



**RESIDENTIAL PARKS – STRATEGIES FOR ENCOURAGING ALTERNATIVE
MANUFACTURED HOME SITES IN QUEENSLAND
DISCUSSION PAPER
RESPONSE**

COTA QUEENSLAND

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EXECUTIVE SUMMARY

COTA Queensland supports the following recommendations, which are discussed below in further detail:

1. That the Home Owners Information Document (HOID) be reviewed for user friendliness, including its usability by people from culturally and linguistically diverse backgrounds and people with literacy barriers.
2. That improvements to park owner disclosure statements be introduced to protect the interests of prospective residential parks residents.
3. That the current Queensland system of no fixed date leases be retained, at least until there is evidence that a different system is warranted.
4. That the *Manufactured Homes (Residential Parks) Act 2003* be reviewed to ensure all aspects are fair and unambiguous, not only those relating to termination of site agreements.
5. That the ability of park owners to apply to QCAT to terminate site agreements on particular grounds be retained but the capacity of QCAT to consider the social and economic impacts of this be strengthened.
6. That QCAT expand the basis on which home owner compensation is awarded for site agreement termination.
7. That residential parks residents and prospective residents have access to a community based network of services that provide residents with information, advice and advocacy about residential park living. That this network be an adjunct to an existing housing service network funded through the Department of Communities.
8. That the following alternative models of residential park ownership be researched and evaluated with a view to their introduction in the Queensland context:
 - a. resident cooperative ownership model;
 - b. Queensland Government ownership;
 - c. Queensland Government ownership and community housing management.

1. INTRODUCTION

COTA Queensland is a statewide lead agency which aims to influence decision makers and enrich the lives of people as they age. The organisation has been in existence for over 50 years and has a wealth of experience and knowledge pertaining to issues on ageing and society.

COTA Queensland provides information and referral services, delivers community education programs across Queensland and partners with a range of stakeholders to progress community development projects.

Our research, policy and advocacy is aligned to the World Health Organisation Active Ageing Policy Framework which identifies three key pillars - Health, Security and Participation - as the determinants of active ageing. The organisation works collaboratively with a range of communities and organisations to advance our overlapping research, policy and advocacy interests, including on the issues pertaining to housing. Community engagement with diverse stakeholders including consumers and service providers further underpins our work.

COTA Queensland welcomes the opportunity provided by the release of the Residential Parks Discussion Paper to highlight the significance of residential park housing to people as they age. COTA Queensland has a particular interest in advocating to meet the housing needs of our constituency to ensure housing is affordable, accessible, appropriate, secure, based on fair legal principles and integrated into the broader housing system.

COTA understands that housing defined by the above descriptors is one of the key requirements of the social inclusion agenda that underpins our work across a range of areas. This provides part of the context within which our comments on residential parks need to be considered. Another part of that context is the desire for people as they age to remain in their homes. This is a key consideration that featured in both the background and the recommendations of the recent Productivity Commission Report, 'Caring for Older Australians'. A third element to the context is the projected increase of 120% from 2008 to 2020 in the number of Australians aged 65 and over who will require rental housing. This far exceeds the supply capacity of the social housing system, is unlikely to be adequately met by the private rental sector and highlights the need for alternative forms of housing for older people to help reduce the numbers of older people who are dropping out of home ownership. While manufactured home owners are not all older people, by far the majority are people over 50 years and, in particular, over 65 years.

2. HELPING PURCHASERS MAKE INFORMED CHOICES

The Discussion Paper highlights some of the issues associated with this question. As the paper indicates, the Home Owners Information Document (HOID) is the major tool provided to help consumers make informed choices. However this is a 23page document amidst a collection of other required reading matter. While the document is written largely in plain English, some of the terminology and sentences used need to be reviewed for user friendliness, especially for people who do not have sophisticated literacy skills or for whom English is not their first language. The document could be provided in a range of community languages and in more basic English. Additionally, a version of the document to support illiterate consumers – using drawings and diagrams – is needed. Other forms of media could be researched to evaluate their value.

