

RESIDENTIAL PARKS (LONG-STAY TENANTS) AMENDMENT BILL 2018

Second Reading

Resumed from 17 October.

MR P.A. KATSAMBANIS (Hillarys) [12.24 pm]: I rise as the lead speaker for the Liberal Party on the Residential Parks (Long-stay Tenants) Amendment Bill 2018. Right at the outset, let me say that members of the Liberal Party will support the bill but we have a number of questions that we will look for some answers to, perhaps at the consideration in detail stage. Members will also express some of their concerns during the debate. Let me say that this bill has been a long time coming. When I say that, it has really been a long time coming. The primary act—the Residential Parks (Long-stay Tenants) Act—that was introduced in 2006 was itself a long time coming, and I will probably speak about that in a minute. The primary act has been in review, in some form or another, since late 2008 to early 2009. The Economics and Industry Standing Committee of this place looked at it. The member for South Perth, the Leader of the Opposition, the Deputy Leader of the Opposition, the member for Cannington and the member for Collie–Preston were all part of that review.

Mr J.E. McGrath: It was an outstanding committee!

Mr P.A. KATSAMBANIS: I take the word of the member for South Perth, whom I trust implicitly, that it was a very good committee. I have read its report and it was a very good report. Following on from that report, a statutory review was conducted and there have been processes of consultation. A regulatory impact review also looked into the proposals.

Mr W.J. Johnston: To his credit, Troy Buswell tried to change this act and it is to his credit that he did something. I would not necessarily be so generous to the next minister.

Mr P.A. KATSAMBANIS: I will pick up that interjection and probably expand on it later. Yes, Hon Troy Buswell, in his time in this place, did try to advance the act as much as he could. I think that displays, in particular, the fact that members who are aware of residential parks through their interactions as local members understand the complexity of the issues in this space. That will come out in the debate today and I will get to it. I thank the minister for highlighting the role played by Hon Troy Buswell. He is one of those members who, in his former electorate of Vasse, was privy to what was going on, so he was aware of the issue and wanted to fix it. That process has taken a long time. It culminated, for the moment anyway, with the bill that was introduced into this place last month, which we are now considering. It will not be the end of the process because, as we know, the devil is always in the detail and the detail will primarily be contained in the regulations. It should be pointed out that the amending bill is 121 pages, so there will be another pile of regulations that I am sure will extend beyond 121 pages in total. Again, that highlights both the complexity of this area and the need to balance the competing interests to make sure we strike the right balance.

Given this previous consultation and review process, the opposition has some queries about why the bill was brought in in October and we want to get it out within a month. It will almost certainly lie over in the other place over the summer break and perhaps it may have been better to let it lie in this place so that all the parties that have taken part in the consultation leading up to the introduction of this bill could get the opportunity to properly scrutinise it, particularly parties that represent the residents in these parks who may not necessarily have great resources and needed a little bit of time to digest what the bill proposes. Yes, there was extensive consultation in the lead-up to the Residential Parks (Long-stay Tenants) Amendment Bill 2018 coming before the house, but perhaps it would have been better to have let it lie over summer and get everyone to look at it and get feedback in a timely manner. If we put the bill through this place this year and it lies in the other place over summer, we may perhaps end up with some toing and froing. I am not suggesting that people will play games; I am just suggesting that issues may arise as people are given the chance to better scrutinise the bill, and both government and opposition parties might say, “Yep, that makes sense; let’s fix it.” That might add to the process, with bouncing around between the two houses, but the government has chosen to bring the bill on today and that is fine. As I said, the opposition supports this bill.

The title is relatively self-explanatory: Residential Parks (Long-stay Tenants)—people who have made their home in one of the many residential parks across our state. We were told in the briefing that there are more than 130 such parks dotted all over our state, in the metropolitan area, the inner regional areas and, obviously, in more far-flung locations. They provide choice of accommodation for many, many people. They provide an opportunity for people to make their own long-term home in a community in which they feel comfortable. When looking at amending existing acts and balancing the various interests that are always competing in any tenancy arrangement, a good starting point is to recognise that we are dealing with people’s homes and the emotional attachments they have to their homes. They are a very good option for many people—for some because it is financially attractive, and for others because it enables them to live in an area they need to be in, either for work or for access to family or friends. For many others, it provides a ready-built community to help deal with the isolation that some people experience.

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I will digress to tell a story about how I got to know a bit about people who stay in residential parks. As a very young lawyer, many decades ago —

Mr M.J. Folkard: Many, many decades!

Mr P.A. KATSAMBANIS: Many, many decades! You can add as many “manys” as you want to that!

Certainly, more than a few decades ago, as a young lawyer I worked on the probate of a gentleman who had been living in a residential park on the outskirts of the city for probably 25 years. He had lived there with his wife, and when she passed away, he continued to live there on his own. Without labouring the point, this man’s story was that during the time he lived in the residential park, he had had a major windfall: he won Lotto, and won a really significant amount. He moved from the on-site home he was renting in the park to a larger site and got himself one of those mobile homes, if you like, although it was not mobile; it did not have wheels, but they are easy-to-move homes. It had three bedrooms and verandahs all around; it was the deluxe version of a residential park home, and he lived there until his dying days.

I got involved when his family got me on board to deal with his probate and to get the sale of the property going. It made me realise very quickly the sorts of communities that build up in residential parks. Everybody in the park knew him, and everybody knew his family, who came to visit him and were there tidying up the estate. Effectively, they were a wonderful help, especially for a very young lawyer who had never dealt with probate in that complex situation. He had significant other assets as well, but the primary home—the family home, if you like—was located in a long-stay residential park.

It also made me understand the complex nature of trading and dealing with these assets; I am talking about the early 1990s. Every state since then has done a lot better, and our 2006 act here in Western Australia made that industry a lot better than it was in the 80s and 90s, because it provided certainty for tenants. That is where I got my appreciation of just how important the value of home and community is to the people who live in these residential parks as long-stay tenants. It is always sobering, and that is why I picked up on the minister’s positive interjection about the work of Hon Troy Buswell, because as I said earlier, he understood the issue from the perspective of his constituents. The people living in these parks were not some sort of nebulous concept; they were real people with whom he interacted on a very regular basis. I know there are members on both sides of the house who have residential parks in their electorates, and they are going to speak to their own experiences and the experiences of their constituents.

