



QUEENSLAND
MANUFACTURED HOME OWNERS
ASSOCIATION INC.

**Submission to the Queensland Parliament
Housing, Big Build and Manufacturing Committee**

**Re: The Manufactured Homes
(Residential Parks) Amendment Bill
2024**

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This submission consists of introductory comments on the Bill and the extent to which it will achieve its declared objectives, followed by consideration of and comments on the main proposed amendments under the following 4 categories which are of importance to owners of manufactured homes:

- Category 1: Affordability and Fairness of Site Rent Increases.
- Category 2: Ensuring that the Quality and Standard of Services, Facilities and Amenities in Parks are maintained.
- Category 3: Ensuring that the process of selling homes does not disadvantage home owners unnecessarily.
- Category 4: Other provisions to strengthen consumer protection in the Manufactured Home (Residential Parks) Act

A section is included highlighting and commenting upon a number of significant concerns of owners of manufactured homes which the Bill in its current form does not address.

The submission concludes with a section commenting on the impact that these changes will have on the manufacture homes residential parks industry, including upon the future viability of the industry and the contribution it can make to the provision of accommodation for older Queenslanders.

Introductory Comments

As the peak body representing home owners in residential parks in Queensland, we congratulate the Government for the introduction of this Bill to amend the Manufactured Homes (Residential Parks) Act 2003 in certain particulars.

If passed, this legislation will provide home owners with greater certainty over site rent increases, will clarify and simplify other aspects affecting their living arrangements as well as providing improved consumer protections. In addition it makes provision for greater cooperation and transparency between home owners and park owners.

Alongside these benefits for home owners, park owners have been provided with simplified procedures, clarity over how site rents can be increased whilst consideration has been given to the financial viability of park owners and the manufactured homes industry generally.

It must be stated that our Association acknowledges the wide ranging and often radical changes which will be enacted on the passing of this Bill. We extend our appreciation for the efforts of the Minister of Housing, her staff and those Officers in the Department who have worked so diligently to achieve the outcomes we are previewing today.

We acknowledge that the proposed amendments go a long way toward achieving the outcomes set out in earlier consultation documents and this is welcomed. Nevertheless, it is our view that certain aspects could be improved and that some important matters highlighted earlier in the review process have not been acknowledged. Our comments on these aspects follow.

Comments on the Main Amendments Proposed in the Bill

Category 1: Proposals that concern the Affordability and Fairness of Site Rent Increases

1.1 The Prohibition of Market Rent Reviews as a method for calculating Site Rent Increases

QMHOA very much welcomes and strongly supports this proposal. As stated in our submission in response to the 2022 Issues Paper (ARPQ, 2022) it is our firm view that in the context of residential parks, determining site rent increases using a market rent review as the key metric is not fit for purpose. The rationale for that position is outlined in some detail in our 2022 response (ARPQ, 2022).

Every conversation we have with home owners in residential parks about market rent reviews confirms that their retention as a basis for increasing site rents would be unacceptable to them. It is an approach that has a well proven record of leading to site rents which have a significant negative impact on their financial and overall

wellbeing whilst enhancing what they believe to be the already high profits for park owners. Thus, it fails completely in satisfying the criteria outlined in our response to the C-RIS of maintaining the balance between the interests of home owners and park owners that was agreed to by both parties when they originally signed a site agreement.

Our support for the prohibition of market rent reviews is further based on the fact that site rent increases on this basis invariably result in a dispute and a probable QCAT hearing. These disputes are a cause of much stress to home owners, significant disruption and costs to park owners as well as the cost to Government in the resourcing of QCAT.

In essence the prohibition of market rent reviews will reduce the number of disputes between home owners and park owners to the benefit of all involved.

Any loss of income by park owners is somewhat offset by the inclusion in the Bill of a provision allowing them to reset rents to their perceived market value when entering into a new site agreement.

For the above reasons this amendment has our unqualified support and we ask the Parliamentary Committee to commend it to the parliament without change.

1.2 Definition of CPI

In section 69A the Amendment Bill provides a new definition of CPI being “All Groups Index Numbers – Weighted Average of Eight Capital Cities published by the Australian Bureau of Statistics.

In addition, section 69B(5) of the Bill provides that the CPI to be used for calculating a site rent increase must be that for the last quarter before the increase date.

QMHOA acknowledges and welcomes this amendment which will ensure a greater measure of alignment between increases in site rents and increases in the aged pension, which for many owners of manufactured homes, is their main source of income.

In addition we welcome the provision of the new section 69B(5) which clarifies that the CPI to be used as a basis for site rent increases as being for the quarter immediately prior to the general increase notice date. In addition to providing clarity for home owners it will simplify procedures for park owners.

We are, however, very cognisant of the fact that there is considerable evidence that CPI is a poor measure of increases in the costs of operating a park. The impact of calculating a site rent increase on this basis results in a home owner

paying more than is required to cover the increased operating costs. At the same time the park owner is benefiting from further increases in their already substantial profits.

