

Life in Residential Parks

Key insights and recommendations



CPRC

The Consumer Policy Research Centre (CPRC) is an independent, Not-for-profit, consumer think-tank. CPRC aims to create fairer, safer and inclusive markets by undertaking research and working with leading regulators, policymakers, businesses, academics and community advocates.

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Statement of Recognition

CPRC acknowledges the Traditional Custodians of the lands and waters throughout Australia. We pay our respect to Elders, past, present and emerging, acknowledging their continuing relationship to land and the ongoing living cultures of Aboriginal and Torres Strait Islander Peoples across Australia.

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Introduction

The residential parks market in Victoria has become an increasingly popular form of housing for older Victorians, with the industry growing at a rapid rate.¹

Residential parks are land lease communities where a person owns a dwelling (such as a moveable cabin, caravan or other form of dwelling) and rents a site in the park for their dwelling.² Residential parks in Victoria are regulated by Part 4A of the *Residential Tenancies Act 1997*.

In 2024, the Victorian Government announced funding for a program of work into the residential parks market across Victoria, led by the Commissioner for Residential Tenancies (CRT), Dr Heather Holst, in partnership with the Consumer Policy Research Centre (CPRC). This program of work involved extensive research with residents and operators living in and working at residential parks alongside policy analysis to determine what is working well at residential parks, challenges faced by residents and operators, and options for reform for the Victorian Government to consider.

The project involved a multi-methodology approach, with continuous input from a stakeholder engagement group consisting of residential park residents and advocates. The purpose of the group was to provide input on research approaches and promote research components to residents.

This report highlights key research findings and insights from:

- a review of legal and policy settings for residential parks in other jurisdictions
- an analysis and comparison of residential park customer contracts
- a survey of residents to understand the challenges and benefits they experience living in residential parks
- a survey of operators and interviews with operators to understand the challenges and benefits they experience working at residential parks
- desktop research to understand the size and operating practices of the growing residential parks industry in Victoria, and

¹ Housing for the Aged Action Group, 2023, *Residential Parks and Villages: Falling Through the Gaps*, https://www.older tenants.org.au/sites/default/files/briefing_note_-_residential_parks_falling_through_the_gaps_v_4.pdf.

² Commissioner for Residential Tenancies, 2024, *Residential Parks Project*, <https://www.rentingcommissioner.vic.gov.au/index.php/rental-reform/residential-parks-project#:~:text=Residential%20parks%20are%20areas%20of%20land%20where%20people,a%20site%20in%20the%20park%20for%20their%20dwelling.>

- engagement with residents, community organisations, industry and housing experts to explore challenges and solutions.

This report is complemented by a secondary report titled 'Life in Residential Parks - Research insights from residents and operators'.

Key findings

Most residents love the community but cite poor value for money and issues with management

Findings show that residential parks can offer sought after benefits to people in the housing market. Downsizing/rightsizing, lifestyle, and safety or health were the top three reasons residents chose to purchase a home in a residential park (all more than 50%).

Most residents surveyed confirmed they are satisfied with living in their park (65%), with the majority enjoying the community and social feel of living in the park (53%), followed by security and safety factors (34%), and the comfort of easy living (22%). Operators who participated in interviews viewed and assessed resident satisfaction as generally high.

Although resident satisfaction is relatively high, **two in five residents surveyed reported not liking the site agreement and associated costs of living in the park (39%), with the largest proportion reporting issues with management of the park (41%).** This included specifically, park operator attitudes and management styles, poor maintenance of homes and shared areas, repair delays, and building defects.

More than two thirds (68%) of residents surveyed consider the value of money for what they receive to be average or poor.

Residential parks are marketed to older Victorians seeking a more affordable housing option outside of the private rental market. The majority of residents surveyed who live in residential parks are retired (83%), with only a small proportion working to some degree (14%). In terms of main source of income, **75% of residents receive the age pension,** 35% receive government rent assistance, and 33% rely on their superannuation.

Considering the financial situation of most residential park residents, any residential park should be designed and operated in a way that factors the needs of residents, most of whom have fixed incomes and require certainty in rental assessments.

Site fees and exit fees / Deferred Management Fees (DMFs) are primary concerns for park residents

More than half of residents surveyed are concerned about site fees (57%) and exit fees/DMFs (52%).

Inconsistent and uncertain site rent and DMF/exit fee pricing structure at parks means that residents are confused about price and concerned about cost affordability.

