RESIDENTIAL PARKS (LONG-STAY TENANTS) AMENDMENT BILL 2018

Second Reading

Resumed from 27 November 2018.

HON NICK GOIRAN (South Metropolitan) [2.18 pm]: I am pleased, as shadow Minister for Commerce, to rise as the opposition's lead speaker on the Residential Parks (Long-stay Tenants) Amendment Bill 2018. At the outset, I note that the bill makes significant amendments to the primary act and that the amendments endeavour to implement recommendations that arose from a statutory review. Before we look at the policy of the bill, the consultation history and the various provisions of the bill and the concerns that have been raised, including in the thirty-ninth report of the Standing Committee on Legislation, it is worthwhile noting that this bill was introduced into this place on 27 November 2018. The government decided to refer the bill to the Standing Committee on Legislation on 12 February 2019. Members with access to today's notice paper will see that it lists, under the name of the bill, when this matter was last before the house. Members understandably could be forgiven for thinking that the bill was last before the house in February this year, but it was February last year. For members who cannot recall, in November 2018, the government had two full sitting weeks to bring on this bill. Instead, the Leader of the House decided to allow this bill to languish on the notice paper over the summer recess. We are not talking about the most recent summer recess; we are talking about the one before that.

On 12 February 2019, the government decided to refer this bill to the legislation committee. As I recall—I stand to be corrected—the motion was moved by the Leader of the House. The government member who moved the referral motion insisted that the Standing Committee on Legislation report by 21 March. As I noted at the time, as deputy chairman of that committee, that would allow the committee a mere 37 days to conduct an inquiry into this bill. I will put that in context for members. It is a long time since I served on the Standing Committee on Uniform Legislation and Statutes Review, but to the best of my recollection, it ordinarily has 45 days to undertake an inquiry into a bill. I recall serving on the committee and finding that that 45-day time frame evaporated very quickly; the committee was often under pressure. I recall a time in the house when the time frame was 30 days. A decision was made to extend that to 45 days to provide at least a reasonable period of time for an inquiry.

The bill before the house is 121 pages long and consists of 85 clauses. The Leader of the House, or whichever government member it was who decided to refer this bill to the committee, obviously thought that it would be highly amusing to put the Standing Committee on Legislation under that level of duress and pressure to provide a report after a 37-day inquiry. I labour this point because I have, and I am sure that other members have, received correspondence from concerned Western Australian residents about the lack of progress on this bill. It is worth those concerned correspondents—residents of Western Australia—noting that this government decided to provide the bill to the committee for a truncated period of time. No doubt those concerned Western Australian residents and correspondents would have been very pleased with the government's decision in 2019, because it would have shown some sort of expedition of the process. It was presumably seen as a gesture of goodwill by the government to say that it was serious about this legislation. Presumably the government was embarrassed about its performance at the end of 2018, when it deliberately allowed this bill to languish on the notice paper over the entire summer recess between 2018 and 2019, after having had two full sitting weeks to address the bill. The government was embarrassed about that situation, so as some form of recompense it decided it would expedite this bill by sending it to the Standing Committee on Legislation under the stewardship of the chair, Hon Dr Sally Talbot, and asking that committee to perform this inquiry and report within 37 days.

Members could understand how people in Western Australia would have been very pleased with the government's performance in early 2019 in remedying the mistake it made at the end of 2018. Unfortunately, those concerned correspondents and residents are utterly exasperated by this government because this bill has not moved a muscle since the report was tabled on 21 March—not 21 March this year, but 21 March last year! I intend to refer all those correspondents and residents who are concerned about the progress of this bill to the government at each and every instance so that it can explain why this matter has languished for so long. Indeed, what was the point of sending the bill to the legislation committee for 37 days and rushing the inquiry if the government had no intention of bringing on the bill in the meantime? Hon Dr Sally Talbot, Hon Pierre Yang and Hon Colin de Grussa, Hon Simon O'Brien and I could have continued to consider this matter for many more months—in fact, more than a year if needed—to get the matter right and to get the drafting right. The government insisted that this inquiry had to be done within 37 days, but next week it will be the 14-month anniversary of the tabling of this report. Over those 14 months, the government and the Leader of the House, who has the carriage of and the duty and responsibility for determining the legislative agenda, decided that under no circumstances would this bill come on for debate. This government and the Leader of the House made sure that this bill was buried deep, deep down on the notice paper and under no circumstances came on for debate.

Hon Alannah MacTiernan: Why would that be?

