

**ECONOMICS AND INDUSTRY
STANDING COMMITTEE**

**HOUSE REFERRAL OF PERMANENT
PARK HOME RESIDENTS MATTER**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 29 AUGUST 2011**

SESSION ONE

Members

Dr M.D. Nahan (Chairman)
Mr W.J. Johnston (Deputy Chairman)
Mr I.C. Blayney
Ms A.R. Mitchell
Mr M.P. Murray

Hearing commenced at 11.33 am

BRADLEY, MR BRIAN THOMAS

Director General, Department of Commerce, examined:

HILLYARD, MR DAVID MARTIN

Director, Consumer Protection, Department of Commerce, examined:

FILOV, MR TOM

Acting Director, Legislation and Policy, Department of Commerce, examined:

DRISCOLL, MS ANNE

Executive Director, Consumer Protection, Department of Commerce, examined:

The CHAIRMAN: Thanks for your appearance here today. You are getting to be a regular in front of this committee, but that is good; that is a positive.

Mr Bradley: Is that good or bad?

The CHAIRMAN: No, it is good.

This committee hearing is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament. Before we commence, there are a number of procedural questions I need you to answer. Have you completed the "Details of Witness" form?

The Witnesses: Yes.

The CHAIRMAN: Do you understand the notes at the bottom of the form?

The Witnesses: Yes.

The CHAIRMAN: Did you receive and read an information for witnesses briefing sheet regarding giving evidence before a parliamentary committee?

The Witnesses: Yes.

The CHAIRMAN: Do you have any questions relating to your appearance before the committee today?

The Witnesses: No.

The CHAIRMAN: Today's hearing has been called mainly to obtain information to respond to a request from the house that the committee consider the appropriateness of undertaking an investigation into all park homes that have been closed or have collectively evicted long-stay tenants since 2006 to ensure compliance with all the aspects of the appropriate legislation. The committee is also using this as an opportunity to obtain relevant follow-up information from its earlier inquiry into caravan parks and camping grounds. You have been provided several questions in advance that you have provided a response to. Do you wish to make an opening statement that addresses the department's response before the committee pursues questions?

Mr Bradley: Yes, Chair, if you do not mind.

The CHAIRMAN: Good; thanks.

Mr Bradley: I will provide the opening statement, and then I will defer to my colleagues here to respond to individual questions.

Again, thank you very much for giving us the opportunity to discuss long-stay tenants living in residential parks and the potential problems they face when the park closes or is mooted to close. The department, through the Consumer Protection Division, is keen to share its knowledge of the issues impacting Western Australian long-stay tenants, and is involved in this area through our responsibility for administering the Residential Parks (Long-stay Tenants) Act 2006. To try to truncate that, I will just refer to the “parks act” for the rest of the briefing.

By way of background, many caravan parks have traditionally catered for a mix of permanent long-stay residents and tourists in an attempt to balance income against vacancy risks and to ensure a viable business. As per the department’s submission to the committee’s earlier inquiry into the provision, use and regulation of caravan parks and camping grounds in Western Australia in 2007, we estimate that there are about 10 000 long-term sites in Western Australia, and that about 15 000 to 20 000 residents are staying on those sites.

In administering the parks act, our focus has been to ensure that there are fair and open contract conditions in relation to the tenancy agreements that apply to this form of accommodation; in particular, that there is clear disclosure about the implications of this style of tenure. A key issue that emerged following implementation of the parks act was that many long-stay tenants residing at caravan parks were not aware that they were in fact tenants, in part due to the fact that many own their homes on a rented site. The reality is that some people did not have the lease contract they thought they had. In its administration of the parks act, the department provides advice and information to those people living in caravan parks and lifestyle villages on a permanent basis—that is, they live there for more than three months—as well as educates park operators on their rights and obligations to their long-stay tenants. The department also offers a conciliation service to help long-stay tenants resolve disputes with park operators, and investigates complaints to ensure compliance with the legislation.

Since the parks act has been implemented, a key strategy of the department has been to build and maintain relationships with park operators through a proactive compliance visit scheme. This has not only given park operators educational material and knowledge about their responsibilities, but also has enabled the department to be aware of, and monitor emerging issues that may impact on long-stay tenants. We believe the act has introduced certainty about the length of notice that must be provided to long-stay tenants in the event a park is to be closed. Those on a periodic lease who only rent the site must be given 180 days’ notice of termination. For those who have a fixed-term lease, if the lease is brought to an end before the end of that period, there is the capacity to compensate the tenant for costs that might arise from relocating. Being moved from your home can be an emotional experience that occurs to standard residential tenants as well as those living in a residential park home; in fact, long-stay tenants on a periodic lease in a residential park who are renting the site only, enjoy a higher level of protection than standard residential tenants in terms of the notice that must be given to end the tenancy—that is, 180 days versus 60 days. Fortunately, closures of residential parks are relatively infrequent events, with the department aware of four parks that have closed since 2006, affecting 300 long-stay residents. Currently, the department is monitoring six additional sites that are for sale as a going concern, or have indicated they may close or withdraw long-stay sites. This could affect up to 580 long-stay residents. At one of these sites tenants are in receipt of 180-day notices; however, the operator has stated that they intend to offer three-month ongoing leases to most long-stay tenants.

