STANDING COMMITTEE ON LEGISLATION

RESIDENTIAL PARKS (LONG-STAY TENANTS) AMENDMENT BILL 2018

TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
FRIDAY, 1 MARCH 2019

SESSION TWO

Members

Hon Dr Sally Talbot (Chair)
Hon Nick Goiran (Deputy Chair)
Hon Colin de Grussa
Hon Simon O'Brien
Hon Pierre Yang

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Hearing commenced at 11.00 am

Mr CRAIG KENYON
Chief Executive Officer, Caravan Industry Association WA, sworn and examined:

Mr DALE WOOD
Vice President, Parks, Caravan Industry Association WA, sworn and examined:

Mr GREG WHEATLEY
Director, MPH Lawyers, sworn and examined:

Mr JOHN WOOD
Board Member, Caravan Industry Association WA, sworn and examined:

Mr CHRISTOPHER SIALTSIS
Board Member, Caravan Industry Association WA, sworn and examined:

The CHAIR: On behalf of the committee, I would like to welcome you to the meeting. Before we begin, I must ask you to take either the oath or the affirmation.

[Witnesses took the oath.]

The CHAIR: You will have each signed a document entitled "Information for Witnesses". Have you all read and understood that document?

The WITNESSES: Yes.

The CHAIR: These proceedings are being recorded by Hansard and broadcast on the internet. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record, and please be aware of the microphones and try to talk into them, and ensure that you do not cover them with papers or make noise near them. Please try to speak in turn.

I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that the publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

The committee has a number of questions for you, but before we move to those, would you like to make an opening statement to the committee?

Mr John Wood: Yes, please. Thank you very much for allowing us to present to you. We forwarded our proposal and we have received your questions on notice, and we have been pulling the answers together. It has been a relatively short period of time, so we have drafted a response to those and figured we would speak to them this morning, but we are curious to know the questions because we have a list of priorities and obviously our industry is very wide and diverse, and we have synthesised our concerns to 15 points which we think will assist in achieving the government's agenda. We note that some of the questions do not relate to other issues that we have raised, so

we wonder whether we assume that that is read and that you would not like us to pay attention to those areas, or whether we should just go through our list of concerns, providing our rationale?

The CHAIR: I think we can cover all that material, as long as we have time, and we also have the option of you taking things on notice and of asking you further questions in writing, so with a bit of luck and a following wind, we should be able to cover everything. We, as you know, have 11 questions for you, and I am happy to go through those one at a time and allow you to expound the answers.

Mr John Wood: Thank you. If we go through our list of 15, we will cover each of those items in order.

The CHAIR: So how would you like to do that? Would you like to make that your statement, or do you want me to go through the questions and you fit your answers to the questions?

Mr John Wood: If it is okay with you, we would like to run through our summary and cover the questions you have raised as specific.

The CHAIR: That sounds good.

Mr John Wood: Thank you.

Firstly, we would like to acknowledge the work that has been done by the department. We do think it is challenging for the department to cover a set of legislation that covers such a broad industry, and one that has changed quite dramatically over the last 20 years. We believe that what we are putting forward is something that allows the government to achieve its stated agenda and I guess we wanted to make sure that we were all on the same page in terms of our industry being able to provide affordable housing to a wide group in Western Australia, including seniors and first home buyers who are not necessarily in the market yet, and what we would otherwise say is the transitional workforce and holiday makers who might stay periodically around the state.

We also wanted to make sure that the supply of this housing will continue to be invested in by the industry, and we are concerned that some of the things in the act would limit some of the propensity to invest. We also wanted to make sure that there were no unintended consequences coming out of that through a lack of knowledge in the department of the particular variety of members within our industry.

With that, I also have to my right, as stated, Mr Greg Wheatley. Greg has been involved in our industry as an adviser for about a decade and was actually also assisting us when the first set of legislation was introduced in 2006. Prior to that, I sat on the committee with the then-government with the Park Home Owners' Association and over a two-year period worked through to establish the first set of legislation. Some of that was based upon the evolution of the industry satisfying seniors for affordable housing. With that, our first lease that was ever introduced amongst the industry, which is the 60-year lease, caused further security of tenure for the industry, and I would like to state on record that our industry has continued to be in advance of government in actually providing that accommodation and the certainty that our clients are wanting.

The thing that I would like to also advise is that in a very short period of time, even up to 2000 and 1995, there is a very symbiotic set of legislation, that is the Caravan Parks and Camping Grounds Act and the Residential Parks (Long-stay Tenants) Act. The definitions even within those two acts also need to be looked at, because as little as last week, there is a query around the definition of "park home". Whilst we are all sitting here, wanting to make sure that we provide security of tenure and more transparency to seniors living in park home parks and mixed-use parks, we have been faced with this issue of a definition that a park home is not a park home, unless you can drive it down the freeway. I am exaggerating a little, but we just wanted to put that on notice. We are about

to tackle that as an industry for the benefit of our industry and for the benefit of the people living permanently in our caravan parks and mixed-use parks.

Thank you for letting me speak. I will get straight into the items, and some of these will be addressed by Greg Wheatley, because they are more of a technical nature in regards to the act.

[11.10 am]

Mr Dale Wood: I think we need to do question 1.1 first though. Question 1.1 says —

> I note in your submission you have set out 15 changes you wish to be made …

The question asks whether in fact we are involved in the consultation process of the bill. We were involved in the initial planning of that, but when it got to drafting stage, we were not invited to comment on that. We have not had an opportunity to review and provide comments on the bill. That is why we are here today, because we have had to lobby through to the upper house, because it went through the bottom house. Whilst we thought it was good, and we said that before, there are some areas that we think may be of question. What we are trying to do is keep tenants and ourselves out of SAT by being clear about what the act is entailing.

The CHAIR: If I can just be clear about what you are saying, is that these 15 changes—this is the first time you have aired those 15 changes? They have not been aired as part of the consultation process?

Mr Dale Wood: No. We have only aired it in the last couple of weeks to members of the upper house.

Mr Kenyon: There have been two written responses from the association, with the department. What we submitted to the committee is a condensed version of those responses and what we think were the critical issues.

The CHAIR: That is your original submission to this inquiry?

Mr Kenyon: Yes.

Hon SIMON O'BRIEN: I just want to make clear that these proposals of 15 amendments to the bill, has that list been put forward to the department?

Mr Kenyon: No.

Mr John Wood: We did get the opportunity to meet the minister's representatives and the department was there, I think, a week and a half ago, where we got the opportunity to provide this information to the department. They took copious notes as we were speaking.

Mr Sialtsis: It was the Monday before the Tuesday it was heard.

The CHAIR: Before it went through the Legislative Assembly, but only one day before?

Mr Dale Wood: Yes, that is correct.

Hon NICK GOIRAN: No, I think we are working across purposes here. When you say the Monday before the Tuesday, the Tuesday was when the Legislative Council referred this bill to this committee?