Hon NICK GOIRAN: That is my question to the honourable minister, and I look forward to her response on that. By the way, that is an excellent segue, and I thank the minister for the interjection. I suspect the minister's response will be something along the lines of the one that has been prepared for her by none other than the Minister for Commerce's chief of staff. On 14 April this year, I had the opportunity to review an email sent at 12.17 pm by Colleen Egan, chief of staff of the Attorney General; Minister for Commerce. A few minutes after midday, the chief of staff was in top form when she wrote to this constituent and said —

> Thank you for your email to the Hon. Alannah MacTiernan MLC, Minister for Regional Development; Agriculture and Food; Ports, dated 19 March 2020 regarding the progress of the Residential Parks (Long-stay Tenants) Amendment Bill 2018 … Your email has been referred to the Hon. John Quigley MLA, Attorney General; Minister for Commerce, as the matters you have raised fall within his portfolio of ministerial responsibilities. I am responding on the Minister's behalf.
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> The Department of Mines, Industry Regulation and Safety — Consumer Protection Division (Consumer Protection) acknowledges the importance of the reforms contained in the RPLT Bill and appreciates your concerns with its progress through the Parliament. As you are aware, the RPLT Bill has passed through the Legislative Assembly to the Legislative Council.

I will pause there, Mr Acting President, to note that the chief of staff of the Minister for Commerce decided not to tell the constituent when that matter had passed from the Legislative Assembly to the Legislative Council. As I indicated earlier, it has been with us since 27 November 2018. Remember that the chief of staff of the Minister for Commerce wrote this email on 14 April 2020. The chief of staff's email continues —

> Debate in the Council was delayed due to the McGowan Government —

Get this, Minister for Regional Development —

> prioritising the Voluntary Assisted Dying Bill 2019 during last year.

I pause again to remind members of the chronology here. This bill was brought in by the government in November 2018 and was allowed to languish on the notice paper for the entire summer recess. There was no sign of any Voluntary Assisted Dying Bill at that point in time. With all due respect to the chief of staff of the Minister for Commerce, talk about a red herring!

Hon Alannah MacTiernan: You don't actually remember that there was about four months of debate on the voluntary assisted dying legislation?

Hon NICK GOIRAN: The minister will appreciate that if anyone has any appreciation for that particular debate, it is me.

Hon Alannah MacTiernan: That's right. That's why it's even more astounding that you have forgotten about it.

Hon NICK GOIRAN: Minister, through the Chair, I find it astounding that you refer to a four-month period when I am talking about a 14-month period of delay. What happened in the other 10 months? What was the government doing then?

Hon Alannah MacTiernan: Because other important legislation takes forever to get through this place and one particular person is largely responsible!

Hon NICK GOIRAN: The minister should not worry; I am getting to the important legislation that she referred to.

The ACTING PRESIDENT (Hon Martin Aldridge): Order, members!

Hon NICK GOIRAN: Thank you, Mr Acting President. The chief of staff of the Minister for Commerce decided to blame the Voluntary Assisted Dying Bill 2019. According to the Minister for Regional Development, that was a period of four months. If she checks the record, she will know that it was not four months, it was less than that, but let us not sweat the small stuff. Let us give the minister the four months and ask the question: what happened in the other 10 months?

The chief of staff of the Minister for Commerce goes on in this email of 14 April to say —

> The RPLT Bill is among a number of other important Bills awaiting passage. As you would be aware, on 16 March 2020, State of Emergency and Public Health Emergency declarations were made to enable the Government to implement measures to protect the community and minimise potential impacts of the COVID-19 coronavirus.
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> The Government is currently re-prioritising its legislative program to address COVID-19 related issues. Please rest assured however that the RPLT Bill remains a priority. Consumer Protection has advised it will keep you advised of any developments on this front.
>
> Thank you for raising these matters.

Yours sincerely

It is staggering that the chief of staff could have the temerity to suggest to this constituent, who, quite understandably, would be unfamiliar with the processes of this place, that somehow the reason that the government has been unable to provide any priority for this bill has been the Voluntary Assisted Dying Bill and the COVID-19 pandemic. It seems to be this government's standard excuse for incompetence. Any time somebody questions anything, any time somebody asks why it has not done something, it always gives two excuses: firstly, it was busy dealing with voluntary assisted dying legislation; secondly, it is because of COVID-19. I remind members that this bill was introduced into the Legislative Council on 27 November 2018. If the minister wants to have a debate about whether the VAD bill and the COVID-19 pandemic have spanned the entirety of the period between 27 November 2018 and now, I would be quite happy to have that debate. But I suspect that we will make a lot more progress if the government simply acknowledges that it has dropped the ball on this legislation. There is actually no excuse for it whatsoever.

