cases and that the Bill is compatible with human rights outlines in the *Human Rights Act 2019*.

## 1 Introduction

### 1.1 Policy objectives of the Bill

The Manufactured Homes (Residential Parks) Amendment Bill 2024 (the Bill) amends the *Manufactured Homes (Residential Parks) Act 2003* (the Act) to improve consumer protections in residential parks and balance reasonable industry viability. According to the explanatory notes, these outcomes will contribute to the objectives of *Homes for Queenslanders*, the *Queensland Housing Strategy 2017-27* and the *Queensland Housing and Homelessness Action Plan 2021-2025*.<sup>1</sup>

#### Key objectives

The explanatory notes state that the Bill aims to:

- address concerns about site rent increases by limiting the bases that can be used to increase site rent and the amount by which rent may be increased annually to ensure greater clarity and predictability for home owners
- address concerns about delays in selling manufactured homes by streamlining the sales process and introducing a scheme which requires park owners to reduce site rent and to buyback vacant manufactured homes that remain unsold after 18 months
- create appropriate incentives that apply downward pressure on site rent and upward pressure on quality because park owners will have incentives (avoiding reduced rent and the buyback itself) to ensure rents are fair and parks are desirable places to live
- provide greater transparency about residential parks and improve consumer confidence for home owners and prospective home owners by introducing new registration requirements for residential parks and information and disclosure requirements for park owners.<sup>2</sup>

### 1.2 Residential park sector

Historically, residential parks have been a relatively affordable option for Queenslanders seeking the security of home ownership at a lower price than a comparable freehold home. In recent years, residential parks and their marketing have increasingly focused on the community lifestyle and services provided within the park,<sup>3</sup> with some contemporary residential parks moving into the luxury manufactured home market.<sup>4</sup> Targeted almost exclusively to the ‘over 50s’ market, the popularity of ‘lifestyle villages’ is driven by factors including location, the facilities and services provided, and low maintenance of the manufactured homes within.<sup>5</sup>

The residential parks industry has experienced steady growth over the last 10 years. In 2013, there were 168 residential parks in Queensland containing 14,000 manufactured home sites, and in 2024 (as at 1 March), there were 203 residential parks with 25,506 sites, home to approximately 38,000 residents. It is estimated that there will be approximately 10,000 more manufactured homes in 55 new residential parks planned for development in the next decade.<sup>6</sup>

<sup>1</sup> Explanatory notes, p 1.

<sup>2</sup> Explanatory notes, p 1.

<sup>3</sup> Department of Housing, Local Government, Planning & Public Works (DHLGPPW), Briefing paper, 28 March 2024, p 4.

<sup>4</sup> Public transcript Logan, 26 April 2024.

<sup>5</sup> DHLGPPW, Briefing paper, 28 March 2024, p 4.

<sup>6</sup> DHLGPPW, Briefing paper, 28 March 2024, p 4.

About half of all residential parks are listed as ‘mixed-use’, containing manufactured homes, as well as holiday accommodation, caravans or other dwellings. However, most home sites (87 per cent) are in purpose-built parks, containing only manufactured homes.

The sector is changing. Historically, residential parks were owned by small independent operators. However, over time, the ownership of residential parks has become more concentrated with smaller operators giving way to large multinational corporations and investment funds. It is estimated six operators, each owning nine or more parks, account for almost 40 per cent of all parks and 60 per cent of all home sites in Queensland. This concentration is expected to increase over time, with over 75 per cent of new parks to be developed by five operators.<sup>7</sup>

The residential park sector is unlike any other housing sector. In these parks, consumers own their manufactured home but rent the land it is sited on from a park owner – effectively chattel. No matter the size of the home owner’s investment, the home is generally tied to one site and home owners have limited opportunity to exercise a choice to relocate that home to another site. The relationship between home owners and park owners is regulated by the *Manufactured Homes (Residential Parks) Act 2003*.<sup>8</sup>

A general principle discussed by numerous Inquiry participants and reflected within this report, is that the sector needs to be understood within the lens of a co-investment or partnership with both the home owners and park owners, each requiring the investment of the other.

### 1.3 Calls for reform

Manufactured home owners have been calling for reform over many years to address perceived imbalances within the investment relationship. Following these calls, the *Queensland Housing and Homelessness Action Plan 2021-2025* included a commitment to address concerns about site rent increases and unsold homes in residential parks.

The explanatory notes explain that home owners are vulnerable to unaffordable site rent increases, an inability to sell their homes when they need to, and potentially, unfair business practices because:

- many home owners are pensioners on low, fixed incomes
- despite consumers facing similar risks, there are fewer protections for consumers in the Act compared to the Retirement Villages Act 1999
- home owners can have limited understanding of the risks posed by increased site rent and being unable to sell their home
- home owners have limited capacity to move or downsize if rents become unaffordable.<sup>9</sup>

Modern manufactured homes in purpose-built parks cannot be moved without significant expense and are unlikely to be accepted into other parks. If a home owner faces unaffordable site rent increases, perhaps the park no longer suits them, or they need to move into residential age care they may have no option but to sell, while remaining liable for site rent until their home is sold.<sup>10</sup>

The explanatory notes also state that currently, park owners retain significant control over factors influencing the sale of homes, including rent levels, park amenity and maintenance. Park owners often act as selling agents and in developing parks, may preference sale of their own, newly built homes to recover construction costs and their development margin.<sup>11</sup>

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<sup>7</sup> DHLGPPW, Briefing paper, 28 March 2024, pp 4-5.

<sup>8</sup> Explanatory notes, p 2.

<sup>9</sup> Explanatory notes, p 2.

<sup>10</sup> Explanatory notes, p 2.

<sup>11</sup> Explanatory notes, p 2.



The explanatory notes state that ‘residential parks have unique features leading to market failures that adversely impact on home owners, justifying strong regulatory intervention that can provide consumers with the opportunity to reasonably predict the ongoing costs of living in a residential park’.<sup>12</sup>

#### **1.4 Government consultation**

The explanatory notes outline a comprehensive consultation process in relation to reforms proposed by the Bill.

In June 2022, the department released an issues paper and survey for the purposes of understanding issues, seeking feedback, and obtaining demographic data and other information necessary to inform a Consultation Regulatory Impact Statement (C-RIS) which was released in May 2023.<sup>13</sup> The department received 2,201 completed surveys. From this, the department identified that the two key issues impacting home owners were unsustainable and unpredictable site rent increases, and barriers to exiting the park due to potential delays in sales of home owners’ manufactured homes.<sup>14</sup>

In May 2023, the government released the C-RIS and a summary for community consultation over a period of six weeks.<sup>15</sup> The C-RIS outlined regulatory options to respond to key issues identified in residential parks including, unpredictable site rent increases and the difficulty experienced by residents when seeking to leave a park.<sup>16</sup>

Workshops were facilitated across Queensland and included a forum for industry and peak groups and seven home owner workshops, with approximately 226 participants. Alongside workshops, stakeholders were able to provide written submissions or complete a survey. Over 2,700 submissions were received in response to the C-RIS, including more than 2,600 from home owners, 18 from park owners, and 21 from consumer and industry representative groups.<sup>17</sup>

Feedback on the C-RIS was polarised and included diverse views from home owners and park owners about the extent of problems associated with site rent increases and unsold homes, their causes and impacts, and the options to addressing these problems.<sup>18</sup>

Broadly speaking, feedback collected through the consultation process indicated that home owners were generally supportive of the proposed reforms. However, many considered that they did not go far enough, particularly in relation to stricter caps on rent increases. While industry and park owners largely favoured the status quo, advocating for improved consumer education and improvements to the transparency and independence of existing site rent increase processes.<sup>19</sup>

Feedback received by the committee during its Inquiry, reflected similar sentiments.

#### **1.5 Legislative compliance**

The committee’s deliberations included assessing whether or not the Bill complies with the Parliament’s requirements for legislation as contained in the *Parliament of Queensland Act 2001*, *Legislative Standards Act 1992* and the *Human Rights Act 2019*.

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<sup>12</sup> Explanatory notes, p 2.

<sup>13</sup> Explanatory notes, p 9.

<sup>14</sup> Explanatory notes, p 9.

<sup>15</sup> Explanatory notes, p 9.

<sup>16</sup> Explanatory notes, p 4.

