Educating the Politicians and the Public

How the Manufactured Homes (Residential Parks) Act 2003 and subsequent amendments in 2010 and 2017 fails to meet the needs of homeowners in this housing area in the year of 2022

Document by Rhonda Cooper President – Alliance of Manufactured Home Owners Inc. May 2022

BACKGROUND

The residential parks industry provides housing and accommodation for a significant number of people. While residential parks (and their residents) are increasingly diverse, a notable proportion of people who live in manufactured homes are vulnerable members of the community due to their health, age or income.

The Act that was legislated in 2003, and the subsequent review, amendments in 2010 and 2017 aims to create a regulatory environment that effectively and fairly protects the interests of manufactured home owners, while also supporting the availability of affordable housing options through existing and new residential parks.

The main object of this Act is to regulate, and promote fair trading practices in, the operation of residential parks—
(a) to protect home owners from unfair business practices; and
(b) to enable home owners, and prospective home owners, to make informed choices by being fully aware of their rights and responsibilities in their relationship with park owners'.

THE BEGINNING

In February 2000, an extensive review was undertaken of the *Mobile Homes Act 1989.* Considerable community engagement occurred to ensure the interests of both home owners and park owners were fully canvassed and considered. This resulted in the *Manufactured Homes (Residential Parks) Act 2003* (the Act) commencing in March 2004 and replacing the *Mobile Homes Act 1989.*

The key provisions of the Act were implemented to retain existing consumer protections, clarified existing definitions and introduced standard contract

requirements, disclosure requirements and sought to improve dispute resolution processes. One of the objects of the new Act was to encourage the continued growth and viability of the residential park industry by providing a clear regulatory framework.

It has been evident that since 2003 the industry has evolved with a marked increase in the development of residential parks. Current estimates indicate that approximately 45,000 Queenslanders are now living in 250 residential parks across the state.

THE PROGRESS

3 Review of the Act 2007

3.1 Requirement for review

Section 145 of the Act requires the Minister to start a review of the Act within three years of commencement. The purpose of the review is to ensure the Act is adequately meeting community expectations and that its provisions remain appropriate. As soon as practicable after the review is finished, a report of the outcome of the review must be tabled in the Legislative Assembly.

2010 Amendments
Manufactured Homes (Residential Parks) Amendment Act 2010
Page 2 2010 SL No. 314

Schedule
1 The first amendments commenced on **19 November 2010**—

2 Then the next amendments commenced on **1 March 2011**.

Amendment of s 4 (Objects of Act)
6 s 10 What is a manufactured home
7 10A What is a converted caravan
8 14A What is a site agreement dispute
9 s 25 Written agreement
25A Application to tribunal—plain language
25B Prohibited terms of site agreements and prohibited park rules
11 Termination of site agreement by agreement between home owner and park owner
12 Termination of site agreement by tribunal
13 Vacant possession of site to be given after making of termination order
14 Compensation may be payable in particular circumstances
15 40A Other orders
16 Notice of proposed sale and assignment
17 Consent to assignment of seller's interest
18 Notice of increase in site rent
19 Home owner may apply to tribunal for order about site rent increase
20 Notice of proposed increase in site rent

21 Site rent reduction on application to tribunal by home owner
22 Utility cost in site rent
23 Tribunal review of utility cost and reduction in site rent
24 Division 5 Prohibition on particular conduct
74A Park owner not to threaten, intimidate or coerce home owner
25 Notice board
26 91A Notice of change of business hours contact telephone number
27 Fraudulent or misleading conduct
28 Harassment or unconscionable conduct
29 99A Separate charge by park owner not to be more than cost of supply for use of utility
30 Establishment of committee
31 Part 19A Record of residential parks
139A Record of residential parks
139B Inspecting record of residential parks
139C Park owner to give chief executive information for record of residential parks
32 Transitional provisions
33 Division 3 Transitional provisions for Manufactured Homes (Residential Parks)
156 Definitions for div 3
Subdivision 2 General provisions
157 Existing agreements involving converted caravans
158 Form and content of site agreements
159 Prohibited terms of site agreements and prohibited park rules
160 Particular existing agreements to terminate site agreement
161 Park owner’s notice on receiving notice of proposed assignment of seller’s interest
162 Park owner’s notice on refusal of consent to assignment
163 Notice of increase in site rent
164 Notice of proposed increase in site rent
165 Utility cost notice
166 Variation of site agreement on assignment to allow site rent to be increased in accordance with market review
167 More than 1 home owners committee
168 Existing park owner to give chief executive information for record of residential parks
Subdivision 3 Transitional provisions for proceedings
169 Converted caravans
170 Tribunal may consider whether term of site agreement is void under s 159(1)
171 Undecided applications to tribunal for particular orders
172 Undecided application to tribunal for order about proposed increase in site rent
173 Documents tribunal may consider on application for
site rent reduction
174 Tribunal’s review of utility cost
175 Tribunal’s power to make particular orders
34 Amendment of schedule (Dictionary)

2017 Amendment started 2014 completed four years later

Was passed by Parliament on 25 October 2017 and assented to on 10 November 2017.

The changes to the *Manufactured Homes (Residential Parks) Act* will reduce the disputes between home owners and residential park owners.

This has not occurred, in fact disputes have increased, and the Regulatory Services Unit, Caxton and QCAT are part of the reason why there are more internal disputes and that we receive so many complaints, and people with problems and needing support and guidance are turning to our association and not those that should be doing this. They have lost faith in those systems, and we hear regularly how they are not assisted or negated, along with such uncomfortable, long or involved processes to get anywhere or any support or advice.

Changes added and amended in the Act in 2017
Dispute Resolution
Notice Board
Site Rent Utilities
Park Liaison Committee / Home Owners Committee

Changes from 1 September 2019

Precontractual disclosure for assigning site agreements
Waiver of disclosure period
Automatic refusal of assignment
Automatic ending of agreement to sell
Cooling off period after assignment of a site agreement
New precontractual disclosure obligations
Waiver of disclosure period
Cooling-off period after entering into a site agreement
Maintaining and implementing emergency plans

BELOW ARE COMMENTS OF MEMBERS OF PARLIAMENT INVOLVED IN THE PROCESS OF REVIEWS, NOTED CONCERNS OF THE ACT IN 2003, AND THE AMENDMENTS IN 2010, WHICH UNFORTUNATELY MANY ARE STILL RELEVANT IN 2021, THESE AND THE IMPACT NEGATIVELY OF SOME OF THOSE CHANGES NOW REQUIRE TO BE ADDDRESSED IN CHANGES REQUIRED TO THIS ACT IN 2022.

Those marked in red are in response to actions, inactions and applicable items and issues raised before (in blue) and issues that are still relevant today and which have been ongoing problems to the homeowners. These areas need to be addressed in the immediate future and evidence has shown that there was awareness of these matters prior to the 2017 amendments by Ms Enoch and we are still waiting for action on these points.

Hansard 19 August 2003 - **Hon. M. ROSE** (Currumbin—ALP)
Site rent and rent increases have been a major concern for home owners, many of whom are on low or fixed incomes. Some owners wanted the government to introduce rent control. However, as the parks are commercial enterprises, rent control is not considered to be a viable option. The bill specifies the methods for how rent should be paid, and for consistency this is similar to the provisions in the Residential Tenancies Act 1994. (RT Act)

The bill also sets out procedures for varying site rent, and this also has been modelled on the residential tenancy provisions and similar provisions in New South Wales residential park legislation. The bill provides for situations where there is a formula in the site agreement or in other cases where the park owner wants to increase the rent outside of the agreement.

The bill recognises that park owners may have valid reasons to increase the rent outside of the agreement and the bill establishes a procedure where home owners have the opportunity to agree to the increase or, if they do not agree, for the park owner to make an application to the tribunal. The present Act allows abuse of this area, and the Section Special Costs Raising Rents Section 71 should be removed entirely, as this is an open invitation to park owners to inflict further financial burden on the homeowners and to be misused in line with unfair business practices. Maintenance costs that should be met by the park owner too often are passed on under the guise of this section with no supporting documental proof. Time for open and transparent processes.

If the park has deteriorated or services have been withdrawn, home owners may make an application to the tribunal for a reduction in rent. This is also based on residential tenancy legislation.

This Act and legislation is not one which meets the needs of those living in these residential parks and is no longer applicable to the subject of rental in these parks. The arrangements of the payment of rental, the calculations and methods used to ascertain the site fee, are not in line with private rentals. Therefore, the area of how these rents are formulated and how the homeowner can dispute any increase do not fall under this Act. Nor is the Manufactured Homes (Residential Parks) Act 2003 (The Act) and subsequent amendments that governs Manufactured Home Parks fit for purpose when it comes to the rights of these homeowners in this area.

The rental increases should not be aligned with the All Groups Brisbane CPI, this is rental, not a tradeable item and this is way of the park owners being able to calculate how much to increase the fee by, does not meet the standard of fair business practice and offers no protection to these residents. Pensions do not go up by 4-6% nor do you get much interest on your savings. It also does not allow the homeowner to dispute this increase as the Act allows this abuse by the park owners, and decreases the homeowners' rights under the Act, which can result in significant percentage increases that are not justified and create financial hardship to the homeowners.