We have highlighted this weakness in the use of CPI as a measure of inflation in residential parks in our submissions to both the 2022 Issues Paper and the 2023 Consultation Regulatory Impact Statement (C-RIS). We find it regrettable that the suggestions we made in our response to the C-RIS to address this matter by the creation of a new Manufactured Homes specific index to measure cost increases has not been taken up in the Bill.

We acknowledge that this amendment included in the Bill helps to keep site rent increases more in line with aged pension increases but does nothing to provide a fairer more transparent method of increasing site rents. It is our view that this amendment does nothing to protect home owners from unfair or excessive increases as provided in the amended Objects of the Act.

Accordingly we request that this Parliamentary Committee give further consideration to our proposal for a manufactured homes park specific measure of increased costs.

1.3 Limiting of site rent increases to the higher of CPI or 3.5%

QMHOA strongly supports the concept of capping site rent increases to protect home owners from excessive increases. It is our view, however, that the amendment, as written, will in all instances where the cap of 3.5% is applied, result in disadvantage to home owners and advantage to park owners.

When CPI is below 3.5% and where the basis in a site agreement results in an increase in excess of CPI, the increase will exceed any increase in the aged pension which will more closely align to the CPI figure. As site rent increases compound year on year, this disparity between rent and pensions will widen resulting in additional financial stress for home owners and unwarranted increase in profits for park owners. One wonders how those who designed this Bill arrived at a figure of 3.5%.

It should be noted that The Reserve Bank of Australia has a CPI target of between 2 and 3% and when that target is reached, the above scenario will regularly play out for the betterment of park owners.

Under the circumstances it would be more equitable for the cap to be set at 2.5% or CPI whichever is the higher. This would more closely align with aged pension increases and park owners would not be disadvantaged when CPI is high.

This raises the question of CPI being a valid indicator of increases in park operating costs and we have argued against this proposition in earlier submissions. Even a

casual perusal of the items included in the ABS calculations show its irrelevance for this purpose. In the past we have proposed the development of an industry specific index to reflect actual increases in park operating costs. If this index were developed it would result in a fairer outcome for all.

This index could be achieved relatively easily using publicly available data from the ABS.

It is our strong belief that any cap (say 3.5%) which results in a site rent increase over and above increased operating costs for the park owner is inequitable resulting in windfall profits for park owners and forcing home owners further toward housing stress. Should this situation be allowed to continue home owners (particularly pensioners and some self-funded retirees) will find rents unaffordable, which will impact on the viability of park owners and the sustainability of the industry.

We consider that changes on these lines are required to protect the ability for home owners to pay increasing site rents and the viability of park owners and the manufactured homes industry generally.

We call upon the Parliamentary Committee to strongly commend the establishment of a cap on site rent increases.

We also call on the committee to consider recommending changes to the Bill to address the unfairness of situations such as the above scenarios. That is, setting the cap at 2.5% or the level of an industry specific index. If an industry specific index is not created and used, then we would like the committee to consider setting the cap at 2.5% or CPI whichever is the higher

1.3 The Introduction of Provisions Requiring that Park Owners provide Multiple Payment Options for the Payment of Site Rent to both New and Existing Home Owners..

QMHOA supports this measure in principle. We concur with the statements in the Explanatory Notes which accompany the Bill. It expands consumer choice and autonomy over their financial affairs, how site rent is paid and provides greater flexibility for home owners to alter their payment method if their circumstances change.

Many park owners insist that site rents can only be paid by direct debit which in some cases causes difficulties for the home owner. In addition, some of these direct debit orders prepared by park owners are wide ranging in scope and could be detrimental to the home owner.

In view of this, we welcome the necessity to provide several methods of payment but are concerned about the effect of section 63C which allows park owners and home owners, by agreement, to choose an option other than a nominated method.

We are fearful that some park owners may see this as a way of achieving their preferred option by coercion.

It would be our suggestion that wherever the nominated payment methods are set out in site agreements or elsewhere a notice highlighting the right of choice of the home owner be included.

We ask the Parliamentary Committee to commend this measure to Parliament but with additional safeguards for consumers.

1.4 New Provisions in the Act which require new site agreements to use prescribed terms for increasing site rents.

QMHOA supports this measure in principle. If implemented appropriately, prescribing the basis for site rent increases would prevent park owners creating new bases which disadvantage home owners as they have done in the past, particularly if, as is stated in the commentary section of the Explanatory Notes, it is designed in such a way as to prevent unclear formulas to be used in site agreements. We do note however that at this stage the Act states that the bases will be prescribed by regulation and no details are available of what these bases will be other than as they were outlined in the preferred Option 4 in the C-RIS. These were CPI-based calculations; Increase in expense based calculations and Fixed percentages.

Greater clarity is required and our full support for the measure will be contingent upon the final form of the relevant regulations.