Mr Sialtsis: Correct. We met with them on the Monday. That was the first chance we got to meet with the department. That was organised through Mr Quigley's office. We were advised we needed to lobby the opposition, so we went and lobbied the opposition. Then we were asked if we could give this information to Mr Quigley's office. We sent it to him on a Thursday or Friday and then they arranged for a meeting on the Monday. That is when we came together with the department.

The CHAIR: I think I understand the time line now, thank you. You have not been part of the consultation process in the drafting of this bill?

Mr Kenyon: With the department, yes.

Mr Wheatley: If I may? Correct. The Caravan Industry Association was invited to consult regarding the discussion papers in terms of the broad changes to the act and the intent behind the changes to the act, but was not given the prior opportunity to consult on the actual drafting of the bill.

Mr John Wood: Which will bring us to the first point that we would like to raise. We think that whilst the department has a view of trying to get a level of synergy between the Residential Tenancies Act and our own act, some of those measures of trying to get some consistency has actually caused a lack of our ability to manage the developments. The first example of that is in section 71A, where we are asking for a slight amendment to the bill, because our managers that run the parks are fairly vulnerable. Their job is to making sure the quiet enjoyment of the entire community. We believe that they deserve the same respect in the act, in terms of being able to act if they receive repeated abusive behaviour or life threatening behaviour. We do know that when you have 200 or 300 people in a community, sometimes people will take advantage of that. The act does allow us to do that, which is a great addition to the act, but we think that our staff that are responsible for that community deserve the same rights as someone living in the community. That is why we have asked for that slight amendment in that part of the bill.

The CHAIR: Can you give us any examples where a park operator has not been successful in terminating an agreement on the basis of a breach of the right to quiet enjoyment?

Mr John Wood: I might let our solicitor answer.

Mr Wheatley: If I may, the particular concern that the association has, and probably encapsulating the answer to the question, is that currently there is no right under the act for an operator to seek to terminate an agreement on the basis of staff having been threatened or abused. There is a right to seek a termination of the agreement when violence is imminent, under a different section. The new section being proposed to be introduced would allow an operator to seek termination where the peace and quiet enjoyment of other residents of the park is being impinged upon, that there is currently no ability to seek termination where the operator's staff are being repeatedly threatened and/or abused.

The CHAIR: You are happy with the provision, but you are not happy with the fact that it appears to apply only to other residents?

Mr Wheatley: Correct.

Mr John Wood: Often in that circumstance, the park manager or staff are doing their best to mediate or to ensure that everyone's safety and quiet enjoyment is enjoyed. They can become the frustration outlet for that person that potentially is being difficult. And for that person to know that there is nothing that we can do about it, if they divert that attention to the staff member, we feel that is difficult and puts our staff in a vulnerable position.

Hon NICK GOIRAN: What has been the response of the department and or the Park Home Owners Association to your request to extend the scope to employees?

Mr John Wood: I have been attempting to meet with the Park Home Owners Association for a few months, and, unfortunately, I have not been able to receive any feedback to meet so that we could get on the same page. My understanding is that the Park Home Owners Association would greatly agree with this particular view, because they want the manager to be able to manage the community to ensure the quiet enjoyment. I do not expect that there would be any push back from the association at all.

Hon NICK GOIRAN: And the department?

Mr John Wood: Again, we only had the opportunity to present to the department. They were not really wanting to say yes or no to anything that we were saying, so they just took notes to the points that we raised.

Mr Wheatley: If I may add to that, the department's initial response was that they thought it was better covered under the existing section dealing with apprehension of violence, but agreed with our statement that where there was not an apprehension of violence, there was merely repeated threats and abuse, that the existing section would not cover it.

Hon NICK GOIRAN: Do the employees that we are referring to and are concerned about live on site?

Mr John Wood: Sometimes they live on site, sometimes they go to work and leave each day.

Hon NICK GOIRAN: If they live on site, then it would already be captured by this new quiet enjoyment provision. It is only the ones that are —

Mr John Wood: They would not be classed as a tenant, they would be classed as an employee.

Hon NICK GOIRAN: Okay. Even though that they are living on site?

Mr John Wood: Correct.

Hon NICK GOIRAN: That is just a definitional issue, but for all other purposes, they are a resident like everybody else, who are entitled to live there in peace and quiet.

[11.20 am]

Mr Sialtsis: Not necessarily. It is like employing somebody. Part of their job is to live there certain days. My managers live at our park for the three days that they look after the park. On their three nights off—there is accommodation for them, but their home is somewhere else, so they actually go to their home.

Hon NICK GOIRAN: So they have two homes.

Mr Sialtsis: One home is because you have to be there, and one home is what they call home.

Hon NICK GOIRAN: While they are there, surely they are entitled to peace and quiet. They should not have to be harassed.

Mr Sialtsis: Everybody is entitled to peace and quiet.

Mr John Wood: Whether they are living there or not, if they are working there five days a week, eight hours a day, that is their experience.

The CHAIR: I think what Hon Nick Goiran is asking is: why do you believe they would not be classified as a resident?

Mr John Wood: In some respects, if they live there, they would be treated in that way, but much of our industry do not have people living there. They go there, they manage the community, and then they leave, so it would not cover those people. But certainly in our communities where there are 400 or 500 people, staff go to work, are there all day and then leave and go home. There are additional support services by text messages or emergency response. They are not required to live there on-site.

Given the time constraints, shall I move to the next point?

The CHAIR: Yes, keep going.

Mr John Wood: The next item is section 10C—binding successors in title. We simply ask that the amendments should go a little further and bind both the tenant and the new owner. That makes logical sense at law. It also makes logical sense for any new operator to honour the terms of the

agreements that are in place, which the act has gone on to do. We are not sure why the tenants are not bound and are only bound by those things that are in writing. I might ask if Greg would like to add to some commentary to that, but unless you have a question, we think this is a really logical thing and provides more certainty for everyone concerned. What we wanted to say is that the previous owner—we do know that anyone who has been verbally promised something or written something by a previous owner, that there should be an obligation on that previous owner to either deliver on that and not try to avoid that part of the act. We are just simply saying that the new owner coming in can only rely on those things that are in writing and it needs to ensure that the leases that are in place are valid at the point they purchased the home and that the tenants are as responsible for honouring those leases as the new owner.

The CHAIR: Okay.

Mr John Wood: The next is on page 5, section 12(1)(e)—restrictions on amounts park operators may charge. This is a bit of an unusual thing and we are not sure what the department may be wanting to avoid here. Perhaps it was third line forcing or perhaps it was a monopolistic position. What we wanted to present to the committee is that all of our clients are generally able and living in a community and they use their own services—window cleaners, carpet cleaners, repairs and maintenance—but they often ask us to do things for them because it is a lot more affordable, because we can get the gutters cleaned on three or four homes a lot cheaper because you do not need a callout fee et cetera. We think it is unusual that they have restricted us to recover costs. We do run a business and we should be incentivised to provide additional services. It is as simple as that.