If the Residential Tenancies Act is still being used as a formula for the Manufactured Homes (Residential Parks) Act 2003 then this needs to be discarded and the matter of site fees, rental increases and rental issues should be included in the present Act in their own right. A section that explains, informs and presents the actual situation of how and why these rentals are actually formulated and used. Though

homeowners can have their site agreement terminated for non-payment of site fee rental, the actual way this is handled and the possible outcomes in no way are reflected in the RT Act.

Hansard 16 October 2003 - **Miss SIMPSON** (Maroochydore—NPA)

I want to acknowledge the policy objectives of the bill, in particular the fact that there will be a new tribunal undertaking the adjudication of issues under this Manufactured Homes (Residential Parks) Bill. This new tribunal will replace the work of the Small Claims Tribunal in these specific issues. It is the Commercial and Consumer Tribunal (now QCAT). It is hoped that this will lead to greater consistency in decision making as particular expertise will be built up in dealing with these particular issues.

This was a step that initially may have had merit to have a tribunal that would hopefully understand and have more knowledge of the Manufactured Homes Parks. Unfortunately, this has not occurred, and now nine years later there is still no effective, timely, inexpensive, and easily accessible area that home owners can go to address dispute matters. Consistently people adjudicate that have little or no knowledge of this area of housing, they lean more to the park owners with their solicitors, barristers and expert witnesses. Many homeowners do not have the time, health, money or knowledge to take on such an undertaking that can then take two or three years to be dealt with.

There is a need for these homeowners to be able to access support that is timely and is in fact dealt with by people that do know about this area of housing, that can see past the big guns of the park owners and address the real need for real dispute resolution that takes into account that these people are vulnerable members of the community due to their health, age or income. They are not lawyers or professional people, and many have no access to the means to bring about a dispute case without proper support and guidance, or the finances, health, time and abilities required for this long and involved process.

There needs to be an independent body not answerable to the government who fully understands this area of housing, just like the private rental people have the Tenants Qld, and who can be independent in their actions, not swayed by government policy. funding or worried about their jobs.

Hansard 16 October 2003

Mr SEENEY (Callide—NPA) (Deputy Leader of the Opposition)

The area that is potentially the cause of most conflict is the variation of site rent. The bill sets out to put a process in place that is to be followed in the case of the variation of site rent. It is that variation of site rent that can quite clearly be the cause of some disagreement between the owner of a manufactured home and the owner of the park. To a very real extent, the owner of a manufactured home already existing on a site is very much at a disadvantage when it comes to negotiating the

site rent. As I referred to at the beginning of the consideration of the legislation, the option to move on or to move their home to some other site is severely restricted, especially with the bigger and more complex units that are involved.

This area is of concern to many homeowners that live in the older parks where relocation can be an option. With the new parks this is not an affordable or available option due to the park set out. The Act only allows and area of 300kms to move it and the costs covered by the park owner. This is again open to misinterpretation and does not meet the needs of homeowners in today's market.

Hansard Tuesday, 26 October 2010 - **Mr WENDT** (Ipswich West—ALP)

The residential park sector is evolving and the Queenslanders who chose to live in manufactured homes are increasingly diverse. However, the majority of people who live in manufactured homes are older members of the community and, unfortunately, many of those can be at risk of financial stress due to their fixed or limited incomes. As such, in my contribution to the debate I will focus on how this bill will address the concerns manufactured home owners have about site rent increases. In simple terms, the Manufactured Homes (Residential Parks) Act applies when a manufactured home owner rents a site for the positioning of their home from a residential park owner. In exchange for the right to occupy a site in the park and the ability to use communal areas and facilities within the park, manufactured home owners pay rent to the park owner. Under the existing act, site agreements must state the site rent that a homeowner is required to pay. It must also state how and when that site rent may be varied.

The act also allows a park owner to apply to the Queensland Civil and Administrative Tribunal for an order authorising an increase in site rent outside the express terms of a site agreement. This is because under the act a site agreement is essentially perpetual in nature, that is, it may continue for years and potentially decades into the future and may be assigned to a new homeowner when the current owner sells the manufactured home. I think that allowing park owners some flexibility to seek rent increases outside the terms of an agreement, subject to oversight by the tribunal, recognises that it can be difficult for park owners to anticipate changes in costs that may arise many years into the future and to design appropriate rent structures that will cover those costs.

As such, it is fair to say that many manufactured home owners are concerned about the current wide grounds upon which a park owner can seek an increase in rent outside the terms of an agreement. Some homeowners note that clauses in their site agreements state that rents will only increase by the CPI and, understandably, argue that it is unfair for the park owner to be able to seek further rent increases that the homeowner has not agreed to. I understand homeowners particularly object to rent increases based on a market review of rent when such a review is not included in the terms of their site agreement. As such, it is clear that park owners need to be

able to recover their costs and have access to rent variation arrangements that appropriately and fairly reflect the perpetual nature of site agreements. On the other hand, it is also clear that the manufactured home owners should be able to rely on the terms of their site agreements.

Nine years later and this is a very real and large concern by the majority of homeowners. The initial setting out in the Act of how rental increases would occur was when the CPI rates were low and therefore the yearly increase was manageable by these homeowners. This formula should not be aligned with the All Groups Brisbane CPI as rent is not a tradeable item and it does not come into action under this area in any other rental in the private or public sector.

A site agreement should have one set avenue for the site fee increases by the park owners, therefore giving the homeowners financial peace of mind and being fair business practice that allows those living in this housing sector to have a financial future plan that they can manage and be secure. The present system does not give balance but causes chaos, with too many avenues for the park owners to inflate, misuse and push unfair amounts onto this financially vulnerable sector of the community.

With this in mind, the bill before the House proposes amendments to the act to better balance those sometimes competing interests. Specifically, the bill seeks to improve the operation of the act by significantly limiting the ground upon which a park owner may apply to the tribunal for an order allowing an increase in rent outside the express terms of the site agreement. Under these amendments, park owners will only be able to apply to the tribunal for an order allowing an increase in rent outside the terms of the site agreement where the increase is necessary to cover significant increases in operational costs, including increases in rates, taxes or utility costs; unforeseen significant repair costs; or significant facility upgrades in relation to the park.

There are too many options for the park owner to increase the site rent. This then is open to abuse, giving no recourse in respect of the CPI formula increase, and creating disputes and applications to the tribunal at other times, and many due to time, health issues, and lack of knowledge are not able to take it to the tribunal. Lengthy delays and cost to defend against the big legal arm of the park owners is both a formidable and stressful situation for the homeowners. The Tribunal now is no longer fit for this purpose and there needs to be changes in how, when and where these disputes can be dealt with.

The bill also specifically prevents park owners from seeking a site rent increase outside the terms of the site agreement if the increase is based on a market review of the site rent. It is hoped that these changes will provide homeowners with more certainty about how their rent may be increased in the future but will also allow park owners to seek site rent increases in prescribed circumstances, which may prove critical to protecting the ongoing commercial viability of the park itself. However, it is

important to understand that these changes do not prevent homeowners and park owners from agreeing to terms in a site agreement that provide for a periodic market review of rent.

Nevertheless, homeowners will continue to have a right to apply to the tribunal if they consider a particular rent increase calculated under the site agreement is incorrect or excessive. In addition, the tribunal will continue to be able to have regard to a wide range of matters in deciding whether an increase in rent is fair and equitable in all of the circumstances of the case.

I also wish to note a transitional arrangement is included within the bill that allows park owners to include a market review clause in the site agreement that does not have a market review clause if and when the home is sold, and the site agreement is assigned to the purchaser. The ability of a park owner to include a market review clause without the agreement of a seller or purchaser reflects the perpetual nature of site agreements, as well as broader industry trends. In the absence of such an arrangement it can be anticipated that over time a distinct gap would emerge between the rent paid by manufactured home owners with new agreements, which will likely include market review clauses, and those with older agreements that do not include such an arrangement. As one can see that type of disparity between homeowners would not be conducive to harmony within the parks and I am sure would result in a feeling of unfairness between homeowners.

**This disparity still exists and will always exist and again can be misused by the park owners. A site agreement should be set as the one the individual signed up for and any future site agreements are not set up as having to be in line with others who bought earlier. This has opened the door for park owners to then raise the site fees for those that are lower to make it "fairer" they say. How is that fair on the ones with the lower site fee? They pressure and harass homeowners to agree to changes in their site agreements and this has to be addressed in not allowing the changes once the contract is signed unless overseen by an independent body. If a new person takes over the home they can be offered to have that site agreement assigned, this does not happen as the park owners, or their agents often refuse or draw out the matter so the buyer or seller will give in and do away with the consignment. Hence this section may as well be deleted from the Act. Hence then the park owner can set a new fee for the new homeowner and there is less paperwork, disputes and abuse of this area.

In addition to this, to limit the capacity of park owners to seek certain types of rent increases the bill expands the grounds upon which manufactured home owners may seek a reduction in site rent. Currently, manufactured home owners may apply to the tribunal for a reduction in rent if the amenity or standard of the residential park's common areas and communal facilities has decreased substantially, or a communal facility or service provided at the park has been withdrawn. The bill expands those grounds to enable homeowners to seek a reduction in rent where services, facilities or amenities that were proposed to be

included in the park at the time the homeowner entered into the site agreement do not eventuate. Interestingly, I also note that the bill establishes a new offence for park owners who threaten, intimidate or coerce homeowners to agree to site rent increase or to refrain from exercising their rights to apply to the tribunal for a review of a proposed site rent increase. I believe that is of great value. As one can imagine, the main object of the manufactured homes act is to regulate and promote fair trading practices in the operation of residential parks.