QMHOA calls upon the Parliamentary Committee to commend this measure to parliament. We also ask the Committee to make a strong recommendation that our organisation, as the peak body representing owners of manufactured homes in Queensland, be consulted in relation to the drafting of regulations in respect to this matter.

Category 2: Ensuring that the Quality and Standard of Services, Facilities and Amenities in Parks are maintained.

2.1. Requirements for Park Owners to Prepare and Implement Maintenance and Capital Replacement Plans (MCRs) for the Residential Park.

QMHOA welcomes and supports this measure. We advocated for it in our response to the 2022 Issues Paper and supported the proposal for it to be introduced as a preferred option in the 2023 C-RIS. We hope that it will help to address one of the major concerns of owners of manufactured homes; that is, that the level and quality of the maintenance of facilities and amenities and the services provided in the park, in return for the payment of site rents, is not allowed

to decline. We trust that the measure will be implemented in a way that ensures it is strong enough to achieve the stated objectives.

We note and strongly support the goal articulated in the Explanatory Notes of the Bill that MCRs will “*improve transparency and encourage open communication and consultation on a park’s maintenance and capital replacement priorities*”. However, we also note that while park owners will be required to provide copies of revised MCRs to Home Owners Committees within 28 days, there are no requirements outlined in the Act as it currently stands in respect to consultation with home owners re the content of the original plans nor in respect to home owners having any input into them.

We submit that this lack of any provision for home owner consultation on preparation of MCR’s does not conform as a means of achieving the main object of the Act as outlined in section 4(2) (d) which provides for “facilitating participation by home owners---in the affairs, maintenance and operation of the park”

QMHAO calls upon the Parliamentary Committee to commend to parliament the concept of requiring park owners to develop MCRs. However, we also urge the Committee to recommend amendments to the Bill so that there are requirements that home owners in a park, through their Home Owners Committee, are consulted on and have input into the drafting of the content of MCRs.

We also note that while the Bill requires that MCR plans be in approved form, it only states that the information and form of the plan will be prescribed by regulation. Thus, at this time no details of the form of the plans nor the information they must include, is available.

We also ask that the Parliamentary Committee make a strong recommendation that QMHOA be consulted in relation to the drafting of regulations in respect to MCR plans.

2.2. A provision that the tribunal can consider whether an increase in costs is attributable to a failure of the park owner to meet their obligations under an MCR when considering an application for a special cost increase in site rent.

QMHOA welcomes the amendment of 71C of the Act to make this provision. It is our view that MCRs will not be effective in mitigating the practices of park owners reducing their costs by cutting back on maintenance and capital replacements provisions if they are allowed to become merely tokenistic, because park owners are not held accountable for both their quality and ensuring that they are fully implemented. We believe this provision along with the insertion of a new section 86C “*Complying with maintenance and capital replacement plans*” will help to ensure mitigation of the practice.

We note, however, that a similar provision is not included in this Bill in relation to section 72 of the Act “Site rent reduction for failure of communal facility or service etc.” This is the section of the Act that is clearly designed to give home owners the capacity to take action themselves to mitigate the practice of reducing costs by cutting back on maintenance and capital replacement. It would seem logical to strengthen the provision in section 72 by adding to it, failure by a park owner to meet their obligations under an MCR.

We ask that the Parliamentary Committee in addition to commending the provision put forward in the Bill to parliament, also recommend further amendment to the Act to ensure a similar provision applies to section 72.

Category 3: Ensuring that the process of selling homes does not disadvantage home owners unnecessarily

3.1 Sale of homes. Assignments. New site agreements

Section 36, clauses 56A – 56C inserts new provisions covering sale of homes, the ability for home owners to assign site agreements and the rights of park owners in relation to new site agreements.

QMHOA is comfortable with accepting these changes. However, we do have one significant concern with the provisions made in the Bill as they currently stand and would like to see them amended in a way that doesn't disadvantage home owners. The provisions of concern relate to the park owners' right to reset site rents for new residents on signing of a site agreement. We believe there needs to be some qualification on the extent that this new rent exceeds other rents in the park.

Two of the factors which impact upon the ability of an owner of a manufactured home to sell it, are the sale price and the terms of the site agreement, including site rent and the basis for increases, that the buyer needs to enter into with the park owner.

A major concern of home owners is that a park owner seeking to take this opportunity might choose to adjust the terms of the site agreement by increasing the level of the site rent and/or the method of calculating increases. If the new rent is excessive or the basis for increases is onerous this has the potential to impact upon the ability of the home owner to sell their home. The result could be having their home on the market for a longer period than they desire, sometimes with significant flow-on consequences, and could lead to them having to lower the selling price.

The ability under the existing Act for the home owner to choose to assign their existing site agreement to a prospective buyer provided a means for them to ensure that the park owner was not able to disadvantage them in this way.

Though in practice, many home owners did not choose to assign their existing site agreements and large numbers of buyers entered into new site agreements, it is likely that the fact that the assignment option existed did have a mitigating effect upon park owner's actions.

