



ASSOCIATED RESIDENTIAL PARKS QUEENSLAND INC

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**Housing Legislation (Building Better Futures) Amendment Bill 2017 (the Bill)
 Part 4 - Amendment of Manufactured Homes (Residential Parks) Act 2003 (the Act)**

SUBMISSION TO PUBLIC WORKK AND UTILITIES COMMITTEE

Bill Reference	Act Reference	Details of Submission
N/A	Current Part 2, Section 10	<p>What is a Manufactured Home</p> <p>The amendment fails to rectify the anachronistic definition of a ‘Manufactured Home’ as ‘able to be moved from one position to another’ and ‘not permanently fixed to the land’. Although this may apply to some older houses, the majority of the Manufactured Homes built in recent years pay “lip service” to this requirement in that they may be relocatable in theory, but not in practice. In reality, all terminology relating to a Manufactured Home being ‘relocatable’ is outdated and this needs recognising through an amendment of the Act.</p>
N/A	Current Part 6, Division 3, Section 38 (1)(f)	<p>Termination of Site Agreement by Tribunal</p> <p>The amendment does not remove a Park Owners right to walk away from their contract obligations by applying for a termination of a Site Agreement if they wish to use the park in which the site is located for another purpose (ie they simply change their mind) . This needs rectifying to give Home Owners the security of tenure over the land which they are legitimately leasing, similar to that already enjoyed by other long term leaseholders of land.</p>
N/A	Current Part 6, Division 3, Section 40	<p>Compensation Order</p> <p>We consider this section needs to be rewritten to fall into line with regulations under “The Lands Acquisitions Act” when an authority such as a Council or a Government department needs to re possess or claim a property for infrastructure or rezoning. Compensation for a manufactured home within a Residential Park should be in line with current market values i.e. if homes in the park in question sell for “X” amount of dollars and/or to purchase a home in a similar park then the compensation should be in line with the amount needed to purchase in that other park, for a similar home.</p>

N/A	Current Part 7, Division 2, Sections 48 & 49	<p>Park Owners Consent required/Consent to assignment of Sellers Interest</p> <p>This amendment does not remove the right of the park owners to withhold consent to an assignment of a homeowners interest in a site agreement to a potential buyer, nor does it clarify grounds on which such consent can be withheld.</p> <p>Further, it does not ease the process which is complicated to begin with, for homeowners to object to withholding of this consent (requiring an application to the tribunal inevitably means the sale is lost).</p>
Clause 31	Current/New Part 7, Division 2, Section 50	<p>Application to Tribunal for order that park owner consent to assignment/Dispute resolution and application to tribunal about refusal to consent to assignment</p> <p>The amendment is not practical in that time lost in going through any dispute resolution process will inevitably result in a buyer withdrawing from a deal makes the prospect of selling a home null and void. This needs to be thought out better. What is really required is a restriction on the ability of park owners to refuse to consent to assignment of the site agreement.</p>
Clause 33	New Part 11	<p>Varying site rent</p> <p>As proposed by the amendment there will be an ever increasing number of ways for the Park Owner to increase site rent/profit, ie CPI, market review, special, and any other means a Park Owner can devise as long as it is specified in the site agreement (see below). It is considered that this whole area is getting out of hand. As often reported on in the financial press, the rate of return on investment in the Residential Parks sector (for Park owners that is) is among the highest of any industry sector with the development of new parks being announced almost on a weekly basis. The industry is literally booming.</p> <p>This is in stark contrast to the situation that many Home Owners who have invested in the sector find themselves in. Contrary to the original intent that Residential Parks should provide ‘affordable housing for seniors’, through Park Owners’ profit gouging and them continually passing on their commercial risk to home owners that they should rightly carry themselves, site fees have already reached such a high level that in some cases they are prohibiting single Seniors and Pensioners from continuing to live in Residential Parks. Some are doing it very tough.</p> <p>Residential Parks are classified as ‘regulated accommodation’. Consistent with this classification, the whole area of varying/increasing site rent urgently needs restraining through effective regulation (refer Premier’s statement on need to limit rent increases).</p>