The minister referred in her earlier interjection to other important legislation. Do not get me started on the Criminal Code Amendment (Child Marriage) Bill 2018. We have been through this exercise before. That was one of the top priorities of this government. The Leader of the House decided to prioritise that at the start of this year, in February, before there was any state of emergency COVID-19 response, and that legislation did nothing. This government knows it did nothing. In fact, I tore up the bill when it was in here. That is how effective that legislation was. All it did was repeal a redundant, inoperative piece of legislation. It was a complete waste of time and not a priority at all.

With those introductory remarks, I move to the policy of the bill. I note that the Standing Committee on Legislation has usefully set it out for us. I encourage those members who are not on the committee to turn to page 2 of the committee's report, where it sets out —

> 3.1 The second reading speech gives the following summary of the policy of the Bill:
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> A comprehensive consultation and review process has been undertaken resulting in a package of reforms aimed at improving certainty of contract and promoting fair dealing in relation to residential park tenancies in Western Australia.
>
> The amendments in the Bill aim to balance the interests of both operators and tenants while continuing to support the viability of the industry.
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> 3.2 DMIRS has also described the policy of the Bill as:
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> to provide greater protections and security of contract for residential park tenants, while supporting park operators to maintain existing residential parks and create a sustainable housing option for the community.
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> 3.3 In its submission, DMIRS refers to certainty of contract and fair dealings between the parties as fundamental objectives which have guided the development of the Bill. These objectives underpin the policy and many of the amendments the Bill proposes, which DMIRS states represent a balance between the interests of tenants and park operators.
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> 3.4 Subject to concerns about selected clauses of the Bill discussed in section 7, the Committee supports the policy of the Bill and is of the view that it strikes a good balance between the interests of tenants and park operators.

In other words, the main policy of the bill is to improve certainty of contract and fair dealings, which is something the opposition supports.

Usefully, the Standing Committee on Legislation took the opportunity to set out the consultation history on this matter. Members will be interested to see that, as it is set out in paragraphs 4.5 through to 4.16 of the committee report. If members look at that consultation history, they will see that there has actually been an extensive period of consultation on this matter. Members can note that, in fact, the history goes as far back as October 2009. But a consultation discussion paper was put out as a result of the statutory review. As I recall, the statutory review began in August 2012 under what was then the Department of Commerce. If I am not mistaken, the statutory review, which is the foundation block of the bill that is now before the house, commenced in August 2012. As part of the consultation process for the statutory review, a discussion paper was put out, which identified nine priority areas for reform, including security of tenure, compensation, disclosure, rent variation, fees and charges, sale of homes onsite, dispute resolution, park liaison committees and maintenance and capital replacement.

In June 2014, a consultation regulation impact statement was put out, and a statutory review report was completed by the department in December 2015. The report contained some 48 recommendations to be implemented by amendments to the act or the regulations or via community education. Thereafter, the government received feedback on the statutory review report. It prepared a decision regulatory impact statement in March 2017, which

identified further issues. After multiple governments of both persuasions have spent that amount of time consulting with industry over the period that I have outlined, it is curious that, for reasons as yet unknown, the government stopped at the final hurdle. I draw the minister's attention to paragraph 4.18 at page 7 of the committee's report, which states —

> The Committee notes that CIAWA does not consider that they were consulted during the drafting of the Bill although they provided evidence of extensive consultations that took place prior to the drafting of the Bill.

Reference is made to the transcript of evidence from a public hearing that occurred on 1 March last year, which the vice president, Dale Wood, attended before the committee and gave evidence. It seems irregular that after that consultation period, one of the key stakeholders would still have a complaint about the consultation that unfolded because of the drafting of the bill. Perhaps the minister in reply can provide a response to that stakeholder body about why it was not consulted, or, indeed, is their complaint fair and reasonable, that they should have been consulted during the drafting of the bill?

In principle, the legislation has the support of the opposition, but as members can see from the supplementary notice paper, the government itself concedes that the drafting is inadequate and needs amending. There is quite a large supplementary notice paper—some 15 pages in length—for digestion by members. As members can see, there are a number of areas of concern. My preliminary concern is the extensive regulation-making powers that constitute an inappropriate delegation of legislative power. I refer members to paragraph 5.2 of the committee's report, which commences at page 7, and the massive list of 20 matters set out there. As the committee noted, some of the matters left to be prescribed include —