There are essentially two types of living arrangements in these residential parks, and the sub-arrangements can vary very markedly. There are the onsite home agreements and the site-only agreements. The onsite home agreements are really like renting an apartment or a home, except that it is located in a residential park. There is a site with a home already located on it, of varying quality; it could be a large home, a small home or whatever. The tenant rents both the site and the dwelling, and they can rent on a short-term basis, medium-term basis or long-term basis. They can use it as transitional housing if they like, or in many cases— I know that housing affordability is becoming an issue across Australia, including in our state—people can choose to stay there long-term, because it is an affordable option for them. That is one type of arrangement.

The other type of arrangement is, I would argue, probably the more complex one and the one in which most disputes arise. It is the arrangement I described earlier that the person with whom I came into interaction with had—a site-only agreement. The person rents the site and then, on that site, erects their own dwelling—usually a relocatable home of some sort. Those arrangements vary, but essentially people want some sort of long-term certainty and security. Yes, these homes might be mobile, but as I said earlier, they do not usually come with wheels or with a trailer attached to them. It is quite an exercise to move them in and out. Members have probably seen them moving around the metropolitan area and in the regions, where people are buying new mobile homes or sometimes even old houses for relocation. I am sure members have an appreciation of how complex it is. We do not want those people to rent the site, erect the building and then, for any number of reasons, be forced to start moving the building around and lose their security of tenure. We want agreements to stick, whether they are five-year or 10-year agreements. I have heard of agreements of up to 30 years; there are all sorts of agreements.

For those people and for the owners of the sites to have certainty, we need a legislative and protective framework. That is what the existing act attempted to do.

Mr T.J. Healy: This was raised a fair bit in the previous government. The previous government never got around to doing those things.

Mr P.A. KATSAMBANIS: Was the member here at the start of my contribution?

Mr T.J. Healy: No, sorry.

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Mr P.A. KATSAMBANIS: No, so perhaps the member should go back and read it and see the discussion we had with the minister and everybody else.

The act came into being in 2006 and by 2008 there were issues that required a parliamentary committee to investigate and look into how the act was working and how it could be improved. Quite clearly, an amendment bill is needed. Quite clearly, the Economics and Industry Standing Committee suggested many sensible reforms. I think the final report was released in 2009. The minister may be able to help me with that. The committee's final report was released in 2009, was it not?

Mr W.J. Johnston: Yes, it must have been 2009.

Mr P.A. KATSAMBANIS: And then there has been the statutory review and the ongoing process since then. Everyone has found that, yes, there need to be changes.

This bill is trying to balance those interests and make things more transparent at the time an agreement is signed, during the period of an agreement and at the termination of an agreement. It is trying to introduce fairer terms. Some of the protections that apply to residential tenancies more generally and also to contractual arrangements—the fair trading-type arrangements—will also be transferred into this regime, and that has bipartisan support. I do not think anyone can question that. Given the length of the process, it is great that we finally have an amending bill. Some of the things that are being introduced are logical and sensible, especially if we look at them from that prism that I spoke about earlier on; that is, we are actually dealing with someone's home. We are dealing with their right to quiet enjoyment of their home. Standard rental agreements have been around in the tenancy space for a long time. Providing a standard agreement, in whatever form it is likely to take, is a good starting point. I am looking at the minister because I do not think that standard agreement form has been settled yet, has it?

Mr W.J. Johnston: No, not at all.

Mr P.A. KATSAMBANIS: No, not at all. We are waiting on the passage of the bill so that we can get on to the regulations and the like. There is still a process to go. That is a good idea. There was significant dialogue before the bill was drafted, and that is also good.

There are significant rule changes around the termination of agreements, particularly the termination of agreements linked to the sale of a park. That is important because we know that these parks are often valuable landholdings. The owners of a site may one day decide to put the overall park up for sale and the new owners may determine that there is a better use for it than as a residential park, although I think that is often a detrimental step because it inevitably leads to a reduction in not only the availability of housing, but also the choice of housing, particularly the choice of affordable housing. We should always bear that in mind, because it is an issue that our community is grappling with and still has not solved. I think it will be a long time before we solve it, but, in the meantime, we should try to make things better rather than worse.

There are rules about the operation of the tenant committees that will be set up in these parks. There are rights for park operators and tenants to go to the State Administrative Tribunal when there are issues to either seek termination or clarify other obligations under the act. The tribunal will have the power to make a series of orders or directions on long-stay agreement matters. One of the powers of the SAT that fits into that fair trading realm that I spoke about earlier is to declare a particular term of any agreement void if it is harsh or unreasonable. One of the other protections being introduced—it is not termed in this way—is, effectively, a five-day cooling-off period on the signing of an agreement. That equates to a lot of sale of land-type provisions that exist for residential housing. Someone who has made an agreement with a park owner or operator to rent a site on a park on a long-term basis—it might be 15, 20 or 30 years—will have a five-day cooling-off period to think about it. The logic around that in all forms of trading and sales is well known. We have come a long way from the 1970s and 1980s, so people do not feel pressured; and, if they do feel pressured, they can go away and have a rethink. It works both ways. It allows the contracting parties to have a proper dialogue and to come to terms that they are all comfortable with, rather than someone entering into a contract for 30 years and then, immediately they have entered into that contract, feeling that they did not get exactly what they wanted and that they might have been hoodwinked in some way. Having that cooling-off period is a good thing. I do not think it will unfairly fetter the market for these sites, and it will provide a level of comfort for the tenants who enter into these agreements. It is probably better to take up some of the specific questions that members of the opposition have during the consideration in detail stage, when we will discuss how they will operate.