The new requirement for the sales process guarantees that the park owner cannot seek to reduce their costs by changing the level of services, facilities and amenities that are provided in return for the payment of a site rent and we welcome this amendment.

Under these new provisions there is a possibility that a park owner could choose to increase the site rent to such an extent that it has an impact on the home owner's ability to sell. It can be argued that due to other measures imposed by this Bill, park owners' options for increasing the level of their income is reduced, and the possibility of excessive rents being demanded is increased.

Amending the Bill to include a reasonableness clause in relation to the site rent that can be set in a new contract or linking it to the highest levels of other site rents paid in the park, would mitigate the possibility of this loophole disadvantaging a home owner.

Therefore, though we approve of the Parliamentary Committee commending this measure in the Bill to parliament, we also ask them to make a strong recommendation that there be an amendment of the kind suggested above.

3.2 Requirements for park owners to prepare a residential park comparison document.

We welcome and strongly support this concept.

We concur with the comments made in the Explanatory notes on the benefits that park comparison documents will have for prospective home owners. We believe that they have the potential, if designed correctly, to be more effective than the Initial Disclosure currently in place.

We also believe that these documents will be advantageous to existing residents in that they will help to foster greater competition between park owners to attract residents and thus encourage them to maintain a higher quality of facilities and service. Such documents would also enhance the capacity of home owners to hold their park owners accountable to maintain the standards outlined in their comparison document.

In voicing our support we note that the effectiveness of this measure will depend heavily upon both what information is included in the comparison documents and the accuracy of it. We note in section 18H(c) of the Bill that the formatting of the Comparison Documents will be standardized and prescribed by regulation. In addition sections 18H(a) and(b) outline the broad headings of the content that will be included, with the provision that other details under other headings can be added by regulation. It is our view that the finer details required under these broad headings and the way the document is formatted and presented will impact greatly on its effectiveness.

For these reasons we ask that the Parliamentary Committee not only commend the concept of Park Comparison Documents to Parliament, but also to recommend that QMHOA, as the organisation representing home owners, be consulted and involved in the drafting of the regulations.

3.3 Renaming and replacement of the Supplementary Disclosure Document with a Manufactured Home Owners'(MHO) Information Document

QMHOA welcomes this amendment and the way it is designed to operate alongside the introduction of Park Comparison Documents.

We note that the new document will contain similar information to what was included in the former Supplementary Disclosure Document. Also that the Manufactured Home Owners' Information Document and the Park Comparison Document are designed to improve the way in which information about the park and living in it are conveyed to prospective home owners.

In the 2023 C-RIS an additional recommendation was that "*The presentation of information in pre-contractual disclosure documents and site agreements should be improved, particularly in relation to the future costs of site rent.*" QMHOA sees the emphasis upon future costs of site rents in this statement as vitally important. We see the inclusion of not only the proposed new site rent for the site as vitally important, but also want details to be provided on how it compares with the previous site rent for the site, the site rents paid for

other homes in the park and how the costs can be expected to change over the next 5 to 10 years.

In addition, we would like details included of how the services, facilities and amenities provided differ in any way from those offered to other sites in the park. This is the sort of information that home owners across the State have said they were unaware of until after they had moved into their park and wish had been available to them before they signed their site agreements.

Whilst we note and are comfortable with the broad outline of the content of the new document provided in the new Schedule 1 of the amended Act, we believe that the ultimate success of these measures will depend upon the details of what precise information is included in both the MHO Information Document and the Park Comparison Document. QMHOA would certainly expect to be consulted in relation to the design of both documents. Better still we would very much welcome being invited to participate in the co-design of them.

We ask that the Parliamentary Committee not only commend the concept of the Manufactured Home Owners Information Document parliament, but also recommends that QMHOA, as the peak organisation representing owners of manufactured homes be involved in the co-design and drafting of the document.

3.4 Establishment of a new framework for the buyback and site rent reduction for unsold homes.

QMHOA is supportive of the concept of a buyback scheme and site reduction for unsold vacant homes.

We do have concerns however about the time frames which require homes to be on the market whilst vacant for a minimum of 18 months before buyback will occur and a minimum of 12 months before there is a reduction of only 25% in site rent.

In our response to the proposal to introduce this measure in the 2023 C-RIS we suggested shortening the timelines and modifying the site rent reductions a follows:

- Buyback opt in should apply at 4 months after a vacant house is put in the hands of the park owner to sell
- Buyback should become mandatory at 12 months after a vacant house is put in the hands of the park owner to sell (i.e. 8 months after opt in)
- Rent reduction of 25% should apply at opt in time , (i.e. 4 months)
- If not sold in 8 months the site rent reduction will be increased to 50%

- If an extension is allowed by QCAT after 12 months the rent reduction should be increased to 75%

QMHOA also has concerns that the intricacies of these provisions may be difficult for home owners to understand. We call for an easy to understand explanation of the schemes be prepared and available for distribution to new owners together with other pre-disclosure documents and for existing owners on appointing the park owners as selling agent.