> 5.2.1 A residential park does not include a prescribed place or class of place (proposed subsection (b)(ii) to the definition of residential park).
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> 5.2.2 An agreement is not a long-stay agreement if it is a prescribed agreement or class of agreement (proposed section 5(2)(d)).
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> …
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> 5.2.4 A long-stay agreement must make provision for any prescribed information or other matter (proposed section 10(1)(d)).
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> 5.2.5 A standard-form long-stay agreement may be prescribed (proposed section 10A).
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> 5.2.6 A non-standard term must not be a type of term prescribed as a prohibited term (proposed section 10B(2)(b)).
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> 5.2.7 A non-standard term must not be inconsistent with a standard-form long-stay agreement that is prescribed under section 10A(1) (proposed section 10B(2)(c)).
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> 5.2.8 The regulations may prescribe a term as a term that must be included in a long-stay agreement (proposed section 10B(4)).
>
> 5.2.9 Required documents that must be given to a person before entering into a long-stay agreement can include any other prescribed document (proposed section 11(1)(e)).
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> 5.2.10 A park operator must not require or receive from a long-stay tenant, or prospective long-stay tenant, any payment in relation to a long-stay agreement other than a payment for an amount for a fee if the type of fee is prescribed as a fee that a park operator may charge (proposed section 12(1)(e)).

The Minister for Regional Development with the carriage of the bill is unsure why I am listing these matters. For the benefit of the minister, I am reiterating these matters because the committee has set out a massive list of 20 issues showing where there have been extensive regulation-making powers that constitute an inappropriate delegation of legislative power. That is what the committee did in that expedited inquiry that the government insisted we do over 37 days, despite the fact that a committee would ordinarily have at least 45 days to do this, and despite the fact that the government decided to leave the bill languishing for some 14 months. Notwithstanding all that, the committee has managed to draw to the attention of the house a massive list of 20 matters that constitute extensive regulation-making powers that constitute an inappropriate delegation of legislative power.

The committee goes on to list the other matters —

> 5.2.11 A term of a long-stay agreement that includes a voluntary sharing arrangement has no effect unless the park operator gives, in the prescribed manner, to the person intending to enter into the agreement a document in the approved form (proposed section 13A(2)(b)(i)).
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> 5.2.12 A park operator must pay a long-stay tenant compensation for reasonable financial loss as a result of being required to relocate from the site the tenant is currently occupying to another site, including any prescribed matter (proposed section 32A(1)(f)).

5.2.13 A park operator must give a long-stay tenant a written notice (stating whether they intend to renew or extend a fixed term long-stay agreement or enter into a new long-stay agreement, together with its terms and conditions) within the prescribed time frame (proposed section 32R(3)).

5.2.14 Division 6 (abandoned goods) applies to goods other than prescribed goods (proposed section 47A(b)).

5.2.15 The regulations may prescribe the manner in which a park operator must make or alter the park rules (proposed section 54C(2)).

5.2.16 A long-stay tenant may appoint a park operator or another person as a selling agent in relation to the sale of a relocatable home only if the selling agency agreement complies with any prescribed requirements for selling agency agreements (proposed section 57(1)(b)).

5.2.17 Incidental expenses of a selling agent includes prescribed expenses (proposed section 57A(1)(b)).

5.2.18 The regulations may prescribe the manner in which a vote must be held under 59(1)(b) (where a majority of the long-stay tenants in the park vote to ask the operator to form a park liaison committee) (proposed section 59(1A)).

5.2.19 The regulations may prescribe the manner in which the members of a park liaison committee that represent long-stay tenants must be chosen (proposed section 60(3)).

5.2.20 A document required or permitted to be given under the Act may be given by electronic means in accordance with the regulations if the parties have agreed or in other circumstances set out in the regulations (proposed section 91(1)(c)).

5.2.21 Where a document required or permitted to be given under the Act cannot be given under proposed section 91(1), a document is taken to have been given to the person if the document is made publicly available in the manner prescribed, including making the document available on a website (proposed section 91(3)(c)).

I set out that massive list of 20 matters that the committee has identified as matters that have been left to be prescribed in the regulations. My preliminary concern is that they represent an extensive list of regulation-making powers that constitute an inappropriate delegation of legislative power.

In addition to that, I share the committee's concern, in my capacity as not only the deputy chair of the committee but also the shadow Minister for Commerce, about two Henry VIII clauses. I draw to members' attention the analysis of the committee at paragraphs 7.21 to 7.31. I encourage members to become familiar with those provisions because we most certainly will address them when we go into Committee of the Whole House. In particular, those paragraphs and that analysis set out by the committee has led to finding 6, which is —

> Clause 10, proposed section 9A is a Henry VIII clause.

We must keep in mind that this is the unanimous view of the committee, chaired by Hon Dr Sally Talbot and comprising myself as the deputy chair, Hon Simon O'Brien, Hon Colin de Grussa and Hon Pierre Yang. The five of us have unanimously said at paragraph 7.31 —

> The Committee is not convinced there is justification for inclusion of proposed section 9A. In reaching this view, it notes the lengthy consultation period for the Bill in which DMIRS has had sufficient time to foresee any matters that can be provided for in the Bill.