One of the issues that we are left to grapple with—this is an issue for the minister and members on our side and for tenants and park owners—is that this bill is just a framework; it is just a skeleton. Most of the operational requirements will be in the underlying regulations. The way we do things—this is not commentary about the minister or this government—is we bring in a bill, we pass the bill and then regulations are drafted. There is very little transparency of the work done on the regulations until after the bill is passed, and then we begin another consultation period about the regulations. I know that the logic and the theory behind that is that a bill could be

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amended up until it passes through both houses and receives royal assent. I understand that, but in this day and age, especially as so much consultation work has been done over almost a decade now, maybe we need to look at our processes and draft regulations, or certainly some of the critical regulations, around the agreements and the like. Maybe they could be introduced at the same time as the bill so that the consultation can work together. In this way, we could also avoid the sorts of questions that any opposition scrutinising a bill would ask about the operation of particular clauses, when the minister would give the ministerial response: “But that will be dealt with in the regulations so wait until you see the regulations.” Rather than providing certainty, that adds to the uncertainty that already exists. That is really a commentary on the processes that are undertaken in this place and perhaps a way we could do things better so that, firstly, acts come into force quicker than they otherwise would. Whether this legislation will come into force without the regulations—I do not know how long the regulations will take; the minister will tell us how long the regulations will take, but they may take six or 12 months—does not provide for great certainty. That still leaves both the industry and the tenants in this state of suspended animation between the old provisions and the new provisions. Parties on both sides may want to act in a particular way but are not able to do so until the act and the regulations come into force. Again, that might be a better way in the future. I am not criticising this minister; I know that all governments for a long time have done it this way. Some health bills that passed through this place two or three years ago are still awaiting regulations to come into place. That is an example of how long it takes sometimes.

Passing this bill will clarify the obligations of park owner–operators and tenants. It will be the start of the process. Until the regulations are in place, we will not have full clarity of exactly how things will operate in practice. The skeleton of the bill and the provisions in it have arisen out of a very, very lengthy consultation process. It has attempted to balance the competing interests, always putting at the front of things the principle that we are dealing with someone’s long-term home and we should recognise it as such. They provide a good starting point. There are questions, and a lot of those questions will hopefully be answered when the regulations become available. I am sure the minister will tell us what the likely time frame is. As I said, there may be gremlins in the bill that are identified as people scrutinise it. It has been less than a month since this bill was tabled, so there are groups out there still wanting to have more time and wanting to have more consideration of exactly how these things will apply to them. Until such time as we see the regulations, there will be some uncertainty. There will be a period, as I said a moment ago, in which people will be working in a state of suspended animation, with one foot in the old act and one foot in the amended act that is awaiting its regulations. We will talk about commencement and what clauses will commence when in consideration in detail with the minister.

In closing, I want to commend the work of everyone from that Economics and Industry Standing Committee back in 2008–09.

Mr W.J. Johnston: It had an outstanding deputy chair.

Mr P.A. KATSAMBANIS: All five members were outstanding. It is instructive that every member of that committee who undertook the report is still in this place. The longevity of members of Parliament is getting shorter and shorter, but it shows that those hardworking members cemented themselves in this place and did a good job. I commend their work.

I commend the work of everyone involved in the consultation process. The minister referred to the work of Hon Troy Buswell in his time in this place when he had ministerial responsibility for these areas. I commend the work of the Minister for Commerce and Industrial Relations in getting the bill to the house and all of the stakeholders engaged in the consultation process, particularly the officers of the department. It is no easy task to undertake this sort of consultation in a difficult, sensitive and emotionally charged area. It deals with people’s lives and people’s homes. I await the final introduction of the new regime when those regulations eventually come into force, hopefully some time in 2019 rather than kicking it further into the future.

I will sit down now and allow my colleagues to express their specific concerns and also to talk about their experiences dealing with their constituents who live in residential parks on a long-term basis and who have been crying out for the reforms that will be introduced by this bill.

MR D.T. REDMAN (Warren–Blackwood) [12.55 pm]: I would like to make some comments on behalf of the National Party in the Legislative Assembly. I cannot speak for all National Party members—briefings have yet to occur in the upper house—but we will be supporting the Residential Parks (Long-stay Tenants) Amendment Bill 2018 in the lower house. The first filter that members cast these bills through is their own electorate. The seat of Warren–Blackwood, running from Mt Barker and Denmark at one end right across to Margaret River at the other end, is obviously a very picturesque part of the state. There are a number of caravan parks in that area. In many ways, tourism in the south west and great southern is very seasonal and the caravan parks, in particular in Denmark, are of a very seasonal nature. A few years ago, one of the owners down there started to put more permanent buildings on a site that was leased from the Shire of Denmark. Building them off site ensured there was

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an axle sitting under the building because, by definition, these sites had to have something of a transportable nature. It is probably the only bit of transport that that facility did, but it essentially came down onto the site on a set of wheels. For the most part, it looks like a chalet sitting on site. A number of caravan parks and the like are doing that or have done that. I am sure that one of the drivers for that was sustainability issues and longer term revenue streams for the caravan parks, supporting, in the case of my electorate, what is a very seasonal industry. In the winter months, obviously, very few caravaners and campers use the sites; therefore, the revenue streams go down. This was a way of providing a level of accommodation that went throughout the year and supported them. They had to play by the rules, and the rules were that they had to be transportable units.

Looking into it further, it became very apparent that a lot of people were choosing to relocate onto these sites, either purchasing the facilities or building their own, and having longer term relationships with the park site owners. They were people who could not afford their own home or had financial or family circumstances that meant that that was the best way for them to have some sort of security over an accommodation facility, particularly in a town like Denmark or Margaret River. They are preferred coastal locations and the cost of housing in many cases is higher than in some other parts of the state where they may have otherwise been living before. It became pretty clear that user affordability was a big driver. I am sure that location is also a factor in that as far as my electorate is concerned. As a starting point, park sustainability was the issue.

Both sides of the house emerged with a challenge that as these decisions were starting to occur and more and more long-term tenants were starting to take up residence in these facilities—following the rules, as they would need to—issues arose in and around the tenancy relationship and the security of that tenancy relationship. I am sure there is a litany of examples of those who have come unstuck, thinking they have a longer term tenancy when there have been risks about changing rules, or sale or facilities going into receivership, the consequence being that they lose their tenancy or certainly lose security over it. There was a need to have a close look at it. As the previous speaker highlighted, there have been a series of consultation efforts to achieve reforms. The review took a long time and culminated in what is probably a generally agreed position; that is, some legislative changes are needed in order to rebalance the relationship between the site operators and those who had longer term tenancies to be more consistent with the arrangements that had emerged on what have traditionally been short-stay accommodation sites. For that reason, National Party members in the Legislative Assembly support this bill.