Category 4: Other provisions to strengthen consumer protection in the Manufactured Home (Residential Parks) Act

4.1 The introduction of amended Objects of the Act

At QMHOA we have some concerns about the effectiveness of amendments to clause 4 of the M H Act as follows: -

The amended clause 4 (2) provides that the main object of the Act is achieved by –

Clause 4(2)(d) “facilitating participation by home owners for a residential park in the affairs, *maintenance and operation* of the park”. Note the inclusion of the words “*maintenance and operation*”.

The Explanatory Notes indicate that this amendment was to be achieved by the inclusion elsewhere of a requirement for park owners to have in force a maintenance and capital replacement plan. Unfortunately, it is our belief that this requirement as set out in the Bill does not achieve this objective and we include elsewhere our rationale for this statement.

The amendment Bill also adds 2 further clauses to this section being: -

Clause 4(2)(f) which states “protecting home owners from unfair or excessive increases in site rent”. This is a worthy objective and undoubtedly refers to the prohibition of market rent reviews, the capping of site rent increases and clearly defining CPI. See our comments elsewhere on these matters.

Clause 4(2)(g) which states; “preserving the safety and security of tenure of home owners”. This is also a worthy objective but unfortunately neither the Act nor the Bill does anything to achieve this.

The only reference to ownership or tenure are in the M H Act, clause 8, Who is a home owner - “a person who owns a manufactured home that is positioned on a site in a residential park under a site agreement”.

Additionally, clause 26 - Duration of site agreement, states “a home owner’s right under a site agreement to position a manufactured home on a site continues until the agreement is terminated”.

The failings here include -

Nothing in the Act or Bill regarding ownership or how it is established or recognised.

Home owners require and are entitled to some form of registered documentation proving ownership.

This form of registration on a public register could be of assistance to home owners seeking to use their home as collateral for the purpose of a loan. Please bear in mind that in today's market some homes are selling for in excess of \$800,000 and yet home owners' ownership is not recognised or regulated.

It has come to our attention in recent days that home ownership in Canberra is based on a 99 year lease of land on which the home is positioned and this scenario is apparently accepted by lenders. This situation is similar to that of owners of manufactured homes in Queensland and yet not accepted as collateral here. Surely we can learn from the Canberra experience to provide a form of registered ownership.

It is our belief that the inclusion of clause 4(2)(g) is worthless without some legislative backing and we urge this committee to give serious consideration to this issue.

QMHOA welcomes the strengthening of the wording of this section on the Objects of the Act, but notes with disappointment, the failure of the amendments to live up to these words in relation to;

- Home owner participation in the affairs, maintenance and operation of a park
- home owner participation in the processes of developing MCR Plans.
- Preserving the safety and security of tenure of home owners

We call upon the Parliamentary Committee to recommend:

- 1. Further amendments to section 86 of the Act to ensure that home owners are consulted and involved in the drafting and revision of MCRs.**
- 2. Provide clauses in the Bill guaranteeing home owners participation in the affairs and operation of the park.**
- 3. Include provisions to provide home owners with proof of ownership.**

4.2 Establishment of a new framework for termination of site agreements by the tribunal.

QMHOA supports the establishment of the new framework which we note encompasses a number of the Additional Recommendations made in the 2023 C-RIS which we supported.

We believe that the suggested amendments on this area are quite extensive and give scope for a wide range of legal argument on behalf of *manufactured home owners* (MHOs).

The one area that still gives us great cause for concern is the continuance of the condition presently in s38(1)(f) which is replicated in s39 in the new Act to allow an application for termination if the park owner "wishes" to develop the park land and shows "proof" of this by a signed Local Authority document i.e. a Development Approval. (DA)

The flaw in this section of legislation lies in that there is no requirement that the park owner actually develop the land once termination of site agreements has been ordered and past experience has shown that some park owners use the current flimsy requirements to simply obtain a cheap DA as a means to comply on the face of it with this particular section of the Act to either force MHOs out of parks or acquire their homes at 'fire sale prices', and then continue trading as a residential park (having no genuine intention for *material change of use* (MCU) of the park/site as claimed at all. The acquired homes may be renovated or the sites used for extra caravan sites.

This is presently happening at a Sunshine Coast Tourist Park, with the park owner seeking to build on a deplorable but successful record of relying on this modus operandi to simply achieve a termination order and blatantly make no attempt to obtain further permit or begin conditional infrastructure pre-requisites to enable actual development and MCU to occur.

Some safeguard to prevent this abuse of this weak section of the legislation and not so obviously allow a loophole which allows the bringing of a bogus claim before the Tribunal, needs to be added to the proposed amendment. As it stands, it allows a serious imbalance of rights and facilitates the use of unfair business practices in clear contradiction of the first-listed and foremost main object of the Act.