Research findings show there is an inconsistent logic behind DMFs, which are exit fees charged to residents when they leave their park. Operators who participated in interviews gave a range of reasons why DMFs were required. Some explained that the main purpose is to

allow operators to provide more affordable homes than could or would be made by operators who are looking to make development profits upfront. Industry participants explained DMFs are also for the purpose of investing in the ongoing management of the park.

The way DMFs are calculated also varies across parks: fees can be based on the selling price (which cannot be known at the point of purchase), the purchase price, or through a different mechanism.

There is also a disparity between residents and operators with respect to information provided on exit fees prior to site agreements being signed. **At the time they signed their site agreement, half of residents (50%) had a poor or average understanding of exit fees.** Findings show residents are three times more likely than operators to have indicated that the exit fee amount they would be charged upon selling their home was not disclosed prior to signing their agreement. Indeed, 66% of operators report calculating and disclosing a specific percentage amount when discussing exit fees with residents, compared to 45% of residents.

Residents need help to understand opaque and inconsistent site agreements

Findings reveal residents can struggle with complex legal site agreements, including the types of fees and charges they are expected to pay, and transparency of costs including site rent, rent increases and DMFs.

Three out of five (59%) residents surveyed believe they had a good or very good understanding of their site agreement at the time of signing and feel confident to some degree that they know how rent amounts and increases are calculated. **However, two out of five residents reported average, poor or very poor understanding of their site agreement (39%), and a lack of confidence regarding calculation of rent amounts and increases (42%).**

The contract review indicated residents generally needed to refer to multiple clauses in their site agreement to understand the range of fees and charges payable, and the calculation of these fees and charges. Often fees and charges were based on future, unknown amounts (such as the dwelling sale price), or subject to change at the operator's discretion. This makes it difficult (and at times impossible) for a resident to calculate the likely actual total cost of living in a particular residential park, or to compare options.

Despite most residents citing a good understanding of their site agreement, **80% of residents overall indicated they needed or received help to understand the contents of their site agreement.** A total of 27% of residents surveyed received help from the sales team or park manager only. Concerningly, 13% of residents reported having needed help but not having received any. These findings suggest that most residents who report a good understanding of their site agreement still need help to understand it, and the majority of help residents receive is not independent. From the perspective of park operators, 83% reported always providing help to residents to understand their site agreement.

Before purchasing their home, only 16% of residents surveyed reported having received a site condition report with the majority having not received one (68%). This is in contrast to park operators surveyed, with 61% reporting that they always provide prospective residents with a site condition report prior to selling a home.

Stark differences among residents and operators regarding upkeep of communal maintenance at parks

There is a considerable difference between resident and operator levels of satisfaction with maintenance at residential parks: **85% of operators surveyed are very satisfied with the upkeep and maintenance of the park's community facilities, amenities and grounds, in contrast to 23% of residents surveyed.** Four out of five residents surveyed noted that they faced communal maintenance challenges at their park while living there. Issues with street lighting (36%), controlled access to the park and security (34%), pool maintenance (30%) and roadways and speeding (30%) are the most widely felt challenges.

There was a significant discrepancy between residents and operators surveyed with respect to how long it usually takes for repairs and maintenance of communal facilities and grounds to be carried out. **Four out of five operators (83%) report that repairs and maintenance are carried out within the week, in contrast to only one in five residents (19%) reporting that they had experienced this timeframe.**

Some residents surveyed reported extensive problems getting disability modifications approved in their park. By way of example, some residents with a disability spent significant time waiting for permission to build a ramp so they could come and go from their own home without considerable difficulty.

Some industry participants indicated that they weigh up accessibility needs against community visual or aesthetic needs. This industry preference for uniform appearance of resident homes can clash with clear resident health and safety needs. Industry participants also indicated that some sites are unsuitable for some disability modifications. For example, some sites on steep ground would be difficult to adapt at a later date. This indicates a need for clearer disclosure at the point of sale, combined with greater planning to ensure modifications can be made for all homes.

Dissatisfaction among residents with complaints processes

Three in five residents surveyed (63%) have made a complaint about their park. Survey findings reveal nine out of ten complaints from residents were made to the park's on-site manager, caretaker or owner operator (87%) but **the easiest way residents make a complaint is through the Residents or Homeowners Committee.** Residents Committees exist at most established residential parks and were evaluated by industry participants favourably, suggesting further investment in Residents Committees could be beneficial to residents and operators in navigating issues when they arise at residential parks.