If I can cite some comments from the executive summary of the statutory review, it aims to balance the demands of long-stay residential park tenants with greater security of tenure, while supporting the maintenance of existing residential parks and the development of new residential parks. The two core outcomes are to provide greater contractual certainty for long-term park residents; and to provide a regulatory framework that promotes a level playing field for park operators and does not interfere unduly with their right to run their business. It is about finding that balance. I understand there are about 160 residential parks in Western Australia, with about 7 000 long-stay tenants. Therefore, this bill is significant to the people who will be impacted by it and its importance should not be understated.

The bill makes a number of reforms. They include specific disclosure obligations that will apply to exit fees and other voluntary sharing arrangements; and replacing the right of a park operator to terminate a site-only agreement “without grounds” with specific provisions setting out grounds for termination. New provisions in the bill will allow for termination if a park is proposed to be closed or redeveloped. Termination under these provisions will not be permitted before the end of a fixed-term agreement. That will provide protection for tenants and also maintain the capacity for those businesses to continue to operate. The bill will also prohibit automatic termination upon receivership of the business. No-one wants businesses to go into receivership, but these things happen. Tenants may think they have an established long-term agreement with the park operator and do not want to have their agreement terminated as a result of the business going into receivership, but these issues need to be understood as they work through the process. The bill also provides for information to be provided about park rules and park liaison committees in order to have a level of coordination about the contractual relationships and the standards that apply under the lease agreements that are in place.

There is certainly a lot of stuff in this bill that we need to work through in consideration in detail. As was said by the previous speaker, the bill defines some of the boundaries. A lot of work still needs to be done to bring this bill to fruition. There are a number of people in my electorate who are in this situation. It is very important to provide them with a level of certainty about the future and to articulate clearly the contractual relationships that exist between long-term tenants and park operators to ensure that everyone is protected, not only the tenants but also the business. We look forward to this bill proceeding, and in the Assembly it will have the support of the National Party.

MR R.S. LOVE (Moore) [1.02 pm]: I thank members for the opportunity to make a brief contribution to the debate on the Residential Parks (Long-stay Tenants) Amendment Bill 2018. This is a very important bill and it has been a long time in the making, as we have heard. The genesis of the bill was a report in the thirty-eighth Parliament, a number of years ago. I want to speak briefly about some important aspects of this bill. In my electorate, like that

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of the member for Warren–Blackwood, there are many coastal locations and places that are considered desirable in which to live. That had led to the development over many years of people living in what would be called a caravan park but has become either the person's permanent home or holiday home— I know there are distinctions. In the time I have been involved in this area, I have had the opportunity to come across many such places. One town in particular—Port Gregory—comes to mind. Most of the people in Port Gregory have made their home in the caravan park. Many of those people are elderly single men, who for whatever reason have moved to Port Gregory, as a warmer place on the beach in which to live, and with great attractions like fishing. It is good that some of the rights of those people will be protected through this legislation.

I have also seen circumstances in which the park ownership has changed, either by sale or because the operators want to go in a new direction, and pressure is put on the residents to try to move them out. I tried to help one park home resident who was in very distressing circumstances. She was subjected to bullying by the park operator. She was asked to pay unreasonable expenses. Her quiet enjoyment of her property was jeopardised, because bookings were made to short-term residents who were placed in close proximity to her home and caused noise and distraction, and potential damage. Everything possible was done to try to force her out of her home—and it was her home. However, in the end, she could not stand the bullying any longer, so she left, and the operator won. That was very distressing for her. For me personally, coming from a small business background, one would think that I would be concerned about how this bill will impact on the operators of residential parks. However, having seen the circumstances that some people have gone through, I have a great deal of sympathy for the residents of these homes. Even if they do not own the ground underneath their home, they often own the caravan, mobile home or transportable building in which they live. It is very important for both their emotional and financial wellbeing that they can live in a place that is affordable.

I have been involved with people in my electorate who have been forced out of their home and have nowhere else to go. I have often been able to find alternative accommodation for those people in state housing, generally facilitated by requests to various housing ministers, at that time usually from the Nationals. I recall a case in Jurien Bay in which a large area of land, I think about three or four hectares in size, was released by the then Department of Land Administration to some operators who had grand plans to develop a holiday resort and a lifestyle village. I will not name the operator at that stage, because they bear no fault for what happened. The opportunity was advertised, and people put their transportable homes on this serviced block. However, the organisation then struck some financial difficulties. Its operating model was clearly not working at that time in that coastal town, because it was possible to buy a private house at a very competitive rate compared with buying a small transportable home and relocating to that block. The block was then sold as a going concern, and another group took it over to develop a tourism resort. They considered the 12 residents on the block at that time to be a great nuisance. Those houses were initially shifted to the back end of the block, to the area of lowest amenity. The developers forced that move, but then told the people they could stay there even when the development was underway because they were in a discrete part of the block. Later on there was a change of heart and they wanted vacant possession of that block— I think they might have been trying to entreat someone else to invest in the land—so those persons had their right to occupy the land terminated. There was no compensation or help. They had to either find somewhere else to shift their house or sell the house to someone else who might come and shift it away. A variety of solutions, depending on the person spoken to, were arrived at, but in each case the people involved were greatly affected and suffered financially and emotionally through that experience. To this day— I look at that block of land because it is across the road from my house in Jurien Bay—that land is vacant. Those events occurred when I was shire president of the Shire of Dandaragan, prior to entering politics. I cannot remember the exact date, but it was 2009 or thereabouts. For the best part of a decade, since those poor people were moved on, that land has stood completely empty. I often look at that land and think: “Wouldn't they have been better to have kept a bit of rent coming in; at least something to pay the rates?”

Mr J.E. McGrath: What town was that in?

Mr R.S. LOVE: Jurien Bay.

Mr J.E. McGrath: I think our committee visited that.