Despite the difficulties in situations where tenants are evicted due to park closures, there has been a fair degree of success in relocating tenants, and many tenants have secured alternative housing. The department is an active member of the interagency working group covering the portfolios of commerce, housing, and planning that has developed and implemented the assistance protocol for

caravan park residential park closures. The assistance protocol sets out guidelines for the agencies involved that act for long-stay tenants in the event of a park closure.

Mr D.A. TEMPLEMAN: Mr Chairman—sorry to interrupt—the committee only has an hour to hear the department. I am a little concerned—I am not having a go at you about your statement—because it is important we have opportunity to question. Given that our time limit is only an hour, I would ask how long you would expect your preliminary comments to take, given the time we have to speak.

Mr Bradley: Chairman, I would suggest about another minute and a half. Is that all right? I was just going to move on to the fact of where we are at the moment with the review of the act.

The act is due for statutory review in August 2012. Early preparation and planning for the review has commenced, and is included in the Consumer Protection Division's business plan for the financial year 2011-12.

I would just like to now refer to the new information service we need to serve the Western Australian community effectively and efficiently. To that end, the department is introducing the senior housing centre, which will commence in September 2011 and which will provide information and advice for those persons 55 and over who are considering their housing options. The service will provide information to people on a range of housing alternatives, including retirement villages, lifestyle villages and residential park homes. A new booklet entitled "Your Home: A Guide to Housing Options for People Over 55" is being published to support this initiative.

I think, Mr Chairman, at this point we might refer to my colleagues who are going to respond to the individual questions that have been asked. I will refer specifically to Tom Filov, then Anne Driscoll, and then David Hillyard.

Mr Filov: Shall I just respond to the first question, Mr Chairman?

The CHAIRMAN: Sure.

Mr Filov: The first question asked was: how does the Residential Parks (Long-stay Tenants) Act 2006 currently deal with compensation packages for long-stay residents evicted from parks facing closure? In response to that question, the act currently contains provisions in which a tenant may be entitled to seek compensation for a loss incurred in a number of circumstances as a result of the early termination of a fixed-term long-stay tenancy agreement. There are, in short, compensation provisions that can be accessed in certain circumstances. Those situations include termination of a park operated without grounds; termination if an agreement is frustrated—for example, a premises ceases to be lawfully usable for its intended purpose or is compulsorily acquired by an authority under written law—termination on grounds of hardship; and also park closure due to the sale of the park, where one of the conditions for sale is subject to vacant possession. Once again, those provisions relate to fixed-term long-stay tenancy agreements.

The CHAIRMAN: How often have those been effected to your knowledge? In other words, for how many evictions, to your knowledge, have compensation packages been provided?

Mr Filov: I am not familiar with many that have been provided at all. My understanding is that on the SAT website, where people can take such matters if they are not happy with the terms of any compensation that might have been agreed to between the park operator and the tenant, there has been one compensation case dealt with by the SAT, which was dismissed.

[11.45 am]

The CHAIRMAN: Do you think compensation is commonly, significantly or often requested and provided?

Mr Filov: I suspect, because we are talking in terms of fixed-term agreements, my understanding would be that there has probably not been a lot of fixed-term agreements that have been terminated;

it seems to be predominantly relating to the periodic long-stay tenancy agreements to which such provisions do not apply.

The CHAIRMAN: The second question?

Ms Driscoll: That is for me. The director general has provided the outline, and that is that this particular legislation is due for statutory review from August 2012, but, given the ongoing contentiousness of this particular area of law, that has been brought forward. So we have commenced basically mapping out the issues that will be addressed, which will of course, be all-encompassing in terms of the law as it currently stands, and it is our intention to commence the more public phase of that review in the next year. Having said that, it is certainly clear, the more we look at this, that there is not going to be any easy answers to some of the issues that present themselves as identified by this committee in its previous review, but certainly a number of issues clearly need further consideration. One is the concept that there is probably some degree of market divergence in terms of the types of park homes. We have the lifestyle villages where people are being offered 40-year contracts et cetera, and then quite different issues in the mixed-park scenarios. So, there may be a need to some degree to separate those two notions and maybe test whether the lifestyle village scenario is something that better fits with retirement villages, although I must say the setup is quite different in terms of the memorial over the land. But having said that, it also raises issues for both schemes, which is the protection available to people in the case of insolvency et cetera, which in itself is an interesting area, as we have also seen with retirement villages. To some extent, therefore, the review will of course consider things like: has the act delivered on its intended outcomes, and this need to try to balance the needs of tenants but also ensure the ongoing provision of this form of accommodation, so that it is still attractive for investment et cetera? Some of the other issues will be whether the concept of pre-contractual disclosure is working for those people who have entered more recently, as the provision of the park-home booklets and other information around meant that people are more aware of the risks that they confront. The concept of a park liaison committee is very much in this law. Is that working; what are the issues; does that structure need to be changed; are the dispute-resolution arrangements satisfactory; are there a wider range of issues that the SAT should be looking at; are there any options to improve certainty of tenure; and should there be a greater focus on fixed term? Clearly in mixed-use cases, fixed term has not been the dominant style of contract. Having said that, fixed term alone is not the answer in that if all of the fixed terms are for three-monthly intervals, for example, it actually is a worst-case scenario potentially than 180 days' notice of a periodic agreement. So, clearly, the review will be all-encompassing. Rather than waste a lot of time talking about all of the other elements that will be considered, it is fair to say that we will be considering every aspect of the legislation. As I said, it is scheduled for review early next year in terms of the commencement.