Even if the homeowner seeks to have a rent reduction, again by the inefficient method of QCAT, this does not stop the park owner applying that increase and the homeowner having to pay that until the tribunal make a ruling. This disadvantages financially the homeowner, who may have to seek a refund from the park owner, and in many cases this becomes another fight for the homeowner. If the rent increase is in dispute this should not be permitted to be applied while in dispute or the funds should be held in a trust account or independent account if they are paid.

When has a park owner ever been charged with the offence of harassment, intimidation or coercion by the Regulatory Services Unit (RSU). The figures that we deal with in respect of these matters and their notification of these actions to RSU have never been accurate as their recent Annual Report shows. We continually hear about this behaviour and deal with these matters. Again, we can provide supporting evidence.

The RSU have never fined nor deregistered any park owner, nor have they taken any legal action against them. Our feedback is that those that contact RSU are met with an attitude of either you do not have a provable case, or it does not fall in their jurisdiction or just go away.

Most homeowners now just do not bother with this process as it has found time and time again to be flawed and in the park owner's favour. There appears to be a mentality if we do not process all these matters then we will look good and then the governing body of this department, will think there are no real issues in these parks with these park owners. We can provide evidence that contradicts all they present to the public in their reports, and to their departmental heads.

There is a need for an independent body that works for the homeowners and not the big end of town. Where is their duty of care and their ethical standards, when they continue to operate in a way that does not justify their existence. If they have no real volume of problems, as they report, let us save the taxpayers money and put it into an Ombudsman that is not being held to account by the government and therefore open to mismanagement of their role and the reason for their operation.

Hansard Tuesday, 8 June 2010 - **Hon. PJ LAWLOR** (Southport—ALP)

Honourable members of this parliament have long recognised the need for strong laws to protect people who live in manufactured homes, many of whom are older

members of our community and who need security and certainty when it comes to where they live. It has also been recognised that residential parks play an important role in addressing the housing and accommodation challenges facing our rapidly growing state. A review has been undertaken to ensure that the act is meeting community expectations and that its provisions remain appropriate.

By 2010 it was very obvious that the 2003 Act required updating, amendments and changes. Some of those areas of concern again were not addressed in this review or there were no changes of significance to ensure the financial future of these homeowners considered. It is acknowledged that these residential parks do play a part in providing another housing option, just as long as they are governed to protect those that chose to reside in them and loopholes and changes in these parks' structures and operation, are then continually addressed by changes in the Act.

After having moved into a park, the opportunity for a homeowner to change providers and get a better deal for themselves is very limited. For this reason, the act needs to provide strong consumer protection. This emphasis will now be made clearer by changing the objects of the act to confirm that protecting the interests of manufactured home owners is its main purpose.

What was deemed to provide better consumer protection in some areas did not completely address those areas which are now the biggest concerns that are not offering this consumer protection or protecting these homeowners' financial futures.

The bill also strengthens provisions of the act prohibiting park owners from engaging in threatening, intimidating or coercive conduct regarding site rent issues. The act aims to ensure homeowners have a high degree of certainty and security in their right to reside in a park, consistent with the fact that the park land is owned by someone else. (see above comments**) Among other things, the act limits the grounds on which site agreements may be terminated and provides for compensation to be payable to homeowners in certain circumstances.

The review has highlighted the need for better data about residential parks offering sites for manufactured homes. As a result, the bill includes amendments to allow the chief executive to establish a record of residential parks.

What happened to this area. The present document on the government website is not only inaccurate, as has non manufactured homes on their list, it is so far out of date with incorrect information AMHO sent them a corrected version which was accurate. Only to be informed they could not alter the document unless the park owner notified them either their details had changed or that they existed.

Surely such a document could be one week's work for one public servant to actually contact all the parks in Qld and ensure they have a correct working document. Why have a document that is not fit for purpose as was put forward in the review 2010.

Hansard Tuesday, 26 October 2010 **- Hon. PJ LAWLOR** (Southport—ALP)

It is a matter of getting the balance right. That is not the easiest thing to do. As a couple of members mentioned, there might be other amendments. All legislation is under constant review. Basically, most legislation is a work in progress. As circumstances change so too must legislation be changed.

We fully agree with this comment and that is why we are now in 2022 pushing for more changes, but ones that have needed to be addressed for many years and now is the time for real action not more discussions, meetings and consultations. This government has all it requires in documentation and supporting evidence to get on with a review of this Act now not in four years' time as the one in 2017 took.

Whilst the Bligh government is focused on achieving high standards of consumer protection, it is also mindful of the risk that increasing the regulatory burden may discourage existing residential park owners from offering sites for long-term occupation by manufactured homes. It is also important that potential new entrants to the industry have confidence that offering sites for manufactured homes is an attractive commercial proposition. We have quite validly defended the rights of park owners here. A whole-of-government approach is being taken to identify the barriers and disincentives facing the residential parks industry. Most importantly, this strategy aims to develop options to facilitate the growth
and viability of a sector as an important provider of affordable housing options for Queenslanders without lessening the protection for homeowners.

This present Act has gone too far in the protection of the park owners and this business model at the expense of older Australians and has now led to financial abuse in this housing sector for this section of the community which is most vulnerable to exploitation.

It is an area of housing that has rapidly grown, and that only happens if there are big profits to be made. Therefore, the past comments in these reviews and by some members of Parliament today, that you have to ensure they stay viable is no longer a concern for government under this Act. Overseas companies are now taking over many of the parks in Qld and there is significant growth in this sector of building of these parks all over Australia. This does not occur unless there is large profits being made, which at this time in most cases is 65% or more, where else can you get that profit especially off the back of older Australians.

Now is time for the Government to address these changes and for the future of this industry based on the matter of viability for those that live or would like to live in these parks, to have a future will be guaranteed and secure.

The member for Bundamba commented on park maintenance. Under the act the park owner has the responsibility to maintain the common areas and communal facilities in a reasonable state of cleanliness and repair and fit for use by the homeowner. As she mentioned, I have been to that particular park, and I would agree with her that the people at Brisbane River Terraces certainly deserve a better performance from the managers than they are getting. I certainly witnessed that myself. If homeowners are not satisfied with the standard of the park, as a first step homeowners can consider seeking assistance from the homeowners committee. Under the act, homeowners' committees are entitled to present park owners with proposals and complaints. Park owners are obliged to respond to the committee about proposals and complaints.

The act also allows a homeowner to apply to the tribunal for an order reducing the site rent if the homeowner believes the amenity or standard of the residential park's common areas and communal facilities has decreased substantially since the site agreement was entered into.

Great in theory but lacking common sense in practice. There are many cases of park owners reducing maintenance and garden care, allowing deterioration of the facilities and amenities, to make bigger profits. If residents complain they are usually intimidated, told either to go away, or suck it up, or what are you going to do about it. If you do not like it then leave is often stated.

Again, the process of a tribunal is intimidating in itself to these homeowners and taking on these big corporations is not an option for most, and many park owners are aware of this and again use it to their advantage.

Some park owners have reduced or threatened to reduce the maintenance and care to intimidate homeowners in regard to dispute matters by them or their Home Owners Committee.

Hansard Tuesday, 26 October 2010 - **Ms CROFT** (Broadwater—ALP

From meetings with resident group representatives and manufactured home owners on a number of occasions during the review of the act and since the introduction of the bill I know that the security of their investment and the ability to live in their home without fear of their agreements or circumstances changing
is particularly important for owners. One of the fundamental policies underpinning the act is to provide a high degree of security and certainty in a homeowner's right to reside in a residential park.

This uncertainty still exists, especially for those in the older parks, and many homeowners are too intimidated to speak up as they fear they will be evicted, many do not know fully what their rights are and feel too insecure to push for their rights.

We try to support and educate in a way that is reasonable and effective. Stating as one MP did that they just do not know how to use or understand the Act is someone who should not be in government. How many of you that are reading this do or would know?

I have talked to the minister about my concern that, whilst the tribunal must order the park owner to pay compensation to the homeowner, if the park owner puts in an application to use the land for another lawful purpose, what impact would this have on residents? I am concerned about them finding a comparable location to the park that they are currently living in and them having to move and find a location. I have also raised with the minister my concern about the impact that this would have on affordable housing for Queenslanders and particularly senior residents. I ask that the minister in his summary outline to the House what the government is doing to address this particular issue.

This is still not addressed in the Act to give homeowners more security of tenure, and to make it more in line with the new way that parks are operated and how the option of moving their home is not available to many anymore. Along with the area of compensation and costs to the homeowners this area requires more clear definition and addition legislation for their future and financial protection.

… lot of the people living in these manufactured home parks are senior residents who invest quite a lot of money in the purchase of their manufactured home and then pay rent on top of that. We acknowledge that they are vulnerable members of the community.

This amendment is intended to empower homeowners by giving them the best possible chance to understand their site agreement, both before entering into the agreement and during the life of the agreement. The amendment is also complementary with the change to the objectives of the act which highlight the need to enable homeowners and prospective homeowners to make informed choices by being fully aware of their rights and responsibilities in their relationship with park owners.