Many residents are dissatisfied with navigating the process to make a complaint, and with the process itself. Residents surveyed are most dissatisfied when making complaints to interstate or head office management of their land lease company. **Despite most residents who make a complaint raising the complaint to their on-site manager, caretaker or owner operator, only half (53%) of residents surveyed feel comfortable doing so.** In discussions, residents and advocates pointed out that current complaints processes heavily rely on individuals gathering evidence and raising complaints. There is no way for collective issues to be raised to the regulator in a way that residents can be guaranteed a response or through the current complaints process through the Victorian Civil and Administrative Tribunal (VCAT).

More than 30% of recent complaints reported by residents related to home repairs, the behaviour of management or repairs or cleanliness of communal areas within the park.

Complaints about fees (25%) and behaviour of other residents (22%) were the next most widely cited complaints. **Operators surveyed identified behaviour of other residents (66%) as the most widely reported complaint.** Operators echoed residents in suggesting complaints about fees (39%) are common, alongside repairs to residents' homes (20%), albeit this was less prominently reported compared to residents.

Support among operators for a code of conduct and licensing scheme for park operators

The contract review found site agreements contained much more detail about the responsibilities of residents, compared to the responsibilities of operators. Operators who participated in interviews generally support a mandatory code of conduct for park operators, including a fit and proper person test and a licensing scheme for operators.

Options to reform the residential parks industry going forward

The following recommendations seek to improve resident experience at all stages of their journey buying into and in some instances exiting from, a residential park. The proposed reforms seek to outline clear expectations of industry, helping the industry to maintain positive relationships with residents and to support the sector as it grows.

Any changes to the residential parks market need to be future-proofed to ensure resident experience and industry practice is substantially improved in the long-term.

Foundations for a fair market

Recommendation 1.

Amend legislation governing residential parks to be stand alone: either in a new and separate Act, or in a clear, stand-alone version of the *Residential Tenancies Act 1997*

Current legislation regarding residential parks as provided for in the *Residential Tenancies Act 1997* is no longer fit for purpose. It is confusing and difficult for residents and industry to navigate. Throughout the research process, we identified that there were very few legal experts available who fully understood the Victorian laws for residential parks, in part because of this complexity.

- a) **Define residential parks in legislation as single and mixed-use land lease communities where a person owns the dwelling and it is their primary place of residence.**

The residential parks sector has undergone exponential growth in the last decade and is positioning for further growth. The changing nature of the characteristics and make-up of residential parks needs to be reflected in legislation. In reality, the primary characteristic of a residential park is the land lease arrangement rather than the type of dwelling and irrespective of lease type.

Currently, S206C of Part 4A of the *Residential Tenancies Act 1997* states that a dwelling must not be fixed to the site. For many homeowners of single and mixed-use residential parks, their dwelling is not practically or feasibly moveable. Realistically, most residents who purchase a dwelling in a land lease community do not ever plan to relocate that dwelling, nor do they consider their dwelling temporary.

While any new definition of land lease communities need not preclude moveability of a dwelling, the nature of the dwelling (whether it is moveable or fixed) should not impact a person's rights in a land lease community. In practice, all homeowners in land lease communities should be afforded the same consumer protections irrespective of the moveability of their dwelling.

We note that some operators will want to retain a focus on moveable dwellings due to the ability for future residents to be able to claim Commonwealth Rent Assistance if the dwelling is a relocatable home. This will still be possible with the recommended change. While not within scope of this project, there would be benefit in the Federal Government considering the

eligibility of land lease homeowners for rent assistance payments regardless of whether a home is technically moveable or not.

For clarity, people who lease or sub-lease a dwelling as well as land from an operator fall out of scope from this recommendation.

- b) Amend legislation to define people who live in land lease communities who own their home as 'homeowners' as opposed to 'residents'.**

People who reside in residential parks and own their home while leasing the land are homeowners. Legislation should be updated to reflect this.

- c) Amend s206ZY of the Act to require an operator to obtain approval from the Director of Consumer Affairs Victoria (CAV) before any Part 4A park rules can come into effect.**

Park rules can often contain some of the most restrictive rules for residents' day-to-day lives in a residential park. Currently, operators have broad discretion as to the content of these rules. While residents can challenge a particular rule as 'unreasonable' by applying to VCAT, this ultimately puts the onus on individual residents to challenge a rule – rather than putting the onus on the operator to ensure the rule is reasonable from the outset. Legislation should be amended to prevent unreasonable park rules being made without approval from the regulator.