Mr R.S. LOVE: That was a shocking situation. I am glad the committee visited it because it was a terrible situation for those people, yet that land sits empty today. There was absolutely no need for those people to have lost their right of occupancy of that land.

I contrast that with what has happened in the town of Moora. There was a caravan park somewhere in the Perth area—it might have been Kingsway—that was closing or telling the residents they had to move on.

Mr J.E. McGrath: They got moved into Homeswest places.

Mr R.S. LOVE: Yes.

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Mrs J.M.C. Stojkovski: a lot of them moved into Cherokee Village.

Mr R.S. LOVE: Yes.

When that upset occurred, the Shire of Moora had an area of land next to the Main Roads Western Australia camp; I do not know whether Main Roads had handed it back to the shire. It was an old campsite right in the middle of town that was seen as an opportunity. The shire said to those people, “Come and bring your houses here”, and a number of residents from either there or other places did. That has developed over the years. I think it has developed because there is a certain degree of security in dealing with the local government, as opposed to a private developer. They at least know the local government will be around in the future. There are not that many other uses for the land at the moment, so there is no reason to expect that those people will be asked to move on early. Many people have come to the town and it has become a very important part of Moora. It is great to see retirees moving into that town that has very good sporting, recreational and health facilities for older residents. They are coming to an area only a couple of hours out of Perth, and are very much enjoying their country change. It is becoming very popular. That resulted from some upheaval in the occupancy situation for people from another area, and it shows the lack of security for people who live under this arrangement.

In contrast, the RAC bought the Cervantes caravan park a few years ago. That park had developed a lot of permanents, but most of them were not residents. Those people were using it as their holiday home. When they came to me and outlined their case and how concerned they were, although I certainly put forward their concerns, I had less concern for them than for people who were losing their primary residence. That is a much greater source of concern than losing the right to go out every few weeks and catch crayfish at Cervantes; it is not quite on the same scale. We have to distinguish between those situations, and this bill certainly does that. This bill is about those people who have residency in these areas and use them as their permanent home. That should be recognised as something different from just a caravan park, a holiday home or a permanent booking. Many caravan parks used to take on permanent bookings because they provided a steady stream of income throughout the year, instead of having a big couple of months during the holiday season, but that business model has changed. Many more people come to that region throughout the year now, so there is less seasonality attached to the whole industry, and some significant investment has been made in fixed infrastructure. More recently at Lancelin there was a similar situation. The old shire caravan park there has changed ownership, and they are now going through that process, again differentiating between people who use it as a holiday retreat and those who make it their permanent home. In my view, that is important.

Another group of residents that I dealt with in the past had quite settled arrangements with very nice and quite large mobile homes in a caravan park. But there was some concern over the fees being charged; there was no transparency about the fees. There was a view that the owners were trying to force the residents out by overcharging them for all sorts of incidentals and fees that did not seem to have any foundation or independent, if you like, verification. This bill addresses that matter and makes sure that there is more transparency around the issue of the charging of fees. That is another way that people have been pressured in the past to, I think, try to get them to leave.

Another aspect is agreements that may be entered into. I will clarify with the minister that there is no set term for the agreements, but the agreements cannot be terminated in the event of a change of ownership of the park or succession of ownership of a park. That important matter needed to be addressed, and it is very good that it has.

I have said that there are restrictions on what an operator may require in terms of payment. The bill has some provisions that ensure quiet enjoyment of the land for the resident. That is one of those issues I highlighted before in the treatment of some people in these circumstances. There is also some transparency around the payment and holding of bonds with the bond administrator. There are also some provisions that relate to rents, their reviews, the relocations and a whole lot of other matters that I am sure will keep us engaged in consideration in detail for quite some considerable time.

Overall, I commend the government for bringing this bill forward. I think it meets a situation that has existed for a very long time. I recognise the work done by other members of this place in previous Parliaments to understand and put forward solutions to some of the issues that they discovered. I look forward to this bill progressing through the Parliament.

MR J.E. McGRATH (South Perth) [1.19 pm]: I rise to say a few words about this good bill that offers some certainty for people who are long-term residents of caravan parks. I do that because, as was mentioned before, I was on that committee, along with the minister, that looked at the future of caravan parks in Western Australia. From memory—it was a fair while ago now, probably 2009—the biggest issue for me was that we were losing caravan parks and a lot of them were being bought by developers and redeveloped. I was more concerned about that great Western Australian holiday when families would holiday near the beach. It is disappointing to me now that we are trying to promote holidays in state forests and places like that. This has always been a society in which the beach was where we wanted to be and kids would spend all day in the water. They would stay at a caravan

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park, a tent, a marquee or whatever. They were great holidays. Nothing could compare with those holidays by the beach. I was concerned that we were losing the opportunity for the average Western Australian family to have an affordable holiday in a place like that, especially if it was in an area such as Mandurah, Busselton, Dunsborough or, to some extent, Bunbury. Those really popular coastal town caravan parks suddenly became very attractive to developers who thought they could make a lot more money out of resorts. Obviously, resorts would be attractive to a lot of people but they would be a more expensive form of holiday than would a caravan park.

When the committee embarked on the inquiry, we suddenly realised that people were living in these caravan parks as long-term residents. I remember, minister, going down to, I think, Augusta where people were very concerned because they had been living there for years and they were told they would have to get out because the caravan park was being redeveloped and the owners of the park were changing the direction in which they were travelling.

Mr W.J. Johnston: Remember the one in Rockingham next to the silos?

Mr J.E. McGRATH: Yes.

Mr W.J. Johnston: There was an old beaten up caravan for sale for \$50 000. There are so many problems.

Mr J.E. McGRATH: It was a real issue. At the time, I felt it would be good if the government could quarantine some of these sites to provide more affordable holidays for Western Australian families. That did not eventuate and, I think, through tourism, our government decided that we needed to create other holiday opportunities, so we looked at more holidays in the forests, for example. But they are different areas from what I imagined were holiday areas for young Western Australian kids who like the beach.