Use of the word "wish" in the legislation, creates a problem because of the nebulous definition of this word. The Macquarie Dictionary defines 'wish' as to 'want or desire' We believe deleting the word 'wish' and replacing this with the phrase 'genuinely intends' would help but does not completely address the problem or home owner disadvantage.

A more effective solution would be an amendment to the Act allowing, in the case where a park owner failed to carry out or commence in a genuine manner in a reasonable time frame the development described in the termination

application, a MHO to apply to the Tribunal for compensation of the market value of a home plus expenses incurred as a result of the application and subsequent termination order which may have been granted to the park owner.

We ask that the Parliamentary Committee commend these provisions in the Bill in respect to termination of contracts but that they also give consideration to recommending further amendments to address the issue raised above.

4.3 Implementation of a new registration process and prohibition of the operation of an unregistered residential park.

QMHOA welcomed these amendments when they were proposed in the C-RIS. At the time we expressed the hope that they would help to ensure that the Act satisfied the Policy Objective outlined in the C-RIS of “*A legislative framework which is contemporary and meets community standards*”. In particular we hoped that it would ensure that protections for home owners are not significantly less than those applying to retirement village residents. We are disappointed with the proposal that has been drafted in the Bill.

We note that the chief executive officer only has the power to refuse registration for failure to provide the information required for registration under the new section 18C. Also that the Chief Executive Officer can only cancel registration if informed by the park owner that the park has or proposes to stop operating or is she/he believes that the park has or proposes to stop operating.

There appear to be no character or behavioural standards that need to be met to register a residential park or to be maintained in order to operate a registered park.

Thus, there appear to be no character or behavioural standards (other than a reference to relevant convictions, whatever they may be) that need to be met to register a residential park or for it to be adequately maintained in order to retain registration.

Except for those few sections of the Act and the Bill that contain penalty provisions, the Government has no enforcement powers to take action against park owners who flagrantly ignore behavioural standards like coercion, harassment, interfering in home owners affairs and acting in other unethical ways.

This requirement for registration, which basically asks for no more than contact information, does nothing to ensure park owner behaviour or unfair business practices. Action to control excesses of this nature, are still left to unsophisticated and un-resourced home owners under the current dispute resolution process.

Dot point 2 in the Additional recommendations contained in the C-RIS was to amend the Act to “require registration and suitability requirements for residential parks and park owners, similar to those applying to retirement villages” The Amendment Bill does nothing to even enquire into a park owner’s suitability to operate a park.

Our response to this recommendation in the C-RIS was that a form of licencing should be introduced, giving Government some teeth to control those park owners whose actions show that they believe they are above the law.

It is the view of QMHOA that the provisions for registration do not in their present form offer any extra protection to home owners from unfair business practices by park owners. We ask the Committee to recommend further changes to this amendment.

Significant Concerns of Home Owners Not Addressed in the Bill

A. Registration to provide home owners with proof of ownership

An additional recommendation in the 2023 C-RIS, which QMHOA strongly supported, was, “A registration system for manufactured homes should be developed which allows home owners to register ownership of manufactured homes, and supports buyers to confirm that the seller of their home is the legal owner.”

This provision is a glaring omission from the Bill.

At present there is no means available to home owners in residential parks to prove ownership of their home similar to that provided by the Titles Register available to owners of homes and other properties in the rest of the community.

We are aware that one disadvantage that home owners in residential parks currently face is their inability to use the equity they have in their homes as collateral for any form of mortgage including reverse mortgages or home equity loans, which are commonly used by other retirees to bolster their cash flow. Indeed it is very difficult for them to use their home to secure any kind of bank loan. It is our understanding, that the absence of any form of registration of ownership similar to a Certificate of Title, together with the way Manufactured Homes are defined in the Act (see our comment in 3 below) are factors which contribute to this problem. We recommend that strong consideration be given to how this problem could be mitigated, at least in part, by the way this recommendation is implemented.

Perhaps some form of perpetual or long term lease registered with the Titles Office would be sufficient to provide certainty of ownership.

In calling for some form of registration as proof of ownership, we point out that equity in their home is for most retirees a substantial proportion of their wealth. Having the option of converting it so that it is available to them to meet the costs they face in living out the rest of their lives would be welcomed by many home owners in residential parks.

We also believe that a provision of this kind would make the Bill more effective in regards to the newly added objective of “*preserving the safety and security of tenure of home owners*”.

QMHOA Calls on the Parliamentary Committee to recommend to the parliament that some form of registration of the ownership of manufactured homes be established either as part of this Bill or in some other way.

B. Providing a more contemporary definition of a “manufactured home”

Another additional recommendation in the 2023 C-RIS that QMHOA strongly supported was,

“The Act should be amended to provide a more contemporary definition of a ‘manufactured home.’”

Again, this is a glaring omission from the Bill.