The Director of CAV should have the ability to determine when park rules are unreasonable, ruling out common harmful terms. The Director should be able to consider terms that are raised through complaints or referred by advocacy organisations to CAV.

Any submission of a new park rule by an operator to the Director of CAV should follow meaningful consultation with Resident or Homeowner Committees.

Should the Director of CAV make a determination relating to a Park4A park rule, VCAT should not have the power to review or reconsider the determination.

- d) Amend the *Residential Tenancies Act 1997* to require repair processes for residential park common areas, in line with residential tenancies and rooming houses.**

Currently, residents seeking repairs to common areas must rely on the site owner's s206ZV duty to keep common areas in a clean and safe condition. As it stands, not all repair problems in common areas make those areas unclean or unsafe however, leaving no recourse for residents. Amending legislation will enhance protections for residents and promote operator accountability.

Recommendation 2.

License residential park operators, register residential parks, and introduce a mandatory code of conduct

An operator licensing scheme and park registration scheme are necessary conditions for enforcing operator accountabilities and improving operator conduct. A code of conduct will improve industry practice across the board.

- a) Register residential parks state-wide with Consumer Affairs Victoria (CAV).**

Presently, there is no independent, verifiable source to identify the rate and nature of residential parks operating across the state. To accompany the licensing scheme and code of

conduct outlined below, the *Residential Tenancies Act 1997* should be amended to require registration of all caravan parks and Part 4A parks with CAV.

Required information for park registration should include:

- the name of the park
- the type of park (mixed use, Part 4A, caravan park)
- the number of sites (occupied and unoccupied) by the type of occupation (permanent occupancy and dwelling type, temporary occupancy)
- scale plan of the park with site numbering
- roads and common facilities, and
- operator name and details including license number and the name and details of the primary day-to-day on-site manager for the park.

Registration information collected by CAV should be consolidated into a statewide public register (as per New South Wales (NSW) and Queensland). The process for consolidation could be adapted from the provisions for the statewide rooming house register.

Operators should be expected to provide the required information for inclusion in the register to CAV. We recognise that operators currently also need to provide information to councils to comply with local planning and safety regulations; this should continue.

b) Establish a licensing scheme for park operators and managers to better equip CAV to undertake enforcement activities including auditing.

Every residential park in Victoria must have at least one on-site responsible person who is licensed by CAV to manage the park.

We recommend a licensing scheme include the following specific features:

- a 'fit and proper person' test
 - mandatory basic training or education, which could be delivered as a compulsory education briefing by CAV, in line with training delivered in NSW by NSW Fair Trading.
 - compulsory professional development, which could involve development of an approved syllabus or unit to be delivered by registered training organisations or a relevant industry body
 - roping in the conduct of relevant associates
 - withdrawal of license for significant breaches of the Code or Act, and
 - compliance with an approved, mandatory industry code of conduct
- c) Introduce a mandatory code of conduct, developed by a committee comprised of residents, industry and an independent chair to be independently reviewed and updated every five years at minimum.**

The residential park industry code of conduct should comprise of the following:

- Outline specific obligations for complaints management:
 - Requirements for all parks to have a complaints handling policy that is provided to all residents and available publicly (e.g. on park websites). The policy should outline how complaints can be made and escalation options to help resolve complaints early. The code needs to provide a clear, standardised definition of what a complaint is, including what constitutes resolution of a complaint.

- Obligations to accept and record all complaints regardless of how they are made (verbally, in writing, by email etc.)
- Requirements to respond to complaints in set time frames
- State specific obligations for repairs and maintenance processes:
 - Obligations to record repair and maintenance requests in a central register that can be accessed by park residents. To ensure a balance between transparency and privacy, the name of the person making the request should not be made public.
 - Obligations to respond to all repair and maintenance requests in set time frames and to provide updates about status/progress against requests on the register. Exceptions for extenuating circumstances such as natural disasters should be provided for, which may impact operator ability to source tradespeople.
 - Repairs should be classified and recorded by operators according to priority level, and responded to with the degree of priority in mind.
- Outline how park managers and owners will work cooperatively with Residents Committees and consult with Residents Committees (see pages 17-18 for further detail).
- Require all parks to have an 'aging in place' plan, recognising that resident needs will evolve over time. The plan should outline the supports the park will offer to residents, how it will accommodate support services that residents need and the fair process the park will undergo to support someone to relocate to alternative supported accommodation where appropriate.
- Standardise basic health and safety requirements for all parks, such as
 - visible house numbers for every dwelling
 - lighting maintenance
 - footpath maintenance (including management of tree roots or other hazards on common property), and
 - fire evacuation requirements.
- Require the supply of a park condition report to every prospective resident pre purchase.
- Clear rules for supporting families and/or existing residents when a resident dies, including clarity about how rent levels will change when there are fewer occupants on a site or no occupants for a period while a sales process occurs.
- Provide an obligation on operators to disseminate copies of site agreements and all associated information to families within a specified period of time, in case of death of a resident.