I like what is happening with this Residential Parks (Long-stay Tenants) Amendment Bill, and I have a couple of questions that I would like the minister to address. I know a lot of protections have been put into the legislation. What would happen if a caravan park owner decided to sell to a developer but some tenants were in a long-term tenancy agreement? He might say, "I'm sorry; I'd like you to be able to stay here but I want to sell this because this will be a major resort", in say Broome or one of those towns? Could there be a provision such as that in the Strata Titles Amendment Bill, in which, as long as a certain number of long-term tenants agree to move, it will go ahead? What would be the protection if it were not a sale of the caravan park to another operator who would continue it as a caravan park but to someone who would knock it over and build a nice big tourism resort? Where would those people go? If there is a tenancy agreement between the owner of the park and the tenant, how could that be broken? We have just debated the Strata Titles Amendment Bill, which provides that arrangements have to be made so that a person who would have to move out of their strata title property is no worse off or is offered something more agreeable to them. This situation will continue. There are caravan parks in Broome and I think one of the owners there, who runs probably the most successful caravan park, gets overseas developers knocking on his door every day wanting him to sell the park because it is a great site. One day they might even have a casino up there—who knows? They are the sorts of things happening as the world changes. Will people still be holidaying in 50 years in caravans and will people still be living in caravan parks? The world will continue to change.

I think what the government is doing with this bill now is good. It will give some certainty to people who, as the member for Moore said, have had some difficult times. That was especially the case in the time our committee was working on this. I think the member for Mandurah even came onto the committee for a period.

Mr D.A. Templeman: That is right.

Mr J.E. McGRATH: It was a very interesting committee project, I must admit.

Mr D.A. Templeman: It was very important.

Mr J.E. McGRATH: It was very interesting to meet those people, some of whom had set up little gardens around their caravans. It is a great lifestyle for those people who can be suddenly told they have to move or be put down at the other end of the park. Often, even that is not suitable. Inevitably, they have to move out altogether, as happened with the Kingsway Tourist Park.

Mr D.A. Templeman: It's their home.

Mr J.E. McGRATH: It is a difficult situation. As our other speakers have said, the opposition is supportive of what the government is doing here but there will be a lot of questions about the finer points of how this will all be managed. There are park rules and things like that to cover the management of parks and behaviour in parks. We want tenants to behave themselves. Those things are important because when people live in close proximity, they have to behave. We cannot have people carrying on in an unseemly way, because it does not suit that sort of environment where people live.

With those few words, I support what the minister is doing. It is a step in the right direction and I think it will certainly give some comfort to long-term tenants in caravan parks.

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MS L. METTAM (Vasse) [1.26 pm]: I also would like to make some comments about the Residential Parks (Long-stay Tenants) Amendment Bill 2018. As has been stated by other speakers, the Liberal opposition is very supportive of this bill. First and foremost, as the shadow Minister for Tourism, I recognise the significant role caravan parks play in regional Western Australia and in this great state in providing fantastic holiday opportunities and affordable tourism opportunities for people who visit from not only across Western Australia but also overseas in an increasing number.

This legislation deals specifically with onsite home agreements under which tenants rent sites and dwell in a residential park and site-only agreements under which tenants rent the site from the caravan operator and own their own dwelling. Fundamentally, and most important, we are dealing with people's homes. This legislation will provide, importantly, some certainty for people who live in park homes and provide affordable choices for many people across the 130 or so parks in Western Australia. Quite obviously, it will also affect those who own caravan parks, ensuring that upgrading and owning such facilities is a viable option for good operators around the state. I understand that the process has taken some time. Members in this place have already talked about it and I would like to acknowledge the former member for Vasse, a former minister in this place, and the work he undertook not only as a minister but somebody who had a great heart for his local community, a community that I now represent and which contains many residential parks and tenants in the local area.

I have reached out to some of them already—Four Seasons Holiday Park in particular and Sandy Bay Holiday Park—and sought their feedback and industry feedback on what this bill represents. I have to say that there is quite a bit of support for the provisions in the bill that provide fairness for tenants. The bill provides some protections for individuals when a park changes hands and greater certainty surrounding contractual arrangements. It also allows for some matters to be dealt with by the State Administrative Tribunal, particularly in voiding harsh or unconscionable provisions in these agreements. That is certainly welcomed and supported by the industry. However, concerns have been raised by park tenants that these protections will affect only future tenants and not existing ones. I take the point raised by Ken Mann of the Park Home Owners Association of WA, who stated that he and a couple of other members had taken the trouble to read this piece of legislation and, despite mentioning how supportive of it they are, they are very disappointed that this provision will not apply to existing tenants. I look forward to the minister explaining the situation there. There is obviously much support in the sector for the provisions in the legislation that protect the tenants of these parks, but there are concerns that they will not extend to existing tenants.

As outlined by these reforms, greater responsibility will be put on operators of residential parks. To some extent, the feedback from industry is that there is much support for this bill, but some concern has been raised about the removal of the “without grounds” termination provision. This provision allowed park operators to remove a tenant if that person was threatening or violent and there was just cause for concern by the park operator. There was also a provision that SAT could at least hear any objection from the person who was removed, after that decision was made. The provision to enable the removal of trouble tenants has been utilised on very few occasions, but on the occasions it has been used, the feedback I have heard is that it has been a very important provision. Park owners have been able to utilise this measure as a way of ensuring the provision of a level of duty of care at their park. Sandy Sigelski of Sandy Bay Holiday Park has expressed deep concern about it. She stated that if this provision is removed, it will leave caravan park owners with no powers to immediately remove any person who threatens harm, which will put the park operator and other visitors in danger. She has significant concerns about that. The feedback is that violence has a major impact, quite obviously, on the amenity of a park.