Recommendation 4 is that clause 10 be opposed. I also draw to members' attention the other Henry VIII clause, and in particular the analysis provided by the committee that starts at paragraph 7.79, which deals with clause 81. This clause contains proposed section 115(2), which is a Henry VIII clause that should be opposed. I specifically draw to members' attention the committee's comment at paragraph 7.84, which says —

> The Committee regards proposed section 115(2) as a Henry VIII clause on the basis it provides for the application of primary legislation to be modified by subsidiary legislation, infringing FLP 14.

That led to the finding that states —

> Clause 81, proposed section 115(2) is a Henry VIII clause.

Recommendation 11 states —

> Clause 81, proposed section 115 be amended as follows:
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> Page 119, lines 20 to 24 – To delete the lines.

Then it describes the necessary consequential amendment.

Utterly exasperated stakeholders have been waiting for the government to deal with this bill since the end of 2018. Because the government decided to bury it in the notice paper for that period of time, other than to send it off for a truncated inquiry over 37 days, members, stakeholders, concerned correspondents and concerned residents will be utterly exasperated by this process. They will find the analysis of the committee and the work of the chamber, for however long this takes, tedious. I say to those stakeholders, concerned correspondents and concerned residents that the only reason this whole process is tedious is that the government has not done its job properly. Why does it bring bills with Henry VIII clauses into the Legislative Council when it has experienced members in government who know full well the Legislative Council's attitude towards these things? Why does it do it? Why do government departments persist with this stuff and put it under the noses of ministers, and ministers sign off on it and send it into cabinet, knowing full well that this is going to be the result, and a committee of the Legislative Council is going to say, "On your bike!"? Why does it do it?

Those concerned correspondents and concerned residents who will be exasperated by this process should understand this: since this bill was introduced in 2018, the McGowan government decided that it would not move a muscle—that is number one. Number two is that it decided to bring in a bill that it knew full well contained clauses that are unacceptable to lawmakers in Western Australia—not unacceptable to lawmakers just in the fortieth Parliament, but with a longstanding history, probably as far back as when the honourable minister with the carriage of this bill in this place first graced the Legislative Council. That is how long the Legislative Council has had this view about this type of drafting. That is why the process has been tedious, but it does not excuse the government for not bringing the bill on for debate far sooner than today.

The house needs to consider some new evidence, and I use the word "new" very loosely because, remember, we are talking about a bill that has been languishing in this place since November 2018 at the insistence of the government. The evidence is new because this letter from the Caravan Industry Association Western Australia is dated 29 March 2019. Again, exasperated correspondents and exasperated residents of Western Australia might find it laughable that any member of Parliament could possibly consider a letter dated 29 March, not this year but last year, new evidence. Unfortunately, it is new evidence because this particular report that was provided to the house was provided on 21 March last year, and eight days later this letter from the Caravan Industry Association Western Australia appeared. Obviously, the committee cannot consider that letter after it has reported to the house, but this house now has a responsibility to consider that particular letter, so I would ask the minister what the government's response is to that letter from the Caravan Industry Association Western Australia, dated 29 March 2019, which I am sure the government is very familiar with. I hope, given that it was dated March, not this year last year, that the government has had adequate time to respond and consider the matter and that the response will not be, "We were too busy with the VAD legislation", and it will not be about COVID-19.

Hon Alannah MacTiernan: So, what were they seeking?

Hon NICK GOIRAN: Minister, I would be happy to read out the entire letter to you now, if you want.

Hon Alannah MacTiernan: No. I know precis is not your forte, but, just roughly, what did they —

Hon NICK GOIRAN: The minister has a choice. It is a four-page letter dated 29 March 2019. I am happy to read out the whole thing to the minister now, but I suspect that the minister and I would both prefer to expedite the passage of this bill, and I am sure that somebody in government has seen this letter and knows all about it, especially since it is entitled "Dear Minister". I would ask the minister to get some advice on that. If it is conceivable that nobody here has a copy of that letter, I will be happy to provide the minister with a copy of mine, and even seek leave to table it later if that is necessary. But I suspect that the government is well and truly prepared for this debate, considering that it has decided that it wanted to spend since the end of 2018 preparing for today's debate.

While the minister is kindly taking instructions about that important letter from the Caravan Industry Association Western Australia, dated 29 March 2019—an association that I think is deserving of both respect and a response—I simply indicate in conclusion that the opposition supports the second reading of this bill. As the shadow Minister for Commerce, I indicate that the opposition supports the recommendations of the Standing Committee on Legislation. In particular, the committee recommended that the bill be passed, subject to two things: firstly, satisfactory explanations in response to recommendations 1 to 3, 5, 7, 9 and 12; and, secondly, amendments to the bill, the subject of recommendations 4, 6, 8, 10 and 11. It is with those caveats that I indicate that the opposition supports the second reading of the bill. We support it in the event that the government concedes that the Standing Committee on Legislation's recommendations ought to be adopted and agreed to.