<sup>17</sup> Explanatory notes, p 9.

<sup>18</sup> Explanatory notes, p 9.

<sup>19</sup> Explanatory notes, pp 9-10.

### **1.5.1 Legislative Standards Act 1992 (LSA)**

The committee's assessment of the Bill's compliance with the LSA included consideration of fundamental legislative principles (FLPs) which are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law. Fundamental legislative principles require that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

The committee considered the following provisions in relation to the general rights and liberties of individuals:

- provisions that limit site rent increases and amend meaning of CPI
- provisions establishing the buyback and rent reduction scheme.

In summary, the committee was satisfied that potential breaches to the general rights and liberties of individuals were sufficiently justified. The committee's FLP considerations are discussed throughout this report.

Part 4 of the LSA requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly and sets out the information an explanatory note should contain. The committee is satisfied that the explanatory notes tabled contain the required information, and provide a sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.

### **1.5.2 Human Rights Act 2019**

A law is compatible with human rights if it does not limit a human right or limits a human right only to the extent that is reasonable and demonstrably justifiable.<sup>20</sup> The committee's assessment of the Bill's compatibility with the HRA considered the following potential issues and limitations on human rights:

- Freedom of movement
- Right to property
- Right to privacy.

In summary, the committee considered the Bill to be compatible with the Human Rights Act and that potential limitations on human rights proposed by the Bill are demonstrably justified. The committee's considerations of human rights in 2.14 of this report.

A Statement of Compatibility was tabled with the introduction of the Bill as required by section 38 of the HRA. The statement contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

## **1.6 Should the Bill be passed?**

The committee is required to determine whether or not to recommend that the Bill be passed.

### **Recommendation 1**

The committee recommends the Manufactured Homes (Residential Parks) Amendment Bill 2024 be passed.

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<sup>20</sup> Human Rights Act 2019, s 8.

## 2 Examination of the Bill

This section discusses key issues raised during the committee’s examination of the Bill. It does not discuss all consequential, minor or technical amendments.

### 2.1 Amendments to the Manufactured Homes (Residential Parks) Act 2003

The Bill delivers on Action 18 of the Action Plan which committed to address concerns about site rent increases and unsold homes in residential parks.<sup>21</sup> This commitment was recently endorsed by *Homes for Queenslanders* which noted that the government will continue to modernise the housing legislative framework to improve consumer protections in residential parks, while making sure it is still viable for investors and operators to provide this housing option.<sup>22</sup>

The Bill achieves its objectives by:

- introducing new measures to limit the ways in which residential parks can increase site rent
- introducing new requirements on park owners to improve transparency and accountability to home owners
- simplifying the home sales process and introducing new provisions which support home owners who are having difficulty selling their home and who need to exit a park
- making provisions around termination of site agreements fairer for consumers.<sup>23</sup>

Inquiry participants offered diverse feedback on the measures proposed by the Bill. Home owners and home owner advocates generally supported aspects of the Bill, particularly those prohibiting market rent reviews, though there were suggestions that the Bill should go further to strengthen consumer protections. Park owners and industry representatives largely opposed provisions in the Bill, particularly those which place restriction on site rent increases.<sup>24</sup> Key issues raised are discussed further below.

#### 2.1.1 Removal of market rent review-based increases

Two of the mechanisms proposed by the Bill to address unpredictable and high site rent increases include:

- prohibiting market rent review-based increases in any new site rent agreements, and
- voiding terms in current site rent agreements that provide for market rent review-based increases and providing an alternative framework for park owners to increase site rent more fairly and predictably.<sup>25</sup>

##### 2.1.1.1 *Stakeholder views*

Homeowners and home owner committees mostly supported the removal of market rent review-based increases in new site rent agreements and the voiding of terms in current site rent agreements that provide for market rent review-based increases. These stakeholders argued the inappropriateness of being subject to market rent reviews after already expending large amounts of money on the purchase of their homes. They perceived market rent reviews to be unfair due to the

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<sup>21</sup> Explanatory notes, p 3.

<sup>22</sup> Explanatory notes, p 3.

<sup>23</sup> Explanatory notes, p 3.

<sup>24</sup> Department of Housing, Local Government, Planning and Public Works (DHLGPPW) response to submissions 26 April 2024, p 2.

<sup>25</sup> Explanatory notes, p 3.

uncertainty created by the challenge to anticipate site rent increases.<sup>26</sup> Testimony from several home owners outlined single year rent increases of upwards of 10 per cent.

The Queensland Law Society also supported the prohibition on market rent reviews and reflected that the majority of disputes are about site rent increases caused by market reviews.<sup>27</sup>

Conversely, park owners and industry representatives generally opposed removing market rent reviews.<sup>28</sup> Some park owners submitted that market rent reviews provide single park operators with the tools to keep pace with the industry market, and argued that the market should set the price.<sup>29</sup> Ingenia commented that by removing market rent reviews with no mechanism to allow operators to increase rent to cover costs beyond the rent cap, the operator is forced to absorb costs, such as insurance, which they have no control over.<sup>30</sup>

Another stakeholder shared how although they have had access to carrying out a market review every three years, they have not instigated one in the last nine years. They described how they understood that both the park owner and the home owner had an investment - the park owner maintains the park and the home owner maintains their home.<sup>31</sup> This philosophy was also echoed by another park owner who referred to regular monthly meetings with homeowners and an 'open book' policy regarding maintenance and capital expenditure.<sup>32</sup>

One industry investor/park owner agreed with the removal of market rent clauses, subject to legislation not imposing rental caps. This stakeholder submitted that from an operational perspective, a business model permitting the payment of market rent best serves the homeowners' interests, facilitating home price appreciation and ensuring the ability to sell within reasonable timeframes.<sup>33</sup> Other industry investors/park owners noted that such a model fosters necessary reinvestments into the community, enhancing its overall quality and sustainability, and without market rent reviews, there is no market rent mechanism that penalises park owners for not maintaining facilities.<sup>34</sup> This reflected the general consensus of park owners and industry representatives, irrespective of size.<sup>35</sup>

One industry representative pointed out that a market review provides the ability to align rents according to their true worth, which under the system proposed in the Bill, will end up varied and vastly different across a community and comparable communities, depending on the starting point.

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<sup>26</sup> Alliance of Manufactured Home Owners Inc, submission 20, p 4. (see also Jack and Kay Carter, submission 5, p 1; Geoff Wilson, submission 6, p 1; Peter Smeed, submission 7, p 1; Mirabai Bhakti, submission 9, p 1; Betty Blythe, submission 10, p 1; Kerryn Horne, submission 13, p 1; Christopher Trevor-Jones, submission 14, p 1; Fred Maddren, submission 15, p 1; Raymond and Jane Gratton, submission 19, p 1; Phillip O'Leary, submission 25, p 1; Graeme Parr, submission 27, p 1; Palm Lake Resort Hervey Bay Home Owners Association Inc, submission 28, p 2; William Hardwick, submission 36, p 1; Lynette Wilson, submission 37, p 1; Bribie Island Gemlife Community, submission 53, p 2.)

<sup>27</sup> Queensland Law Society, submission 50, p 1.

<sup>28</sup> Golden Shores, submission 22, p 1. (see also AHC Ltd, submission 31, p 2; Palm Lake Group, submission 33, p 1; Ingenia, submission 39, p 1; Gemlife, submission 42, p 2; Caravan Parks Association of Qld, submission 44, p 3.)

<sup>29</sup> Golden Shores, submission 22, p 1; AHC Ltd, submission 31, p 2;

<sup>30</sup> Ingenia, submission 39, p 3. (see also Shaun Forbes, public hearing transcript Hervey Bay, 22 April 2024, p 13; Shane Mackenzie, public hearing transcript Hervey Bay, 22 April 2024, p 9.)

<sup>31</sup> Brian Bartels, public hearing transcript Deception Bay, 23 April 2024, p 7.

<sup>32</sup> Adrian Puljich, public hearing transcript Logan, 26 April 2024, p

<sup>33</sup> Serenitas, submission 47, p 1.

<sup>34</sup> Mirvac, submission 45, p 2. (see also Shane Mackenzie, public hearing transcript Hervey Bay, 22 April 2024, p 9.)

<sup>35</sup> RV Lifestyle Village Oceanside, submission 48, p 2. (see also Phillip Stewart and Shane Mackenzie, public hearing transcript Hervey Bay, 22 April 2024, pp 8-12.)