Additionally, other forms of information provision need to be considered. The HOID does warn consumers to seek independent professional advice from a solicitor, community legal service or financial adviser. The Caravan and Manufactured Home Residents Association of Queensland (CAMRA) is not mentioned, although its contact details are provided on the last page. It is likely, however, that a large number of potential home buyers do not obtain independent advice. Solicitors and financial advisers are not inexpensive and may not always be adequately familiar with the accompanying legislation. Feedback from COTA members indicates that among solicitors, real estate agents, prospective and existing home owners and park managers there is sometimes confusion between the provisions of the *Residential Tenancies and Rooming Accommodation Act 2008* and the *Manufactured Homes (Residential Parks) Act 2003*. The issue of adequate education, training and ongoing professional development for park owners and operators is one that needs to be addressed.

Affordability appears to be an issue on which many prospective manufactured home owners are not well informed prior to signing lease agreements in residential parks. This is of particular concern given that manufactured homes are often purchased by people on limited and fixed incomes precisely because they believe it is an affordable housing option. Particular consideration needs to be given to ensure that prospective home owners are fully informed about the built in and ongoing costs of living in a residential park. Rising rents is a feature of residential park living that causes considerable tension between home and park owners and results in QCAT disputes. Frequent, large and unpredictable rent increases are a major concern in particular for older residents who have retired and are living on fixed incomes. Please see also the section on alternative models of residential park ownership.

On a related matter, improved park owner/operator disclosure provisions need to be considered eg currently a park owner who is negotiating to develop or sell their park site is not required to disclose this to prospective buyers. This seems to be quite unfair.

It could be argued that a specialist service is required to assist purchasers to make informed choices – while CAMRA provides a specialist service, it employs only one fulltime and one part time advice worker, it operates from an office in the Brisbane Bayside and it attempts to cover the whole state. This issue is addressed further under the section on legal advice, support and advocacy.

3. CERTAINTY ABOUT THE LENGTH OF SITE AGREEMENTS

In Queensland although site agreements do not contain a fixed end date they can be terminated – by the park owner through application on particular grounds, such as a desire to sell or redevelop, to the Queensland Civil and Administrative Tribunal (QCAT) and by the home owner through providing written notice to the park owner. According to the discussion paper, industry argues that this situation operates as a disincentive for park owners to offer sites for long-term occupation by manufactured home owners. A proposal has been made to offer homeowners fixed leases of for example, five years. This needs to be balanced, however, by home owners' expectations regarding security of tenure. A five year lease provides little security for home owners wanting to establish community connections. A ten or fifteen year lease period may be more acceptable if there were good reason to introduce fixed term leases.

It is not clear that the absence of fixed date site agreements does act as a disincentive to park owners offering long-term occupation and COTA does not, at this time, support the introduction of fixed term site agreements. COTA is aware that Victoria has recently adopted five year minimum leases – it is suggested that the Victorian situation be monitored over a number of years to determine whether the five year leases result in an increase in the number of long term lease sites in residential parks.

4. FAIR LAWS ABOUT THE TERMINATION OF SITE AGREEMENTS

COTA supports the need to balance the rights, needs and interests of residential park residents with those of park owners. We understand and are sympathetic to the needs of home owners for housing security. We also appreciate the right of park owners to make lawful decisions about the future use of their land. COTA does not support the proposal for the amendment of the Act to eliminate the ability of park owners to seek to terminate site agreements where the park owner wishes to use their land for another purpose. At the same time, COTA believes a strong consideration for QCAT to take into account is the social and economic impact of site agreement termination on individual home owners.

Where QCAT decides to terminate site agreements because the park owner wishes to use the land for another purpose, orders are also made for park owners to pay compensation to home owners. This has been limited to the costs of home and effects relocation. This assumes residents are able to move to another park but frequently this is not possible. The notion of compensation needs to be broadened eg it could take into account the cost of the home and/or could include costs for inconvenience and social disruption.