The CHAIR: So the examples you would give are the ones you have just raised—gutter cleaning and windows?

Mr John Wood: Yes. We think there might have been some trying to cover other issues, which we think can be covered in the legislation, which are, perhaps, other fees where there is no value—it is like a perceived value—such as a visitor fee or some other things that might not be related to delivering services or adding value to the people that live there. They often ask our gardeners to change their light bulbs or do things because it is much more affordable. We want to continue to do that and not incentivise us to deliver a worse service because all we can do is recover costs rather than have it as part of our business model.

On page 6, section 20A—park operator's continuing disclosure obligations about material changes. I might just pass to Greg on this particular issue.

Hon NICK GOIRAN: Sorry, can I go back to the previous one?

The CHAIR: Yes.

Hon NICK GOIRAN: How do you define "reasonable profit component"?

Mr Dale Wood: We think that that is so hard that you cannot determine what that is going to be. We could say it is wages for the people, but then I have long service leave, I have holiday pay, I have whatever I have got—what machines I have got. What we are seeing is that the tenant is able to go and get their own quotes to do all of the work and we will be employed by them if we can do it cheaper. If not, they will use the other people. It is normal market forces. It is just too hard to determine what our costs would be. In a lot of cases it is a lot less than someone else because we have already got the equipment. It is already there. But if you call in Jim's Mowing to do something or fix something, they have got all their charges, so normally we would be cheaper.

Mr Sialtsis: Our biggest fear is that if you have got operators running parks that are making money on gutter cleaning or whatever, they will stop that service. If they stop that service, the tenant is up for more money. The thing is —

Hon NICK GOIRAN: The protection for the tenant is that they can come along and show you, "Look, Joe Bloggs down the street is doing it for half the price."

Mr Dale Wood: Correct.

Mr Sialtsis: Obviously, everybody in the village will go and use Joe Bloggs down the street rather than the people.

Mr Wheatley: If I may address the original question, which I think was directed towards the proposed wording that we had put up and, in particular: how would you determine a reasonable profit component? I think our view is that it would have to be determined based on the particular service being provided at the time because there is so much of a range. I agree that there are some issues inherent in saying a reasonable profit component. I think the same issues are inherent in the wording in the draft act, where it proposes that the fee can be on a cost-recovery basis or a reasonable amount. I think "reasonable" is always difficult. The particular thing we are trying to achieve is that if costs are always limited to recovery, there is absolutely no incentive to ever do anything different or provide anything additional. An operator should be allowed to make some amount of money. What should not be allowed is to descend into ripping people off or monopoly pricing, so we are trying to say, "Well, look, making a reasonable amount on top is okay; ripping people off isn't" and trying to find some middle ground.

Hon NICK GOIRAN: Does such provision exist in other jurisdictions around Australia, to your knowledge?

Mr Wheatley: I am not aware.

Mr Sialtsis: Not to my knowledge.

Hon SIMON O'BRIEN: The points you have just made are noted. Is it the case, though, that the concern of park home tenants is that they may not have a choice but to accept services from an owner and that they are not allowed to get anyone else in and therefore there is the risk of profiteering or getting ripped off? Is that something that is abroad in some parts of the industry?

Mr John Wood: That is one of the reasons I wanted to catch up with Kenneth—Ken Mann—because we are not aware of that being the case anywhere. If there was an example, it would be good to know. There is not any opportunity, even if we wanted, to say, "You have to use our services." It is their home. They live on the site. They can get whichever—sometimes they get a little frustrated because we have some obligations under our act. For example, it needs to be a licensed plumber or a licensed electrician. Some of those things sometimes can be a bit frustrating for someone living in a village, because they want to get their friend next door to come and change an electrical fitting, and we do need to follow normal processes because we are managing a business.

Hon SIMON O'BRIEN: I think one point that has been made to the committee is that while there are plenty of other examples of professional owners running great businesses and providing excellent services to thousands of live-in tenants, the problems are, really, experienced by those who perhaps are not being well serviced—people that have got periodic leases which contain terms that are very restrictive and require them to do certain things, such as providing a monopoly on service provision to owners, or owners having to give permission and so on.

The purpose of the legislation is to make sure that those sorts of conditions do not exist or are not allowed to continue to exist. We have already had some evidence that there are some people in

difficult circumstances with what we might call shonky or less-than-professional owners victimising them, ripping them off and so on. Could you respond to that at an industry level?

[11.30 am]

Mr John Wood: Certainly. We think the legislation is a great way of getting rid of rogues and ensuring that the industry is tidied up. Certainly over the last 20 years, that has actually happened. We agree that the legislation needs to protect the minority or those people who are disadvantaged. What we are saying is that in our particular industry, there are two things that happen. One is that we would not attract anybody else to want to move in. We are in the business of needing people to live there to actually run and operate the business. When those practices happen, two things happen. One is that people complain, but, secondly, there are generally 20, 30, 40, 50 or 60 other people that will very quickly go to their local member or whatever to say, "Hey, this is not good behaviour." What we do not understand is the feedback we have received is more related to forcing people to sell their home through a particular provider or to do some of those sorts of things, which the act is really covering very cleverly and I think has gone a long way to protect the rights of people living there. We do not know where there is a service provision where people could even force someone to say, "You have to use this plumber or use us to do that", because it is just not practice we are aware of.

Mr Dale Wood: And the suggested change that we have got here—part B—says the cost of the long-stay tenant acquiring the equivalent service or facility elsewhere, so I think it is covered by saying that. I do not know what anybody else has got in their agreement, but this overrides that.

Mr John Wood: And we are not suggesting that the condition is removed; we just wanted to not disincentivise anybody for continuing to add services where they can provide them really cheap. Even white ant certificates. I know clients at our communities might get charged $15, because they get 10 done at the same time, rather than in the suburbs where they would pay $150 to do a white ant certificate. We see more benefits in continuing to provide services. This seemed to be saying, "We're not going to let you do that anymore. You can just charge your cost."

The CHAIR: I am going to ask you to press on, if you would not mind. But before we leave that point, can I ask you in relation to that specific topic we have just been talking about, are you foreshadowing an amendment to the act? Do you want to see the bill changed or are you talking about waiting until the regulations?

Mr Wheatley: We would like to request an amendment to the act, because we think, on the current proposed text, there will be a limit to cost-recovery basis alone, and that is not something that could then be changed.

The CHAIR: Are you going to leave us with a copy of your written response?

Mr John Wood: I just wanted to check that you do have the page that I am referring to, because we have put our recommended —

The CHAIR: This is your submission. We have got your submission. What we do not have is your written response to the questions we sent. Are you going to table that and leave it with us?

Mr John Wood: We are asking for permission to send it on Tuesday. We are speaking to it today. Is that okay?