They noted that the assumption the market will always be above CPI or some fixed method is incorrect. Commonly, park owners do not always perform market reviews where the site rent is already at, or is close to, market levels.<sup>36</sup>

#### 2.1.1.2 Departmental response

The department responded that the regulatory proposal to remove market rent reviews was consulted on and considered as part of the regulatory impact assessment process. To mitigate the impacts and address industry concerns, the Decision Impact Analysis Statement (DIAS) recommended modifications to the proposal to streamline the sales process so that site rent can be reset to market rates when the home is resold. This was determined to strike the appropriate balance between consumer protection and industry viability and has been implemented in the Bill.<sup>37</sup>

The department also advised that in situations where a market rent review is removed from a site agreement, site rent may instead be increased using the alternative basis for increasing site rent included in the agreement. For example, many site agreements include a yearly CPI increase and market rent review every three or five years. In this circumstance, site rent could instead be increased by CPI.

The department advised that where site agreements include no other basis for increasing site rent, the Act allows a default increase based on CPI. The Bill also anticipates that some alternative bases may not be viable for residential parks. To address this concern, the Act includes transitional provisions allowing the park owner to apply to QCAT for an order establishing a new basis for increasing site rent. QCAT may consider a range of factors, including what is necessary to maintain park viability.<sup>38</sup>

#### **Committee comment**

The committee acknowledges the changes in the manufactured home sector, where homes are increasingly less mobile and where smaller operators are giving way to big multinationals, some with a focus on providing higher-end expensive homes. As the Property Council of Australia<sup>39</sup> acknowledged, this sector is unique and not like other housing sectors. Home owners do not buy real estate, they buy a home that is technically akin to a chattel.

Bearing this unique market sector and its forces, the committee is satisfied that amendments which remove site rent reviews to prevent unpredictable and high site rent increases are appropriate. Central to this consideration are transitional provisions which will allow for park owners to apply to QCAT for an order establishing a new basis for increasing site rent.

#### **2.1.2 Limits on site rent increases**

In order to address high site rent increases the Bill also proposes the following mechanisms:

- capping annual general site rent increases at the higher of the Consumer Price Index (CPI) or 3.5 per cent
- creating a regulation-making power to prescribe the approved bases for site rent increases that can be used, to prevent unclear formulas being used in site agreements.<sup>40</sup>

##### 2.1.2.1 Stakeholder views

Home owners, home owner committees and associations were generally supportive of setting a limit on annual site rent increases however suggested that the Bill should go further. Alternative options

<sup>36</sup> Urban Development Institute of Australia, submission 38, p 3.

<sup>37</sup> DHLGPPW response to submissions, 26 April 2024, p 11.

<sup>38</sup> DHLGPPW response to submissions, 26 April 2024, pp 11-12.

<sup>39</sup> Property Council of Australia, submission 43, p 1.

<sup>40</sup> Explanatory notes, p 3.

put forward for site rent increases included the *lower* of CPI or 3.5 per cent, a limit of 2.5 per cent, or a limit based on a published index that reflects an estimate of the annual increase in park operating expenses or increases in the pension.<sup>41</sup> Some speculated they could be worse off because of the provision in the Bill that sets site rent increases to the higher of CPI or 3.5 per cent.

Park owners, industry representatives and investors were not supportive of the proposed limit for site rent increases, asserting that the limit may prevent them from covering increases in expenses, require cost cutting to maintain profitability in some circumstances and stifle investment in the future growth of the manufactured homes sector.<sup>42</sup>

One park owner reiterated their position against the capping of site rents, stating: it is impossible for operators to accurately predict cost increases over time and it is unfair on operators to have to provide this certainty; and costs such as award wages, insurance, statutory charges and utilities typically increase more than CPI.<sup>43</sup>

The REIQ stated that regulation for site rent increases should not be too prescriptive and should allow the parties flexibility to adopt a mechanism that is balanced and ensures the park owner is able to increase site rent sufficiently to cover the expenses of the residential park. They advocated that industry stakeholders should be consulted as to the appropriate method of calculation which is widely adopted in the sector.<sup>44</sup>

The Caravan Parks Association of Qld pointed out that a cap on site rent increases will not accommodate the unique financial dynamics of each park and could lead to a decline in park quality and amenities, and in some cases the financial viability of the park.<sup>45</sup>

Stakeholders had differing views on the role and the appropriateness of CPI and how it is defined in the Bill. Home owners and their associations generally supported changes to the definition of CPI, with some citing that the change would provide better alignment with increases in the age pension.<sup>46</sup> While one park owner clarified they opposed changes to the definition of CPI because the All-Groups Brisbane CPI is a better indicator of macroeconomic inflation in Queensland.<sup>47</sup>

#### 2.1.2.2 Departmental response

The department responded that the limit on site rent increases proposed by the Bill provides greater predictability and safeguards home owners against excessive increases, but is not designed to wholly replace the role of home owners and park owners negotiating and making informed financial decisions

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<sup>41</sup> Alliance of Manufactured Home Owners Inc, submission 20, pp 4-5; Queensland Manufactured Home Owners Association, submission 30, pp 4-5 (see also Halcyon Greens Rent and Affordability Group, submission 1, p 1; Christine Pollard, submission 3, p 1; Clive Briggs, submission 4, p 1; Jack and Kay Carter, submission 5, p 1; Geoff Wilson, submission 6, p 1; Jeffrey McLaren, submission 8, p 1; Mirabai Bhakti, submission 9, p 1; Betty Blythe, submission 10, p 1; Ann Goldsworthy, submission 11, p 1; Name withheld, submission 12, pp 1-2; Kerryn Horne, submission 13, p 1; Fred Maddren, submission 15, p 1; Richard Homans, submission 16, p 2; Peter Fleming, submission 17, p 1; Edgewater Home Owners Committee, submission 21, p 1; Lesley Parr, submission 26, p 1; Graeme Parr, submission 27, p 1; Home Owners' Committee RV Oceanside Lifestyle Village, submission 29, p 1; William Hardwick, submission 35, p 1; Angeline Craig, submission 36, p 1; Lynette Wilson, submission 37, p 1; Bruce and Lavina Gregory, submission 46, p 2; Keren and Bob Palethorpe, submission 49, p 1.)

<sup>42</sup> AHC Ltd, submission 31, p 1; Ingenia, submission 39, p 1; Serenitas, submission 47, p 1.

<sup>43</sup> Ingenia, submission 39, p 2.

<sup>44</sup> REIQ, submission 40, p 2.

<sup>45</sup> Caravan Parks Association of Qld, submission 44, p 3.

<sup>46</sup> Alliance of Manufactured Home Owners Inc, submission 20, p 4; Queensland Manufactured Home Owners Association, submission 30, p 3 (see also Christopher Trevor-Jones, submission 14, p 1; Phillip O'Leary, submission 25, p 1).

<sup>47</sup> AHC Ltd, submission 31, p 1.

about what is sustainable and acceptable for both parties. The department advised that the matter was consulted on and considered during the regulatory impact assessment process, during which time it was determined that the amendments proposed in the Bill strike the appropriate balance between consumer protection and industry viability.<sup>48</sup>

The department clarified that the site rent limit acts as a safeguard for the maximum general site rent increase a home owner can experience in a single year, it does not replace the bases for increasing site rent in the site agreement. As a result, where a home owner's site agreement terms result in a site rent increase that is lower than the limit, the home owner will continue to benefit from those terms. For example, a home owner whose site agreement specifies a 3 per cent fixed percentage would continue to pay 3 per cent.

The department responded that changing the definition of CPI during the regulatory impact assessment process, during which time it was determined that changing the definition of CPI to the All-Groups Average of Eight Capital Cities CPI would best achieve the policy intent of improving sustainability of site rent for manufactured home owners.<sup>49</sup>

The department stated that in relation to site rent increases, the commencement of these provisions on assent may be challenging for operators who have site rent increases coinciding with the Bill receiving assent. The department advised that it will develop clear and accessible information in advance of the passage of the Bill, to ensure that, if provisions in the Bill are passed, they can be easily understood and planned for by all parties.<sup>50</sup>

### **Committee comment**

The committee is satisfied that the balance achieved by the site rent limit proposed by the Bill and the definition of CPI proposed by the Bill is appropriate.