These situations do not occur very often, but the ability of a park owner to respond to that sort of situation is very important. Bill Kendall from Four Seasons Caravan Park said that he could not highlight enough how concerned he is about this provision being removed. He feels that this decision has been made without anything to replace it. He feels that they have been left powerless. He referred to a recent tragic situation at Kingsway Tourist Park and to other situations of violent behaviour that have occurred at parks in WA. These issues have been raised by the industry body. The ability of a park owner to respond to these situations on behalf of not only themselves but also other people and tenants in the park is very important. There is great value in such a provision. The fact that it has been removed without putting in place another mechanism is of great concern. There is support from the industry body, tenants and the operators of these parks for this provision to be replaced by an exclusion order. As I understand it, New South Wales and Victoria have looked at exclusion orders. These orders give police the right to remove a person from the premises if they are violent, threaten violence or cause damage. It is an immediate protection that can be put in place. It would at least give the park operator some power on behalf of not only themselves but also tenants of the park to respond immediately to such concerns. A comparison has been made with the Residential Tenancies Act, but I guess what makes these residential parks different is that the operator is living on site with tenants, who are in their care as well. The industry has raised in very strong terms its concern that because this provision is not being replaced by any other tool to give tenants and park operators the power to

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respond to such situations, it is making them feel powerless. The government must be reminded of its responsibility to safeguard the mental and physical wellbeing of tenants and operators alike. I encourage some further consideration of what the removal of this provision represents, particularly when it is not being replaced by anything else.

I will leave my comments there. It was just a brief contribution on behalf of people in the electorate I represent who have provided me with feedback. Obviously, the viability of residential parks and providing an affordable housing option for the people who reside in them are important issues. The measures in this bill that will provide certainty for tenants are very important, but we must not, at the same time, compromise the ability of operators to respond to real concerns about violence and unfortunate or threatening behaviour. These are real issues. Examples of such issues have been raised by the industry association on behalf of parks in Western Australia. They certainly deserve to be considered for the benefit of not only people investing in this infrastructure, but also the tenants who want to enjoy a safe and secure environment, which, after all, is also their home.

MRS A.K. HAYDEN (Darling Range) [1.40 pm]: I rise to join my colleagues in supporting this legislation. The Residential Parks (Long-stay Tenants) Amendment Bill 2018 must be one of the most read pieces of legislation I have seen in my time in Parliament. I have forwarded the bill to at least 60 people in my electorate and to about four park operators. This is very popular legislation that the community is extremely interested in seeing pass into law. As my colleague the member for Hillarys said in his opening speech, this legislation has been a long time coming. The bill has been worked on by committees and it has had a long and rigorous review process. I want to acknowledge and thank the department, ministers on both sides and their offices, and the industry—park owners and the caravan and camping associations—for the many of years of work that has gone into this legislation. I also want to acknowledge and thank the residents, who do not have resources like industry groups and departments have, who have spent time putting forward submissions and issues to the review, and following the review, as it has gone on for quite a number of years, and the progress of this legislation. I want to put on the record my gratitude for the effort and the work that has gone into this legislation.

The purpose of this legislation is to make sure that the current act works to meet community expectations and to protect residents. As shadow Minister for Seniors and Ageing, that is what I want to focus my contribution on today. I have a number of these parks within the Darling Range electorate and this issue was brought to me early in the by-election campaign. I have received representations from many local residents who live in and enjoy these residential parks within my electorate. We also need to remember that we need residential parks to continue to operate and flourish in order to provide an affordable accommodation option for seniors. Not everybody wants to or can afford to go into a high-end retirement village. But also, not everybody can maintain their family home. We are well aware that the generation that is now our seniors is the generation that did not have a lot of superannuation or money stacked away for retirement; their investment was in their property and they are having to sell their homes to downsize in order to retire and enjoy the lifestyle they want. These residential parks provide that alternative affordable accommodation option for our seniors. It is vital that we look after the park operators and make sure that they can continue to provide this service. At the same time, it is about getting the right mix to make sure that the tenants—the residents staying in these long-term parks—are protected, not bullied, not living in fear and not being priced out of being able to stay in the park. Those are a couple of areas I would like to raise and hopefully the minister will be able to address them by way of explanation in his response. If he cannot, maybe we could get some more information in the consideration in detail stage.

One of the issues is the park rules. I would like a bit of information and some clarity around the introduction and the amendment of the rules. Will the rules be put in place with consultation with residents? Could the residents maybe have some feedback before these rules are amended or introduced? If the rules are introduced, how will they be enforced? Let us say, for example, that a new rule has been put in place. A rule that has been raised with me is if an operator decides to make the common facility—the clubroom or the house available for meetings, barbecues and so forth—unavailable to tenants and restricts its use to only one-off meetings and events approved by the operator, and no longer allows access to this common facility to visitors to the site, is that a reasonable amendment? What would that operator need to go through to introduce that amendment? If the amendment is not reasonable, what course of action would the tenants have to say, “Hang on, I think this is a little unfair. It’s my eightieth birthday and I have 10 family members coming around and we want to use the common facility” whether that would be for a barbecue or if it is raining and they want to go undercover? When we get changes to regulations that will affect the way of life of residents within the village, I am a little concerned about where these amendments and instructions will be placed and who will police and enforce them to make sure that they are reasonable. What comeback would a resident have in that course of events? If there is a course of action that a tenant can take, it should not be too hard or overwhelming for a resident, such as a resident having to maybe confront the operator and, if they do not have access to the internet, to be able to give written evidence or a written explanation.

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I have heard that some operators have said that they do not want verbal presentations delivered to the State Administrative Tribunal and that all presentations should be done in writing. Again, this would restrict seniors who may not be able to write due to medical reasons, because they do not have access to a computer or because they would simply prefer to stand and give a verbal report to SAT. I am a little concerned that those rights may be diluted and that residents will not be protected if they want to raise an issue.

Mr W.J. Johnston: Can I just ask question? What is the right that they currently have that you are concerned about them losing?

Mrs A.K. HAYDEN: For example, if they are putting an argument forward to SAT, I have heard that some operators want all arguments to be in writing and not verbal, so residents will not be able to give a verbal explanation.

Mr W.J. Johnston: Are you saying that is the rule now?

Mrs A.K. HAYDEN: The rule now is that they are allowed to. I want to make sure that that is not going to change.

Mr W.J. Johnston: So that is the rules of SAT.

Mrs A.K. HAYDEN: That is correct, yes.

Mr W.J. Johnston: But this legislation does not —

Mrs A.K. HAYDEN: What I am saying is that under the park rules, which I know will come under the regulations that we do not have —

Mr W.J. Johnston: What is the current arrangement about making rules at a park?

