

Impact Analysis Statement

Summary IAS

Details

Lead department	Department of Housing
Name of the proposal	Residential parks – addressing concerns about site rent increases and sale of homes
Submission type	Decision IAS
Title of related legislative or regulatory instrument	<i>Manufactured Homes (Residential Parks) Act 2003</i> (MHRP Act)
Date of issue	October 2023

What is the nature, size and scope of the problem? What are the objectives of government action?

Manufactured home owners, home owner groups and community groups have pointed to problems with the regulation of site rent increases and the sale of manufactured homes. In response, a commitment to address these issues was included in the Queensland Housing and Homelessness Action Plan 2021-2025.

Size of the sector

There were 198 residential parks with 24,247 home sites housing approximately 38,000 residents in Queensland as of June 2023.

Concerns about site rent increases

Analysis of a 2022 survey of home owners undertaken by DoH suggests that increases in site rent are likely to outpace increases in the age pension. While the rate at which site rent outpaces pensions is modest for those experiencing the median level of increase in site rent, it is much more pronounced for home owners experiencing increases above the median.

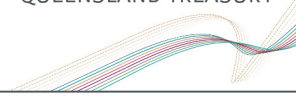
For most home owners the proportion of income they spend on site rent will grow over time, leaving less for other essentials and potentially increasing rates of housing stress. Home owners on low incomes (55% of survey respondents), and single person households are particularly at risk. Many home owners are surprised by site rent increases that are higher than they expected, and in some cases could not have predicted, notwithstanding having sourced legal and financial advice before signing their site agreement.

Site rent increases based on market rent reviews usually result in higher increases than other increase bases and are particularly unpredictable. In the 2022 survey of home owners, the median market rent review increase experienced by respondents was 7.2%, with some home owners experiencing rent increases between 10%-30%. Increases such as these are especially likely to impact home owners' capacity to budget and can undermine housing security for retirees with limited capacity to increase their fortnightly income.

In the 2022 survey, approximately 76% of respondents said their site agreement included market rent reviews and 61% of these home owners were unhappy with how their last market review was conducted. Almost three quarters of those who were unhappy said it was because the market valuation made inappropriate comparisons with other residential parks, while 61% said that site rent had increased by an excessive amount, and 44% felt that the process to dispute a market rent review was too complex or intimidating.

Concerns about selling homes

In the past, manufactured homes were typically small, detached dwellings which could be moved (albeit at considerable expense) from one location to another. Today, most manufactured homes are constructed and sold on-site in purpose-built communities and derive part of their value from the park and land they are



sited on and are impractical to move. This combination of factors means that most home owners must sell their home in place if they wish to leave a residential park.

Compared to transferring a freehold tenure, there is additional complexity in selling a manufactured home positioned in a residential park as the buyer must enter into a site agreement with the park owner. Where a manufactured home park has been purchased, the buyer can be assigned the interest of the seller under their existing site agreement or enter into a new site agreement.

Site agreements require home owners to continue paying rent while their home remains on the market (whether it is occupied or not) and until a new home owner takes over the obligation to pay site rent. For this reason, delayed sales can cause significant financial detriment for departing homeowners and home owners rely on park owners acting quickly to secure a sale and/or enter into an agreement with a buyer.

While current demand for manufactured homes is strong, resulting in quicker sales, there are nonetheless fundamental problems in the sales process which present risk for consumers in a weaker housing market.

Park owners have little incentive to facilitate the prompt sale of a home given rent income is guaranteed, especially if there are newly developed homes to sell which will provide the park owner with a greater return than the sales commission on a pre-owned home.

Consumers face difficulties ensuring their interest in the site agreement is assigned, as park owners are largely in control of the process and prefer to enter into new agreements with incoming home owners, often at higher rents. This prevents the seller from offering the value of their site agreement to a buyer as an added incentive in the sale.

The risk of delays or inability to sell a manufactured home is currently borne entirely by homeowners while at the same time they have little to no control over factors which affect sales, such as the maintenance and amenity of the park and its facilities, and the level of rent set in new agreements. This becomes more concerning when considering the large forward pipeline of development, and the age and potential vulnerability of residential park homeowners.

What options were considered?