There is a need to go beyond the question of termination of site agreements when considering fair laws. For example, the issue of site rent increases needs to be considered and clear guidelines need to be provided with the aim of reducing the level of disputation on this matter. Feedback from COTA members suggests too that the issue of site rent reductions needs to be considered. COTA understands there have been instances where promised amenities and/or services (advertised in the selling literature) have either not eventuated or have been significantly downgraded but there has not been a corresponding site rent reduction. While there may be good reasons for why promised amenities have not been provided, the costs should not be expected to be borne by the home owners.

Distinction should be made between 'park owner' and 'park operator' and an explanation provided of their different roles, powers and responsibilities, including through the HOID.

5. LEGAL ADVICE, SUPPORT AND ADVOCACY FOR MANUFACTURED HOME OWNERS

This section follows on points made in the section on helping purchasers make informed choices. Ready access to inexpensive advice prior to signing a residential park lease agreement is simply the first stage at which information, advice and advocacy may be needed in the housing career of a residential park home owner.

While CAMRA is a specialised service, it is only one agency and it suffers from not being part of a peer network of community agencies experienced in the issues facing residential park residents. CAMRA does not have access to peer support and supervision. Manufactured home owner residents would benefit from being able to access a network of services able to provide information, advice and advocacy. There are existing networks of housing services in place that may have the interest and ability, with additional resourcing and training, to provide such a network. The Tenant Advice and Advocacy Service (TAAS) Program is such a network. With almost 30 agencies throughout Queensland, the staff in these services are well trained and supported by the professional expertise of the Tenants' Union of Queensland. The TAAS Program focuses on tenants of course and may consider that working for manufactured home owners could dilute their focus. They are experts in the *Residential Tenancies and Rooming Accommodation Act 2008* and could be trained in the *Manufactured Homes (Residential Parks) Act 2003*. However, there would be a conflict of interest if they were approached by both a manufactured home owner and the tenant in a manufactured home and it is likely that TAAS agencies would be wary of this. The Community Rent Scheme (CRS) Program is another network where the workforce is well trained in tenancy law and might be able to provide advice and advocacy to manufactured home owners, with suitable additional training and resourcing. A review of CAMRA's role could provide recommendations on what was needed for it to further develop - CAMRA could develop a role as professional trainer and provider of quality support to agencies expanding their role to provide advice and advocacy to manufactured home owners.

COTA recommends that further work be undertaken to ensure residential park residents have access to a community based advice and advocacy service.

6. ALTERNATIVE MODELS OF RESIDENTIAL PARK OWNERSHIP

The discussion paper mentions the cooperative ownership model but is not enthusiastic about it because of the potential for conflict between residents and because home owners need to be committed to the daily operation of the park. Nevertheless, it is important to note that the current high level of disputation about rent increases is likely to continue for as long as the land in residential parks is owned by an entity or person other than the residents. A cooperative ownership model would mean the land in the park is jointly owned and controlled. The cooperative association might buy the land through mortgage instruments. Examples of cooperative park ownership are provided in United States and Canadian examples and there is at least one in New South Wales. Cooperative ownership is a model that may not be for everyone but should be able to be chosen if the home owners wish. Government could facilitate choice of this model as it has for community title schemes that apply to townhouses, units and apartments.

Another model requiring consideration is provided by the Queensland Government through its ownership of three mixed use caravan parks which include manufactured homes. The sites at Cannon Hill, Woombye and Hervey Bay could be used as the basis of a model that could be expanded to other localities. The mixed use nature of the model would benefit not only manufactured home owners but renters as well. A variation on this model could involve management by community housing providers rather than contracting management to private agencies. COTA believes all three models need to be considered further. In our view, the two social housing models would provide benefits to a large number of people. The community housing management model would have an advantage to tenants in that they would be eligible for Commonwealth Rent Assistance.

7. REFERENCES

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5. Productivity Commission, Caring for Older Australians: Productivity Commission Inquiry Report. Canberra, AGPS, 2011.
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