I think that those satisfactory explanations that the Standing Committee on Legislation has asked the government to provide in respect of recommendations 1 to 3, 5, 7, 9 and 12 would be best dealt with in Committee of the Whole. I do not think they would be best dealt with in reply by the minister, so I foreshadow that now. That might actually expedite the reply of the minister, because I will be asking about those recommendations and seeking

those explanations when we get into Committee of the Whole House anyway. In regard to the amendments, as I have indicated earlier, there is now a massive supplementary notice paper consisting of amendments to be moved not only by me; of course, a very significant number will be moved by the Minister for Regional Development, representing the Minister for Commerce, and if I am not mistaken, I think Hon Rick Mazza also has a few amendments on the supplementary notice paper. I look forward to considering those matters at that time, and I reserve my further questions until that point.

HON RICK MAZZA (Agricultural) [2.59 pm]: I have had to reacquaint myself with the Residential Parks (Long-stay Tenants) Amendment Bill 2018, because it has been a long time coming. The second reading speech for this bill was given in this place in November 2018, which is a considerable time ago. Of course, the report of the Standing Committee on Legislation on this bill was tabled in March last year. Even though we did have to deal with the Voluntary Assisted Dying Bill for some months, this bill has been gathering dust for a long time. The bill came back on the business program late last night, so many of us have been scrambling around trying to reacquaint ourselves with its detail.

The Residential Parks (Long-stay Tenants) Act has always presented some difficulties. I suppose park homes developed when people attached annexes to caravans in caravan parks and then, later on, took the wheels off and they became semi-permanent. That then evolved into park homes being offered for sale and placed on caravan parks through an arrangement between the person who owned the park home and the person who owned the land. They can become quite elaborate. I think at one stage they had to be mobile, but I do not know whether that is still the case. Over time, people have put on extensive annexes and put in place gardens, patios and all sorts of things, and these homes have pretty much become permanent places in which to live. However, park home owners do not own the land. People might have made a significant investment in a park home with a view to staying for a considerable time, but of course the circumstances of the park owner might change, and if they require the owner of the park home to shift it, the cost and logistics of doing so can be considerable.

In modern times, as housing has become more expensive, there has been a bit of a shift towards park homes. In fact, there is a bit of a movement called the tiny house movement. A Perth builder is offering these online for around $60 000, but the buyer must then move and relocate it.

Hon Alannah MacTiernan: Have you seen the beautiful ones that they are building in Nannup?

Hon RICK MAZZA: I have not been down to Nannup for a little while, minister, but I am sure that might be the case. There is a move towards these tiny homes. Of course, if someone buys one of these homes, they need somewhere to put it. Therein lies the role of the park operator. We have to be very mindful that this is a delicate balance. If we make it too difficult and uneconomic for the park operator or owner, they simply will not invest in that land and, therefore, it will become more and more difficult for people with park homes to find somewhere to place those homes. There are many reasons for people to go into a park home arrangement. One of those is obviously cost—people do not have to buy the land, so they can put their money into a park home. That way, they can get a quite comfortable home for a reasonable price, compared with buying a house and land. Another reason is security. For many older Western Australians, having people around them in a park environment provides a level of security from their neighbours and others in their quiet enjoyment of those premises. Of course, that can be problematic. This bill seeks to give people some comfort that when they own a park home, they will have some security of tenure.

The Standing Committee on Legislation undertook an inquiry on this bill and provided a report, which identified a few issues of concern. One of the main concerns is the Henry VIII clause, which provides for certain regulations to be undertaken. I think the recommendation was that we do not support that clause, which I think is clause 10.

The bill also provides for disclosure documents to be provided to people who are going to enter into an agreement with a park operator. Those disclosure documents need to be provided before the sale and people will have five working days—I suppose it is a cooling-off period—to establish whether the terms of that agreement meet their situation. One question I will ask the minister is whether that will apply to a resale. For instance, if someone who owns a park home says to the park operator that they are moving on and selling their park home to somebody else, will the owner of that park home need to provide disclosure documents to the person who is buying that park home or will the park operator have to provide them?

The bill also contains a provision to enable park home owners to make their own sale arrangements. In many cases, park operators are in control of who sells the park homes. Often, park operators will be the sales agent themselves and, of course, will require a fee to undertake that service. This bill will allow more scope for the park home owner to sell their park home. I have another question about this. Because there is no land involved, I do not imagine that someone would need a real estate and business agent licence to sell the property, because that licence relates specifically to the sale of land. If it is just the building, I would not imagine that someone would require a real estate and business agent licence. However, they might require a motor vehicle or caravan dealer's licence to be able to sell park homes as a business. Maybe the minister could enlighten us about that as well.