#### **2.1.3 Site rent increase to cover special costs**

While not included in the Bill, several stakeholders expressed views about increases in site rent to cover special or extraordinary costs.

A home owners' association observed that QCAT can consider a park's maintenance and capital replacement plan when determining a dispute about a special increase in site rent, therefore they suggest that these plans should similarly be considered when a home owner seeks a site rent decrease because there has been a reduction in standards or amenity under section 72 of the current Act.<sup>51</sup>

The Queensland Law Society supported any increases above the site rent limit, regarded as 'special increases', being approved by home owners or the Tribunal.<sup>52</sup>

An industry representative stressed that the Bill's removal of market reviews and introduction of rent controls, coupled with the existing almost non-operational Section 71 (which enables increase in site rent to cover special costs), results in park owners having nowhere to turn when it comes to covering their costs through site rent.<sup>53</sup>

##### **2.1.3.1 Departmental response**

The department responded that under the current Act, site rent can be increased outside of the terms of the site agreement to cover special costs including operational costs, repair costs or upgrade costs.

<sup>48</sup> DHLGPPW response to submissions, 26 April 2024, p 13.

<sup>49</sup> DHLBPPW response to submissions, 26 April 2024, p 14.

<sup>50</sup> DHLGPPW response to submissions, 26 April 2024, p 9.

<sup>51</sup> Queensland Manufactured Home Owners Association, submission 30, pp 7-8.

<sup>52</sup> Queensland Law Society, submission 50, p 2.

<sup>53</sup> UDIA, submission 38, p 5.

For upgrade costs, the increase in site rent must be approved by 75 per cent of home owners. For operational or repair costs, this must be approved individually by the home owner, or by QCAT where satisfied that such a change is necessary to maintain park viability.<sup>54</sup>

The department stated that special increases in site rent are rarely used in practice but provide an important safeguard for the long-term financial viability of parks. This option will mitigate the risk where some parks may be more heavily impacted by the proposed legislative reforms based on their individual circumstances.<sup>55</sup>

The department observed that section 72 already allows the tribunal to consider any documents it considers relevant, which would include maintenance and capital replacement plans once these are implemented.<sup>56</sup>

#### **2.1.4 Site rent payment facilities**

Home owner associations were pleased that home owners would be provided multiple site rent payment options (s 63) as it expands consumer choice and autonomy over their financial affairs. However, they did raise concerns about home owners being pressured to use direct debit as the preferred method, and they noted section 63C, where the method of payment must be negotiated if it is to change from the nominated way stated in the site agreement.<sup>57</sup>

Many park owners stated it appeared that direct debit, as a method of payment for site rent by home owners, was not acknowledged in the Bill (s 63) as an *approved way* for home owners to pay site rent.<sup>58</sup>

#### **Committee comment**

The committee considers that the government has not intended to preclude direct debit as a method of payment in the Bill, rather the government is making sure there are a variety of payment options open to home owners. Nevertheless, it would be useful for the Minister to clarify this in the second reading of the Bill.

#### **2.1.5 Enabling new site agreements to be made between a buyer and seller**

The Bill removes provisions which allow a home owner to assign their current site agreement at the time a home is sold, including site rent terms. According to the explanatory notes, this will enable park owners to update the basis for site rent increases and amount of site rent paid, at the time when homes turn over. The explanatory notes also state that this will prevent long-term misalignments with market prices and reduce the impact of site rent increase restrictions that will apply while home owners are living in the park.<sup>59</sup>

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<sup>54</sup> DHLGPPW response to submissions, 26 April 2024, p 14.

<sup>55</sup> DHLGPPW response to submissions, 26 April 2024, p 14.

<sup>56</sup> DHLGPPW response to submissions, 26 April 2024, p 8.

<sup>57</sup> Alliance of Manufactured Home Owners Inc, submission 20, p 8; Queensland Manufacture Home Owners Inc, submission 30, p 5.

<sup>58</sup> AHC Ltd, submission 31, p 2; Gemlife, submission 42, p 3.

<sup>59</sup> Explanatory notes, p 3.



### 2.1.5.1 Stakeholder views

Submissions from home owners and representative associations opposed this proposal, noting that a proportion of the home's value will come from the site rent under their agreement. They suggested stronger safeguards are needed on the amount that rent can increase when a home is resold.<sup>60</sup>

A park owner highlighted that resetting site rent terms on the resale of a manufactured home will result in home owners, in the same park, paying different amounts for the same facilities and this could cause frustration and disharmony, as many home owners believe that all home owners in a park should pay the same amount.<sup>61</sup>

Other park owners generally agreed with the non-assignment of site lease agreements on the resale of homes, with some reflecting it was a slow method of trying to assist with market catch up, particularly if the home is aged and/or in disrepair.<sup>62</sup>

### 2.1.5.2 Departmental responses

The department acknowledged that site rent, and other site agreement terms can have an impact on the sale value of manufactured homes. However, the ability for park owners to reset site rent over time on resale is considered an important compromise for ensuring more stable and sustainable rent increases during a home owners' time living in the residential park. The department advised that in practice, despite assignment being available to home owners under current practices, it is estimated that only about 26 per cent of site agreements are assigned on sale.<sup>63</sup>

The department also acknowledged that frustration and disharmony due to home owners paying different site rents may occur in some circumstances, but this is broadly reflective of the current situation in parks where most buyers enter into new site agreements. Furthermore, the department confirmed that the DIAS concluded that these provisions are a necessary compromise for retaining stability on prices during the time a home owner lives in the park, while ensuring long-term flexibility for parks to adjust their pricing models over time.<sup>64</sup>

### **2.1.6 Buyback and site rent reduction schemes**

The Bill introduces a new buyback and site rent reduction scheme for homes that remain unsold after 18 months. It is proposed that the scheme will operate similarly to obligations on retirement village operators.<sup>65</sup>

Home owners with eligible homes (those that have been built on site or transported to site as part of the development of the park) will be able to opt into the scheme six months after providing the park owner with the opportunity to sell the home, where it has not sold and they are no longer residing at the home. If the home has not sold in a further six months, the park owner must apply a site rent reduction of 25 per cent, and if the home has not sold 18 months after the park owner was given the opportunity to sell, the park owner is required to purchase the home at an agreed price.<sup>66</sup>

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<sup>60</sup> Queensland Manufactured Home Owners Inc, submission 30, p 8. (see also Kerryn Horne, submission 13, p 2; Palm Lake Resort Hervey Bay Home Owners Association, submission 28, pp 3-4; Doug Searle, submission 34, p 2.)

<sup>61</sup> RV Lifestyle Village Oceanside, submission 48, p 4.

<sup>62</sup> Golden Shores, submission 22, p 2; Ingenia, submission 39, p 3; Serenitas, submission 47, p 1.

<sup>63</sup> DHLGPPW response to submissions, 26 April 2024, p 16.

<sup>64</sup> DHLGPPW response to submissions, 26 April 2024, p 17.

<sup>65</sup> Explanatory notes, p 4.

<sup>66</sup> Explanatory notes, p 4.

### 2.1.6.1 *Stakeholder views*

Home owners and their associations generally supported amendments to develop the buyback and site reduction schemes,<sup>67</sup> though some expressed concerns that the eligibility criteria and requirements to join the schemes were likely to prevent them from being accessed.<sup>68</sup> A number of these stakeholders recommended a shorter timeframe for the buyback or further reductions in site rent, and some believed the scheme should apply regardless of whether the park owner is the seller for the home.<sup>69</sup>

A park owner requested the Bill provide clarity about how deceased estates are handled as part of the buyback and site rent reduction scheme, noting that letters of probate/administration may take several months to come through, delaying the process.<sup>70</sup>

Other park owners and industry groups submitted their lack of support for the buyback and site rent reduction scheme due to the following reasons:

- the government is forcing private enterprise to purchase another person's freehold assets<sup>71</sup>
- a park owner has limited control over the condition of a home, which will directly impact on its saleability<sup>72</sup>
- there could be unintended financial consequences on park owners<sup>73</sup>
- when a home owner continues to reside in their home, their obligation to pay the site rent at the current rate should remain<sup>74</sup>
- the average time to sell a home is usually less than three months<sup>75</sup>
- it could result in the destabilisation of the sector and deterrence of future investments<sup>76</sup> and
- there are GST implications for park owners and the loss of associated revenue.<sup>77</sup>

A park owner stated they should not be held responsible for market forces, global events and other situations that may impact on the successful sale of a manufactured home. They considered this scheme could push operators into becoming a rental model, which again negatively affects the current business model of land lease communities.<sup>78</sup> Another park owner requested that they be provided the opportunity to reject a request from a home owner to join the buy-back scheme where there are reasonable financial grounds to do so.<sup>79</sup>

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<sup>67</sup> Queensland Manufactured Home Owners Inc, submission 30, p 11 (see also Mirabai Bhakti, submission 9, p 1; Angeline Craig, submission 36, p 1.)