The CHAIR: Yes, that is okay. We will cover that off at the end formally.

Mr John Wood: I will go to page 7, which, one, identifies the concern but also —

The CHAIR: I think you were at 1.5, which is page 6, section 20A.

Mr Dale Wood: Disclosure obligations about material changes.

The CHAIR: Have you already addressed that?

Mr John Wood: Sorry, I got sidetracked because we went back to the previous point. I was handing over to Greg to cover that point for us.

Mr Wheatley: In terms of the question that was asked—1.5.1: could you give some guidance as to how it will be decided whether a material change would be likely to occur?—we propose that, in practice, it would be up to the park operator, because they are the person who has the disclosure obligation so they are the only person in a position to make the determination. Secondly, in respect to the question—Doesn't the use of the word "arrangement" or "restriction" already make it clear that it is referring to a concrete arrangement or definite restriction?—I would say that it does not. I would say that if the wording was changed to "concrete arrangement" or "definite restriction", then that would certainly answer the concern. The problem that operators have is that where they are being required to tell tenants about anything that may affect the tenants' enjoyment of the park, there are necessarily always going to be some things which may or may not occur and some things which may or may not affect the tenant to a lesser extent. Operators are always going to be having to make judgement calls about what to bring to tenants' attention. I think without any guidance as to the threshold of things that might trigger it, it makes it very hard for operators to comply. It also makes it easier for tenants who may have a grudge against the operators to then say that they have not complied in telling them about something.

Hon SIMON O'BRIEN: And you have suggested, in your submission, the addition of a few words to make that clear?

Mr Wheatley: Yes.

The CHAIR: Thank you. Now page 7.

Mr John Wood: Thank you very much. You have asked a question in relation to page 7, where you have said: Has the government indicated the payment you propose will be a prescribed fee under section 12(1) or otherwise permitted under section 12? The answer is no. Again, I might just get Greg to speak specifically to this. But before he does, I just wanted to describe that this is again something that we think is part of the residential tenancies framework being applied to our industry. Most of our communities are very much tourist operations and mixed-use park operations. Often they include boom gates or security gates and access keys. Often those keys are $100 each, particularly if it is monitoring who accesses what from a security perspective. We just want to make sure that those people know that they are valuable and that if they lose them or replace them, we have the ability to charge a fee; otherwise, it is not respected and people just leave, particularly when homes are sold. They are not interested in making sure that all of the keys et cetera are handed back to the next owner or to the operator for the next tenant.

Hon PIERRE YANG: Just on that point, do you know roughly what percentage are holidaymakers and what percentage are long-term residents?

Mr John Wood: In the state? Have you got that off the top of your head, Craig?

Mr Kenyon: In terms of residential, there are over 20 000.

Mr John Wood: Yes, there are about 20 000 sites across the state that occupy permanent residents and there is probably about the same amount which is tourist sites. That is a guess; it is not a statistic.

The CHAIR: So roughly 50–50. Do you want to take that on notice?

Mr John Wood: Yes, if you would like us to make sure we answer that for you.

The CHAIR: That is question on notice 1.

Mr Sialtsis: I imagine the reason you are asking that question is about how many people would have these elaborate $100 swipe keys. It is not very many. My park at Wanneroo does not have a fancy swipe key. We do not have the security of National Lifestyle Villages. The amount of people with that type of expensive key it affects is to that level. When you go to our park up in Lancelin, our keys there are $25. Everybody pays it. It is funny how this has come up, because we have never had an issue with people paying a bond for their key. When they bring it back, they get their money back.

The CHAIR: Did you want to refer to Mr Wheatley?

Mr Wheatley: Thank you. In terms of the answer to the specific question 1.6.2, I think John has already covered this by saying there are different circumstances for parks. I think that is the questions on that one handled.

The CHAIR: Yes; 1.6.1 and 1.6.2.

Mr Wheatley: Yes. We are happy to move on.

[11.40 am]

The CHAIR: We are now on to question 1.7, which is pages 9 and 10.

Mr John Wood: We can skip page 8, loss of security?

The CHAIR: We do not have a question on that.

Mr John Wood: We will go straight to 60. Thank you very much.

The CHAIR: 63C.

Mr John Wood: Yes. This is an unusual one and does describe a little bit of discussion. We note that you have asked a few questions. What we are noticing in our communities is that often we are not aware that a park home might be occupied by someone other than the person that has entered into the lease agreement. It might be a FIFO worker, someone who has a relationship with someone who lives in the community. Within our leases we do have the opportunity to have a lease agreement with a primary occupier of the home who pays a site rent to live there and anyone else who is living there is the responsibility of that person who is living there and they can be an occupant. In some cases, we are not aware that someone is living there. We are noticing more and more that the families that might have their loved one or mum living in one of the mixed-use parks or park-home parks finds a friend and that friend starts living there. The family gets a bit concerned that mum is in a vulnerable position and we do not want an opportunity for anyone who does not have a valid lease with us to be able to go to SAT and have a SAT member say, “Yes, you can live in this community.” We think it is an okay thing to do but we have put some suggested wording that there the SAT member does need to take into consideration that they have followed the usual criteria and meet the usual criteria to be able to live in that community. It is not about being of sound mind or a nice person and that those are part of our responsibility for having lots of people live on one piece of land. We just think it is a requirement with these additions that Greg has recommend so that we are able to manage that community but also manage the relationships we have with often the siblings or family of people living in a community. That is all I have to say on that unless Mr Wheatley has a particular question.

The CHAIR: I think you have covered 1.7.1 and 1.72. What about 1.7.3?

Mr John Wood: If a person is not residing at the premises with the permission of the park operator, would not the operator take steps to remove them and they would therefore not be covered under 63C(1)(a) as they would not be residing on the premises?

I might ask Greg to answer this. If we do not know they are there, we have not been part of the process.

Mr Wheatley: The first situation would be where the park operator does not know that someone is there. The second would be that many leases provide that people can stay on or in a park home on a site for a certain period of time without permission being required and then they would be an exemption from the requirement. The third is that it is generally quite difficult to remove someone once they are there. The grounds for trying to get rid of someone would presumably be that they are either trespassing, in which case it will be difficult, or that the person who is the tenant is in breach of the lease, in which case you might be faced with the decision of, "Do we get rid of the tenant entirely?", seeking to get this person out. There are many occasions where there is going to be someone living there who has not specifically been granted permission or who has been granted permission but permission to stay there for a certain period of time, not forever.

The CHAIR: Finally, 1.7.4: Why should there be a different approach to the approach taken under the Residential Tenancies Act?

Mr Wheatley: This one is me again.

Mr John Wood: I might just provide context while you are gathering your thoughts. In this situation, the person owns their home. Mrs Jones actually owns her home; it is worth a few hundred thousand dollars and she has a lease with us. Mrs Jones falls in love with Fred. Fred actually moves in. The family is concerned that Fred is moving in and taking over the assets of Mrs Jones. Fred uses this particular rule to go to SAT and say, "Hey, I should have a lease here. I didn't go through the park." We just cannot afford for that situation to happen because it already happens.

