

**Review of**

**“Residential Parks Act 1998”**

**This submission comes from the office of Sylvia Hale, Greens MLC, whose portfolios include Housing, Local Government, Infrastructure and Planning, and Community Services.**

The recent Discussion Paper issued by the Department of Fair Trading, **Review of “Residential Parks Act 1998”**, called for submissions regarding the operation of the Act to be made by 16 August 2004.

Prior to the last state election, the Premier made the following promise: **‘Rest assured, my Government is acting to secure the future of residential park residents’**. This review of the Act must deliver on the Premier’s pre-election promise.

There were 18 ‘issues’ raised in the discussion paper. **This submission focuses on broader policy issues only**; matters of day-to-day park management are beyond the scope of this submission.

### **ISSUE 1: Are the aims and objectives of the RPA appropriate?**

No. It is currently too heavily skewed towards protecting the rights of park operators, rather than those of residents.

When the Act was originally passed, it was probably not envisaged that there would be increasing pressure to close parks to permit ‘change of use’. This trend is now significant. One impact has been widespread closures and an overall loss of places; currently, there are approximately 40 parks in NSW threatened with closure. Where parks are being closed for redevelopment, the aims and objectives of the Act no longer adequately protect tenants from eviction or relocation.

While relocating residents is often categorized as a housing and fair trading issue, it is equally an issue about urban planning and local government. Access to health care and community services is also of great concern to many park residents.

All these elements must be addressed in this review of the Act.

### **ISSUE 2: What new provisions – if any – does the Act need to contain, to meet the aims and objectives?**

Several issues need to be urgently addressed - security of tenure (see issues 4 and 5 below), planning (see issue 18), and use of Crown Lands (see issue 18).

### **ISSUE 3: (a) Are the present disclosure of information obligations appropriate?**

No. Given the number of times that residents complain that certain aspects of their tenancy were not clearly explained to them, this is a significant matter that needs to be addressed.

#### **(b) Is there additional or different information that should be given by park owners to prospective residents?**

Under s73, prospective residents have the right to certain information. There is a need for s73 to be amended to include, for example, the following questions:

- i) Is the park owner/operator aware of any current or future plans to redevelop the park?

- ii) What insurance cover does the park have, in order to protect residents' safety on residential sites and in common areas of the park?
- iii) Is the park on Crown land or within a Crown reserve; if so, how will this affect residential tenancy agreements?
- iv) What provisions does the park have in place, to cope with the influx of tourists during holiday periods?

#### **ISSUE 4: Are the termination provisions of the Act for 'change of use' of a park effective?**

This is a matter of major concern for many residents.

It has been suggested that many of the faults of the legislation arise from the 'government's poorly prepared "stop-gap" approach to the establishment of these parks'.

In the event of a proposed 'change of use' for a park, under this Act there is no compensation available to people whose homes cannot be relocated to another site, and no clear legal requirement to provide alternative housing. This is clearly unsatisfactory.

Many park residents are issued termination notices on the grounds that there is to be a change of use because the park is being redeveloped – even though no approval has been given for the redevelopment by the consent authority. Park owners have also been known to issue termination notices without lodging development applications.

Such actions are clearly outside the spirit of the law. This issue must be addressed to protect tenants from 'unscrupulous' park owners, and/or in cases where parks are bought by developers with the sole intention of removing tenants and redeveloping the land. In some cases, residents have been evicted and the park vacated in an attempt to facilitate re-zoning. The Act must provide protection to residents.

One way of doing this would be to amend section 102, so that a 'change of use' notice of termination can only be issued AFTER rezoning and after development consent has been granted.

#### **ISSUE 5: Are the compensation provisions applying to residents who vacate due to a 'change in use' adequate?**

No. Park residents cannot apply for relocation costs when they most need them, namely at the point when they are issued with a termination notice and have to find a new location for their 'dwelling'. This means that residents are forced to pay their own relocation costs (often quite considerable - \$12,000 is an 'average' figure quoted by PAVS), and then apply to the CTTT for an order requiring the park owner to reimburse their relocation costs.

This is clearly unjust, given that the majority of park residents are either on low or fixed incomes, and/or are retired – and that park owners stand to profit from the redevelopment.

Residents who choose to stay and challenge a termination notice – which they can do only after a 6-month period - may miss out on scarce alternative residential sites. Or they could be coerced into moving without receiving their full entitlement for relocation costs. In many cases, residents have had no real option other than to sell their dwellings to park owners at below market value.

One way of dealing with this would be for section 128 of the Act to be amended to allow residents to apply to the CTTT for relocation costs upon receipt of a 'valid' (see above) termination notice.

**ISSUE 6: Are the rent and rent increase provisions of the Act working effectively?**

Beyond the scope of this submission.

**ISSUE 7: (a) Do the current provisions dealing with the sale of dwellings while located within a park operate effectively?**

Beyond the scope of this submission.

**(b) Are there additional issues that need to be addressed?**

Yes – see responses to issues 11 and 18

**ISSUE 8: Would the availability of long fixed-term tenancy agreements for residential park occupation be of benefit to residents and park owners?**

Yes. They would give tenants a greater level of security, in that, in the event of a DA pending and a termination notice being issued, tenants would have a stronger legal basis for negotiating termination conditions.