<sup>68</sup> Betty Blythe, submission 10, p 1. (see also Lesley Parr, submission 26, p 1; Palm Lake Resort Hervey Bay Home Owners Association Inc, submission 28, p 6.)

<sup>69</sup> Halcyon rise Home Owners Committee, submission 18, p 1. (see also Kerryn Horne, submission 13, p 2; Alliance of Manufactured Home Owners Inc, submission 20, p 9; Graeme Parr, submission 27, p 2; Alex Douglas, public hearing transcript Bribie Island, 23 April 2024, p 3.)

<sup>70</sup> Palm Lake Group, submission 33, p 2.

<sup>71</sup> Golden Shores, submission 22, p 2.

<sup>72</sup> AHC Ltd, submission 31, p 2; UDIA, submission 38, p 7; Caravan Parks Association of Qld, submission 44, p 3.

<sup>73</sup> AHC Ltd, submission 31, p 2; Caravan Parks Association of Qld, submission 44, p 3.

<sup>74</sup> AHC Ltd, submission 31, p 3.

<sup>75</sup> Caravan Parks Association of Qld, submission 44, p 3.

<sup>76</sup> Caravan Parks Association of Qld, submission 44, p 3.

<sup>77</sup> RV Lifestyle Village Oceanside, submission 48, p 3; Phillip Stewart, public hearing transcript Hervey Bay, 22 April 2024, p 10.

<sup>78</sup> Gemlife, submission 42, p 2.

<sup>79</sup> Gemlife, submission 42, p3.

The UDIA stated that the buyback and rent reduction scheme does not accord with industry experience. They have found that, on the whole, residents have not previously reported issues with inordinate sales delays and, some operators even have a waitlist for established homes. They are very concerned buyback arrangements will incur costs and administrative burdens on the park owners that could impact residential park viability.<sup>80</sup>

#### 2.1.6.2 Departmental response

The department noted that under Clause 12 of the Bill, to join the buyback scheme the eligible home owner must have given the opportunity for the park owner to sell the manufactured home, with home owners able to join the scheme if the park owner chooses not to sell the home. When the home owner provides notice that they want to sell the home, the park owner must notify the home owner whether they offer selling services (see s 62O). If the park owner offers selling services, they must be appointed to sell the home for the home owner, for the home owner to be considered eligible to join the scheme.<sup>81</sup>

The department advised that Clause 12 of the Bill includes section 62E(b)(ii) to provide that the due date for a buyback is delayed until 14 days after the park owner is shown probate of the eligible home owner's will or letter of administration. The department also advised that this safeguard is intended to account for delays from deceased estates. Furthermore, the Bill also ensures that a park owner will not have committed an offence where they have been unable to buyback a home due to acts or omissions by the home owner which would also apply to their beneficiary under a deceased estate.<sup>82</sup>

The department advised that it will consider the suggestion that applications to the tribunal seeking an extension to the buyback scheme for financial hardship should be exempt from staged dispute resolution processes and are able to proceed directly to QCAT. The department noted that this is broadly consistent with the intent of the Bill.<sup>83</sup>

The department stated that the buyback and site rent reduction scheme established by the Bill was consulted on and considered during the regulatory impact assessment process and was determined to strike an appropriate balance. The department noted that the limited application of the scheme primarily benefits home owners who are unable to reside in their manufactured home, such as those who have had to move into aged care facilities. This will limit the financial impact of the scheme.<sup>84</sup>

Additionally, the department responded that Clause 12 sections 62ZC and 62ZD provide multiple safeguards against difficult market conditions and financial hardship for park owners by ensuring park owners can seek extensions on the buyback of manufactured homes.<sup>85</sup> In relation to buyback provisions, the timeframes for the scheme are prospective, meaning that there will be a minimum of 18 months' notice before any buyback is due.<sup>86</sup>

The department will develop clear and accessible information for home owners and park owners to ensure that, if provisions in the Bill are passed, they can be easily understood by all parties.<sup>87</sup>

#### **Committee comment**

<sup>80</sup> UDIA, submission 38, p 3.

<sup>81</sup> DHLGPPW response to submissions, 26 April 2024, p 5.

<sup>82</sup> DHLGPPW response to submissions, 26 April 2024, p 4.

<sup>83</sup> DHLGPPW response to submissions, 26 April 2024, p 6.

<sup>84</sup> DHLGPPW response to submissions, 26 April 2024, p 16.

<sup>85</sup> DHLGPPW response to submissions, 26 April 2024, p 16.

<sup>86</sup> DHLGPPW response to submissions, 26 April 2024, p 9.

<sup>87</sup> DHLGPPW response to submissions, 26 April 2024, p 5.

The committee is satisfied that amendments relating to the buyback scheme are appropriately balanced.

The committee encourages the department to consider the suggestion that applications to the tribunal seeking an extension to the buyback scheme for financial hardship should be exempt from staged dispute resolution processes and are able to proceed directly to QCAT.

### **2.1.7 Termination of site agreements and other consumer protections**

The Bill proposes other consumer protections including providing the Queensland Civil and Administrative Tribunal (QCAT) with a wider range of options when it makes an order that a site agreement be terminated. Currently, home owners whose site agreement is terminated for a breach of their site agreement are required to remove their home from the site, which is often impractical.<sup>88</sup>

The amendments seek to ensure that where relocation of a manufactured home is unfair, the home may instead be transferred to the park owner (with the home owner's consent) in exchange for reasonable compensation.<sup>89</sup>

The Bill also includes a requirement that, within three years of amendments commencing, a review will occur on the impact of the reforms and the extent to which they achieved an appropriate balance between industry viability and consumer protection and, if not, what changes are needed to achieve that balance.<sup>90</sup>

#### **2.1.7.1 *Stakeholder views***

Some park owners and industry representatives argued it was inappropriate that changes to the termination provisions in the Bill could result in park owners being financially penalised when home owners have acted improperly, or that home owners, after acting improperly, should receive a more beneficial outcome from the termination of their site agreement than they would have previously.<sup>91</sup>

One industry representative noted that QCAT rarely issues termination orders, and when it does it is in an extreme scenario. Therefore, they posit that an order under proposed new section 39B(2), to transfer ownership of a home to the park owner, should be able to be made when the tribunal considers it appropriate, and not just when the home owner consents. The submitter is concerned that a home owner may not consent to transferring ownership of their home. The submitter's view is that where this occurs, the benefit of the alternative order is lost.<sup>92</sup>

Stakeholders supported the commitment to review the impact of the reforms in three years.<sup>93</sup>

#### **2.1.7.2 *Departmental response***

The department responded that it considers the amendments to be appropriate as drafted. A home owner who does not consent to transferring ownership of the home (where the tribunal considers this appropriate) will receive an order to remove the home from the site and is obligated to do so. Where they fail to do so, there are established legal processes for enforcing QCAT orders.<sup>94</sup>

The department also advised that the Bill provides significant discretion to QCAT to consider the circumstances in each case and make the orders it considers appropriate. While this proposal is

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<sup>88</sup> Explanatory notes, p 4.

<sup>89</sup> Explanatory notes, pp 4-5.

<sup>90</sup> Explanatory notes, p 5.

<sup>91</sup> Palm Lake Group, submission 33, p 2; UDIA, submission 38, p 7; Caravan Parks of Qld, submission 44, p 4.

<sup>92</sup> Caravan Parks Association of Qld, submission 44, p 20.

<sup>93</sup> Alliance of Manufactured Home Owners, submission 20, p 6.