We believe that that the current definition in the Act is extremely outdated and does not reflect the reality of the nature of homes in contemporary parks.

We note that in the Decision Impact Analysis Statement (D-IAS) states that though this recommendation is broadly supported, it is not included in the D-IAS and thus it is not in the Bill. The reason for this is there are concerns about the potential impacts it may have on existing practices, and potential unintended consequences. The D-IAS goes on to say that further analysis of this proposal should be undertaken, including consultation, before the recommendation is progressed.

QMHOA Calls on the Parliamentary Committee to recommend to the parliament and the Government that priority be given to further analysis and consultation of the proposal to provide a more contemporary definition of manufactured homes

C. Preventing “retirement village style” exit fees.

A third addition recommendation in the 2023 C-RIS which QMHOA strongly supported was,

“The Act should be amended to resolve any ambiguity around retirement village-style exit fees and clarify that such fees are prohibited”

We are unable to discern any such provisions in the Bill.

QMHOA is aware that only a handful of parks are charging fees on exit and in the main refer to them as *refurbishment fees*. Obviously, as the home is owned by and sold by the home owner, park owners would have no obligation nor right to have any refurbishments undertaken and consequently don't do any. This means large amounts of money to the park owner for absolutely nothing.

The majority of park owners boldly and proudly advertise “no exit fees” but this in itself does not preclude the charging of a fee under another name.

It is our belief that although fees of this nature are not prohibited under the Act it has always been the intention of Government and the understanding of home owners that this was a point of difference from retirement villages. On this basis there needs to be specific mention in the Act as to what fees, if any, park owners can legitimately charge.

We believe that this measure would also make the Bill more effective in achieving the newly added objective of *“preserving the safety and security of tenure of home owners”*.

We again note that in the D-IAS the failure to include this recommendation was explained by the same reasons as for the failure to include a new definition of manufactured homes.

That is, that there are concerns about the potential impact it may have on existing practices, and potential unintended consequences. We find this argument more difficult to accept in relation to this matter. We are obliged to point out that a consequence, hopefully unintended, of failing to include the recommendation from the C-RIS, is to allow some park owners to charge unwarranted exit fees in defiance of the intentions of the Act.

QMHOA Calls on the Parliamentary Committee to recommend to the parliament and the Government that priority be given to further analysis and consultation of the proposal to resolve any ambiguity around retirement village-style exit fees and clarify that such fees are prohibited in residential parks.

D. Qualifications of Park Owner Employees to Sell Homes.

In section 2.10 of the 2022 Issues paper there were observations made in relation to unethical and sometimes illegal practices by park managers and other park owner employees selling homes and providing incorrect or inaccurate information possibly resulting from misunderstanding or ignorance of the law relating to site agreements.

QMHOA notes that there are currently no requirements for park managers or other employees to have any formal training or qualifications in relation to the Manufactured Homes Act or site agreements. Thus, there is no formal code of conduct requirements or expectations. It is our view that this is a problem not only in relation to the aspects of a park manager's role in the selling of homes but in all aspects of their work.

QMHOA asks that the Parliamentary Committee recommend to the Parliament that a registration regime be established for park managers or other park employees acting as agents selling homes in parks. The registration method should be the same, or similar, to the one existing for all real estate sales persons in Queensland.

E. Improving the dispute management options available to owners of manufactured homes

QMHOA's concerns about the system for managing disputes in residential parks are longstanding. In 2020 the ARPQ (now QMHOA) responded to a request from the Department to articulate home owners' concerns. The problems we pointed out then remain unaddressed today. They include:

- A significant imbalance in power;
- The process is long, overly legalistic and complex and difficult for laymen Home Owners to follow;
- Park Owners, refusing to meaningfully follow the dispute resolution process as outlined in the Act, instead relying on a process of obfuscation and misrepresentation.

- QCAT Costs – There are separate fee charges of \$370 at the mediation stage and then again at the full hearing stage if mediation is unsuccessful.
- Feelings that QCAT staff and tribunal members appear either unqualified to handle matters associated with provisions of the Act, or do not fully understand the Act. Findings are frequently in favour of the park owner no matter how strong the case put forward by home owners.

In June 2021 the Queensland Housing and Homelessness Strategic Action Plan 2021-25 was released. Action 20 in the plan is to:

“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”.

The only action QMHOA knows of in respect to this commitment was the commissioning of ARTD, a research and evaluation consultancy, and the University of Queensland (UQ) to consult with retirement village and residential (manufactured home) park stakeholders about their experiences with dispute resolution processes under the legislation.

In its executive summary of the key findings of its research ARTD wrote: *“The majority of stakeholders (consumers, operators and peak bodies) view the three-step dispute resolution process as inefficient, and administratively and emotionally burdensome, with lengthy delays across the process”* (p.1).

QMHOA concurs wholeheartedly with this finding.

QMHOA calls on the Parliamentary Committee to recommend to the parliament that action be taken as a matter of urgency to address the concerns of home owners in relation to the dispute management processes mandated in the Act.

