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Housing and Homelessness Services | Department of Communities, Housing & Digital
Economy

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Review of site rent increases and sale of homes in residential parks

Thank you for the opportunity to provide feedback on behalf of the property industry on the Department's review of site rent increases and sale of homes in residential parks.

The Property Council represents a diverse range of members across numerous sectors including residential, retail, industrial, retirement living and commercial property. One of the Property Council's chief objectives is working with the Government to address burgeoning affordability issues in the residential sector.

A key component of this is ensuring that Queensland has in place a diverse array of housing that caters for a broad range of incomes and needs. Residential parks will be a crucial piece of this puzzle due to the autonomy and flexibility they provide to homeowners.

As such, the Property Council welcomes this review as an opportunity to work with government to ensure that the regulatory environment for manufactured home parks protects the long-term viability of the sector so it can continue to provide alternative housing options for Queenslanders.

Overall, the Property Council believes that for the most part the *Manufactured Homes (Residential Parks) Act 2003* is fit for purpose and provides the homeowner with significant choice and autonomy from the time they enter a residential park to when they leave. Furthermore, we believe there is significant longer term risk in overlaying the regulatory principles that apply to other sectors (ie retirement villages) to the residential park sector as the industry operates on a vastly different model – one that gives the owner control over sales procedures and the basis for site rents.

Additionally, the sector's flexible model has seen it rapidly evolve and develop in recent years with an increasing focus on lifestyle, amenity and a sense of community that has led to a significant demand for manufactured homes. As such, it is important that the review recognises and accounts for the diversity of product within the sector.

Review of site rent increases

Overall, the Property Council believes that many of the issues canvassed within this issues paper can be addressed by prioritising the education of incoming homeowners and their access to proper legal advice.

While there is no doubt that site rents have increased over the last few years this is reflective of the widely publicised price increases in the broader residential market and corresponding price increases in statutory valuations. In fact, in many instances the costs of running a manufactured home park have increased at a significantly higher rate than what is being carried over to the homeowner. For example, for many park owners' council rates have increased between 10-20 per cent while park fees have only increased by an average of 6 per cent. In other instances, Property Council members have worked to buffer their communities from the recent impact of rapidly rising inflation by capping site rent increases and ensuring that they are below the increase in CPI to which they are anchored.

As the issues paper also notes, site rents are only increased in accordance with the site agreement between the homeowner and the park owner – therefore they provide the homeowner with choice and autonomy to determine how site rents will be increased. There are clear requirements within the Act for precontractual disclosure documents that draw attention to key issues including the process for site rent increases.

As such, the Property Council believes many issues within the paper regarding site rent relate to a lack of understanding and education as opposed to any untoward business practices by park owners. Feedback from park owners has highlighted they explicitly recommend home buyers take legal advice to enhance their understanding of the mechanisms behind site rent increases.

Due to this, the Property Council believes that the Government should examine solutions to educate incoming homeowners and ensure they are aware of key details pertaining to the basis and frequency for site rents. The Property Council would welcome the opportunity to work together with Government on this so our members can be equipped with the tools and resources to ensure homeowners are aware of their obligations under their site agreement. This will help ensure that the residential parks sector continues to operate transparently and remains an additional affordable housing solution for Queenslanders.

Capital Gains of a homeowner in a residential park

While not something directly addressed within the issue paper it is worth noting some of the statistics regarding the capital gains of homeowners in manufactured home parks.

Feedback from one Property Council member highlights that across their portfolio between FY2020-2022:

- The average capital gain was 18 per cent for homeowners who executed settlements
- The weekly capital gain value attributed to homes across their portfolio was more than triple the weekly site rent
- No home across their portfolio was sold for less than what it was purchased for

Overall, this data underpins the strength of the sector and its ability to generate wealth for park owners. While site rents have increased (as all costs have across the residential sector) these increases have been more than matched by the long term capital gains enjoyed by residents.

Sale of Homes in residential parks

Overall, the current Act provides significant protection for homeowners that should not be overlooked. It is also concerning that many of the concerns regarding the sale of manufactured homes stem from delays in sale timeframes which are not reflective of the experience of many park owners in the current market. While the issues paper notes that “31 per cent of respondents had been trying to sell their home for two or more years, with some examples of homes taking up to six years to find a buyer”, feedback from park owners highlights that the average sale time is between 30 and 45 days.

Additionally, in the current market where there are extremely high levels of demand for residential property it is unlikely that a home would take an unreasonable amount of time to sell unless it was in a poor condition or unless the price set is higher than the prevailing market (both of these factors are ultimately the responsibility of the homeowner).

2.1 Complexity of sales process and lack of clarity around timing and notifications

The current forms and sales processes are not confusing if properly managed. In addition, there is a very transparent process set out for disclosure and entering into a site agreement in the Act.

However, it is acknowledged that confusion specifically arises from:

- The Initial Disclosure Statement Form 1A and Supplementary Disclosure Form 1B being issued separately; and
- Two copies of the Site agreement being provided (creating a very large quantity of documents). Feedback on this is that it can be overwhelming.

In order to deal with the issue, the following could be considered: combine the pre contractual period into a single 21 day period; remove the requirement to provide

duplicate copies of each form; and design a one page flow chart/diagram of the process that is required to be given to all prospective homeowners.

2.2 Assignment

The form of assignment is an additional process to the existing disclosure and adds a layer of administrative complexity for the homeowner. However, feedback from Property Council members highlights that this process is typically not used and it is questionable whether changing the process would provide clarity.

There are also aspects of the assignment itself which are confusing. For example, assignments of older site agreements enable older terms to appear as being in place when they may not be. This can result in confusion around the operator's and homeowner's rights and obligations.