<sup>94</sup> DHLGPPW response to submissions, 26 April 2024, pp 9-10.

consistent with a recommendation made in the DIAS, the approach taken in the Bill reduces complexity while achieving the policy intent of the provisions.<sup>95</sup>

The department will develop clear and accessible information for home owners and park owners to ensure that, if provisions in the Bill are passed, they can be easily understood by all parties.<sup>96</sup>

### **2.1.8 Transparency and accountability measures**

The Bill proposes to provide greater transparency and consumer confidence by introducing new obligations for residential parks which include:

- A requirement to produce a ‘park comparison document’ and make it accessible on a park’s website. The purpose of this amendment is to help create competitive downward pressure on site rents and upward pressure on quality by enabling consumers to be informed and objective about affordability, facilities and services on offer as they ‘shop around’ and choose a park, without being subject to sales tactics and representations of the lifestyle offered.
- A requirement to prepare and provide home owners with a ‘maintenance and capital replacement plan’ for the park as it will require park owners to be more transparent about how income from site rent is spent in the park that home owners have invested in.
- A requirement for new parks to provide information to the regulator and become registered to operate a residential park, with existing parks deemed to be registered from commencement, and the chief executive given powers to request relevant information.<sup>97</sup>

#### **2.1.8.1 Stakeholder views**

Home owners and their associations indicated support for improvements to transparency through park comparison documents and maintenance and capital replacement plans, in principle, but requested further consultation on the development of regulations which implement these requirements.<sup>98</sup> Other submissions also supported the strengthening of registration requirements.<sup>99</sup>

The Queensland Law Society supported the requirement for park owners to develop and maintain a comparison document for a residential park that includes information to help prospective home owners make a comprehensive comparison between parks.<sup>100</sup>

The Caravan Parks Association of Qld noted small/mixed-use residential parks can be disproportionately impacted by the administrative burden of these provisions and recommends exemptions. They stated that currently less than 35 per cent of their members have a page on their website specifically for manufactured homes and that many do not sell homes or promote this as part of their business.<sup>101</sup>

Several park owners submitted they were not opposed to providing information to residents per se, however they were concerned about a lack of clarity as to what is required given that the regulations are yet to be drafted. Their concern was that the regulations will impose onerous requirements and

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<sup>95</sup> DHLGPPW response to submissions, 26 April 2024, p 10.

<sup>96</sup> DHLGPPW response to submissions, 26 April 2024, pp 9-10.

<sup>97</sup> Explanatory notes, p 4.

<sup>98</sup> Alliance of Manufactured Home Owners Inc, submission 20, p 7. (see also Kerryn Horne, submission 13, pp 1-2; Christopher Trevor-Jones, submission 14, p 1; Raymond and Jane Gratton, submission 19, p 1; Phillip O’Leary, submission 25, p 1; Joint HOC Hervey Bay, Maryborough, submission 24, pp 11, 29; Graeme Parr, submission 27, p 2; Palm Lake Resort Hervey Bay Home Owners Association Inc, submission 28, p 2; William Hardwick, submission 35, p 2; Angeline Craig, submission 36, p 1.)

<sup>99</sup> Mirabai Bhakti, submission 9, p 1; Kerryn Horne, submission 13, p 3.

<sup>100</sup> Queensland Law Society, submission 50, p 2.

<sup>101</sup> Caravan Parks Association of Qld, submission 44, p 4.

lack the flexibility required to make changes to the plan to adapt to the operator's financial and other circumstances.<sup>102</sup>

#### *2.1.8.2 Departmental response*

In response, the department advised that the Bill includes regulation making powers to prescribe the grounds on which parks may be exempt from requirements to maintain a website or develop a maintenance plan. The department advised that the intent is to exempt parks where there would be a disproportionate administrative burden due to the requirements.

The department also advised that the criteria for exemption will be developed in further consultation with key stakeholders to ensure it strikes an appropriate balance.

#### **Committee comment**

The committee agrees there should be greater transparency, though we recognise some need for commercial confidentiality.

Home owners want to understand the factors that influence the setting of their site rent and its relationship to the expenditure incurred in running and maintaining the park they reside in. The committee considers this to be a reasonable request and suggests council rates, water and sewerage rates should be included in the new disclosure documents and/or the capital and maintenance plans. Electricity costs should also be included if the park has an embedded electricity network.

The home owners committee should be included as a co-signatory on these documents, or they should be required to officially endorse them.

The committee encourages the government to examine the option of including these suggestions as part of regulation.

#### **2.1.1 Dispute resolution**

A common theme that appeared throughout a number of home owner, home owner committee and home owner association submissions related to distressing and unresolved conflicts with park owners. Some home owners described feeling their interactions with park owners constituted elder abuse and intimidation with many sensing their concerns as being dismissed by park owners.<sup>103</sup>

Evidence to the Inquiry indicated that home owners, along with many park owners, want better dispute resolution procedures, particularly due to the delays in getting resolutions through QCAT.<sup>104</sup>

Home owners have been directed to the services of Caxton Legal Services for free legal advice. However, they opined that the value of the legal advice has been questionable.<sup>105</sup> Some homeowners have sought independent legal action to resolve conflicts but cited challenges with meeting the associated costs of such action.<sup>106</sup>

Home owner committees requested greater involvement from the Regulatory Services Unit (Department of Housing, Local Government, Planning and Public Works), though they acknowledge the limited scope of the unit's responsibilities in relation to dispute resolution.<sup>107</sup>

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<sup>102</sup> Ingenia, submission 39, p 4; Golden Shores, submission 22, p 2; Phillip Stewart, public hearing transcript Hervey Bay, 22 April 2024, p 10.

<sup>103</sup> Joint HOC Hervey Bay/Maryborough, submission 24, pp 4, 5, 27, 29.

<sup>104</sup> For example: Joint HOC Hervey Bay/Maryborough, submission 24, p 22; Shane Mackenzie, public hearing transcript Hervey Bay/Maryborough, 22 April 2024, p 10; Shaun Forbes, public hearing transcript Hervey Bay/Maryborough, 22 April 2024, p 13.

<sup>105</sup> Joint HOC Hervey Bay/Maryborough, submission 24, pp 16-17.

<sup>106</sup> John Biggins, public hearing transcript Hervey Bay, 22 April 2024, p 4.

<sup>107</sup> Joint HOC Hervey Bay/Maryborough, submission 24, p 16.

### **Committee comment**

Feedback from Inquiry stakeholders indicated that dispute resolution processes may need to be strengthened. The committee agrees and considers that more work is required to ensure the dispute process is operating as intended for all relevant parties.

Options discussed during the Inquiry included providing additional resources to the Regulatory Services Unit within the Department of Housing, Local Government, Planning and Public Works and refining their scope of responsibilities.

The committee feels there would be great value in creating a distinct division or allocating specific QCAT members to hear home park issues and encourages the Department of Housing, Local Government, Planning and Public Works to liaise with the Department of Justice and Attorney-General regarding this suggestion.

The committee also believes it would be appropriate that home owner committees be allowed to take cases to QCAT on behalf of home owners and encourages the Minister for Housing, Local Government and Planning and Minister for Public Works to possibly include this in regulation.

The committee suggests that the Minister also review dispute resolution processes in any further examination of the *Manufactured Homes (Residential Parks) Act 2003* and sector reforms.

#### **2.1.2 Issues out of scope of the Bill**

Queensland Manufactured Home Owners Association is a peak body for manufactured home owners and have put forward suggestions over many years regarding the design of more fitting legislation for this sector. In their submission to this Inquiry, they highlighted the need to revise the definition of a ‘manufactured home’ so that it better reflects the reality of the nature of manufactured homes in contemporary residential parks. They have also requested that the Act be amended to resolve any ambiguity around retirement village style exit fees, clarifying that such fees are prohibited.<sup>108</sup>

### **Committee comment**

The committee suggests that the Minister for Housing and the Department of Housing, Local Government, Planning and Public Works include the definition of manufactured homes, exit fees, and dispute resolution processes in any further examination of the *Manufactured Homes (Residential Parks) Act 2003* and sector reforms.