Recommendation 3.

Expand funding for a permanent legal advice, support and advocacy service for residents

Residents need help to understand the contract they are entering into right from the on-set. Providing people with easy access to independent, accurate and clear information and advice from the time a person first considers buying into a residential park is essential.

Additionally, in the instance a resident or group of residents needs to make a complaint about their park, an on-hand support service to assist residents at all stages of dispute resolution is necessary. Ideally, this service would be available over the phone and in-person for residents who have a strong preference for offline support.

Expanding advice and support services will mean residents and potential residents and their families have higher levels of understanding about their rights and are better informed. Complaints are more likely to be resolved early or mitigated altogether. Accessing support

from the get-go may normalise residents' receiving help, and may make residents more likely to re-engage with a service if needed down the track.

Expanding a funded service could also develop resources and support for Residents Committees, helping to resolve complaints early and positively.

- Expand funding for the delivery of free information including legal advice via a phone line and in-person support to residents, potential residents and their families. The service should focus on providing advice to potential residents in reviewing agreements and support to residents with disputes or issues, helping to resolve problems as early as possible.
- Require the contact details of such a service to be highlighted in site agreements and during the sales process.
- Provide funding for the service to develop an information pack for residents and their families.
- The service should provide further resources and supports for residents to establish and run Residents Committees, including guides for forming and operating a committee.
- The service could provide financial counselling support for residents that may struggle with financial pressures during their tenure.
- The service should refer residents to other relevant services as required, for example, to services specialising in elder abuse or other legal issues.

Recommendation 4.

Improve regulation of dwelling standards and address planning ambiguities at residential parks

Further work is needed to investigate solutions to address issues with dwelling standards and ambiguities with planning at residential parks. Specifically, further work to confirm any regulatory gaps is required as well as better monitoring and compliance with current regulation through sufficient enforcement.

Currently, resident and operator responsibilities are frequently confused when it comes to maintenance, repairs and building defects affecting residents' dwellings. Greater clarity is needed from CAV or another party, to make responsibilities for building standards clear to both industry and homeowners. We recommend CAV develop clear guidance and information to be provided to residents and operators. Greater clarity is also needed with respect to information sharing regarding dwelling standards in the sales process.

We recommend the issue of current dwelling standards enforcement be referred to the Building Monitor for investigation and appropriate remedial action, which may include improved guidance to councils from the State Building Surveyor.

Should the Building Monitor identify systemic problems/gaps, the Building and Plumbing Commission should investigate options for regulatory reform. This could include:

- adoption of national dwelling standards for manufactured homes, and
- removing any reference to 'transportable' from the definition of a Part 4A dwelling, meaning questions of design and construction are for relevant building authorities.

Recommendation 5.

Provide residents with collective powers to make a complaint alongside access to the newly established alternative dispute resolution service

- a) Give residents and advocacy organisations the power to make complaints to Consumer Affairs Victoria (CAV) as a collective, with requirements on the regulator to respond and report on complaints received at a high level.**

Residents of residential parks need reliable, fair processes in the instance they need to make a complaint about their park. VCAT is highly inaccessible and expensive to residents, with lengthy wait times. VCAT often relies on residents supplying expert evidence, which can be costly and difficult for residents to obtain. This only enhances the power imbalance between residents and operators, who are able to access legal advice and representation where many residents are not.

Setting up a new 'super' complaints power mechanism for groups of residents as well as resident advocates would lessen the burden on individual residents when making a complaint and would increase accountability from the regulator to address systemic and widely reported complaints.

The 'super' complaints power would require CAV to respond and provide updates to the group or body making the complaint within a set period of time. This approach would provide residents with an avenue to report and resolve their disputes prior to reaching a point where VCAT is the only available option.