The CHAIR: You want to be the arbiter?

Mr John Wood: Yes. I do not think we can be the arbiter. What we are saying is that the SAT member needs to take into consideration the points we have added into the our amendments so that that situation cannot occur.

Hon PIERRE YANG: Mr Wood, the situation there actually relates to family law. If a de facto couple reside together for more than two years or have a child, the family law recognises their relationship, so their assets will be part of the jurisdiction of the family law. Whether a family of the lady in your example agrees or not, the family law would enable the other partner the legal right given by the family law.

Mr John Wood: Yes, I understand it, and it is a fairly complex issue. One example I can provide is a son moving in to be a carer for the mum and the son taking advantage of the mum, and we are involved in that community and with the neighbours who are very concerned about mum, because the son is aged appropriate and is over 50. We do not think there should be a circumstance so that that person can go to SAT and say, "Hey, I've been living here for a year and been caring for mum, and I should be able to have a lease and the park should give me one." We think that we understand more so whether or not that person should be issued a lease because we have a long-term relationship and we are looking after that community. Those circumstances, we think, need to be taken into consideration to get a really good outcome.

Hon NICK GOIRAN: Why would the son in that situation want to apply to SAT?

Mr John Wood: Because he is taking advantage of his mum's assets, and the rest of the kids are frightened of him. We get put into those sorts of circumstances.

Hon NICK GOIRAN: At the moment, in that the hypothetical, he is staying there anyway. What is the advantage to him being put on the —

Mr John Wood: We have a greater ability under our lease agreement because we have a lease with the mum and the son is an occupant. We have the ability to make sure we can deal with that. If mum passes away, we have the ability within the lease agreement for the estate to sell the home. Under this circumstance, the son could take on the lease and then become a real problem for the rest of the community because a judge has made that determination rather than us being able to manage that community.

The CHAIR: Is this drawn from hypothetical examples or concrete examples?

Mr John Wood: No, actual examples.

The CHAIR: In those concrete examples has the permission already been refused by the park home —

Mr John Wood: We have not had a situation where we are aware of yet because the law does not currently allow someone to go to SAT and say, "Hey, grant me a lease; I'm living here." This is a new addition.

The CHAIR: In your experience under the existing law, the members of your association do refuse people going on leases in the situations of the type you have just described?

Mr John Wood: Yes. We have the ability to manage it within the terms of our lease because we have a lease with the person —

The CHAIR: And you do, in practice, say no.

Mr Dale Wood: Not in the all cases.

The CHAIR: No, but you do in some cases.

Mr John Wood: When there is a family member who has been looking after mum, very loved by the rest of the community, been going there for 10 years and they move into the home.

The CHAIR: Your concern is you would not be heard by SAT?

Mr Wheatley: If I may. It does occur. Typically, the reasons for refusing are going to be when the person seeking the grant of the lease does not meet the usual entry criteria for the park, and that is generally going to be where they have gone through an interview process and the person interviewing them comes to the view that, "You're not actually going to be able to fit in here and, essentially, not unduly interfere with the peace and quiet and enjoyment of other residents." The concern we have is that unless there is some nod or reference to the park operator's usual entry criteria in the things that the SAT member has to pay attention to, the decision criteria are going to be: is this person suitable for the park, with "suitable" being a fairly open question.

The person determining it might well say, for example, "They meet the criteria because they're over 45; I can see no reason why they shouldn't be allowed in", despite that they might not otherwise meet the entry criteria for that park, which are the same entry criteria that have effectively been sold and promised to everyone who has previously come in.

[11.50 am]

The CHAIR: Under the proposed new section, the park operator would be able to make a submission to SAT, would they not?

Mr Wheatley: They would be able to make a submission to SAT as to why that person was not suitable, but it would still be at the discretion of SAT as to whether or not to take that into account.

The CHAIR: I am going to move on, unless anybody has got specific questions on this. We have got formal questions, of which you are aware, plus I think we have one other thing that we might raise with you at the end. So can we move very quickly through those.

Mr John Wood: Thank you very much. I might hand over to Greg just to go through the rest, because I tend to take more time.

The CHAIR: That is okay. You are going to give us your written answers anyway.

Mr Wheatley: On 1.8.1—could we clarify why the insertion of the word "ordinarily" would address our concerns—we think the word "ordinarily" limits the total prohibition on children occupying a site. We think that without the inclusion of this word, a long-stay tenant can only include a prohibition on children occupying the premises if all other long-stay agreements contain a prohibition on children occupying the premises. The end result of the proposed wording is that if an operator on a single occasion allows children, for whatever reason, on one particular agreement, they can never say "no children" again. We would like there to be some leeway for an operator in certain circumstances to say that in special circumstances, children are okay for maybe some period of time for this lease on this site to this person, without permanently removing their ability to ever say "no children" generally. In terms of concrete examples, the ones that generally come up are where at a lifestyle village that is generally restricted to elderly people, the daughter has some kind of marriage breakdown and wants to move in with the kids with the parents for some unspecified period of time, family violence situations, and circumstances where people are caring for disabled children, generally grandparents looking after disabled grandchildren where the parents cannot cope.

On 1.8.2—is it our opinion that "occupy a site" and "live on the agreed premises" would include children visiting?—our opinion is yes, because "occupy" and "live" are not really that well defined. But, in general, we also want to be able to allow people to live with children for longer periods at a time if required, particularly under the circumstances I just gave.

On 1.8.3—do we have members who operate parks where there may have been difficulties allowing children to visit?—there are less difficulties in allowing children to visit and more difficulties in allowing children to stay for longer periods, essentially, because there will be some neighbours, generally one or two isolated ones, who say, "This village, this park, is not for children; you shouldn't have any children here at all."

The CHAIR: Okay, and 1.9, page 14—section 10A?

Mr Wheatley: As the prescribed standard-form has yet to be published, would it not be more appropriate to wait and then propose another types of agreements? I think if that were possible, yes. Our experience when the existing act originally came in would indicate to us, no, because when the regulations to the existing act came in, we were essentially given a copy of the prescribed form of agreement and they said, "Here it is; we're not changing it." We want to avoid a repeat of that situation. We think that without there being some exemption mechanism built into the act itself, there will be no ability to seek to be able to use a different form of lease.

Mr John Wood: Because it is such a broad industry, with some people having a mixed-use park in Margaret River and some people having a community of 500 people, there needs to be the ability to have agreements that suit that particular market. We think that should be done with the lowest common denominator being the determining factor of how the industry will grow in the next decade or two.

Mr Dale Wood: We are not suggesting that the standard clauses should not be included in all documents, but, in the main, we think that our documents go further and above what is stated, and

that is what we are looking to do—to be able to comply with the act, and then go further and over the act.