#### **2.1.3 Fundamental Legislative principles**

##### **2.1.3.1 General rights and liberties of individuals – limiting site rent increases and amending meaning of CPI**

The Bill proposes to intervene in the contractual relationship of the home owner and park owner by restricting the rights of the parties to freely negotiate the terms of a site agreement. This is compounded by the fact that the Bill seeks to modify the effect of existing site agreements by limiting the current mechanisms for calculating future increases in site rent under the existing terms of such agreements. In this regard, the explanatory notes observe that:

These amendments will impact the right of park owners to increase site rent as set out in their site agreements with home owners and will likely adversely impact the revenue a park owner anticipated when entering the site agreement with a home owner.<sup>109</sup>

Additionally, the Bill’s proposed amendment to the meaning of CPI may impact the rate of future site rent increases for existing home owners and park owners, depending on how a previously used definition in a site agreement compares to the new definition.

<sup>108</sup> Queensland Home Owners Association Inc, submission 30, p 17.

<sup>109</sup> Explanatory notes, p 6.

### 2.1.3.2 General rights and liberties of individuals – providing for buyback and rent reduction scheme

Under the scheme, a park owner must, in particular circumstances, buy an eligible home<sup>110</sup> from an eligible home owner under a buyback agreement, and reduce the site rent payable under the site agreement for the site on which an eligible home is positioned.

The scheme impacts the rights and liberties of park owners by requiring a park owner to deal with manufactured homes sited on their land in particular ways.

The explanatory notes acknowledge that the requirements placed on a park owner by the scheme may adversely impact a park owner's rights and liberties and seek to justify these impositions by asserting that the proposed amendments:

... ensure that there is an appropriate framework of incentives on park owners to facilitate the timely resale of homes in their parks and to safeguard the interests of vulnerable consumers who own a home in a residential park... but who no longer live in that home and wish to sell it, ending their contractual relationship with the park owner.<sup>111</sup>

#### **Committee comment**

The Bill seeks to improve fairness and transparency in the functioning of residential parks, including to provide older members of the community with more confidence in residential parks as a housing option. The committee is satisfied that the proposed amendments have sufficient regard to the rights and liberties of individuals.

#### **2.1.4 Legislative compliance - Human Rights**

The committee also considered these amendments from the perspective of the Human Rights Act, including freedom of movement (s 19), property rights (s 24), and privacy and reputation (s 25).

On the right to property, it is an important right to ensure the proper functioning of the economy. Without a protection to this right, it can be argued that there is relatively little stability in contractual relationships, and individual autonomy is curtailed. The limitations at stake for residential park owners serve the purpose of advancing the right to freedom of movement (and the right to housing) of homeowners, as well as arguably their right to property. It is thus a balancing of competing rights among the different parties, and sometimes even the same right but for different persons.

The limitation to the right to privacy of residential park owners arises from the need to protect homeowners as consumers in these settings. Therefore, in this matter of balancing rights, it is inevitable that the limitation to the rights of residential park owners will come across as a startling shift in the status quo.

#### **Committee comment**

The committee agrees with the analysis in the statement of compatibility that most of the amendments in the Bill support and promote human rights. The committee is satisfied that any limitations on human rights are considered proportionate and serve to meet the objectives of the Bill to improve consumer protections in residential parks balanced with reasonable industry viability.

## **2.2 Concluding remarks**

*“Over-50’s villages are pensioner havens and have been for decades.... Australia’s over-50s villages are what they are and must not be allowed to be converted into something they are not. They are the*

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<sup>110</sup> Under proposed s 62C, a manufactured home is an ‘eligible home’ if it is positioned on a site in a residential park and was not brought onto the site (or another site in the residential park) by the home owner (or former home owner).

<sup>111</sup> Explanatory notes, pp 7-8.



*low-income retirees' havens that Australia needs, and needs lots more of. Over-50s parks and villages must not be allowed to be turned into the more expensive lifestyle communities ..."*<sup>112</sup>

Mr Hill-Webber's argument that manufactured home parks, or home parks, are a concise and accurate summation of how many home owners feel about their home villages and the sector in general. The committee would agree with his comments and their sentiment.

The extensive evidence heard by the committee during this Inquiry does indicate there are changes and challenges being faced by home owners, who want to preserve the affordability of homes in their villages, and the sector generally.

Firstly, it was apparent to the committee that the sector is evolving in a way that may be financially sustainable or attractive for park owners, but arguably may not be meeting the broader social and economic needs of senior Queenslanders.

- Homes in manufactured home parks are requiring a more substantial investment for new residents and may become a less affordable option for senior Queenslanders. One example mentioned at the Logan hearing was that golf course homes in one park were retailing at \$1.5m and 'much higher'.<sup>113</sup>
- Investment in a new home park residence will often equal the price of a comparable freehold home.
- Houses in the home parks are becoming larger, reflecting the style of homes in the general real estate market. They are no longer straightforward reflections of traditional 'mobile homes'.
- Many new home park developments are at the higher end of the market and include extra facilities and services, such as a bowling alley and an independent lifestyle service. Hence the comment that these parks or villages now feature what are called 'clubhouses', not 'community centres'<sup>114</sup>.
- There are fewer and larger operators in the sector, as highlighted in section 2.1. For example, HomeTown Australia<sup>115</sup> holds in excess of 60 parks in Australia and 19 in Queensland. Attractiveness to investors may be ascertained through the growth of the sector over the last ten years, and projected growth in the future, as discussed in Section 2.1.

Secondly, it was also apparent to the committee that the home park sector is a market unlike any other.

- The home owner does own real estate: they own a constructed house that is essentially akin to a chattel.
- This house is tied to land that belongs to another entity, and the owner is therefore tied into a perpetual rental arrangement to accommodate that house.
- As their house is essentially 'unrelocatable', they have little market power to affect or alter site rents, outside of the sale of the house or collective action by the home owners in the park.
- The market for the park owners also has an unusual constraint that has attracted little notice. Their business model arguably relies on one single government mechanism: Commonwealth Rent Assistance (CRA). A single change to Federal Government policy would threaten the viability of most parks, and this was described as the biggest sovereign risk to the sector.<sup>116</sup>

<sup>112</sup> Bruce Hill-Webber, Public hearing transcript Deception Bay, 23 April 2024, p 15.

<sup>113</sup> Amanda Clements, Public hearing transcript, Logan, 26 April 2024, p 15

<sup>114</sup> Natalie Kwok, Public hearing transcript Logan, 26 April 2024, p 24.

<sup>115</sup> Jamie Brown, Public hearing transcript Logan, 26 April 2024, p 42.

<sup>116</sup> Rob Nichols, Public hearing transcript, Logan, 26 April 2024, p 45.

The market dynamics described in the first and second points hold implications for the shape and structure of the sector into the future, implications that carry more weight for home owners than park owners. Whilst the sector may be financially sustainable for the shrinking number of park owners, the committee holds more concerns about an equitable or socially sustainable outcome for senior Queenslanders who have traditionally looked on these villages as an affordable housing option.

The committee believes that an examination by the state government of the future shape and structure of the manufactured homes (residential parks) sector would be warranted. This may include a thorough examination and analysis of the Manufactured Homes (Residential Parks) Act and its applicability to the future shape of the sector. It may also include an examination of an expanded range of ownership models for the manufactured homes (residential parks) sector, such as a community title model, that may better meet the needs of some senior Queenslanders who rely on these residential parks to be the 'low-income retirees' haven' mentioned by Mr Hill-Webber.

Finally, the committee believes a guiding principle for all stakeholder in this sector – home owners, park owners, as well as the state government - is that of 'co-investment' and partnership, and that principle should be reflected in future actions aimed at preserving, improving and enlarging the manufactured homes (residential parks) sector.