CAV should also provide high level, transparent public reporting on the types of complaints being received.

On receiving a "super complaint" from a Resident Committee or advocacy organisation, CAV could respond in a number of ways:

1. Commit to enforcement action to ensure an operator addresses the issues raised.
2. Conduct a wider study to identify if the issues raised are systemic / occurring across multiple parks.
3. Enter into an enforceable undertaking with an operator to ensure future conduct meets the needs of residents and complies with regulations.
4. Provide a public warning or notice to inform other residents or future residents about the issues identified.
5. Refer the matter to the alternative dispute resolution service (see below)
6. Acknowledge the matter but take no further action - this would only be suitable in the case of frivolous matters or complaints better addressed through other forums.

- b) Include residential park residents in the Victorian Government's new alternative dispute resolution service for retirement villages**

To deal with disputes between operators and residents or between residents, we recommend residents of residential parks be included as users of the Victorian Government's new alternative dispute resolution (ADR) service set up within the Department of Government Services for residents of retirement villages.

The service should be able to consider individual complaints as well as matters referred by Resident Committees and advocates. The ADR service should be able to make decisions that are binding on operators, with consequences for licensing if decisions are not acted upon. The ADR service must remain free for residents to use but could incorporate fees for operators

based on size or complaint frequency, helping the Victorian Government to reasonably recoup costs of the service over time.

The ADR service should offer support to help residents understand laws and regulations. It should also have the ability to investigate matters or request information from operators, reducing the burden on residents to supply complex evidence as part of a complaints process.

The ADR body should be granted the power to refer complaints or systemic issues identified in its work to CAV for investigation where required. The ADR body should publicly report on the volume of complaints received, issues raised and outcomes achieved. It could also publish its decisions to help industry and residents understand how common matters are resolved.

Recommendation 6.

Consumer Affairs Victoria (CAV) to establish a transparent, compliance and enforcement approach and commit to consistent reporting of its effectiveness

A strong enforcement approach is essential to industry compliance across the sector.

We recommend CAV is funded to set up a taskforce to develop an enforcement approach which ensures the following:

- A focus on ensuring operators are adhering to requirements outlined in the code of conduct, as well as pre-sale obligations to residents.
- Regular audits of residential parks state-wide, enabled through a licensing scheme.
- Educating park operators as well as administering fines where appropriate.
- Consistent and transparent public reporting of compliance to measure effectiveness of CAV's enforcement approach.

Licensing fees could contribute to the cost of establishing and running this taskforce, with costs decreasing (or increasing) based on industry compliance with their obligations.

Buying into a residential park

Recommendation 7.

Update legislation to require transparent information sharing and disclosure pre-sale

- a) **Update legislation to allow Consumer Affairs Victoria (CAV) to mandate key information fact sheets that must be provided in the sales process.**

Information about fees, site services and site rules can be difficult to understand for potential residents. This information is provided at different stages, depending on a park's process, and presented inconsistently which makes it difficult for residents to compare options.

Legislation should be updated to allow CAV to mandate key information fact sheets that must be provided in the sales process. The key fact sheets should outline total costs, fees and other charges in a consistent form. The fact sheet should also cover site services included in fees and list park rules.

- b) **CAV to prescribe specific information operators must provide potential residents regarding a dwelling and the park pre-sale.**

Like any ordinary house sale, people must be provided with specified information about the property they are considering purchasing to make an informed decision.

Victoria's disclosure requirements should be improved by establishing a prescribed form for disclosure of specified information about a prospective site agreement by park operators prior to the sale of any dwelling, in accordance with Queensland's model. In the Queensland model disclosures of required information to a prospective purchaser of a dwelling are required 21 days prior to the sale of a dwelling and 14 days prior to signing a site agreement.

By way of example, the disclosure should include:

- all fees and charges payable
- the proposed site agreement and any park rules
- the Resident Committee contact details, allowing potential residents to connect with the community before sale
- flood overlay, and
- emergency management plans.

In line with California's (United States of America) approach, the park operator should also provide purchasers of homes in the park a comprehensive checklist indicating any problems with specified park services and facilities.

In the instance a resident is selling their dwelling, the resident should be able to request this information from a park operator prior to or during any sales campaign for their dwelling and to prevent a park operator from providing one set of disclosures for the purposes of the sale of the dwelling and a different set of disclosures for the purposes of signing the site agreement.

Recommendation 8.