The CHAIRMAN: Since we discussed last on this issue, has there been a large number of complaints about the workability of the law?

Ms Driscoll: Perhaps as we move to item 3, Dave will provide some detail about that and give some context.

Mr D.A. TEMPLEMAN: Chair, if I could I will ask a question of the director general. You mentioned in the review a couple of key elements. One is the liaison committees in parks. Is the department confident that there are those committees existing in all the parks? If not, why not? And, secondly, has the department done an audit of all caravan parks in Western Australia to ensure that, one, liaison committees as per the act are in place; and, two, if they are not, what has the department done about it?

Ms Driscoll: Again, Dave will talk about that in some detail but, yes, we do do proactive audits to make sure that the act is being adhered to, and it is appropriate just to remind ourselves that to some

extent it is up to the residents to decide whether they want a committee; it has to be offered but it is not mandatory that a committee is in place. That is my understanding.

Mr Filov: I think there needs to be 20 homestay sites within the residential or caravan park for that requirement then to be obligatory.

Mr M.P. MURRAY: Just fitting in with the same theme, the closure of—I think you said—four caravan parks since 2006 but the actual change of use is just as bad in there. Is there any monitoring of where those permanents have to go, because they want to put chalets in but there has been no change of ownership as such, which has caused the same problem?

Ms Driscoll: Perhaps we could ask Dave to talk about the cases that we know of that have closed and are about to close or are talking about the possibility of closing.

Mr Hillyard: Certainly there have been some instances where people have been moved inside the park, but I cannot recall any instances where people have been evicted from a park as a result of a change, apart from one that was down in Mandurah where there was a redevelopment of a park down at Miami. There was some restructuring of roads et cetera into that place and there were certainly 10 or 20 people that were evicted from that park, and they had been long-stay residents in caravans rather than the park homes or chalets. That would have been a couple of years ago that they were actually put out of the park and there were some issues that were dealt with. But in relation to the questions that were put to us, specifically along the process about whether people are being investigated et cetera, the first thing that kicks in for us is as a result of a complaint or an inquiry that comes through, or through another agency, and we refer through our assistance protocol for caravan park closures. So, there is an arrangement between the Department of Planning, the Department of Housing and ourselves so that there is an alert system if anyone gets the heads up that there is a park closure or there is a news article et cetera of that nature; then we swing into action and make sure we contact the park and find out what is going on on the ground. And then usually as a result of that publicity, we end up with complaints coming through to the department. With the exception of one instance in the north west where a park was closing or giving eviction notices to residents and had done so under the Residential Tenancies Act, we have not investigated any matters where it has been found that people have been given improper eviction notices. So, in other words, they have all been periodics and they have all been given a minimum of 180 days, and in a number of instances they have been given extensive periods of notice way over and above the 180 days. That certainly does not change their concerns and the angst that that raises; it probably just makes it linger on for a bit longer, but certainly they have concerns about those. But as we get closer to the deadline for those evictions, so those people have found alternative accommodation and moved off sites, some with arrangements through the park owners, but there certainly has not been any forced evictions with people being put out by the bailiff and caravans and/or park homes being dragged off sites. It has all been managed quite well in the end.

So the question that you put to us was: how many parks had been closed as a result of evictions in contravention of the act? And nil is the answer to that. So, the responses that we have had for these sorts of evictions is that we engage with the park owner, the liaison committee if it exists, and meet with the residents in conjunction with the Department of Housing officers. Ostensibly it becomes a bit of a housing issue in terms of their responsibility is to work out alternative accommodation for people who qualify for public housing. And I guess in the hard light of day it is our job to make sure that the residents who have received the correct notice period understand that there is a bit of inevitability about this process and you have been given an eviction notice, you are a tenant at the park and at some point you are going to have to leave in the 180-day period or thereafter they will take action in the State Administrative Tribunal to have you evicted from the park. So that is an issue for us in terms of people coming to realise the situation and what it might cost them. There is quite a bit of anger at the time, but generally that starts to dissipate after a period of time when they

realise that it is inevitable that they do have to move and the government is not going to sweep in and purchase the property and look after the residents, because it is a commercial venture et cetera.

In terms of the protocol, there were some questions about has it been put into effect and how does it work? I think I have covered that, and the practical support for tenants facing eviction is just that. There is a fair bit of liaison and assistance provided in terms of giving advice about where to go to residents et cetera, and that is affected a little bit by the approach that the park owners might take in dealing with these evictions. What we found is that some of them are a bit insensitive about the periods of notice and perhaps the terminology around that notice period, and it usually takes some meetings between Consumer Protection and the park owners, and the Department of Housing and the park owners, so that we get it on to a bit of an even keel about where we are at, what we can do and what our options are. But it is the practical options of what alternate accommodation is available and how they might go about accessing that from the Department of Housing and advice from ourselves on their rights, which tends to crystallise their views about what they can and cannot do about this particular eviction.