This awareness is still not happening, in most cases most people may take their contract and site agreement to a solicitor who does not understand the document and its impact on the person. In the end most people just sign it and then later find out what the real implications are of the agreement and in living in a residential park. Buyer beware is not made obvious to this sector. They do not even know about the Act or their rights until it is too late.

Most would not be aware that they can ask for changes in the agreement, and do not have to agree to such things as paying by direct debit, which is usually pushed onto the purchaser by stealth. This is naturally the preferred method of the park owner who then has full access to the homeowner’s bank funds. This is not in the

list in this section in the Act but give them a free hand to enforce it by Pt 10 Sec 63 (3) (g) which when told buy the sales person we went through told us that the only acceptable was Direct Debit.

This should be discouraged as many issues have occurred with over charging, taking funds not entitled too and then the effort and time to get a refund if they realise they have had funds illegally taken out. Many of these people are vulnerable in financial matters and this area needs reviewing to protect the homeowners from Park owners taking control of pensioner's bank accounts.

Sec. 16. A home owner under a site agreement has the following responsibilities—

(e) to pay the site rent and other charges payable by the home owner under the agreement;
Part 10 Site rent
63 How site rent to be paid
(1) The home owner under a site agreement must pay the site rent payable under the agreement in an approved way.
(2) If the agreement states an approved way for payment of the site rent, the home owner must pay the site rent in the way stated.
(3) However, if after signing the agreement—
(a) the park owner or home owner gives to the other party a notice stating an approved way, or a different approved way, as the way the site rent is required, or is proposed, to be paid; and
(b) the other party agrees in writing (the ***site rent agreement***) to payments of site rent being made in the way stated;
the home owner must pay the site rent in the way stated while the site rent agreement remains in force.
(4) Site rent is paid in an ***approved*** way if it is paid in any of the following ways—
(a) cash;
(b) cheque;
(c) deposit to a financial institution account nominated by the park owner under the agreement;
(d) credit card;
(e) an EFTPOS system;
(f) deduction from pay, or a pension or other benefit, payable to the home owner;
(g) another way agreed on by the park owner and home owner.

There should be a requirement by the government for the park owners to inform possible purchasers of an Association such as ours to be shown as an option for these persons to contact to get a full picture of their future financial and physically in

these parks. The reality of it and the honest facts not a glossy promotional brochure and pushy sales people and intimidating park managers.

By having this in place then these prospective people not only go in with full knowledge and their eyes wide open, they are less likely to get into disputes and issues with the park owners/ managers as they know what to expect and what this lifestyle choice will involve.

I would also like to make some observations regarding the provisions of the bill that deal with utility charges being passed on from park owners to homeowners. The Manufactured Homes (Residential Parks) Act includes rules about charges of utility services such as electricity, water, gas and sewerage.

There is still abuse in 2022 of the area of utilities and we have documents that support this. Full disclosure is not forthcoming to the homeowners of the costs the park owners incur and the details and the deal the provider has with the park owners. Hence it becomes difficult for the homeowners to find out if they are being charged the right amount and that the way the charges are being calculated are correct and legal under the Act. The availability by any home owner to all financial reports and contracts by the park owner with outside providers should be made available when requested and this should be part of this section of the Act.

Many residents have raised with me that they think their rent can only increase by CPI and that in recent years park owners have sought to increase rent based on market review. Residents have told me that they think this is unfair, particularly when market review is not included in the terms of their site agreement. I ask the minister to address these concerns in his summary and clarify how the bill will address the residents' concerns particularly when, as I have mentioned, the majority of manufactured home owners are on fixed incomes and have invested significantly in the purchase of their manufactured home.

As previously mentioned why is there a need for three areas of being able to increase the site rents. Surely those in power can ascertain a fairer and more long term viable option such as too align with the pension or make it in line with a rate that will not be impacted by a volatile market such as now and is not open to being manipulated. And stop park owners being in collusion with respect to the market reviews and using a private valuer open to misuse and abuse, several of the park owners use the same firm who is known to make it work for the park owner. Private rentals are not open to these options and they appear to have more protection with the Tenancies Act than these homeowners do under their Act.

Hansard Tuesday, 26 October 2010 – **Mr STEVENS** (Mermaid Beach—LNP)

This has seen a growth in the manufactured homes industry and the caravan industry. The current legislation, the Manufactured Homes (Residential Parks) Act

2003, is being amended due to the growth in the industry and the need for certain protection to be in place for residents and owners of manufactured homes and caravan parks.

The Review of the Manufactured Homes (Residential Parks) Act 2003 Outcome Report I must say is long overdue as the industry is a very fluid one and keeps changing due to the economic needs of the community.

According to the explanatory notes, the objectives of the bill are to protect homeowners from unfair business practices; to enable homeowners, and prospective homeowners, to make informed choices by being fully aware of their rights and responsibilities in their relationship with park owners; to encourage the continued growth and viability of the residential parks industry; and to provide a clear regulatory framework to ensure certainty for the residential park industry in planning for future expansion. I believe future expansion is an important part of this legislation in protecting these manufactured homes parks and is an integral part of the residential choices that are available out there in the community. We are talking about quite a large sector of Queensland society.

There are something like 15,000 unit owners around Queensland. (Now this is over 45,000) It is very much an area for dispute. It is very much an area for further clarification. I have no doubt that we will see further amendments to this act coming through. Manufactured home parks have become increasingly popular over the last 10 years and as times get tougher as we go forward in this century we may see more demand for this type of living. That is why it is increasingly important that we make these private parks workable in terms of the park owners whilst protecting the rights of the residents of those parks. We have found that manufactured home owners are concerned about their rights and whether the protection in this bill goes far enough.

They really need to combine to have a single voice to negotiate with governments on their behalf. Quite clearly, the residents whom we from the LNP spoke to felt disenfranchised. A lot of them are pensioners. A lot of them are doing it particularly tough. There were many comments in relation to the four per cent increase in pension payments not being enough to cover the increase in site rental agreements.

I have spoken to Queenslanders who are concerned that their rights are protected in all areas, and I believe that this bill is a good start. The growing area of utilising manufactured homes as an alternative to standard housing is going to continue to expand, and the industry and consumers need appropriate laws to see the industry cope with that growth. It is a necessary and important part of our residential community options and must be protected by governments to the fullest extent.

This comment made in 2010 now applies more than ever in 2022. Nine years on and the homeowners still have these same concerns, and with the way the site fee

increases have in the past year occurred with the high CPI rates, many of these homeowners are finding it very difficult to manage and the stress of their financial future with these large increases. The pension does not rise still at the same rate of these site fees and even if it did, this still leaves these people in financial stress each year when the fees rise, and they have to decide how to keep their homes and pay their bills.

If this housing sector is to remain viable it has to take into consideration that if this system stays the way it is with site fees increases, it will become less attractive to purchasers due to the rising fee costs and then people trying to sell with be caught in a concerning financial situation. Cannot sell, cannot move on, cannot get loans on these properties and the asset and home becomes a financial burden. They are seen as chattels by the bank as a freehold lease, and they will not lend funds to buy or to acquire use of the equity for a loan.

Hansard Tuesday, 26 October 2010 - **Ms JARRATT** (Whitsunday—ALP)

The bill will improve communication with manufactured home owners by allowing a regulation to be made prescribing types of information that a park owner must display on that notice board. This will complement the amendments establishing a record of residential parks and will provide more scope to ensure all manufactured home owners have access to important information about their rights and responsibilities and the advice and support services that are available to them in the community. I understand that the Office of Fair Trading provides a range of information and education materials for manufactured home owners on its website, and I certainly recommend that to those people who might require a little extra information. While Queensland seniors are increasingly sophisticated when it comes to online services, a simple notice board can still be a great way to provide people in a park with useful.

Speech by Jan Jarratt extracted from Hansard of Tuesday, 26 October 2010.

The amendments proposed in this bill aimed at providing manufactured home owners with better access to information are important. In many cases, dissatisfaction and disputes can arise when a park owner or homeowner does not understand their rights and responsibilities or where a party feels that they have no access to independent support and assistance. Issues and disputes between park owners and homeowners can often be avoided or resolved when parties communicate well and have access to quality, timely information and advice about their rights and obligations. There are no winners when intractable and ongoing disputes irreparably damage relationships between a park owner and homeowner and result in a hostile environment within a park. That is not an environment that anyone would wish to live in, and it is certainly not conducive to a comfortable lifestyle.

Hansard Tuesday, 26 October 2010 - **Dr DOUGLAS** (Gaven—LNP)

The tragedy of this bill is that by limiting incentives to park owners we may see little future investment in these areas. This reflects the very legitimate concerns of all those living or wishing to live in manufactured homes who live on fixed incomes, self-funded superannuation and have a very tight budget. The certainty of knowing their probable on-costs is critical to ensuring their personal security. I cannot accept that in one part of the bill the minister's view of transportability is very low, but when it all gets too hard for a resident the minister's view of transportability is very high.