The CHAIR: Have you had any contact with the department that indicates whether you will be involved in consultation over the development of the regulations?

Mr John Wood: Not at this stage. I presume we would be, as a matter of course, but we have not been advised.

The CHAIR: You have not been told either way?

Mr John Wood: No.

The CHAIR: Thank you.

Mr Wheatley: And certainly we are feeling sort of burnt by previous experience.

Mr John Wood: Can I just add a point to that. One of the things that we really want the ability to do is provide better services and better provisions and more security in certain circumstances that may not require the same circumstances in a mixed-use environment. The last time we went through the legislation review, we could not opt out of any provision, even if it was a provision to add value to the customer. We really want the ability to be able to evolve the industry and continue to provide affordable solutions, and need that flexibility. We agree we want to seek permission from the minister to provide that as a standard document and have the approval before we provide it to the market, with full transparency, but we really need, particularly at this early stage of the evolution of the industry, that flexibility. Thank you.

The CHAIR: Mr Wheatley, when you refer to having been burnt previously, are you talking about not being consulted specifically over the provisions of the bill, because you said you have been involved in the previous rounds of consultation?

Mr Wheatley: When the existing act came into effect in 2006 and 2007, there was an extensive consultation process regarding the act itself, and there was no consultation involving the regulations. The standard form of agreement was included by way of the regulations. We were given it and told, "This is it."

The CHAIR: So specifically you are referring to being consulted over the regs?

Mr Wheatley: Yes.

The CHAIR: Okay; thank you. Can I just get an indication from my colleagues about other issues they wish to pursue. Hon Nick Goiran, do you have other issues?

Hon NICK GOIRAN: Yes, sort of, but I am conscious of the time.

The CHAIR: What about you, Hon Simon O'Brien?

Hon SIMON O'BRIEN: Only the one aspect that we discussed out of session.

The CHAIR: We may have one issue.

Hon NICK GOIRAN: The quick question I have is your request, effectively, to reverse the regulation-making power to one that would prescribe prohibited terms rather than impose mandatory ones. I understand why you want to do that. My concern is the enforceability of that. If the regulations start saying that you cannot have term (a), (b) and (c) in your agreements, I think it is too easy for people to craft alternative terms that are substantially similar to the ones that have been prohibited and get them through the back door that way. I just invite you to respond to that.

Mr Wheatley: I agree that the difficulty inherent in any kind of prohibition is that people can always find a way around it. I think that can generally be addressed by anti-avoidance provisions, or any

other provisions that have the same or a similar effect, which has generally been the approach taken with the act when it relates to things like rent reviews and multiple methods of having rent reviews, the notion being that any act or arrangement or understanding that infringes the spirit of this is equally forbidden.

[12.00 pm]

The evil—that is probably a bad word—that we are trying to address is essentially regulation by stealth without consultation. I think it stems from the fact that the review of the act has been in train for a long time, the amended text of the act, we are now getting the chance to be heard on. If regulations are passed which greatly constrain the industry and the industry is forced to react to them and rush, then bad things can happen. We figure we can live with what is currently in the act in terms of what you have to do, but if we get hit with a bunch of other stuff, it is all very hard, particularly in parks that may have a couple of hundred sites where they are changing over time. If there are, say, 600 sites covered by one thing and then gradually over time they are being covered by a completely different thing, it ends up in an administrative mess.

Hon SIMON O'BRIEN: Much of the purpose of the proposed legislation is to provide evolving protections for tenants who in some cases can be elderly or otherwise, potentially vulnerable. I gather that these changes are generally welcomed by both industry and residents. Is that your perception?

Mr John Wood: Absolutely. The thing is we have not had the opportunity to sit down with The Park Home Owners Association. We are aware that there are 600 members and many of them live in our communities. We do not think there is anything that we have put forward to the committee that would not be welcomed by the association. But I cannot speak for them. We just think there is some unintended impacts in trying to achieve the right outcome, which we think with these changes would achieve the outcomes that government is trying to achieve.

Hon SIMON O'BRIEN: I think it would be mutually beneficial, obviously, if both the parties could develop that liaison, as I know you intend to do.

Mr John Wood: We have in the past, yes.

Hon SIMON O'BRIEN: My next question, or proposition, I want to put to our witnesses is based perhaps on an over generalisation. Generally, a lot of the provisions that relate to periodic leases are prospective; that is, they shall apply to new periodic leases that are taken on and not be applied to existing arrangements. Is that a fair generalisation?

Mr John Wood: That is what I understand it to be. But I also would like to describe that most of the lobbying that has been done has been from a very small part of the sector, and we agree with their concerns. But the caravan park industry does have 20 000-odd sites, or 30 000 people who are not wanting to be forced to sign a lease agreement, want to keep the periodic tenancy because they are travelling around Australia, they are visiting their daughter who is pregnant they do not want to get to day 79 or 89 and have to sign a lease agreement. The park operator—because the notion of having these locations where people can just come and go and have that flexibility, is great for the state —

Mr Wheatley: Sorry, if I can just butt in. I think implicit in the question is another question as to why existing periodic tenancies should not be caught in the changes in the act.

Hon SIMON O'BRIEN: That is precisely where I was headed, Mr Wheatley, so if you could go ahead, that would be good.

Mr Wheatley: I think the answer probably lies in the fact that over time periodic leases under the act have ceased to be periodic, in the sense that they are no longer leases which can be terminated by either party at the end of the period; they have now become leases that the tenant can walk away from and the operator can only terminate for cause. So if you are imposing new requirements under existing periodic leases, the operator has no ability to say, "Well, I don't actually want to, or I can't operate like this. I'm going to have to terminate them." Without the operator having an ability to terminate them, it seems a bit unfair.

Hon SIMON O'BRIEN: You have correctly divined where I was heading with this. We have received representations, saying that that our main problem in the view of applicants we have had is that a lot of these provisions are not retrospective. They do not apply to existing arrangements therefore the protections for residents are not available to them. The proposition I will put to you by way of a question is: surely, if a resident, unhappy with the fact that they are not captured by the new conditions or the proposed conditions, decides to vote with their feet and leave, any operator then would be getting in a new tenant, hopefully as soon as they could, to form a new long-term agreement that would be captured?

Mr Wheatley: Yes.

Hon SIMON O'BRIEN: What is the problem with an existing tenant coming to an operator and saying, "Well, let's terminate our existing arrangement and start afresh with a new one that's up to date"?

Mr John Wood: It is a very good question and I might pass to my colleague on my left. What we are concerned about is that, if with this new legislation, they currently can let that person stay there as long as they like. If they have to apply a new set of legislation, they may revert that site now to a tourist site and may never offer that site again because they have to offer a fix-term lease, go through all this documentation, and it actually puts people in a more vulnerable position because most people living in parks across the state have been there for some time.