Specific disclosure obligations will apply to exit fees and other voluntary sharing arrangements, which will provide tenants with clear information on how much these fees will be over the life of their tenancy. Restrictions will apply to when these fees can be introduced, so long-stay tenants will have the freedom to decide whether this is the type of fee structure that suits their circumstances. Standard lease provisions will not be able to be changed. There will be a standard set of rules in every lease agreement and they cannot be altered. I imagine that a prescribed form will be gazetted so that the agreements contain those standard terms. The bill includes a power to prescribe standard-form long-stay agreements. As I mentioned, they will probably be gazetted. New provisions will be included in the act to regulate the nature, enforcement and amendment of park rules.

Amendments will limit the circumstances in which a long-stay agreement can be terminated to ensure that successors in title are bound by the agreement, especially in relation to fixed-term long-stay agreements. That is consistent with many commercial and residential tenancies that have a fixed-term lease. If the owner sells the property with that fixed-term lease in place, the new owner will need to take it over. Periodic leases are a little different. That will bring long-stay parks into that same arrangement; that is, if a lease is in place, that arrangement will continue, a bit like a lease surviving a sale. The act will be amended to show that long-stay agreements will no longer be automatically terminated when a mortgagee enters into possession. That is quite an interesting one for me. I know that in residential arrangements, for argument's sake, if a lease is involved and a mortgagee is taking over possession, they generally require vacant possession and the tenant will have to move on. New provisions allow for termination if a park is to be closed or redeveloped and the use of the site is to change and if vacant possession is required for work. Termination under these provisions will not be permitted before the end of the fixed-term agreement. Some of these fixed-term agreements could be for 30 years, so the park operator could be tied in for a very long time. Park operators will be given the right to apply to the State Administrative Tribunal for an order to terminate the agreement if a tenant repeatedly interferes with the quiet enjoyment of the park by other tenants. There is obviously the advantage of security for people who want to live in one of these arrangements, but also the risk of a nuisance neighbour who might cause issues within the park complex. There are some provisions to deal with people like that. The bill clarifies rights and obligations around the sale of a relocatable home onsite, and introduces mechanisms to ensure that potential purchasers are fully informed about the tenancy arrangements.

As I said earlier, this legislation has been a long time coming, which is a little unfortunate. Going back close to two years ago, I was approached by park home operators who were very concerned about their investments. Some of them had millions of dollars invested in park arrangements and it is their way of making a living. They have been very uncertain about this whole process. Fortunately, we moved this on to a committee to give them a bit of time to get themselves together, put submissions in, and give evidence to the committee to try to allay some of the arrangements. But we have not progressed for a long time, so they have been left in limbo, and the COVID-19 crisis has sat on top of that. There are a lot of very stressed residential park operators out there who are trying to get some certainty and move on with their business models. It has been very unfortunate that this has taken such a long time to get to where we are.

A considerable number of people are currently living in park home arrangements. In March 2017, it was estimated that there were 160 residential parks in Western Australia, with nearly 7 000 long-stay sites that are occupied. A significant number of people elect to use a long-stay occupation arrangement. The majority of tenants are homeowners, including of park homes and caravans, who rent a site from the park operator on a periodic or fixed-term basis, with many of them having a longer than 20-year lease.

In some circumstances, the park operator also owns the park home. They own the land and the park home. That is not a situation that I think is covered by this bill. They own the land and the park home, so it is a home and land situation. I think the Residential Tenancies Act should apply. Maybe the minister can clarify whether it would apply in those circumstances that the park operator owns the park home. Over time, that could be substantial. If someone owns a residential park—for argument's sake, let us say that 150 park homes are in that complex—and, over time, they buy one from someone who wants to move on, then they buy another one, they might end up owning half of them themselves and having to rent them out. The minister is indicating to me that in no circumstances will the Residential Tenancies Act apply to those tenants.

As indicated by Hon Nick Goiran, there are a large number of amendments on issue 6 of the supplementary notice paper. They are from not only the minister, but also other members of this place. I note that one of the amendments that I had about affixing items to a wall has been pretty much mirrored by the minister, which I am very pleased to see. There are a couple of little changes to wording in the last part. Rather than "in writing", it says "in an approved form". I suppose we will find out what an approved form is when we get into Committee of the Whole House. And there has been a change from seven days to 14 days, which I am not going to die in a ditch over. I am pretty relaxed about that.

I support this bill and I look forward to getting into Committee of the Whole so we can start to thrash out some of the issues that have been raised, both in the report from the Standing Committee on Legislation and the amendments

that are on the supplementary notice paper, and other issues that I am sure members will raise as we progress through Committee of the Whole. I, in principle, support the bill.