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

Rob Molhoek- 27 September 2017
Member for Southport
Deputy Chair - Public Works & Utilities Committee Queensland Parliament

Furthermore this "one size fits all" approach to legislation in respect of Manufactured Homes does not adequately address the significant unique differences between modern newer manufactured home villages and older style accommodation found in mixed use caravan parks. Previous reviews have recommended separate sections of the act be proposed to deal with these unique differences. The LNP Opposition is concerned that the proposed legislation fails to address legitimate safety concerns raised in respect of many manufactured homes in mixed use (caravan) parks. Nor does it adequately address the rights of home owners nor park owners in respect of exit provisions.

Again, as previously noted there is little security of tenure if they decide to close down or sell the park or land. Homeowners are at the whim and control of these big organisations, and they are about making money, not about caring for those that provide that money. There is a need to address these safety concerns, and as noted above make park owners more transparent in their charges, and costings. Information with OFT or CHDE etc does not give these people the real truth. What if they do not have a computer or access to these departments. Are intimidated by all the legislation, rules, documents and therefore are not in full possession of all the facts.

An association such as ours needs to be made more accessible to these persons before the buy into these parks, and also the Park Owners and their agents must be pushed to ensure that they make prospective purchasers aware that we are there for information, support, advice and guidance. Disputes can be avoided if people are able to access us and get the full picture of how all things manufactured homes and residential parks operate, in an understandable manner. In simple and understandable terms with support.

This Annual Report provides information about the Department of Housing and Public Works' financial and non-financial performance for 2015–16.

Office of the Registrar

Housing Services includes the Office of the Registrar regulates the residential services, manufactured homes and retirement village industries.

Annual Report 2013–14

Department of Housing and Public Works progressed a review of the *Manufactured Homes (Residential Parks) Act 2003* commenced the Park and Village Information Link service to provide advice and assistance to seniors in manufactured home parks and retirement villages.

Is this link mentioned in the government website as we know nothing of the existence of this area. If we do not know about how do you think the over 45000 homeowners presently in residential parks do?

Department of Housing and Public Works Annual Report 2014–15

Progress was made on the review and reform of the Manufactured Homes (Residential Parks) Act 2003. *These activities will help ensure these industries are robust, fair and consistent into the future.* Continued to regulate the residential parks (manufactured home) industry by recording nine new residential parks and investigating 26 consumer complaints. We have that many complaints in a month so why is this department not working effectively and most homeowners know nothing about it and how it works. Why should we advise them to now go to CHDE and RSU when they are not accessible and do not listen, not seeming to be working with or for those who they are supposedly there for. They are assisting in allowing this prohibited term of "remove a park owner's liability for negligence or a breach of a contractual duty of care if the negligence or breach is caused by an act or omission of the park owner or the park owner's employees, contractors or agents".

This comment in italics seems to be a common theme with government departments that are supposedly there to protect the rights of the park owners and who is to ensure the homeowners have a fair and consistent future, if you do not protect them, who will, and you are not. Do your jobs.

Commencing a new manufactured homes residential park compliance program.

Is this compliance program in place and where can we access it, as it appears that this compliance to their responsibilities under this Act are certainly not being met, with the feedback and concerns we address with homeowners.

Department of Housing and Public Works Annual Report In 2015–16, we:
• progressed the review of the *Manufactured Homes (Residential Parks) Act 2003*

Public Works and Utilities Committee

Potential FLP issues
New section 69 will apply to existing site agreements entered into by home owners with their operator and specifically impose restrictions with respect to rent increases. The effect of section 69 on the terms of site agreements entered into before the Bill's commencement potentially breaches section 4(3)(g) of the LSA which provides that legislation should not adversely affect rights and liberties or impose obligations retrospectively.

The explanatory notes acknowledged the potential FLPs issue and provided the following justification:

Most manufactured home owners are retirees living on a limited, fixed income. Site rent increases, and, in particular, site rent increases based on a market review of site rents (given their unpredictable outcomes), are an issue of significant concern for home owners.

Manufactured home owners are in a different situation to renters who can move to other accommodation offering the same or lower rent, relatively quickly and affordably, if their rent is increased beyond what they are able to afford.

This contrasts with the situation of manufactured home owners facing site rent increases they cannot afford, who have the choice of attempting to relocate their manufactured home to another residential park or selling their home on-site to an incoming home owner. Relocating a manufactured home is not a realistic proposition for most manufactured home owners because of the difficulty in finding another site that will accept a relocating home and the difficulty, inconvenience and significant expense involved in removing the home from its site and relocating it.

Selling the manufactured home on-site to another home owner can also be problematic because of the time that can be taken to resell the home and the fact that in leaving the residential park, the home owner will face losing a supportive network of home owners. Also, depending on where they relocate to, it may impact on access to service providers, such as health professionals, that the home owner may have established in the locality of the residential park.

All of the above still applies today, five years after these statements were made, WHY. There is only one mentality in these residential parks, is fight or flight. Either option brings with it many implications and complication on the homeowner that will affect their time, finances, health, mental wellbeing and future. Older Australians may not be up with all the legal, legislative and processes that this Act has applied for any dispute or recourse to situations that arise in these parks with costs and actions of these park owners. Why should they have to be put through more trauma at their age, the Act is not doing its job.

The amendments provide that site rent increases can only be worked out on one basis at a time and that site rent can only be increased once, per year. Further, the amendments will provide the QCAT with the capacity to appoint an independent valuer in certain circumstances where the home owner disputes the market review increase, including where the park owner has not consulted with home owners during the market review, or the park owner did not calculate the market review increase in a clear and transparent way or is otherwise unreasonable.

In many cases there is no independent valuer, there is the park owner's valuer who can be deemed an expert witness by QCAT even though they are obviously not independent but aligned with the park owners. Unless the homeowner can afford around $5000 to get their own lawyers and valuers, they stand little chance of success in this tribunal. We have evidence to support this.

These amendments are arguably retrospective in that they apply to existing site agreements. These amendments are justified on the basis that they provide greater fairness and transparency to home owners while still allowing park owners to make reasonable increases to the site rent that they charge. They are also justified because these provisions should apply in a uniform way to current and new home owners, otherwise these changes would result in different site rents payable, at different times and at different intervals, depending on whether a home owner was in a park before or after the changes were made.

Why should any of these items to do with the site agreements have been retrospective in the review. This is a legal document, and the park owners hold this over the homeowner's head when it suits them to make them fall in line, but when it suits the government it can override the initial contract between the park owner and the homeowner and change the content. Why should those who bought in earlier be made to pay more just because others came in later.

How do you justify this action when they have a contract that when they bought their home, based on its content and why would you give the right to the park owners to charge them more than was originally agreed for no other reason than to make it easier and more profitable for the park owner. Where is the greater fairness and transparency in that part.

Housing Legislation (Building Better Futures) Amendment Bill 2017 Public Works and Utilities Committee September 2017

Recommendation 5
The committee recommends that the Minister consider amending clause 33 of the Housing Legislation (Building Better Futures) Amendment Bill 2017 to reword proposed section 69E(2) of the *Manufactured Homes (Residential Parks) Act 2003*, so that it better reflects the intent of the relevant policy, that is, to ensure the independence of the valuer who conducts the market review of the site rent.

Why has this not been enforced in QCAT and by the departments, presently park owners collude and use the same valuer who bends to their will and requirements. This is not independent nor is it ethical and fair on the homeowners disputing these matters.

2.2.4.4 Clause 36 - site rent increases – special costs
The committee noted that differing views exist as to whether rent should be increased to cover special costs. The committee considered that the proposed changes strike a fair balance between ensuring home owners are protected from price increases and that park owners' factor in an allowance for such expenses while ensuring that parks can continue to operate in the face of unexpected costs that would otherwise impact on the park's viability.

Record of Proceedings, 29 March 2022
Hon. LM ENOCH (Algester—ALP)

From my portfolio's perspective, it is also important to note that the changes included in this bill will apply to commercial tenancies. While there is no impact for residential tenancies in social housing, my department regulates a range of for-profit and not-for-profit service providers that could be deemed small businesses by the commissioner.

This includes retirement villages, residential or manufactured home parks, residential services such as boarding houses and supported accommodation services and community housing providers. These regulated accommodation providers could have the opportunity to approach the Small Business Commissioner for dispute resolution assistance. The commissioner could be a valuable source for information, advice or relevant general support. It would complement and possibly ease the workload of existing dispute mechanisms such as the Queensland Ombudsman or the Queensland Civil and Administrative Tribunal.

Additionally, the establishment of a permanent Queensland Small Business Commissioner could complement existing Queensland Housing and Homelessness Action Plan 2021-2025 initiatives regarding guidance.

Under most of the present manufactured homes parks and their owners, they would not be deemed small businesses. These are large organisation, mainly from overseas where most of the profits go and therefore will clearly not require small business assistance and would not use it. Easing the workload of QCAT would be better served by a specific area for Manufactured Homes disputes that is accessible to both Park Owners/ Agents and the homeowners. This should be a place that will not allow lawyers and government interference but a neutral well informed body that can make unbiased judgements that actually have legal backing and have the power to legally enforce their rulings. QCAT cannot enforce their findings on the park owners and hence the homeowner then has to go to the Magistrates court as this comes under civil dispute in QCAT and the courts, and have an order put out to the park owner to abide by the ruling of QCAT. What good is QCAT if it does not have any balls. The Minister really needs to be more aware of what is happening in her area of governance in Manufactured Homes and not just what she is being fed by her underlings and self-interested departments. We have provided enough documentation to support all we say in this document. Has the Minister read them?