## Appendix A – Submitters

Sub #	Submitter
1	Halcyon Greens Rent and Affordability Group
2	Confidential
3	Christine Pollard
4	Clive Briggs
5	Jack and Kay Carter
6	Geoff Wilson
7	Peter Smeed
8	Jeffrey McLaren
9	Name Withheld
10	Betty Blythe
11	Ann Goldsworthy
12	Name Withheld
13	Kerryn Horne
14	Christopher Trevor-Jones
15	Fred Maddren
16	Richard Homans
17	Peter Fleming
18	Halcyon Rise Home Owners Committee
19	Raymond and Jane Gratton
20	Alliance of Manufactured Home Owners Incorporated
21	Edgewater Home Owners Committee
22	Golden Shores
23	Ingenia Bethania Homeowners Association
24	Joint-HOC on behalf of home owners from residential parks in the Hervey Bay and Maryborough District
25	Phillip O'Leary
26	Lesley Parr
27	Graeme Parr
28	Palm Lake Resort Hervey Bay Home Owners Association Inc
29	RV Oceanside Lifestyle Village Home Owner's Committee
30	Queensland Manufactured Home Owners Association Inc
31	AHC Limited
32	Confidential

- 33 Palm Lake Group
- 34 Doug Searle
- 35 William Hardwick
- 36 Angeline Craig
- 37 Lynette Wilson
- 38 Urban Development Institute of Australia
- 39 Ingenia Communities
- 40 REIQ
- 41 Confidential
- 42 Gemlife and Living Gems
- 43 Property Council of Australia
- 44 Caravan parks association of Queensland Ltd
- 45 Mirvac Submission
- 46 Bruce Gregory
- 47 Serenitas
- 48 RV Lifestyle Village Oceanside
- 49 Keren and Bob Palethorpe
- 50 Queensland Law Society
- 51 Alex Douglas
- 52 Confidential
- 53 Bribie Island Gemlife Community

## **Appendix B – Officials at public departmental briefing**

**Brisbane, 2 April 2024**

**Department of Housing, Local Government, Planning and Public Works**

- Ange Wright, Executive Director
- Damian Sammon, Director
- Linda Parmenter, Manager
- Danielle McAllister, Deputy Director General

## Appendix C – Witnesses at public hearing

### Hervey Bay, 22 April 2024

#### **Joint Home Owners Committee from parks in Hervey Bay/Maryborough**

- John Biggins
- Neil Cooper
- Stephen Hart
- Ron Tobias
- Trevor Vandreike
- Margaret Shaw
- Geoff Hardy

#### **RV Lifestyle Village Oceanside**

- Phillip Stewart, Director of Operations
- Shane Mackenzie, General Manager

#### **Serenitas**

- Shaun Forbes, Regional Manager

#### **Open Forum**

- Ken Burns
- Kim Cooper
- Steven Hart
- Greville Knight
- Kevin Mullane

**Deception Bay, 23 April 2024**

**Alliance of Manufactured Home Owners Incorporated**

- Rosann Whyte, President
- Coral Fitzpatrick, Secretary

**Golden Shores**

- Brian Bartels, Director and Park Owner
- Greg Beavis, Park Owner

**Open Forum**

- Mike Anderson
- Betty Blythe
- Bruce Hill-Webber
- Lyn Hill-Webber
- Phillip O’Leary

**Bribie Island, 23 April 2024**

**Open Forum**

- Alex Douglas
- Ray Gratton
- Jane Gratton
- Lynne Wilson
- Graeme Brittenden
- Jude Edwards
- Cheryl Parker
- Erie Pearson

**Logan, 26 April 2024**

**Queensland Manufactured Home Owners Association**

- Dr Roger Marshall, President
- Noel Wright, QMHOA member

**Gemlife and Living Gems**

- Jacinta Fraser, General Manager of Operations
- Adrian Puljich, Chief Executive Officer

**Palm Lake Group**

- Amanda Clements, Executive Manager People & Operations

**AHC Ltd**

- Rod MacLeod, Managing Director
- Victor Sabados, Sales, Asset & Leasing Manager

**Ingenia Communities**

- Natalie Kwok, Chief Investment Officer and General Counsel
- Stuart Fallis, Operations Manager

**Ingenia Bethania Home Owners**

- Professor Patrick Glynn, President
- Christopher Dickinson

**Halcyon Rise Home Owners**

- Gerard McDonald
- Roger Briggs

**Urban Development Institute of Australia**

- Kirsty Chessher-Brown, Chief Executive Officer
- Anna Cox, Director of Policy, Strategy and Regional Services
- Tammy Berghofer, Chair of Seniors Living and Residential Care Policy Committee

**Property Council of Australia**

- Jess Caire, Queensland Executive Director

**Caravan Parks Association of Queensland**

- Michelle Weston, Chief Executive Officer

**Hometown Australia Communities**

- Lauren Toussaint, Compliance and Operations Manager
- Jamie Brown, Asset Manager

**Investor**

- Rob Nichols

**Open Forum**

- Angus Booker, SEQ Properties
- James Jimenez-Medina, Ignition One
- Ken Jones
- David Irwin



## STATEMENT OF RESERVATION

### ***Manufactured Homes (Residential Parks) Amendment Bill 2024***

As Opposition Members of the Committee, we acknowledge the significant housing challenges across Queensland.

Queensland is currently beset by a Housing Crisis leaving young people, working families, and seniors without a roof over their head. It is now well acknowledged the reason behind this is because of a critical lack of housing supply.

Manufactured Homes (Residential Parks) form an important part of Queensland's housing mix, particularly for Queenslanders over 50 years of age. Ensuring the ongoing viability of these facilities is important so that there continues to be options for Queenslanders to access safe and secure accommodation.

At the outset, it is important to acknowledge that a large number of residents living in Manufactured Homes (Residential Parks) have positive experiences in their engagement and interaction with park owners. Similarly, many park owners and managers also expressed that they enjoy respectful and productive relationships with the residents in their parks.

While the Bill may be well intentioned, we believe there are a number of inherent issues with the Bill in its current form. These concerns are outlined below.

#### **Limits on site rent increases**

The Bill proposes capping annual general site rent increases at the higher of the Consumer Price Index (CPI) or 3.5 per cent. We acknowledge that there were mixed views on this throughout the Committee's deliberations.

The decision to cap the rent in this manner goes against the Government's own objective in the Bill which states that the amendments are to address concerns about site rent increases by ensuring greater clarity and predictability for home owners – particularly for planning and budgeting purposes.

Given that pensions are linked to CPI, there is a very real possibility that pensioners living in these parks could be disadvantaged by the amendments should CPI fall below 3.5 per cent. If the Government is planning on intervening in the market in this way, it must be aware of the negative impacts residents could face as a result. These amendments may well leave residents paying more than they otherwise would. It could leave residents on fixed incomes (like a pension) vulnerable given that CPI may dictate their pension only increased by 2 per cent, but the site rent will be locked in at a 3.5 per cent increase.

The Government's stated assumptions suggest only 5% of homes re-sell every year (that includes new home sales so the turnover of second hand homes would be much less than 5%). At that rate it takes at least 20 years for all homes in a park to turn over, and over that period rents would become wildly distorted and out of sync with market. There would be 20+ different rent levels in a park which would be cause enormous disharmony in the park.

This was a key concern we as Opposition Members of the Committee were cognisant of throughout the review of this legislation.

### Limited scope of amendments

We also wish to place on the record the limited scope of the amendments which have been brought forward by the Government. While ensuring consumer protections is an important element of this Bill, many other aspects of the legislation governing Manufactured Homes (Residential Parks) have been ignored.

Prior to these amendments being proposed, as well as during the Committee's consideration of the Bill, concerns have been raised by residents and other stakeholders in relation to conflict resolution, financial transparency and the conduct of owners and residents alike.

The committee heard from witnesses regarding deficiencies in the buyback scheme and GST. The Government's materials state GST hasn't been considered, which is a fundamental flaw in the modelling given its materiality to the cost of the scheme. The Department's position is that under the buyback scheme there is negligible cost to the park owner for each home traded – the true position is that for each home the park owner loses \$47,000 (1/11<sup>th</sup> of the stated average price of \$518,000).

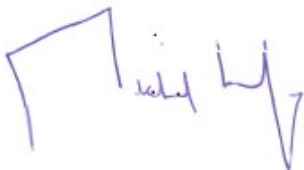
These issues have largely been ignored in the amendments proposed in this Bill. In choosing not to address these issues as part of these legislative changes, the Government has missed an opportunity for sensible and reasoned reform. These issues should have been considered and addressed, but the Government chose not to. It is increasingly evident that wider amendments to this legislation are required.

It is for the abovementioned reasons that as members of the Committee, we hold reservations with the Bill in its current form and wish to place them on the record. However, it is important to note that we are supportive of the Government's overall decision to modernise the legislation governing Manufactured Homes (Residential Parks).

Finally, we also wish to place on the record our thanks to the many residents, park owners and managers, and other interested stakeholders for their contribution to the Committee's consideration of this Bill.



**Jim McDonald MP**  
**Deputy Chair**  
**Member for Lockyer**



**Michael Hart MP**  
**Member for Burleigh**