Revise matters to be included in standard-form site agreements, including fee calculations to provide residents' certainty

The Victorian Government's commitment to standardise site agreements will enable greater consistency across the residential parks sector while assisting with regulation.

Requiring transparent communication of fee amounts and calculation amounts will provide residents with greatly needed certainty regarding costs they will incur going into the future.

Exit fees / DMFs are used by some, not all, residential parks. They are especially difficult for potential residents to understand when they are calculated as a percentage of the final sales price of the dwelling. Exit fees / DMFs can play a role in reducing site costs over time but need to be specific and easy to understand for residents at the point of sale if the fees are to remain.

Our recommendation regarding the matters that should be included in a standardised agreement is outlined on pages 29 to 31 of the Residential Park Contract Review (Appendix 1). We recommend all these matters be incorporated in standardised agreements. At a high level, a standardised agreement should include the following:

- Be in plain, easy to understand English.
- Advise residents of how increases to site rent are set and calculated, according to a single method.
- State whether a resident is eligible for rent assistance / if the property is a moveable dwelling for the purposes of claiming rent assistance.

- Require deferred management fees (DMFs) if they are charged, to be limited to a known specific dollar amount based on the dwelling purchase price, disclosed as a dollar amount at the point of sale.
- Not include unnecessary or restrictive rules for residents (see pages 14-15 of the Residential Park Contact Review (Appendix 1) for a list of examples.
- Outline whether the operator is responsible for paying for services and facilities (e.g. electricity, gas, water).
- Identify shared facilities and services provided at the park with a note that rent must be reduced if services are reduced.
- Define how GST applies to site rent and other services attached to park living
- Explain the sale process, including any limitations (e.g. for sale signs).
- Provide for additional terms in clear, concise language that do not contravene the Act of regulations or any other law and are not inconsistent with the standard terms listed.

We also recommend the following terms be prescribed prohibited terms for the purposes of Part 4A of the Act:

- Any term that allows for a market rent review during continuous occupancy of any site (as per Western Australia's model).
- DMFs calculated according to a dwelling's sale price.
- Unfair warranties (e.g. that the site is not suitable for use as a site for a relocatable dwelling).
- Requiring the operator's consent before a resident complies with a requirement under law.
- Requiring a resident to provide building, fire or pest inspection certificates unless required by law.
- GST clawbacks.
- Relocation and replacement of dwelling (e.g. prohibition on terms requiring resident to bear all costs of relocation, or to replace a dwelling within a certain period).
- 'Right of first refusal' during sales process.
- Restrictions on lodging caveats, or requiring residents to charge their rights, title and interests in the dwelling in favour of the operator as security for payment of fees and charges.

There needs to be a clear mechanism and resourcing to assess terms in contracts to determine if they should be prohibited.

Ideally, this process should be driven through proactive enforcement and monitoring efforts, rather than only from individual complaints from residents who worry about consequences of raising complaints in their communities.

Living in a residential park

Recommendation 9.

Introduce sector-wide perpetual leases

Residents living in residential parks must have security in their lease tenure, especially as they own the home sitting on the land they lease. In practice, many residents cannot move this home or cannot afford to move this home.

Legislation should require that all leases have an unlimited lease length. This will give residents certainty that the land their home resides on is theirs to occupy for as long as they choose,

with limited and specific reasons for park operators to seek to terminate the lease. These reasons should be outlined in the legislation and include that the tenant has not complied with a tribunal order or that the tenant uses the premises for illegal purposes.

Provisions regarding the process when a resident leaves a residential park is discussed from page 18.

Recommendation 10.

Specify a single method for calculating site rent increases to give residents certainty and confidence

Residents need to be confident they can continue to keep up with ongoing costs over time. Most residents of residential parks have very limited ability to pay significantly more year on year given their fixed incomes (typically a pension or superannuation).

We recommend the Victorian Government introduce a requirement that a single method for site rent increases (as per Western Australia) must be specified for all site agreements (either prospectively for all subsequent rent increases or for all new site agreements).

In Western Australia, a site agreement can only provide a fixed amount or a single method for calculating the amount of any rent increase at each rent review. However, different methods or amounts may be used at different times. A term of a site agreement is of no effect if it provides for a market rent review or states that the rent may not be reduced if the single basis for rent calculation resulted in a lesser rent after the review (for example, if the CPI was used and the CPI was negative for the relevant period.) However, for site agreements entered into before 31 January 2022, calculation of a rent variation based on current market rent is permitted. For those site agreements, a park operator must consider a report from a licensed land valuer. The requirements for site agreement to provide a single basis for calculating a rent variation and preventing the rent from decreasing on this basis appear to apply retrospectively.