ANOTHER COSTLY INITIATIVE THAT HAS NOT FULFILLED THE OBJECTIVE

A significant program of community awareness, advocacy and education including working with both providers and residents is being progressed to support these legislative reforms. **This program includes funding 'Right Where You Live' (Building Consumer Confidence**) groups (including seniors' groups and consumer groups) to promote community education and provide information to residents and potential residents of residential services (such as boarding houses), retirement villages and manufactured home owners about the legislative changes.

This program has not met the objective because as reported to our association, it is based on the belief by this government departments that all these people need is more education and to know how to use the Act. The feedback we have had is that presently a video or power point session, while promoting for membership of an Association that is funded by the government department is not supporting nor achieving results of these homeowners knowing their rights. It also does not show them how the Act actually works for this sector of housing or make them feel secure and considered by those in the government who oversee there choice of residency.

Confidence is at an all-time low with all government members and in this housing area they are being more exploited and abused than at any other time. Right Where They Live is the problem and glossy brochures and presentation by people that have a connection with the government is not unbiased nor addressing the real issues.

The Queensland Housing Strategy 2017-2027 is a 10-year framework which aims to provide all Queenslanders with better pathway to safe, secure and affordable housing.

Queensland Housing Strategy Action Plan 2017-2020 Report

Content from this work should be attributed as: The State of Queensland, Department of Communities, Housing and Digital Economy, 2021.

Delivered legislative reforms for manufactured homes, residential services and retirement villages to improve approaches to behavioural standards, site rent increases, utilities charges, dispute resolution and precontractual disclosure and introduced mandatory payment of exit entitlements.

Just as we are improving ways to access and sustain a private tenancy, we also need to ensure that the residential housing system – from private rentals to retirement living, residential (manufactured home) parks and residential services – is stable and secure, providing protections and giving confidence to those who reside and invest in these housing options.

This is not effective in providing stable and secure protection and confidence to the homeowners only the park owners. In all the time this Action plan has been in place what has changed for the homeowners in these parks to ensure their protection financially? In the whole document produced by the government this was all that was referenced to manufactured homes or residential parks. Where is the action?

As the strategy looks at Growth, Prosperity, Connections and Confidence, this 2017-2020 Action Plan targets key actions and deliverables we are committing to over the next three years.

Amend the Retirement Villages Act 1999 and the Manufactured Homes (Residential Parks) Act 2003 to improve pre-contractual disclosure processes and introduce new behaviour standards to make it easier to address undesirable behaviour in residential parks and retirement villages, and if necessary, undergo dispute resolution processes.

Review the Residential Services (Accreditation) Act 2002 to ensure the regulatory framework protects residents, promotes fair trading practices, and encourages the growth and viability of the residential services industry.

Provide advocacy and support through peak groups and resident and home owner associations to retirement village residents, manufactured home owners and vulnerable residents living in residential services, including helping to prepare for proposed legislative changes.

Queensland Housing and Homelessness Action Plan 2021-2025

Residential Sector Reforms

We are committed to a fair and sustainable residential sector giving people who reside in residential services (such as boarding houses), retirement villages and residential (manufactured home) parks, and those who operate them, a regulatory framework that delivers the best possible outcomes for consumers.

That includes ensuring consumers and operators are better informed about their choices, rights and responsibilities and how to action them as well as increased transparency in contracts and financial statements.

We will build on the improvements delivered under Housing Action Plan 2017-2020 and continue to enhance the regulatory system to deliver reforms, to build protections and generate better housing outcomes for Queenslanders. Deliver improvements for residential (manufactured home) parks and residential services to address:

concerns about site rent increases and unsold manufactured homes in residential parks and the impact of significant changes in the community affecting residential services, to ensure resident safety, fair trading and viability of the residential service industry

Enhance the consumer experience and industry engagement across residential (manufactured home) parks, residential services and retirement villages including through:

targeted communication, compliance and best practice guidance approaches, including introduction of a retirement village comparison website exploring greater support for consumer-operated retirement villages and residential parks (such as the potential for home owner co-operatives) to give consumers greater choice and control over their retirement living arrangements. Is this just another option that will not be done and how does this really change things now and where needed now?

Explore options to improve Queenslanders' access to pre-contractual advice about residential (manufactured home) parks and retirement villages and to timely and consistent decision-making to help them resolve housing issues and disputes.

This Action Plan process that has just begun, under CHDE and RSU and of which our association is part of their working group, already has all the information, documentation, submissions, examples, responses, and we can provide whatever they require to address this NOW, not over another four years.

This government may no longer be in power in 2025 and some of us pushing for this change could be dead or incapable of addressing these concerns when all this talkfest and spending of taxpayer’s money is complete. But until then we will keep being vocal.

We are well aware there are certain protocols and pathways toward changing the legislation in the Act, but this government, and this Minister Ms Enoch were

involved in the 2017 review (which most of the work it would appear was done by the previous LNP government). So, there is precedent and also experience in how better to ensure this matter is not dragged out or used as a political tool, when people are suffering now and there is clearly need for change. The park owners may not agree as why would they want to cut their profits as the expense of these older Australians, but they will still make large profits. We ask you to listen, do timely research, and act, and we can assist in reducing this time frame if these departments will work with us and the homeowners.

QCAT ANNUAL REPORT 2020-2021

Minor Civil Disputes (CAD) - community living disputes (in retirement villages; manufactured home parks)

In the reporting year almost 19,000 civil claims falling within QCAT's MCD jurisdiction were brought throughout Queensland

These disputes can have serious consequences for the welfare, dignity and daily living arrangements of the people concerned.

MCDs include:
- **residential tenancy disputes**
- minor debt disputes
- consumer and trader disputes
- motor vehicle property damage disputes
- dividing fence disputes.

Overall lodgements have increased in the CAD lists by 12 per cent, with a significant increase in other civil disputes (40 per cent)

An increasing number of CAD matters are becoming more complex, both procedurally and in terms of subject matter. The practical impact is that there is more work in more matters, with limited decision-making resources available to handle the matters. Wait time-to-hearing and failure to meet benchmarks remains an issue in SEQ.

This will continue to be an issue, where time, expertise, knowledge and the ability to deal with Manufactured Homes area of housing and disputes in residential parks with the park owners will increase, as more parks are built. Over 45,000 people reside in these parks, and they are continuing to be built and run by overseas companies at an increasing rate. It is time to make sure that this Act is fit for purpose moving forward.

These can no longer be deemed civil disputes as the complexity of the Act, the site agreements and the system that the park owners and homeowners have to operate under is more involved in a specific area of legislation and governance. There needs to be a separate body to deal with this area of housing.

Outcome Report of the Review of the *Manufactured Homes (Residential Parks) Act 2003*

Dispute resolution
An object of the Act is to provide a means of resolving site agreement disputes between home owners and park owners. The Act provides for the formation of a "homeowners committee" to negotiate the day to day running of the park and for a "park liaison committee" to negotiate on behalf of home owners regarding park rules.

Disputes relating to site agreements and the Act are determined in the Tribunal. The Tribunal is a relatively inexpensive (only if you do not want your own solicitor or expert witness, without them you stand little chance of winning against the big companies and all their manpower) and expeditious forum to have disputes determined. This is the best way to now move forward. If this was stated in this report, then why has no action been taken when the proof is there that this system is flawed and is not fit for purpose with Residential Parks.

However, submissions indicate the need for other avenues to resolve disputes outside of park committees and prior to an application before the Tribunal. In their submissions, some home owners have stated that the Tribunal is expensive and confusing. Some home owners require assistance in filing forms and are reluctant to engage legal representation. Many home owners believe disputes could be resolved if some form of mediation service was provided.

Some park owners have complained of frivolous Tribunal proceedings by home owners and have submitted that since the commencement of the Act it has become necessary to spend large amounts on legal fees, making it difficult to operate a viable business. Maybe if the Park Owners we more approachable and willing to mediate and compromise then there would be less of these so called frivolous disputes. Most homeowners only go this path with genuine concerns, they now have lost faith in this system due to the many concerns already noted in here and also the intimidatory behaviour by these park owners and their legal teams. It is not up to the Park Owners to decide what concern is valid or not they do not live in their parks.

Park owners argue that they may be challenged in the Tribunal several times over the same issue, or an issue they regard as frivolous. An owner of two large residential parks suggested appointment of a neutral adjudicator to enable home owners to interpret the legislation and decide if an application to the Tribunal is necessary to resolve disputes.

We agree with park owners summing up of this area of dispute resolution as we have stated previously. Make it a fair playing field and not one of Samson and Goliath and fairer can reduce disputes escalating and requiring a tribunal or case to be brought to settle the issue.

Survey results indicate resident disputes mediated through a park liaison committee are more common than those involving the Tribunal. The results suggest residents with access to dispute resolution bodies within their parks are more likely to have positive perceptions of the Act. However, some submissions indicate that some park owners have opposed the formation of a home owners committee and have refused to listen to home owner's concerns.

Though in theory this has worked in some instances, many parks do not have a home owners committee, also some HOC do not want to become involved in what can be seen to be a legal and legislative nightmare once started and fully implemented. Many park owners will not meet, listen or communicate with the residents, even though it is legislated they have to reply within 21 days, many do not. So many more will just see the HOC as easy to manipulate and as their puppets, as too many egos in place with no real ability to act for the homeowners.