Mr D.A. TEMPLEMAN: Can you just give us—you may be able to provide supplementary information—the name of the four parks that closed since 2006, and where they were, and also the location of the six additional sites that you are monitoring?

The CHAIRMAN: Further, those four parks that closed, does that refer to parks that had long stays?

Mr Hillyard: Yes.

The CHAIRMAN: There are other caravan parks that have closed, I presume, since 2006.

Mr Hillyard: We have certainly got supplementary information that we could supply, if that is a better way to provide it rather than me run through names.

Mr D.A. TEMPLEMAN: Yes, if you just provide it, that would be great.

Mr Hillyard: Okay.

The CHAIRMAN: Are you confident that there were not any other parks beyond those four that had long stay, maybe unofficial or otherwise?

Mr Hillyard: They may have and the residents have been dealt with and never came to the authorities. So, that is quite possible, but these are the ones where we have had both physical complaints or we have had telephone calls from concerned residents.

The CHAIRMAN: Another issue is that when we have looked at the initial report, it was clear that people had entered into the caravan parks without clear information. So, we were dealing with people who had entered in and come unstuck. Are you confident that changes put in place, the brochure and other information, have allowed people who entered since, let us say a couple of years ago, are better informed?

[12.00 pm]

Mr Hillyard: I think the information is available to them—it is whether they have taken up that information. Certainly, we experienced at the Springvale caravan park, which was being redeveloped for housing, that as the longer-term permanent residents who had responded to their 180 days had left the park and found alternative accommodation, the park owner still took on new residents, who were told that the park is closing at this date. They moved in, put their van on site et cetera, and then started to complain to us that they were going to be evicted on this particular date. People were desperate for a location to live in a park situation, and despite knowing that the park was closing, they have still come and complained to the authorities that this park is closing: “The government has got to do something about providing alternative park residences, if you like, or locations.” I do not think that we have had anyone coming to us with complaints who has entered

into a park since the legislation came in and who does not understand those situations; or, if they did not understand it, when we point out to them that it is in your agreement or in this information, then —

The CHAIRMAN: One of the issues we also found was that real estate agents often sold the caravan or the on-site accommodation but were not necessarily informing prospective purchasers that there were limits under the terms of the contract, whether they were tenants or landowners, or, indeed, if I remember correctly, in some cases, that there were rumours at least that the park was closing down. Do you at all monitor that? Has there been any change to the responsibility of real estate agents informing their clients?

Mr Hillyard: Those complaints would come into us in a similar fashion, and I am not aware of any that we have received in the last couple of years. Those complaints we did deal with that did come to us at that time were about the commissions that were being charged, and that is certainly laid out in the legislation as to how that mechanism works now.

Mr D.A. TEMPLEMAN: With the six that you have identified and are being monitored, if I was monitoring it, I would be looking at what is being done in terms of whether there is any information that is going out that would lead someone to the idea that there was not a possible change to the status of that caravan park. I am aware of one in Mandurah—I can show you two sites that are for sale in the real estate part of the paper—and I am assuming that park is one of the six, the Belvedere —

Mr Hillyard: Yes, it is.

Mr D.A. TEMPLEMAN: That is one of the six.

Mr Hillyard: And I have got to say that Belvedere is in that situation where there are planning approvals in place by the City of Mandurah that have not been finalised. For a resident who wants to sell their unit and move on, there are no hard and fast plans in place that say, “This park is going to close and this won’t be continuing on.” It is in the public domain, and if it is sold through a real estate agent, then that agent would certainly have to disclose that public information.

Mr D.A. TEMPLEMAN: Have there been any discussions with REIWA via the department on this specific issue about concerns about —

Mr Hillyard: Not that I am aware of.

Mr D.A. TEMPLEMAN: — potentially misleading advertising by real estate agents?

Mr Hillyard: Not specifically with REIWA about it, no, and I would have to say that we have not been to any of the real estate agents in the Mandurah area about it specifically.

Ms Driscoll: Again, specifically, if there is a complaint, we certainly follow up on it. I do not think we are aware that there is a particular problem of that nature, but we are happy to take it on if that is the representation that has been made.

Mr D.A. TEMPLEMAN: I understand that, but I suppose the concern I have is that that is a reactionary response—you, if you like, have to wait for someone to complain—but given that you are monitoring this, particularly monitoring six, 300 residents is a lot of people—sorry, 600, I think you said.

Mr Bradley: Five hundred and eighty.

Mr D.A. TEMPLEMAN: Yes; 580 is a lot of people. Many of them have invested their life savings in a park home or otherwise. I suppose I am just concerned, if you are monitoring six, that the department, rather than responding when the complaint comes in, has done that initial investigation with regard to these six, so that you are not responding after the horse has bolted.