Significant benefits for home owners

QMHOA believes that the Manufactured Homes Residential Parks Act Amendments Bill 2024 will go some way towards achieving the objectives of the Act more effectively. In particular it will provide greater protections against unfair business practices and unfair and excessive increases in site rents. In doing so, we believe that it will help to address the imbalance in power in relationships between corporate park owners and citizen home owners which is a feature of the industry that causes much of the discontent experienced by home owners. We see a welcome consequence of this to be that older Queenslanders will be more attracted to choosing manufactured home residential parks as places to live in and that this will have a positive impact upon Queensland’s ability to provide adequate housing not only for older citizens but for all age groups.

Ongoing viability of the manufactured homes residential parks industry

QMHOA are in little doubt that park owners will argue that this Amendment Bill will affect their profitability resulting in fewer homes being built or new parks being developed with a knock-on effect into the general homelessness problem and rental property shortages.

We strongly refute this suggestion. We are very confident that profit margins in the industry are well in excess of most other businesses.

A characteristic of the manufactured homes industry is that the business interest of most of the park owners can fall into two inter-related spheres – Firstly, Development of parks and sale of new homes and secondly, management of the operation of the parks once homes are established and occupied.

When considering the development side of the park industry, we are hamstrung due to a paucity of reliable costs etc. Nevertheless, we can make some assumptions.

It can be assumed that developers in planning a new park are aware of the development costs and having decided on the number of homes, will price those homes at a figure which provides them with the profit they are seeking over development costs. We are aware that 6 or 8 years ago park owners were achieving profits of \$100,000 per home. Although costs have escalated in recent times so have the prices of homes which will have at least maintained those margins.

We submit that the property development industry in Australia is widely recognised as being extremely profitable and most of the large corporate park owners in the manufactured **home** industry have their roots in property development. We are confident that this side of their business will be yielding high returns.

The Act and the amendments in this Bill are concerned with the management and operation of the parks where home are established and occupied. In this sphere, where income from site rents is guaranteed by legislation, we are again extremely confident that park owners enjoy profit margins which exceed those in most other business areas.

In their submission to the 2022 Issues Paper, ARPQ (now QMHOA) drew attention to the fact that when purchasing Halcyon Park villages, Stockland Corporation reported to its investors and the stock exchange on 19 July 2021, that the Halcyon business generated “High Quality Recurring Income for its Occupied Portfolio” and an “Operating Margin of approximately 65%”. This is an exceptional profit level for any business, particularly a low risk business. Stockland described the Halcyon Business as having “High quality income characteristics”, including:

- Long average lease tenure
- Minimal vacancy risk
- High tenant diversification and strong tenant covenant
- Nil or low incentives
- Low capex requirements

- Government rental support

QMHOA is confident that this description of the Halcyon business could be applied across the industry and that parks are currently returning very high returns to those who invest in them. Consider the following example of an analysis of the operational expenses and income in a typical park in Logan City where site rents are at the lower end of those charged in parks. The figures below are estimates made drawing upon insights gained by many years of observation, research and analysis of the industry by our association.

Number of homes in park	230
Estimated Park Income	
Average weekly site fee	\$190.00
Park's annual income from site rents 230 homes x \$190.00 x 52 weeks	\$2,272,400.00
Estimated Outgoings	
Wages – 3 staff @ average of \$80,000 p.a. including on-costs	\$240,000.00
Insurance	\$30,000.00
Council Rates & Utilities	\$50,000.00
Maintenance	\$150,000.00
Capital replacement provision	\$100,000.00
Head office overheads @ 15% of park income	\$340,000.00
	Total Outgoings \$910,000.00
	Margin of income over expenditure \$1,362,400.00
	Margin as percentage of expenditure 150%
	Margin as percentage of park income 60%

Even allowing for other expenses such as interest charges and taxation, this is an extraordinarily attractive business proposition. It should be noted that the return on investment in this example is close to the Operating Margin of approximately 65% cited by Stockland in 2021.

We submit that it is hard to believe that the amendments in the Bill will pose any threat to the financial viability of parks which currently yield these levels of returns to investors. It is our belief that the amendments will in fact do no more than merely regulate and moderate the rate at which a park owner's income grows in order to ensure that it is not overly excessive,

Furthermore, should a park owner have verifiable proof that the financial viability of a park is under threat and that there is a valid reason to increase site rents in order to avoid it,

then there are provisions in the Act, under Division 3, for them to seek an increase in site rents in the park to cover special costs as a means of dealing with the threat.

Concluding comment

QMHOA congratulates the Government in putting forward measures in the Bill which will result in significant benefits to owners of homes in manufactured home parks without posing any real threat to the business interests of the owners of those parks. We believe that the amendments proposed will, when implemented, strengthen the manufactured homes industry in Queensland and enhance its contribution to the housing industry as a whole.