In order to deal with any concerns or issues the assignment process could be simplified by combining it with the existing disclosure documents.

2.3 Park owners incentivised to sell newly developed manufactured homes over pre-existing product

The Property Council does not believe that any such incentivisation occurs. It is impossible for the park owner to incentivise the sales of a new home as opposed to a pre-owned home because the homeowner:

- has control over the sale price – which has significant influence over the sale;
- has control over the presentation of the home; and
- is able to choose whether or not they engage their own selling agent.

Additionally, the Act clearly prevents an operator from interfering with a sale.

While park owners do make a profit from the sale of new product, there is greater incentivisation in ensuring a full and content community. To suggest otherwise would not have regard to the time and cost of dealing with dissatisfied homeowners and their families and the perception and marketing issues that underpin future interest in their park.

It must be noted that many prospective buyers are attracted to living in a new home. This is no different to preferences exercised by buyers in general residential estates.

2.4 Hindering of sales process

The Property Council does not believe that sales are blocked or delayed by park operators. Section 58 protects homeowners from interference with the sale of a home and specifically states:

58 Park owner not to interfere with sale

(1) The park owner for a residential park must not hinder the sale by a home owner of the home owner's manufactured home positioned on a site.

While there may be occasions where park owners are required to restrict access to the park for the purposes of security this just means that agents are not permitted unrestricted access. In addition, there are numerous park owners who have reported that external agents do not understand the product they are selling and frequently request the park owner to meet prospective homeowners and conduct inspections for them. Declining to take on the agents' role or ensuring the safety of the community is not interfering in sales.

2.5 Homeowner's ability to place 'for sale' signs to market their manufactured home

Prospective homeowners are notified upfront whether or not they are permitted to display a 'for sale' sign before they purchase.

Community rules exist to protect the interests and amenity of all residents and must be applied consistently.

It is noted that the general public are typically not authorised to access the parks and as such 'for sale' signs have very little utility. Feedback from one Property Council member highlights that approximately 80 per cent of sales are driven through online advertising with the majority of the remaining sales driven by referrals – as such the impact of 'for sale' signs are negligible.

In addition, the Act states:

Section 57 provides that the park owner must not restrict placement of the sign.

57 Placement of 'for sale' sign on site

(3) If the home owner gives a notice to the park owner under subsection (2), the park owner must not restrict the placement of the sign on the site, as allowed under the agreement.

Section 58 protects homeowners from interference with sale

58 Park owner not to interfere with sale

- (1) *The park owner for a residential park must not hinder the sale by a homeowner of the home owner's manufactured home positioned on a site.*

2.6 Delays in Sale

As noted above, feedback from Property Council members highlights that sales timeframes are significantly shorter than what is suggested in the issues paper (between 30-45 days on average). While a number of factors impact delays in the sale of pre-owned homes, these are largely within the control of the homeowner and the park owner has little to no impact.

For example, the presentation of the home and the sale price are both key drivers of time on market. These factors lie exclusively within the control of the homeowner.

In addition, many incoming homeowners may prefer a new home as they perceive it of having a higher potential for resale.

While it is true that a homeowner is unable to access equity until they sell their asset this is no different to every other form of accommodation, except for retirement villages – which are an unfair comparison because the retirement village operator is the owner of the asset and controls the sale (unlike manufactured homes). Every homeowner is required to pay outgoings until the resale. There is no reason why a manufactured home park should be any different.

Furthermore, the homeowner has control of the asset and the autonomy and flexibility to enhance their chances of a sale by working to improve the condition of the premises, appointing an experienced and knowledgeable sales agent and ensuring the price is appropriate.

The Form 9 Selling Authority provides for a maximum selling fee to be imposed on the operator. This cap is not imposed on an external selling agent as the real estate industry was deregulated in 2014 with the introduction of the *Property Occupations Act 2014*.

It may be worthwhile reviewing and removing the restriction currently imposed on operators to restrict the commission rate payable for services rendered in relation to the sale. Perhaps a higher commission could be achieved if a sale occurs within a quicker timeframe.

2.7 Use of associated third-party selling agents to avoid restrictions on park owner sales in the Act

There is no objection to this restriction as this activity is clearly designed to circumvent existing rules and requirements. However, the Property Council is not aware of any example of such acts.

2.8 Use of exit fees

The Property Council is not aware of any members who utilise this.

2.9 Home ownership and deceased estates

This gives rise to issues related to the deceased estate itself and also age discrimination.

The Property Council believes that park owners should be able to discriminate on the basis of age for the protection of the community.

In relation to the deceased estate - the right of occupation remains subject to the rules of the community.

2.10 Park owners may not understand their obligations as sellers

Property Council members typically understand their obligations as park owners and as sellers. However, there is no objection to a compulsory continuing professional development scheme for sales and/or operational employees.

It is noted that there are substantial forms which explain the process.

If the Government believes that changes are necessary, the Property Council believes it should consider detailing assignment details on disclosure documents as opposed to a separate form and making legal advice compulsory.

2.11 Lack of clarity around proof of ownership of a manufactured home

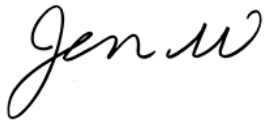
If there is a desire to treat the ownership of manufactured homes in the same fashion as other homes, a register should be established and maintained by Government. However, a registration process will increase the complexity and costs for homeowners.

Uncertainty about dual agreements of home sales contract and site agreement

The Property Council believes that this can be addressed by reviewing disclosure documents to include information alerting prospective purchasers to the impact of dual agreements during pre-contractual period.

In the meantime, please don't hesitate to contact me on 0448 432 936 or jwilliams@propertycouncil.com.au to discuss.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jen W', with a stylized, cursive script.

Jen Williams
Queensland Executive Director