Mr Hillyard: Sure. Certainly, you are right in terms of the real estate agencies that might be marketing these. They will be a good group to get to and put on notice about it, but, again, they

cannot disclose something that has not been decided upon yet. Their job as an agent is to work in the best interests of their principal, without undermining, of course, the purchaser, and if there is not anything formally planned for that area as to closure dates et cetera—it could be a 10 or a 20-year plan, for all we know, in terms of what is going to happen with some of those parks, so it is going to be a bit difficult to pin them down on what sort of declarations or disclosures they have got to make about those matters, and it is not likely that a real estate agent is going to talk someone out of purchasing something that they are selling on behalf of somebody else.

Mr D.A. TEMPLEMAN: I have one more question. The “Information booklet park living” that the department has available and is required by law to be given to prospective tenants—we are using that time line of 2006—to your knowledge, has there been any prosecution, because there is up to a \$5 000 fine, for someone coming to the department saying, “I never received that document”?

Mr Hillyard: No. Certainly, as part of our proactive program, where our officers visit the parks, that is on our checklist: “Do you have these available? Are you handing them out to your residents?” et cetera, and there have certainly been some instances in the early days where those pieces of information were not being supplied. Our officer takes these booklets to the parks and hands them out and gives them a boxful, if you like, to provide them to prospective purchasers.

Mr D.A. TEMPLEMAN: On that, has that been updated? I understand that it has been updated.

Mr Hillyard: Yes.

Mr D.A. TEMPLEMAN: What was the main change to that?

Ms Driscoll: The main changes are at pages 2 and 3—the big grey boxes, that basically are emphasising, in the first dot point, that you are basically not buying the position in the park outright; you are only renting the site on which it is located. Then further dot points say that this may not be a permanent living arrangement, and that if you move, it may be at your own expense. So these are some of the key messages that you do not necessarily, dependent on the contract, have a permanent arrangement here. I might add that the emphasis on the new seniors’ information centre about home options will also have very specific information on residential parks and lifestyle villages, and very much says, basically, that a park operator may sell the land and close the park; it is important that you consider the possibility that you may have to move; things to consider are the cost of moving, trying to find another suitable park, the practicality and cost of moving your caravan or mobile home, and so forth. The whole intent of this new centre is to ensure, whether it is retirement villages, strata titles or park homes et cetera, that people are aware of the pros and cons. There are many pros. In particular, in a retirement village, depending on its nature, and, say, a lifestyle village, you may not be paying stamp duty, dependent on the circumstances. There are some positives as well as some negatives. So it is really about people making informed choices. We are actually also emphasising the other concept about staying in your own home and modifying it, or perhaps subdividing a property and looking at something that is more compact on one of the blocks, or even the granny flat-style thing as well. So we are really asking people to think about where they are going to be and what are the long-term implications, and to get solid advice about those options.

In terms of the proactive visits, we do get out and visit—I think it was in the order of 90 over 2010–11—different caravan parks, with a similar number in the year before. So there is a checklist that considers everything that is required in the act and whether it is being adhered to. This legislation obviously was introduced about four years ago and, in keeping with our compliance strategy, generally with a new law it is about education. We have found from time to time when we visit a park that it is the residents themselves who are lacking any motivation to participate in the committee, as opposed to efforts by the park owner to institute that. Generally, our approach is to work with people to get compliance, and if there is a problem, that is when we prosecute. So a public interest test is applied. But if there is a willingness to comply and generally people are doing the right thing, great. If it is some technical breach, we are not going to sort of jump on people over

one or two issues if it is not creating any detriment; and that is the true test: is there any detriment in there being some sort of slowness to get into applying the act in full? But, overall, compliance is reasonably high and improving.

The CHAIRMAN: You mentioned a checklist. Can we, maybe in supplementary information, be provided with that checklist?

Ms Driscoll: Yes.

Mr M.P. MURRAY: I will probably make a comment, and then I would love to hear your response. There are ads in the paper, and they get dressed up as though it is a permanent caravan home site. The word “permanent” comes out in a lot of the ads, and it gives a false impression. I think you have done a great job there, but whereabouts does the booklet come in? The person reads the ad, and they start to have this dream for \$30 000. When they get down there, it is a caravan that has been sheeted, and it has got no wheels underneath or anything like that. It is trying to take the stars out of their eyes really. I would love to hear your comments on that.

Ms Driscoll: One thing is that we may need to look at those ads—because we are constantly certainly reviewing the web to see what sort of representations are being made about things like lifestyle villages et cetera—to make it clear and ensure that the representations are accurate. So we may need to do some proactive work looking at those very ads to check what is being offered both visually through the ad and then in reality. But, as you know, the requirement is to get this book in advance, but I appreciate the point you are making that by then people may have already visioned themselves down there. Again, that is the concept of this early intervention, before you are actually settling on options, to start understanding the concept, which albeit is fairly complex in itself. Our intention here is not to have just a little set-up in the middle of the city; the focus would be very much on outreach, getting to the country in particular, and working through local government and other outreach centres to make sure these messages are in the community. We will also be working, as I think we mentioned recently, at engaging a not-for-profit association as well, which also will have tentacles out into the community to provide these messages and to get people thinking about the options well and truly before they are starting to zero in on something.