The review also noted that twenty-six applications under the Act were received by the Tribunal during 2005-06. Of those applications, only one was mediated. Although the Tribunal has mediation services available, manufactured home disputes are rarely referred by the Tribunal to mediation because it is feared the parties will be unable to reach a compromise.

If the park owners were made to mediate and be conciliatory with homeowners at the beginning, with the ability to have this considered in the final decision of a case, by the adjudicator or tribunal, if they do not abide by it, then maybe more would do so. These park owners know how to manipulate the present system and have the money to do so and the finances and manpower to ensure they get their way.

The Tribunal has stated that mediation of manufactured home disputes is costly with little positive results. By way of comparison, the Tribunal advised it refers disputes to mediation under the *Retirement Villages Act 1999.*

Retirement village residents are a similar demographic to manufactured home owners. In 2005-2006, one fifth of retirement village disputes were effectively resolved through mediation in the Tribunal.

These Acts have many areas of difference but in the real world the basis of retirement parks and residential parks is the same, they lease the land from the owners and have legislation that governs their parks and home. If there is a positive in one area why is it not then implemented in the other as a matter of course. The area of market reviews was removed from the Act for retirement parks but still kept in the Act for the residential parks of manufactured homes, how does this equate to common sense or proper legislation.

In relation to alternative dispute resolution options, home owners and park owners could use the mediation service offered by the Department of Justice and Attorney-

General. Enquiries to the service indicate that it appears to be under-utilised to resolve manufactured home disputes.

Maybe because people do not trust they system in place anymore, and also you need to be able to travel to use this service.

Another form of negotiation and information service is provided by the Caravan and Manufactured Home Residents Association Inc. (CAMRA). CAMRA has been operating since 1989 and is an information and advocacy service funded by the Department of Housing through the Residential Tenancies Authority by way of an annual grant from the Community Housing Grant scheme. Caravan and Manufactured Home Residents Association of Queensland Incorporated

This organisation no longer in operation and therefore there is only associations such as ours, that are volunteer based, and member financed that can support these homeowners and all who live in residential parks. We need to be recognised as a legitimate option for these older Australians and also to be a liaison with the government agencies and persons responsible for this area of housing. With working with us, the government will see results in that there will be less disputes, more awareness for new homeowners and those that are in residential parks. Less need for taxpayers' money to be spent on Action Plans, workshops, consultants, strategy groups, and talkfest which in the end resolve little and only perpetuate the myth that something is actually being done and achieved for change where required.

We are proactive and will continue to be so, we can support you if you support us.

CAMRA appears to be able to resolve many disputes that the Office of Fair Trading does not have the statutory authority to resolve such as, for example, resident to resident disputes and park closures. Since 2005, CAMRA has reported a sharp increase in workload due to the growth of residential parks in the south east corner of Queensland and, more specifically, increased complaints relating to of the use of special terms in site agreements.
If there was an increase in complaints and cases, why was their funding stopped, as now the present system is not working, and it has regressed backwards in what was hoped to be achieved with the Act. We have to pay ourselves to operate our association and assist these homeowners, as the only avenue they feel they can trust.

The recommendations propose that there are a number of avenues currently available to home owners and park owners to resolve disputes prior to an application before the Tribunal. It is considered that mandating a mediation process is not warranted. Maybe now there needs to be a big rethink of this conclusion, as the present system is no longer fit for purpose.

Recommendation 5.6
It is recommended that no change should be made to the provisions regarding further dispute resolution. Adequate avenues are available to home owners and park owners. Same as noted previously.

Site rent variations
The Act does not prescribe or regulate a specific formula for calculating the site rent payable by manufactured home owners. The method for calculating site rent is agreed to between a residential park owner and a manufactured home owner at the time of entering into a site agreement. However, the Act does provide the following methods in which site rent may be increased or reduced.

First, the Act prescribes the method park owners must follow if they wish to increase the site rent in accordance with the express provisions of the site agreement. This includes an ability for the home owner to make an application to the tribunal if they consider the rent increase to be excessive.

Second, the Act allows park owners to apply to the tribunal if the park owner wishes to seek an increase in rent outside the express terms of the agreement and the proposed increase is not agreed to by the affected home owner. The ability for park owners to seek an increase in rent outside the terms of a site agreement reflects the long-term nature of site agreements.

All areas of the site fees under the Act, require amendment or removal, the present Act does in fact regulate now that the All Groups CPI for Brisbane is applicable. This as noted previously is a very volatile area and as rents are not a tradeable item should not be under this formula and needs to be removed and another proposal put forward that is fairer and more equitable to the homeowners. The park owners are making huge profits and there needs to be fair business practices adhered to that this present Act does not allow.

The Act allows the tribunal to consider a wide range of factors in deciding whether the proposed increase is fair and equitable in the circumstances.

In March 2008, the tribunal decided that a site rent increase based on 'market review' was valid, including for those home owners whose site agreements provided for a CPI increase only (*Palmpoint Pty Ltd T/A Bribie Pines Island Village v The Residents Of Bribie Pines Island Village, Astbury, M. & Hose, R.T. & P.A.* [2008] QCCTMH 3).

I have visited these parks and the residents, as I live in this area, these two parks have little amenities, and one section Bribie Pines is old and in need of a lot of maintenance and virtually segregated from the new area. Yet they pay the same site fees and are paying more than the new lifestyle parks in the area such as Solana, Oriana and Bribie Gemlife who have new and more amenities and facilities. These private park owners are very difficult to work with as they will not meet with the

residents or do the work required even if unsafe and creating a negative environment for the homeowners. Maybe these people making the decisions should visit the park they are adjudicating about.

Finally, the Act provides manufactured home owners with the ability to apply to the tribunal for an order reducing the site rent on the basis that the amenity or standard of communal areas and facilities have decreased substantially or a communal facility or service has been withdrawn since entering into the site agreement. Many have tried and few have succeeded, and this continues to be a matter of contention in many parks as the park owners seek higher profits and less overhead costs. We can provide documentation proof for this statement.

Consistent with the policy objective, the Bill contains amendments to promote improved fair trading practices with respect to variations in site rent. The present system is neither fair not sustainable. It will create hardship for the homeowners financially and the park owners will out price themselves in the future. As the park become older and the maintenance increases, how will this be dealt with, without further burdening the homeowners with the noted section allowing them to charge other expenses without having to be open and transparent about what the cost is for and giving them a blank cheque approach to homeowner's finances.

First, the Bill contains a new, maximum penalty of 100 penalty units for park owners who fail to advise home owners of their right to apply to the tribunal if the home owner considers that a particular increase in rent, provided for under the site agreement is excessive. Second, the Bill provides home owners with the ability to apply to the tribunal for a reduction in rent if a service or facility promised in pre-contractual advertising and other material is not provided.

Not once has a park owner been fined, nor have they been pushed by Regulatory Services Unit to abide by the Act and been made accountable. There process is a slap on the wrist and a promise to behave and not do it again. They are not respected by the park owners or the homeowners who have no faith in them to do their job. Daily breaches of the Act occur but most homeowners are too scared, too tired, or just give up on their rights being addressed.

Third, the Bill contains amendments to increase the confidence home owners have in relying on the terms of their site agreement by substantially limiting the grounds on which a park owner may apply to the tribunal for an increase in site rent outside the express terms of the site agreement. Confidence has deteriorated with the homeowners in the so called due process when nothing seems to deter the park owners to increase and apply for increases or be deemed to be limiting their grounds when the park owners want to increase site fees. Again, you have to go through the long and winding road of QCAT and in the meantime you still have to pay the increase while the case is being held if you do not agree. Again, this process is not working.

Even if the owner dies, the relatives have to continue to pay the site fee until the estate is settled, even though there is nothing in the Act or site agreement that allow them to do this, so how do they get away with it. Supporting statements available if required.

Specifically, park owners will only be able to seek a rent increase outside the terms of site agreements where the increase is necessary to cover:
(i) significant increased operational costs in relation to the park,
including significant increases in rates, taxes or utility costs;
(ii) unforeseen significant repair expenses in relation to the park; or
(iii) significant facility upgrades in relation to the park.

Who works out what is significant, or unforeseen, or significant upgrade. Most homeowners are not informed or allowed to know what these so called fee increase are for, just state the Act to them and up goes the site fee. This section of the Act is open to abused and is abused by many as they answer to no one in reality, and therefore, they can just cover all their costs if the

Manufactured Homes (Residential Parks) Amendment Bill 2010

A ‘market review of site rent’ (as defined in the Bill) will be excluded from the circumstances that justify an increase in rent outside the terms of a site agreement.

To balance the impact of the amendments, it is proposed to allow park owners to include a prescribed market review clause upon the assignment of a site agreement. The amendments also protect prospective buyers by requiring park owners to provide buyers with notice of their intention to include a market review clause prior to the assignment of the site agreement to the buyer.

The amendments meet the policy objectives by strengthening fair trading requirements under the Act by providing more certainty that home owners can rely on the express terms of their site agreement, balanced with sufficient flexibility for park owners to maintain the viability of the park through securing increases in rent where those increases are necessary to meet particular, specified costs.