The CHAIR: So they would finish all their residential service provision?

Mr John Wood: No, different operators—I do not want to cause that level of concern, but many of our members are already saying, "We're not going to provide permanent housing in our villages anymore, because it is too difficult, and our clients don't want a lease agreement. They want the flexibility of going whenever they want." Perhaps you can give your example.

Mr Sialtsis: The thing is that this bill covers a lot of different people. So most of the lobbying will come from the permanent Park Home Owners Association who are people who genuinely want to live in a caravan park and call it their home.

The CHAIR: Yes, they do not come under that category of people who want only 89 days or 79 days.

Mr Sialtsis: Unfortunately, for myself, at Central Caravan Park, I had a guy who came just this morning. He wants to live in Perth. His wife has been offered a job as a nurse for six, so he had to sign a six-month contract. He wants live in Perth for six months, but if she changes her mind, he wants to leave. I need to actually offer him an entire lease. Central Caravan Park does not look for long-term tenants; we only look for tourists. He is a tourist topping up his money while he is in Perth. He is not interested in signing a lease. By me letting him stay after 89 days, I am actually operating outside what we are allowed. These guys are not interested in leases, signing a waiver form and the rest of it. I am doing the opposite to what you guys are trying to protect. They all think that I am trying to lock them into something, do you know what I mean? They are not seeing it the other way. The only way we can operate there is we do not offer a lease and operate outside the law. If the law becomes too hard, that person will do what they used to do 25 years ago—go from park to park to park and that is not an experience they are looking for.

Hon PIERRE YANG: I will be very quick. My understanding is that certain functions of park managers are akin to a property manager—the functions of a property manager. Are park managers and their employees licensed at this stage?

Mr Sialtsis: No.

Hon PIERRE YANG: Are there any proposals for them to be licensed?

Mr John Wood: We have an internal accreditation program in the industry, which is a national body. We are always doing training, but it sort of falls out of hospitality and real estate, so there is no current accredited program that is recognised by the government; we just have our self-accreditation program.

Hon PIERRE YANG: If there is any suggestion for a licensing regime to be put in place by the state government what would be your response?

[12.10 pm]

Mr Sialtsis: It would be a nightmare. If you have a look at our state, there are 320-odd parks with more than 40 sites in their parks, and then there are smaller ones. To get somebody licensed and to get them operating in a park, you obviously have to do that through—whether it is online or here—you have to find that person that exists. If that went through, basically, we would have 120 parks that do not have anybody licensed that needs to find somebody who is licensed. What is your easiest option if you have only half a dozen tenants in there? You get rid of them. You would not go down that path. Why would you when that is not your core game? The problem is there are people for whom it is their core game. Wanneroo is our core game. For me to get somebody licensed there, it is not a problem in the world. We work on training our own staff to be able to do it. Do not forget that that is just a small percentage of the parks in this state.

Hon PIERRE YANG: Does the accreditation system that is currently in place apply to all the park managers?

Mr John Wood: It is for staff and managers. It is voluntary; it is not a —

Mr Dale Wood: It is not obligatory.

Mr John Wood: It is not obligatory.

Mr Wheatley: If I may, when you speak about acting as property —

Mr Sialtsis: I am sorry, I have to go. I am really sorry.

Hon PIERRE YANG: Thank you very much.

Mr Wheatley: When you speak about acting as almost de facto property managers, which particular aspects did you have in mind?

Hon PIERRE YANG: In the sense that with a residential house, if something breaks down of a structural nature, the tenant would call up the property manager for the property manager to contact the owner. And the same here, if there is a situation where the tenant has to get someone—say, a licensed plumber—to come in and fix something, is the function not similar?

Mr John Wood: No. That is their own home. That is like living in the suburbs; they manage their own asset, they manage their own repairs. Our manager is really just looking after the community facilities—the road and infrastructure, lighting, security gate et cetera. We are not a property manager in that respect.

I might also mention that up until 1995, about 20 000 people were living in caravan parks illegally, because up until that point, you had to drive out every three months and drive back in again because

you could not live more than 90 days in a caravan park. That legislation was changed so that it legalised what we were already doing to look after it, because it was such a big part of the industry, particularly on the affordable and social housing side. The point that we say is that under a lease agreement, it binds both sides. Most of our clients have an asset that is $20 000, $30 000 or $40 000 and they want the ability to leave whenever they like. Up until now, if we need to vacate that site for tourism, we would give that person 180 days' notice because they can just drive it out or take it somewhere else because it is actually a permanent home or a permanent caravan—very easy to manoeuvre. As the industry has evolved, we have dedicated the sites to people who invest in a lot more. They are getting very long term leases—20 years, 30 years, 60 years—so the industry is evolving. But what has happened is some of those people are trying to give the same rights to someone that does not want the rights, and think they are acting on behalf of everybody. The point we wanted to describe is that the concern with this legislation as a catch-all takes away the fundamental—a park in Port Hedland might actually want service worker accommodation in the park for 18 months and then close it down. All of those sorts of things which make this notion of binding someone to the lease—in Chris's park, he has some senior ladies there, retirees, who love living there; they have lived there for 15 years. I know that if he has to go up and say, "Listen, I've got to offer you a lease now. Instead of you being on a periodic, I can only give you one year and keep giving you one year", that inflames her sense of insecurity, whereas at the moment she lives there, there is no intention to do anything different. She really likes that. To force everybody to offer everybody a lease actually creates a lot of concern for people living there, loving what they are doing, but knowing that they can leave any time they want because they are not obliged—they only have to give us 30 days' notice.

Hon PIERRE YANG: Could we please have a question on notice to get a bit more information on the accreditation rating that you have referred to? Is that all right?

Mr John Wood: Sure.

Mr Wheatley: I will quickly respond by saying that I do not think the functions you are describing currently require licensing otherwise, even outside a park. I think the usual duties of a park operator that might otherwise require licensing would be the leasing of the sites and, potentially, the sale of the homes, but merely carrying out caretaking arrangements for people does not currently attract licensing requirements, even for residential property.

The CHAIR: I think what Hon Pierre Yang is asking is if you could give us further details about existing accreditation arrangements as a question on notice. That will be question on notice 2.

I am going to throw now to Hon Simon O'Brien for what I think may be the final question.

Hon SIMON O'BRIEN: I will be as brief as I can, Madam Chair.

Mr Sialtsis responded to my question about retrospectivity of these considerations, and he did say very much in the context of short-term arrangements. What I am concerned about, and I think park home owners are concerned about, is those people who have been in some form of arrangement for 15 to 20 years and want to get access to the sort of protections that are being provided under the proposed new regime and therefore they are advocating that retrospectivity should apply to all of these conditions. What is industry's response to that prospect?