Clause 33	New Part 11, Division 2, Section 69A	<p>Basis for site rent increase must be stated in site agreement</p> <p>Although the amendment requires that the Park Owner must ensure Site Agreements state the basis for working out the amount of any increase in site rent, it does not place any restrictions on the right of Park Owners to use multiple (and sometimes complicated/unfair/unclear) mechanisms for calculating increases in site rent, including the fundamentally flawed and often abused Market Review process (see comment below on abolition of this process).</p>
Clause 33	New Part 11, Division 2, Section 69D	<p>Consulting with interested entities for preparing market valuation</p> <p>Although the amendment places new restrictions on the application of Market Reviews for working out the amount of any increase in site rent, in reality there is no true 'free market' governing Residential Parks site rent only a cartel with a limited number of suppliers (Park Owners) and tied customers (Home Owners) who cannot shop around for a better deal. Any concept of a 'market' relating to site rents is therefore nonsensical. Furthermore, it is considered that there are few registered market valuers that are versed in the Residential Parks industry and therefore capable of providing the advisory service as proposed in the amendment.</p> <p>Market Reviews should be made illegal with the only fair basis for increases in site rent being CPI consistent with generally accepted practice in other industry sectors.</p>
Clause 33	New Part 11, Division 2, Section 69D	<p>Consulting with interested entities for preparing market valuation</p> <p>Section 100 of the Act governing the establishment of Home Owners Committees, states only that Home Owners 'may' establish a home owners committee and gives little guidance on how it should be established or operate. Consequently, not all residential Parks have a home owners committee and where they exist they are often inadequate or ineffective (some operate purely as social groups), do not necessarily represent the interests of all homeowners (some home owners choose not to participate), nor truly independent of the Park Owner.</p> <p>If the role of home owners committees is to be formalised as part the consultation process on site rent increases as proposed, mechanisms need to be put in place to correct these deficiencies, whilst at the same time protecting the rights of individual home owners to speak on their own behalf.</p>
Clause 36	New Part 11, Division 3, Section 71(1)(b)	<p>Application of division</p> <p>Delete "expects to incur". Site fees should only be increased where necessary to cover costs actually incurred.</p>

Clause 36	New Part 11, Division 3, Section 71(1)(b)(ii)	<p>Application of division</p> <p>Delete “that the Park Owner could not reasonably have foreseen”. Park Owners invest in Residential Parks at their risk which is why the returns are so high. This investment risk should not be based on to Home Owners.</p>
Clause 36	New Part 11, Division 3, Section 71A(1)(a)&(b)	<p>Notice of special increase in site rent</p> <p>Delete “expected to be incurred” (see above).</p>
Clause 36	New Part 11, Division 3, Section 71A(1)(f)	<p>Notice of special increase in site rent</p> <p>The basis for calculating the period over which any repair or upgrade cost is payable, needs to be made transparent to home owners.</p>
Clause 36	New Part 11, Division 3, Section 71B(1)(b)	<p>Agreement to proposed increase for upgrade cost</p> <p>The amendment introduces a requirement for 75% of home owners to agree in writing special increase in site rent for cover any upgrade cost however, it appears that this requirement can be avoided by the Park Owner including provisions for such increases within the Site Agreement under new Section 69A.</p>
Clause 36	New Part 11, Division 3, Section 71D(b)	<p>Criteria for tribunal to confirm or reduce proposed increase</p> <p>The term ‘not commercially viable’ needs to be clarified. As stated above Park Owners invest in Residential Parks at their risk which is why the returns are so high. This investment risk should not be passed on to Home Owners.</p>
N/A	Current Part 14, Division 1, Section 93	<p>Repositioning of Manufactured Home</p> <p>The amendment does not remove the right of Park Owners to require Home Owners to reposition their home to another site. As outlined above, the majority of ‘manufactured homes’ built in recent years are not truly re-locatable and this needs recognising through an amendment to the Act;</p>
Clause 43	New Part 14, Division 1, Section 86A	<p>Preparing, maintaining and implementing emergency plan</p> <p>Training of Park Managers should be specified.</p>

N/A	Current Part 14, Division 2, Section 99A (2)	<p>Separate charge by Park Owner not to be more than cost of supply for use of utility</p> <p>The amendment does not introduce any requirements relating to disclosure of information as to the amount actually paid by Park Owners for supply of a utility service, especially when discounts have been negotiated with utility provider, to ensure this provision is actually complied with. This needs addressing as abuses are currently taking place.</p>
N/A	N/A	<p>Training of Park Managers</p> <p>At the present time there is no requirement under the Act, or the subordinate Regulation, covering training for Park Managers. Consequently many Park managers do not have the skills or aptitude to sensitively deal with seniors and consequently in many Parks there is unacceptable behaviour by Park Managers which could be considered ‘elder abuse’. To rectify this situation, we consider that all Park Managers need to be “certified”, undergo the training and tests to obtain the certification and pay the yearly fee plus police check.</p> <p>In some cases Park Managers also carry out a similar role to a Sales Manager, Property Manager or Letting Agent, all of whom who must undergo the above certification before commencing a job within a real estate agency.</p> <p>We also suggest a “duty of care” section be added to the Act that specifies that all Park Managers and Sales Staff have a duty of care to prospective homeowners in that they must explain (not just disclose) all paperwork fully when given to new buyers.</p>
N/A	N/A	<p>Ruling by anti-discrimination commissioner on legal status of residential parks advertised as ‘over 50s lifestyle’ resorts</p> <p>The amendment does not provide Park Owners with an exemption from anti-discrimination legislation similar to that that already exists for retirement villages, so that Residential Parks can be legally developed and advertised as ‘over 50s lifestyle resorts’. Most Home Owners in Residential Parks have ‘paid over the odds’ for their home simply because they were protected by such a covenant. This ruling negatively impacts on the value of their homes in Residential Parks and investment that many home owners have made. It therefore discriminates against seniors and needs addressing.</p>