Why do the park owners get so many licks at the ice cream. Surely if the companies run their businesses efficiently one increase a year should be all that is required to cover what should be only the reasonable and fair calculation of costs against the homeowner for their share of the maintenance and running of the residential park. Why should they pay for all things or even most of the out of pocket expenses of the park owners, they already pay a high fee for renting a small piece of land. Private rentals are not subject to these conditions, and these people own these homes and pay for all the maintenance on them. Where does it detail what these specified costs

are to the homeowners, most park owners will not provide the true documentation to support their increases or their financials. Why if they have nothing to hide?

Record of residential parks

There is currently no public register or record of residential parks providing sites for manufactured homes. The review process highlighted that more comprehensive information about the location and number of sites available for manufactured homes would contribute to improved policy development and provide better mechanisms for communicating with park owners and manufactured home owners.

The Bill empowers the chief executive to establish a record of residential parks. Residential park owners will be required to provide specified information to the chief executive, including the name of the park, the location and mailing address of the park, the number of sites available for manufactured homes and any other information prescribed by regulation.

The Bill also contains an amendment which will compel park owners to display prescribed information on the park's notice board (which is currently required to be maintained under the Act) for a prescribed period of time. This amendment complements the amendment allowing the chief executive to maintain a record of residential parks by enabling important information to be effectively distributed to manufactured home owners across the State.

Consistent with the policy objective to strengthen fair trading practices in the operation of residential parks, providing ongoing information to home owners and park owners about the Act will increase both parties understanding about their rights and obligations and may lead to a reduction in the number of disputes between the park owners and home owners.

How many park owners are abiding by this rule and who enforces it, ensures it is displayed, what is a prescribed period of time when new people are coming in to these parks on a regular basis.

It is obvious the so called Chief Executive whoever that may be is not doing their job, as the register as noted before is out of date and not accurate and the park owners are not abiding by the rules of notification.

So again, the public do not get what they were advised they would get and those who should oversee this keep their jobs and get paid and do not care about those this affects.

Estimated Cost for Government Implementation

The administrative costs to Government in implementing the Bill are not

expected to be significant. However, it is expected that any increase in applications to the tribunal will be offset or mitigated by a reduction in other types of applications, particularly applications regarding site rent increases outside the terms of site agreements, which will be substantially limited by the amendments.

A restriction on the ability of park owners to seek increases outside the express terms of a site agreement is justified on the basis that home owners (and prospective home owners) should be able to rely on the express terms of their site agreement in planning and making decisions about the occupation of their homes in a residential park. This is especially critical because many home owners are retired and on a fixed income. In that respect, *clause 20* will increase transparency and certainty for parties to a site agreement.

This transparency and certainty has not occurred, sales people, agents of the park owners are all about the money, keeping their jobs and surprise, surprise they tell lies to prospective buyers, and the homeowners, I was one, so I know. We again can provide documental proof of these actions.

Relying on the express terms of the site agreement makes no difference if these park owners do not do the same. Also, if the government continues to support the dictionary of this Act in its current form, then more abuse and more unfair business practices will continue.

The potential adverse impact on park owners arising from *clause 20* is mitigated in two ways.

Clause 24 provides a maximum penalty of 200 penalty units if a park owner engages in threatening, intimidating or coercing behaviour, or attempts to threaten, intimidate or coerce a home owner.

The occurrence of this negative behaviour by park owners, or their agents, and that should be placed in this Act (their agent) as most of it is done by park managers or other people who work for the park owner will continue until they are actually held accountable by RSU with fines and more severe rules, rather than a slap on the wrist. Why have RSU if they just pander to them and have no real backbone to protect these older Australians.

Clause 31 provides a maximum penalty of 5 penalty units if the park owner does not provide the required information to the chief executive within 28 days of the park opening or if the park owner does not provide the required information to the chief executive within 28 days of a change of the information contained within the record of residential parks. A 5 penalty unit offence for this section is consistent with section 51 of the Act which relates to the park owner being required to provide information to the home owner. It is considered that a small penalty best reflects the nature of an offence against this section.

When has this be applied, if the register on the government website is not accurate who takes that responsibility, when I have provided corrected information, and nothing was changed as they have to have the records from the park owners. If they are not on that list does that mean they have not provided the information or that the public service person who should be doing this work is not capable of the job. Happy to take it on if you want to pay our association to maintain the register as appear to have more ability and knowledge in this area than the actual department.

Summary and Conclusion

Quote from the:

2020-21 Queensland State Budget

Service Delivery Statement:

- completing implementation of reforms to regulatory frameworks for retirement villages and manufactured homes and increasing consumer protections and providing certainty for industry.

We are the voice for all the over 45,000 people who choose to live in residential parks under the Manufactured Homes (Residential Parks) Act 2003. We will not stop pushing for the much needed changes and making those in the Government aware of what is really happening in this housing sector. You are our representatives, and we ask you to do so, you may also represent those in this industry of residential parks in another way, but they have the resources to ensure their rights are met. The people have us, and we will not let them down. They do not feel they can trust the government and their departments anymore. They all vote, and we can make a difference and so can you by supporting these changes.

We are not going away until these reforms are made and will continue to push for what is right, fair and equitable for these older Australians. Some use the adage, there has to be a balance, we are open to discussing that balance, because at this time there is none, it is tilted in towards the park owners and the big overseas companies that back this are financially.

The rights of big businesses should not overrule the rights of any person, they must be held accountable, and not given preference due to such points raised to us such as:

Provision of jobs: In this sector where Hometown Australia, who are a Chicago based company and part of Hometown America have now bought 15 parks in Qld already and own 54 is Australia, they are not doing it to provide jobs. The profits go to America. If residents have issues and their park manager will not deal with it, they have to contact head office in America. They have cut staff numbers in all their

parks, in the area of maintenance and taken managers out of the parks and cut their hours so they are not available to the home owners as was advertised when many of these residents bought in. Many other park owners are also making these changes and homeowners are doing their own garden maintenance and have facilities that are not up to standard.

Remaining Viable: Hometown do not believe they have to follow the rules in Australia and use excuses such as that they bought the place, and they did not sign up to the old site agreements. They also have people working for them that use intimidation, harassment and coercion to make people agree to changes in their site agreements. **This needs to stop now.** We again can provide cases and documentation to support this. Most residents are too scared to report this or to take them on, we offer support and write letters for them and mostly they / we do not get replies or any action. The system is well and truly broken and being misused and we try to support these people, but we do not have the necessary power to make them treat these homeowners with respect, consideration and honour their rights to live in an environment free of negativeness and intimidation.

If there was any chance that the future of this industry was not viable then why are they growing at such a rate all over Australia. Companies such as Ruby Developments who until two years ago where only in Qld, and financed by a Singapore company, are now in NSW and Victoria, and Hometown Australia (Hometown America) who have been only here for a short period of time continuing to expand by buying as many parks as they can and now in Qld, NSW and SA with 54 parks.

The only way that these parks will become unviable is if the government and the legislation does not protect those who really support this industry, those that purchase the homes and live in these parks. Their money keeps these parks alive and operating, if they are continued to be exploited and abused financially, as well as their rights diminished, then the future for them and this housing area is not going to stay viable or be a long term option of housing.

Many are already leaving these parks because of the increases in the park site fees, it is cheaper to pay for the costs of a private home than what the site fees rentals, on average of $200 a week now, this does not provide and give the consumer value for money especially in a lot of older parks.

In time more people will want to leave than will want to purchase if the costings are not workable in relationship to what you get for the fee. People will then be caught either with an unsellable, immovable home, or have to reduce the price to get a buyer so they can move on. It will not be affecting the park owner immediately but there could be more terminations of agreements due to homeowners not being able to pay their site fees or sell and disputes about site fees. Then they have to try to find somewhere else to live or rent, and this then burdens the private sector and could create more homelessness in the older Australians. The parks will not be able

to sell their homes and will close or diminish their responsibilities to those that still live in them. Overall, this will create more social issues and more legal issues.

Homeowners already are cutting costs and their lifestyle choices, many do not pay for health, house or car insurance and are living week to week. There is only so much they can do before they cannot afford to pay their rent and risk losing their homes, this a stress they do not need at their age. They do not have as much protection as the private sector, this government needs to now provide it and give them more security and financial balance.

The social impact on housing for the older Australians is already in crisis, and if there is no action, sooner than later this area of housing will become a part of a long term problem for the government and society.

There will have to be some rental increases and people expect that and can budget if they know they are fair and what to expect. The owners of these parks must be made more accountable and abide by fair business practices, with severe penalties if they do not do so. The Act, the MP's and their departments responsible in the government for this area of housing, should also be made more accountable. The financials and accounts of these park owners needs to be open to all to avoid further corruption, or misuse of this Act in ascertaining what is a fair and reasonable increase in rent.

Please contact me if you require further information or wish to meet and discuss our association and our work.

Rhonda Cooper
President

Copyrighted 2022
This document and content as set out below are in this format for the use of AMHO only. It is not to be distributed, copied, or cited either partly or in whole without the permission of the AMHO President.

PO Box 349 Burpengary Qld 4505 0418368567 amhocontact@gmail.com

Website https://amho.com.au **A.B.N. 28 385 962 456 Incorporation No. IA4584501**