Mr Dale Wood: There is a problem with that because most of the people you are talking about are under that sort of arrangement where they have been on a periodic, are living in a caravan. One of the things that is a problem with a caravan is that it was never designed for permanent living. We have allowed it in parks. Some parks have rules that the caravan cannot be any more than 25 years old. By changing the operation that they get full-time occupation of that site and they live for

40 years, my caravan park could become a ghetto, and in fact they have become ghettoes. I sell caravan parks as well; I am a licensed real estate agent and have been doing it for 25 years. I can tell you nobody wants to buy one of those. Nobody wants to live in those either. The industry has self-regulated its own way of doing things. I have got ladies in our caravan park that have been there for 15 years. There is no way in hell I am kicking them out. They have become personal friends over that period of time. We help out with what they have got there to make them look the right way. One operator that I have has eight caravan parks and he said, "If the laws change, all my permanents that are in that type of arrangement, I'm going to get rid of them and I'll just go back to a tourism park." Nobody wants to do that. We are there for the good of the people.

There are some rules that are tough. I am sorry but there is tough love that has to be done. There have been more parks closed by government where we have lost sites—one was the 138 sites at Rockingham—closed by government, not park operators. If you have a look around and see what has happened, the park operator does not get up in the morning and go, "I want to get rid of somebody today. How many can I get rid of?" That is my income. It is self-managed at the same time. I could tell you now, 40 per cent of the people in my caravan park do not want to sign a document. I have got them to sign a document to say they have been offered the document, but they do not want to sign it. What can I do? I cannot force them to put a signature on that document. They are frightened, as Chris said previously, by the fact that by signing that, they feel as though they are captured. We are talking of a different type of person. Some of these vans are worth $500, if they are that. That is only taking them offsite when they die and go somewhere. There have been instances in other states—one in South Australia, in particular—where the council tried to close down the caravan park in a beachside suburb and they wanted to redevelop it. In the end, they lost the battle to that and it is still a caravan park today. Nobody can use that caravan park other than the people who live in it, and it is a ghetto. It is a problem.

The CHAIR: That turned out to be the penultimate question!

Hon NICK GOIRAN: It is really supplementary to what my colleague has raised. I understand what you are saying with regard to those existing tenants who are on periodic leases who are happy, they are content, so why—my words—traumatise them with complicated legal matters and new lease arrangements and things which they are not interested in; they are very content as they are? I understand that. Let us just park them to one side and look at the group who are on periodic leases but who would like to enter into a new arrangement, which would be governed by the new legislation. That group of people, whether they are in the minority or the majority, it really does not matter; there is a group of such people. Is it the case that the only reason that you would not want them to access the provisions under the new regime is because they are a troublesome tenant, and therefore the current arrangements are better suited to your needs?

Mr John Wood: No, it has nothing to do with troublesome tenants, because we have the ability to deal with troublesome tenants under the current act and the new act.

Hon NICK GOIRAN: With cause for termination or without cause?

Mr John Wood: I do not think it matters. We have to deal with that in a professional way, and there is that —

Hon NICK GOIRAN: If they are troublesome, then you would have cause to terminate?

Mr Wheatley: Yes, but if I may, quickly. I think we—I am talking without checking—that the general presumption is against retrospectivity just because it means that people have not had a chance to think about whether or not they want to enter into the particular arrangements. I am fairly sure that most operators who are continuing to offer periodic leases probably would have no issue with

existing periodic tenants signing up to a new periodic lease under the new system, as suggested by the honourable member.

Hon NICK GOIRAN: Or indeed fixed terms.

Mr Wheatley: Or indeed fixed terms. I think a likely result and the thing that concerns the association's members is more the notion that if the new provisions are going to be applied unilaterally to everyone, then all the members have to right now think about what that is going to mean for their individual park, and it may actually have a negative effect in saying, "I'm not sure I really want to be up for that, so I'm going to get rid of everyone right now", whereas I think if the situation is just left as is, realistically nothing is going to happen that was not going to happen and cannot still happen.

Hon NICK GOIRAN: You gave the example of a tenant who has been there for 15 or 20 years and you would not dream of getting rid of them, so I assume that is an example of someone who, if they came to you and said, "I'd like to be protected by the new provisions; I'd like to enter into a brand-new arrangement", as you said, you would not dream of getting rid of them, so you would enter into such an arrangement.

Mr Wheatley: Correct, yes.

Mr Dale Wood: Exactly, and in fact, one of the ladies I am talking about, we have given her an eight-year lease and a right of renewal, right tenant or whatever, but there are other people within my park that there is no way in the world I would offer them that.

Hon NICK GOIRAN: So those ones, where you say that under no circumstances would you do that, what I do not understand is why you keep them at the moment.

Mr Dale Wood: Because we are able to control them, but in some instances they become more of a problem. They may have been on drugs, they are off drugs, and then they go back on drugs again.

The CHAIR: So it is the flexibility.

Mr Dale Wood: It is the flexibility; that is what it is. All we are interested in is quiet enjoyment for all our tenants in our park. That is what we are after.

Hon NICK GOIRAN: But those ones who you say you would not dream of putting them on a new arrangement, is that because under the new provisions you would have to have specific cause to terminate the arrangement, whereas at the moment you can just give them —

Mr Dale Wood: I would offer only licence to occupy the land on a fixed-term basis, under that term, and if I can do for 12 months, I will do for 12 months, but I would hate it as well, because I would frighten everybody in the park by doing that.

Hon NICK GOIRAN: So how much notice do you have to give these people now, under the current arrangement?

Mr Dale Wood: It is 180 days, and they do not pay for the 180 days, either, so it is my cost.

Hon NICK GOIRAN: Sure, but if you have a tenant that you say, "I've had enough of this person", at the moment, without cause, you can say to them, "You're out in 180 days".

Mr Dale Wood: Yes.

Hon NICK GOIRAN: Under the new provisions you would not be able to do that.

Mr Dale Wood: Correct.

Hon NICK GOIRAN: Okay.

Mr John Wood: And in normal residential tenancies, I think you can give 30 days.

Mr Dale Wood: Yes.

Hon NICK GOIRAN: Sure, but is that right—to be able to terminate, without cause, on 180 days that you are seeking to retain?

Mr Dale Wood: Yes.

Mr John Wood: Yes, and that allows many more people that need accommodation to be accommodated by the industry—like, dramatically.

The CHAIR: I think that has clarified that point. I am going to wrap up the session now. Thank you for your time, and thank you for attending today.

A transcript of this hearing will be forwarded to you for correction. If you believe that any corrections should be made because of typographical or transcription errors, please indicate these corrections on the transcript. The committee requests that you provide your answers to questions taken on notice when you return your corrected transcript of evidence. As we are on a tight time frame, we are asking for answers to questions on notice to be given by 4.00 pm on Tuesday, 5 March 2019. If you want to provide additional information or elaborate on particular points, you may provide supplementary evidence for the committee's consideration when you return your corrected transcript of evidence.

Thank you very much for coming and speaking with us today.

Hearing concluded at 12.25 pm

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