The Consultation Regulatory Impact Statement C-RIS published in May 2023 identified eleven primary reform options to address these concerns:

1. Status quo
2. Requiring park owners to publish a park comparison document
3. A simpler sales and assignment process
4. Limiting site rent increases to a prescribed basis
5. Improving the market rent review process
6. Prohibiting market rent reviews
7. Limiting site rent increases to the higher of CPI or a fixed percentage (for example 3.5%)
8. Limiting site rent increases to CPI; and
9. Requiring expense-based calculations for increases above CPI
10. Require maintenance and capital replacement plans
11. A buyback and site rent reduction scheme for unsold manufactured homes.

The C-RIS also included additional recommendations to improve the regulatory framework for residential parks, that were not thought to require impact analysis at this stage. These included updating the objects of the MHRP Act; strengthening registration requirements to enable stronger compliance actions; creating a framework to support proof of ownership for manufactured homes; strengthening security of tenure protections when site agreements are terminated, prohibiting retirement village-style exit fees; re-examining the definition of manufactured home; implementing more consistent requirements around CPI-based increases; and improved precontractual disclosure.

What are the impacts?

Implementation of the final package of reform options is estimated to deliver a quantitative net benefit of \$5,163,354 over 10 years, including total costs of \$48,713,865 and total benefits of \$55,418,865.



Who was consulted?

On 15 May 2023, the department released the C-RIS and a summary for community consultation for six weeks. To encourage stakeholder feedback, the department engaged EY to facilitate consultation workshops across Queensland, including a forum for industry and its peak groups attended by 19 organisations and 7 home owner workshops involving 226 participants.

In response to the C-RIS, the department received over 2700 submissions, including more than 2650 submissions from home owners, 18 from park owners, 21 from consumer and industry representative groups and 24 others.

The Department also engaged with and supported the two home owner groups, the Alliance of Manufactured Home Owners Inc and the Queensland Manufactured Home Owners Association at multiple points during development and implementation of the consultation strategy. This included co-designing the home owner consultation process with these groups; providing them with multiple copies of the C-RIS, the C-RIS Summary and the feedback form; updating them on the consultation roll-out; providing briefings, as well as information and support to resolve misunderstandings about the options; and discussing their views on the options in the C-RIS.

What is the recommended option and why?

In response to feedback from home owners, park owners and their advocates, the Department developed a final package of reform options comprising eight of the 11 regulatory reforms identified in the C-RIS (excluding options one, five and nine), with some mitigation measures identified in response to the outcomes of public consultation. The mitigation measures include:

- Enabling park owners to reset site rent amounts to reflect market rents in cases where they enter a new site agreement with the buyer of a manufactured home, subject to some limitations
- Enabling park owners to apply for a variation of a site agreement to establish a new basis for rent increases where market rent review clauses have been prohibited, and where other bases in the site agreement do not support the maintenance of park viability
- Exemptions for small/mixed-use parks from requirements in relation to park comparison documents and maintenance and capital replacement plans.

The final package of reform options also includes several additional recommendations to improve the regulatory framework. These include:

- Updating the objects of the Act to provide greater recognition of its role in protecting homeowners from unfair and excessive increases in site rent, preserving the safety and security of tenure for manufactured homeowners and empowering homeowners to provide input into the operation of the park and how it is maintained;
- Providing greater protections on a homeowner's investment in their manufactured home when their site agreement is terminated by ensuring homeowners can sell their home on-site or be compensated for the market value of the home if the park is being closed;
- Implementing registration and suitability requirements which make it unlawful to operate an unregistered residential park and require background checks of park owners as part of the registration process. This would align the protections in residential parks with those applying to retirement villages;
- Creating a head of power that would enable the department to develop a home registration system to support proof of ownership of manufactured homes;
- Creating requirements for homeowners to be given multiple payment options for the payment of site rent, including at least one option that does not involve fees or charges; and
- Prescribing a standardised definition for CPI that must be used for all CPI based rent increases in residential parks.



Impact assessment

	First full year	First 10 years
Direct costs – Compliance costs	Total costs: \$974,415 (excl. costs to park owners from reduced rent income)	Total costs: \$9,744,146 (excl. costs to park owners from reduced rent income)
Direct costs – Government costs	No direct costs to Government quantified	No direct costs to Government quantified
Total costs*	\$7,839,776	\$78,397,759
Total benefits*	\$8,356,111	\$83,561,113
Net present value*	10-year NPV of costs and benefits: \$5,163,354 (net benefit) For first year only: \$516,335	

* Detail and assumptions are recorded in the Full IAS.

Signed

Director-General, Department of Housing
Date: 23/10/2023

Minister for Housing
Date: 24/10/2023