Mrs A.K. HAYDEN: That is what I want clarification on from the minister.

Mr W.J. Johnston: But I am not asking about what is in here. I am asking: what are the current rules?

Mrs A.K. HAYDEN: The current rule is that the operator can make any rules that they deem fit.

Mr W.J. Johnston: Okay.

Mrs A.K. HAYDEN: Some emails I have received from residents outlined that they have had increases of the maximum six per cent every year they have been there, but have not been given any explanation of why. They are not able to view the financial reasons behind it because it is a private company and does not need to show its financial position. Two emails I have received broke it down. Last year their rent went up by \$10 a week, but their pension increase was only \$4.35 a week. The rent can keep going up by a maximum of six per cent because it is in the agreement, but if they are on a pension, their income capacity can go up only by the consumer price index amount. We will end up with a disparity between what these people can afford to pay and what the rent is going up by. Other than being completely stressed out, that will lead to a lot of residents not being able to afford to stay in parks, which will spiral into an area that I do not believe anyone in this place wants it to go—that is, tenants being stuck in a place that they can no longer afford. They are unable to sell in the market at the moment, so seniors will be in a very vulnerable and sad position. I would like to know whether there is any way to make sure that rents do not exceed the capacity of residents to afford them. The majority of residents are on pensions, with only CPI increases each year, so there should be some restraint in the maximum amount that a rent can be increased by every year.

A tenant also raised an issue I would like to seek clarification on because, I have to admit, I was not aware of this at all. Some parks are mixed use, with long-stay residents and tourists. It has been raised that if the company is split into two, with the tourist park separate from the residential park, the GST component may fall away. Residents get their water meter checked and read and the operator charges them a \$5 fee for that. They have to pay \$5 for the meter to be read plus GST. The argument that has been put to me by one resident is that they believe that if the corporate business was split into two—the tourist park and the resident park as separate entities—the GST would disappear for long-stay residents. If that is available, is it something that the minister would consider?

Another area I want to raise is permanent vacancies and vacancies by death. I understand that retirement villages are owned by the owners and operators of the village, which is slightly different from residential parks. When we reviewed the Retirement Villages Act, amendments were introduced so that if premises are permanently vacated because the resident has gone into higher care or has passed away, there will be a cap on how long they can be charged rent. We reduced that to three months post-2014 and six months pre-2014. That is in the Retirement Villages Act.

Mr W.J. Johnston: No, it's not.

Mrs A.K. HAYDEN: Yes, it is. That is in the Retirement Villages Act, not in the residential parks act. I am asking whether that was looked at or considered during the review. If it was, why has it not been implemented in this legislation? One family with an elderly lady who has a home in one of the parks is not allowed to live on her own anymore and has to go to higher care, but they are unable to sell the home. They have been trying to sell the home but because of a restriction by the park operator, they are unable to have another real estate agent sell it. The

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operator has a number of its own park homes, so it is obviously not pushing the sale of the resident's park home. This family and this elderly lady are now extremely stressed and under a lot of pressure because they have to continue paying for the lease and their share of the outgoings while also paying for their mother's higher care. Financially, they cannot afford it and are in a very sad position. The hearts of everybody in this place would break if they heard the story. I am asking whether there can be some leniency in cases such as this when somebody has to move on to higher care or has passed away and that there be a cap on how much the operator can continue to keep charging for the vacant premises. If this cannot happen, why is there not an option to sublease the home to at least get the rent to cover costs as an alternative or until it can be sold. We need to find a way to relieve the pressure on seniors and families who support their parents. At the moment there is a lot of stress out there. When people are suffering this intense pressure, their health declines, as does the health of their family, which is something we are all trying to avoid. I would like to hear whether that was considered in the review and, if it was considered, why it was not implemented in the amendments and whether the minister would consider including a clause to protect people in this vulnerable position.

I alluded to the sale of homes earlier. Some operators do not allow outside real estate agents to sell homes. When this occurs and they have their own homes that they want to sell first, residents are left to the side and are unable to sell their homes. I am not talking about a short time; I am talking about a long time. Some people have been trying to get out for a couple of years and simply cannot because they are unable to sell the home. I would like to know whether there have been some changes to enable outside real estate agents to sell homes for tenants in residential parks.

[Member's time extended.]

Mrs A.K. HAYDEN: The last issue I wish to raise is park liaison committees, which are set up to form a communication link between operators and tenants of the park. I would like to know what security ensures that those committees operate correctly. A few residents have raised this with me and said that operators dictate who goes on the park liaison committees. I was under the understanding that tenants representatives were to be voted in by residents. If this is the case, what course of action is available to tenants to make sure that the committees work correctly? If they are the only line of communication that these tenants have with the operator, the standard of lifestyle that seniors are experiencing in their homes will only deteriorate. Park liaison committees need to be strengthened and policing of the committees needs to be strengthened. I would be interested to know what course of action is available to tenants if they believe that a liaison committee is not functioning properly.

The timing of this legislation is also an issue. It has taken a while to get here. As I said earlier, I congratulate everyone for bringing it to this place. Passing this legislation and introducing the regulations will take some time. I would like to find out when we should expect certainty for the industry and for residents. Is the minister able to allude to when he thinks the regulations will be available? Will they be tabled in this place or will we have to just go and find them? When will certainty be provided to all involved? As I said, the minister might be able to address many of those issues in his response to the second reading debate but, if not, I look forward to going into consideration in detail.

MR C.J. TALLENTIRE (Thornlie — Parliamentary Secretary) [2.00 pm]: I am very pleased to address the Residential Parks (Long-stay Tenants) Amendment Bill 2018 and note my longstanding interest in the matter of residential parks' long-stay tenants and the welfare of the residents of these parks.

I first brought a very serious matter to the attention of this Parliament back in 2011, and I am delighted that the current Minister for Commerce and Industrial Relations has acted on all the reports, recommendations and investigations. At long last we have action. For many years, during the term of the Barnett government, we had absolutely no action on this matter whatsoever—a complete failure to act on it, ignoring the welfare of elderly people in these long-stay tenancy arrangements.

Debate interrupted, pursuant to standing orders.

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