Recommendation 11.

Support Residents Committees to give homeowners greater transparency and control in their community

Residents Committees play a critical role in assisting residents with day-to-day issues and providing feedback to park managers and operators.

Presently, many Residents Committees play an essential role in managing resident complaints and issues, yet they often lack the support or resources to deal with these disputes. While managing complaints and resident requests should not be the responsibility of Residents Committees, many residents turn to committees to assist and support them when they run into a problem at their park.

There is currently no clear guidance about what constitutes consultation at residential parks, and no remedy if operator consultation with residents is inadequate. The rights of Residents Committees need to be strengthened, with further responsibilities on operators to genuinely consult and reasonably adjust plans based on committee input.

We recommend the *Residential Tenancies Act 1997* be amended to enshrine a responsibility for a park operator to consult with all residents about any changes to the park rules or any alterations to the park including common services or facilities that may affect any residents either directly or indirectly, through a prescribed process. This approach is currently implemented in Queensland and England (United Kingdom).

We recommend the following minimum requirements regarding Residents Committees as outlined in a code of conduct:

- One Resident Committee per park irrespective of the nature of the park (mixed use or Part 4A exclusive).
- All permanent residents are permitted to join the Residents Committee.
- The Residents Committee must have general membership.
- Park managers and operators see Residents Committees as the go-to point for consultation.
- A requirement for park operators to provide Residents Committees with financial information regarding their park, including calculations behind rent increases and information about sinking funds or other mechanisms used to plan and fund site upgrades.
- A requirement for park operators to provide maintenance schedules for common property on request to the Residents Committee.
- An entitlement for Residents Committees to make group 'super' complaints to CAV to prompt investigations, with requirements on CAV to respond within set timeframes.
- A conflict of interest policy, to ensure no Committee representative has a competing interest (such as being a relation of a park operator).

Exiting a residential park

Recommendation 12.

Improve the method of sale should a resident choose to sell their own dwelling and provide for maximum time periods where operators sell a residents' dwelling

- a) **As an option to improve the process of sale where a resident sells their dwelling, apply the United Kingdom model of lease assignment by notice to Victoria**

Residents need clear rights to autonomously sell their dwellings, without unreasonable interference from operators.

In England, for residents who commenced their residency after 26 May 2013, the site owner has no direct involvement in the sale of a park home. Additionally, any inconsistent provision in a site agreement (known as a pitch agreement) or site rule is not enforceable. Once a homeowner has found a willing buyer, they are required to give a prescribed notice (the Buyer's Information Form) to the proposed buyer at least 28 days before the date of the sale.

The Buyers Information Form includes a copy of the site agreement, site rules, evidence of the charges payable for utilities and any survey of the park home.

For residents who commenced their residency before 26 May 2013, the seller must send the site owner a Notice of Proposed Sale Form containing the name of the proposed buyer. If there are site rules concerning age restrictions, the keeping of pets and the parking of vehicles, the seller will need to confirm that the proposed buyer will comply with these rules.

The sale can proceed if the seller does not receive notification within 21 days of the service of the Notice of Proposed Sale Form that the site owner has applied to the English Tribunal for a refusal order on grounds that the proposed buyer will not comply with these rules, or there is insufficient evidence of compliance.

The seller can assign the site agreement to the buyer using the standard Assignment Form. The Assignment Form must be completed by the seller and the buyer and includes details of the new occupier of the park home, confirmation of the agreed purchase price, the commission payable to the site owner and the site fee payable by the new homeowner.

The buyer must retain 10% of the purchase price to pay to the site owner as commission for the sale. Once the seller has assigned their site agreement to the buyer, they have no further role to play in the sales process unless the Tribunal requires them to attend a hearing for a refusal order application made by the site owner.

If a refusal order is granted by the Tribunal, the sale cannot proceed and the seller must start the process again.

b) Amend the *Residential Tenancies Act 1997* to introduce a maximum time period applicable to operators in the selling process relating to a pre-loved dwelling

To avoid the delay of sales and payment of ongoing fees after a resident vacates a dwelling (e.g., following the death of a resident), introduce mandatory maximum time periods an operator can spend seeking to sell a pre-loved dwelling.



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