**ISSUE 9: (a) Are the provisions of the Act relating to the supply of electricity, water, and gas services by park owners to residents operating effectively?**

Beyond the scope of this submission.

**(b) Are the interests of both parties properly provided for?**

Beyond the scope of this submission.

**(c) Are there any matters connected with these essential services that need to be further addressed?**

Beyond the scope of this submission.

**ISSUE 10: (a) Is there a continuing need for mandatory park liaison committees in residential parks?**

Yes, as they provide a forum for residents' concerns to be raised (and – hopefully – addressed).

**(b) Is there a better way to provide for communication and consultation between residents and management?**

Beyond the scope of this submission.

**ISSUE 11: Are there any matters associated with tenancy agreements that the Act could deal with more effectively?**

Yes. The tactic by park owners of sending out 'premature' termination notices enables them to clear parks before rezoning or before the Development Application comes before the local council. Councils then tend to be more amenable to redevelopment requests because there are no residents involved (as many of the potential objectors will already have been displaced).

If the majority of the residents have already moved from the park, it is also less likely that the Council will require a full social impact study, and so development decisions would be made without the benefit of all the relevant information.

There is always the possibility that the council may reject the development application – and so residents will have been displaced for no valid reason.

**ISSUE 12: Are the Act's provisions covering park rules and the resolution of disputes appropriate?**

Beyond the scope of this submission.

**ISSUE 13: How effective is the Tribunal in resolving disputes which arise in residential parks?**

Only partially successful. Many of the issues that are of concern to residents are clearly matters that relate to 'fair trading' in NSW. Yet access to the Consumer, Trader and Tenancy Tribunal is restricted to certain situations and circumstances. Of particular concern is the time lag before the CTTT addresses residents' complaints and concerns.

**ISSUE 14: Is the concept of the 'Park Disputes Committee' still valid? If so, should the committee have a wider dispute resolution role?**

Beyond the scope of this submission.

**ISSUE 15: Is there any role for the Act in improving the level of competency of residential park managers?**

Beyond the scope of this submission.

**ISSUE 16: Does the Act need to continue dealing with living arrangements in different types of park dwellings in separate ways?**

Yes. There would appear to be quite separate issues relating to the different types of housing concerned. Caravans and 'mobile' homes, which can be more easily moved to a new site, are in a different situation to 'manufactured' homes, which cannot be towed away.

Also, some dwellings are owned and the site is rented; in other cases, the site and dwelling may both be rented.

The Act needs to ensure that these distinctions – and the separate responses they require – are not lost or watered down in the review.

**ISSUE 17: Has the Act any role to play in providing residential access to emergency services such as ambulances, fire and police services?**

Beyond the scope of this submission.

**ISSUE 18: Are there any other matters that need to be considered during this review of the Residential Parks Act?**

Governments at all levels need to recognize that residential parks now play an important role in maintaining diversity and choice within the Australian housing sector. Residential parks are not simply 'another form of housing' - they are a form of affordable housing for some, a form of retirement housing for others, and the housing option of 'last resort' for others. People on low or fixed incomes make up a disproportionate number of residents, and as such are vulnerable to exploitation. Many of these people would have nowhere else to turn if they were evicted.

Good quality, affordable housing is a basic human right – not a luxury. Without secure housing, it is almost impossible to hold down a job, study, or raise a family.

People who live in residential parks are not an insignificant group. Approximately 50,000 permanent residents live in 950 parks across NSW.

A large number of residential parks are facing imminent closure. Some 40 residential parks are currently in the process of being sold for redevelopment or converted for short-stay tourism use.

These long-term trends in residential parks represent an important change in how people in NSW live. Parks now make up an important component of the overall housing mix – providing affordable housing against a backdrop of spiralling housing costs.

Up and down the NSW coast, parks are often located in prime beachside settings. For this reason, they are often under increased pressure from developers. The NSW planning system fails to recognize this. More than 3000 housing sites have been lost in residential parks across NSW since 1999. To prevent further losses, tighter controls need to be enforced to prevent developers riding roughshod over the rights of park residents.

A key factor driving these changes has been the dramatic increase in property prices and a sharp fall in housing affordability.

Many residential parks are on Crown Lands, so the government is in a position to utilize its control of these to maintain/impose standards and either reverse trends or compensate for losses elsewhere.

Thus the Greens would see the following issues, discussed in detail above, as being critical in any reforms of the Act:

- Complete disclosure by park operators of risks that residents may face;
- More transparent tenancy agreements;
- Fairer treatment for residents in cases of forced relocation;
- Compensation for residents who are forced to move;
- Park owners to pay up-front compensation to residents for relocation costs after issuing a termination notice;
- Amendments to planning laws to curtail 'change of use' rezoning of residential parks;
- A requirement that any proposal for a change of use be accompanied by a thorough social impact assessment, to be prepared by a nominee of the Council (and not by the proponent of the redevelopment).