Mr Hillyard: Perhaps just on that last point, whilst that information booklet and all of the information that they can think about when making a decision about a park home happens at that point where you are actually entering into the agreement, there is provision for a cooling-off period, so they take that information away and think about it. But I appreciate what you are saying; the dream of living in a beachside address is probably going to be more forceful than a pamphlet that we have designed to give to them.

Mr W.J. JOHNSTON: Can I just ask—I do not mind who answers—what sort of conversations are you having with the different organisations that might be relevant? There is the Park Home Owners Association and various senior citizens organisations. Is there a process of conversation with the groups that might represent people who are thinking of moving into park homes; and, if you are, what sort of response are you getting from that process?

Mr Hillyard: From an operational perspective perhaps, first, there is a fair bit of interaction between the tenancy network and the department. We have got tenancy advice and education services that are provided by 16 organisations across the state, so any issues that are arising through that usually get fed back to us through that network, and individual complaints are referred to us from that network from time to time. From our perspective, it is our liaison with the park owners that is our interface with the industry itself from an operational perspective.

[12.15 pm]

Ms Driscoll: Perhaps another general comment: certainly there was intense contact during the development of the act and then in the period of its implementation with several meetings had with representatives of the Park Home Owners Association. It is true to say that in the last 12 to 18

months there has been less contact as, to some extent, a lot of the dialogue has been had and the act is now fixed for a period of time for us to test it. Certainly, however, there are individual representations as issues arise that are specific through, often, mail; but as we now move to, of course, the start of another cycle, then that communication will clearly increase with that group in particular as the primary association support network for people who are residents of park homes. I might mention that the department is also implementing shortly a consumers' advisory committee that will comprise, from memory, I think about eight people, basically representing a range of stakeholders involved in consumer protection issues and there is an emphasis there on people's tenancy issues across the range. Yes, so that is probably it.

Mr D.A. TEMPLEMAN: Can I ask, perhaps the director general: the department is involved in the interagency working group and actually has accepted responsibility jointly with the Department of Housing in leading, if you like, that work, which is to identify the parks. Can you tell me how many meetings the interagency group has held, and some general comments on the progress of the interagency—this is the caravan and park homes interagency working group, which was created in December 2008? I am interested in the progress from that department's perspective with regard to what responsibilities that group has been vested with.

Mr Bradley: I think the commissioner can help.

Ms Driscoll: I might also defer to David to some extent. Certainly, the committee has met on several occasions. I understand you are meeting with Department of Planning —

Mr Filov: The interagency working group has met four times in the first half of 2011.

The CHAIRMAN: Did it meet before then or was it set up in 2011?

Mr Filov: There was a previous iteration of the working group.

Mr Hillyard: Effectively with the closure of the Kingsway Caravan Park, there was an arrangement immediately put into place between Housing and ourselves, and then following the committee's recommendations there was a more formalised arrangement with both Planning, Housing, ourselves and the Department of Local Government, where we came together. I guess we have focussed on what is our responsibility in terms of our departmental responsibility. Whilst we come together and share information, we are aware, of course, that the Department of Planning has been looking at particular sites around the metro area and the Department of Housing is looking at those options as well. So those issues are discussed at those meetings, but they are not our responsibility other than that is an outcome that will come out from that particular group.

The CHAIRMAN: Who has leadership of this committee?

Mr Hillyard: Overall, the Department of Housing, but it reports up to Premier and Cabinet as well.

Ms Driscoll: Certainly the roles of everyone have been ultimately redefined and clarified and so the whole concept ratified in an exchange of letters between our director general and the director general of Housing recently. It very clearly puts some onus on Housing but, at the same time, we accept a responsibility to physically go out and meet with the people who are affected by this to ensure that the contracts and provisions in terms of termination are in keeping with the act; and then to actively conciliate and assist the parties where there are disputes et cetera. We do not shirk that issue. As you will see with the cases that we are providing in the matrix detailing those closures that have been occurred in the past, people have been able to work through and identify options, and generally we have been available to assist people wherever we can.

The CHAIRMAN: Just some background information: you have given us some data on parks, both closed and at risk, are you confident that you have a good comprehensive list of the potential at-risk parks? There are some that might be tourism parks that do not have long stay, but shift to long stay and then change.

Mr Hillyard: I do not think we could because we are not connected to every park in the state, especially those in the tourism industry.

The CHAIRMAN: And your committee here does not include the Department of Tourism?

Mr Hillyard: No.

The CHAIRMAN: That is an issue.

Ms Driscoll: It is fair to say that clearly some owners may not be forthcoming on that, so the extent to which we will know may be something that is fairly difficult to ascertain.

The CHAIRMAN: One of the recommendations of our inquiry was that we did not have a good grasp of the terrain, if you wish: the number of parks and what they are used for; some are tourism and some are—Do you think that is still an issue?

Ms Driscoll: Certainly through our proactive visits we are gathering data, and one of the things that we are hoping to achieve as this seniors housing information centre evolves is to have a database of not only park homes at different locations and certainly lifestyle villages, but also retirement villages so that when people are looking for advice they are able to say, “Look, I am interested in the south-west corridor, what are the sort of options around these suburbs?” We see that it is important to provide tangible information. It is going to be a challenge to maintain, and we will have to be careful about some of the—because there is also a categorisation that then occurs in terms of saying that is a park home and that is a retirement village. That will be quite a challenge to make sure that we are properly interpreting the arrangements that apply. But we see it as important to provide as much information to people.

Mr D.A. TEMPLEMAN: Can I just check: the local government is a potential source of pre-emptive information. Has the department requested, or does it request, local government to inform it if an application for a planning change has been submitted for a caravan park within their jurisdiction?

Mr Hillyard: I guess we could say that we have made formal approaches to both the Department of Local Government and to the local councils to get information about parks and all of those issues affecting residential parks, and failed. We just do not get that information back. The Department of Local Government does not have a central source for all of those residential parks and getting responses from all of the individual councils is proving difficult as well.

Mr D.A. TEMPLEMAN: So they are reluctant to give you that information?

Mr Hillyard: I do not know if they are reluctant; they just do not respond. They have probably got a lot of other things to do and we are probably just another agency asking a local government more questions about these matters. As we go around the country areas our proactive officer goes to visit the council and gets what details we can of what exists and then we are mapping out our own database.

Mr D.A. TEMPLEMAN: Of the six additional sites being monitored, what triggered the department’s interest in those?

Mr Hillyard: Just the fact we became aware that there was a likelihood of a closure.

Mr D.A. TEMPLEMAN: How did you find that out?

Mr Hillyard: It might have been through a media pickup.

Mr D.A. TEMPLEMAN: Which is not very appropriate, is it? I am not having a go at the department—that is not your fault—but that is not the most ideal way for you to have to then respond to the implications of that.

Mr Hillyard: Sure, but I guess in real terms it is no different to millions of other tenancies that are out there and their potential closure; it is just that we end up with groups of closures which then

usually grab headlines because we have 10 residents being evicted from this particular location. The same thing could happen with a block of units that the owner decides he is going to renovate and just slowly evicts each of the tenants as their tenancy comes to an end. No one thinks twice about a tenant in a flat who is asked to move on. There is a difference with these because, obviously, you have to relocate the cabin or the caravan and there are some additional costs. But it certainly seems to raise the passion about the matter when you have got groups of people who are being asked to move as opposed to individuals. In terms of us watching the marketplace, we can get things through our telephone advice system, the tenancy network, complaints, media—wherever it might come about. The Springvale one, for instance, we picked up on the blue that was going on between the shire and the Department of Planning about planning approvals which had been granted or were not going to be granted. We then, if you like, put two and two together and started to watch Springvale and what was actually happening. No complaints had arisen at that point.

The CHAIRMAN: Are most of the issues still in the south west and metro area? What about the north, up in Karratha, Port Hedland?

Mr Hillyard: The Blackrock Caravan Park is the one which had issued the notices incorrectly under the wrong legislation; and that has then turned itself over. We do not have anything particularly different in the north west compared with the south west.

Mr W.J. JOHNSTON: Could you clarify that sentence? What do you mean by “turned itself over?”

Mr Hillyard: A resident went to SAT and said, “I believe I am a residential tenant under the residential parks legislation. That was the ruling. The park then issued the correct period of notice under the act.

The CHAIRMAN: Your response to recommendation 42: can the department provide details on assistance protocols for residential park closures, and how does the protocol work for a tenant evicted? You have responded to this. How do you go about that? When you get a risk, do you go down and say, “Listen, we understand there might be a risk” and you fill them in on information about their rights and obligations and try to assist them to look for alternatives?

Mr Hillyard: Our first point of call is to the owners of the park. We go and ask them what is happening. If the park operator is not the owner, we will go to the owner and the park operator, because often the manager on site can be doing things which may influence—we will also try and contact the park liaison committee. They are usually the people that are most motivated within the park to make sure it keeps running as a going concern, so they are a good contact point, and then any residents who have got complaints. With the ones which have gone through closure, we have usually invited the park liaison committee to pull together those interested residents who want to talk to us and we will turn up and talk to 10 or 15 people as a group and explain where we are at. There are usually arrangements for Department of Housing, and in some instances Centrelink has stepped in to come and give advice or as contact points. So it is just a matter of who is in first.

Mr D.A. TEMPLEMAN: Just on this, very briefly. I refer to the Aqua Caravan Park closure in the Shire of Murray on Pinjarra Road on 30 June—actually it was earlier than June—as an example of a caravan park that closed due to the owners deciding to sell. Can you very briefly take us through that? You have mentioned that as a department you will be involved in direct liaison with the owners and/or managers, or both. What level of involvement do you get down to with the individual tenants?

Mr Hillyard: For instance, with Aqua we went through the—I am pretty sure there was a park liaison committee at Aqua but if not a formal liaison committee there was a group of interested residents in there who were looking for advice and we certainly made contact with them. The parks that have been closing on and off in the Mandurah area, the Peel Development Corporation has certainly stepped in and has been a central liaison point, if you like, for all of those. But dealing

with Aqua and the owners of that particular park, we gave them quite a bit of advice in terms of what sorts of notices they were deciding to issue. They had taken a path of deciding they were going to issue a notice based on providing notice subject to the sale of the park, so vacant possession.

[12.30 pm]

If that particular sale had fallen through—that period of notice they were giving based on vacant possession—it would have meant those notices would have fallen over as well and they would have had to start again, so we needed to explain all those provisions for them. The elderly owners of that park had either a business associate or relative who was helping them out so we did quite a bit of liaison with that person in terms of helping them understand their obligations under the legislation.

Mr D.A. TEMPLEMAN: In terms of direct communication that is required by the park owner to the tenant, is there a template that the department provides that says, “You must, according to the act, include the following.” One of the key things is the clear communication between tenants, management and/or owners, depending on who is overseeing that.

Mr Hillyard: There are requirements in the legislation for the notice, which is required to be given to the tenant with that minimum 180-day period. The information starts at that point. You are given notice that your tenancy is going to be terminated and they get the correct period of time. The information that goes around that in terms of the reasons, if they decide to give reasons, is really in the hands of the park operator. They have the minimum requirements laid out in the legislation in terms of what sort of notice they are going to give and why. They give that notice and then we all react to that notification.

The CHAIRMAN: I know we are out of time here. You mentioned that you have this new initiative about a seniors’ housing strategy. I think it is a very good one, by the way. Are you confident or concerned about whether the market is responding to the needs, particularly of low-cost retirement options in both the provision of facilities or information about the options? One of the concerns I personally had was that there were too many restrictions in the lifestyle things. I am not pushing either one of them. They were putting pressure on caravan parks because there was no alternative to them, so there was, I think, a planning blockage there. It might be outside your area, but any comment on that?

Mr Hillyard: No.

Ms Driscoll: I think with the ageing population and the level of superannuation et cetera there is cause for concern all-up about the capacity of Australia to manage the ageing population. I think this area is going to be one of many where there are difficulties.

Mr D.A. TEMPLEMAN: In your preamble at the beginning you mentioned that the department had identified 10 000 sites that are permanent or long-stay.

Mr Bradley: We estimate.

Mr D.A. TEMPLEMAN: And that equates to approximately 15 000 residents?

The CHAIRMAN: Fifteen thousand to 20 000.

Mr D.A. TEMPLEMAN: Fifteen thousand to 20 000 residents. At this point in time how many people, in your view, are at risk in terms of their accommodation in caravan parks in Western Australia?

Mr Bradley: It is pretty difficult to answer that question, with all due respect.

Mr D.A. TEMPLEMAN: Would you agree then that perhaps all of them are at risk?

Mr Bradley: I would not have thought so, no. I think in terms of that, in monitoring six, I suppose you would try to extrapolate that six. But even then you would not determine all of those six as

being at risk, so we estimated, I think, of that six there were about 580 residents. Even then I suspect that it would be speculative, to be honest with you.

The CHAIRMAN: Does that number include lifestyle villages that have longer-term tenancies, or just caravan parks?

Mr Bradley: That was just caravan parks.

Mr Hillyard: I think it would include the lifestyle villages.

Ms Driscoll: It includes them in terms of the total. I am not sure we have any concerns about lifestyle villages at this moment therefore it is inclusive in that sense. As I said, some of the difficulties that potentially arise with lifestyle villages are the issues in the event of insolvency of the owner et cetera

Mr D.A. TEMPLEMAN: On that, the department did have a submission to the Retirement Villages Act review process, did you not, which is supposed to be coming before Parliament later this year?

Ms Driscoll: Yes, “lifestyle village” is a marketing term. The way in which they operate in WA is such that they form under the park homes legislation, not the retirement villages legislation. There is no memorial over the land as applies to a retirement village. However, as I earmarked, one of the issues that would be considered in a review of the park homes legislation is the very different terms of the contract and the living arrangements and securities that are available through lifestyle villages relative to a standard park homes arrangement. There is some case to have a different form of law for those two scenarios.

Mr D.A. TEMPLEMAN: I think we might have made a recommendation on that—did we?

Mr Bradley: In closing, the member asked a question about what information is available for ending a tenancy. It is included in that information booklet.

Mr W.J. JOHNSTON: I thought that I had not read them, but today I read the comments in the black box at the front of that. I think they are what I was getting at in my earlier question. I think you have done a good job in setting it out for people, because it is very upsetting for me and others that people have no proper understanding of what they are buying. It is sad because it means that some people will have their assets devalued, and that is a major problem, no question at all. But at least in the future people might have a better understanding of the risk they are taking.

The CHAIRMAN: Thank you for your evidence before the committee. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 working days of the date of the covering letter. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced via these corrections. Since your evidence cannot be altered, should you wish to provide additional information or elaborate on a particular point, and you are going to provide some supplementary information, please include this as additional correspondence for the committee’s consideration when you return your corrected transcript.

Mr Bradley: Can we table it now, Mr Chair; we have it here?

The CHAIRMAN: Sure.

Mr Bradley: Thank you very much.

The CHAIRMAN: Thank you for your cooperation.

Hearing concluded at 12.36 pm