HON ALISON XAMON (North Metropolitan) [3.14 pm]: I rise as the lead speaker on behalf of the Greens on the Residential Parks (Long-stay Tenants) Amendment Bill 2018 and indicate at the outset that we will be supporting this bill. I am very glad that this bill has finally come on for debate. I am aware that the Park Home Owners Association has been very concerned about how long it has taken for this bill to come to the attention of the house. It has been very keen to ensure that this bill is debated and passed. I note that its members were very supportive of the moves by this house to send the bill to the Standing Committee on Legislation for additional scrutiny. I am glad that we are finally debating it. This bill, effectively, tries to strike an appropriate balance on the issue of residential parks. On the one hand, it needs to ensure that we achieve housing security and affordability, particularly for long-stay residential park tenants and, on the other hand, it needs to ensure sustainability for park operators so that they can reasonably continue to provide a much-needed housing option, and what is often a very valued lifestyle option as well.

Much to my pleasure, the bill provides for a statutory review after five years, the report of which is to be tabled in Parliament. That is good. It is one less amendment that I need to potentially contemplate. As I said, the house referred the bill to the Standing Committee on Legislation for consideration, including of policy, and I thank the committee members for the good work they have done on that. That standing committee comprises members from three of the eight parties in this house—the Labor Party, the Liberal Party and the Nationals WA. They delivered a unanimous report, which supported the policy of the bill and advised the house that they believe that this bill strikes a good balance between the interests of tenants and park operators, including the retrospective application of some of the transitional provisions. Nevertheless, because they diligently looked at this bill, they have made some recommendations to improve the bill, which we will deal with in the Committee of the Whole stage. Broadly speaking, the recommendations were to clarify a number of matters, delete a lot of the regulation-making powers that seemed to be unnecessary, remove two Henry VIII clauses, and address some matters that had been raised by the Caravan Industry Association of Western Australia. We will, obviously, talk about the substance of those matters further.

The standing committee also made some findings clarifying the effect of some of the other provisions of the bill about grounds for termination, periodic agreements and a number of other matters. The standing committee considered an issue that I had raised via a possible amendment, and I thank the committee for doing that. The committee confirmed that the relief contained in one of the proposed sections for when a term of agreement is harsh or unreasonable will be able to apply to existing agreements as well as to new agreements. I ask the minister to please confirm that that is correct. If an undertaking can be given during the second reading reply, I will not proceed with my proposed amendment.

The consultation that was undertaken by the standing committee for its report is also outlined. Apart from taking written submissions and oral evidence from the two main stakeholders—the Park Home Owners Association, as I mentioned, and the Caravan Industry Association of Western Australia—the committee also contacted and received a submission from Shelter WA. That submission has been made public, so I thank the committee for that. Shelter's submission supports the bill, while also cautioning that increased protections for tenants must not come at the risk of park closures, which would be detrimental to everyone, including the very tenants who we are trying to ensure have appropriate protection. Shelter's submission also states that it has the support of the Western Australian Council of Social Service. The committee made an effort to contact a number of appropriate stakeholders. The report also set out the consultation the government did before the bill was drafted, including half-day workshops with the two main stakeholders and consultation with government agencies, including the Department of Planning, Lands and Heritage, and the Small Business Development Corporation. Again, I thank the committee for its work and its very helpful report.

This is a significant piece of legislation because it affects a number of Western Australians. Currently, there are between 15 000 and 20 000 long-stay tenants in Western Australia and about 160 parks with anything from between 8 500 to 9 000 sites, so a considerable number of Western Australians will be impacted by this legislation. Around 25 parks are long-stay only, whereas I note the others tend to be mixed use, some with very few long-stay tenants. Parks are able to offer a very particular type of lifestyle and, for many people, they are a comparatively affordable housing option, especially in places where house prices are otherwise booming. It is significant to note that many long-stay tenants tend to be elderly Western Australians and a lot of them are living on low or fixed incomes. That means that they cannot afford to live anywhere else. I want to stress, though—this is something that has been reiterated to me very strongly—the vulnerability of a significant number of those long-stay tenants does not also reflect that it is a bad housing option. Many long-stay tenants are very clear that they love the lifestyle the long-stay arrangement can afford them. Their communities often tend to be quite small and very close knit. Smaller dwellings mean that they are very easy to maintain and enjoy and often residential parks tend to be in highly desirable locations. For example, people on low incomes often have the opportunity to live close to beach facilities or other

facilities that others want to be able to enjoy. The converse risk around that, of course, is that, unfortunately, over the years, long-stay tenants occupying locations that are highly attractive to developers have been caused a great deal of heartache when they have been ousted when residential parks have been sold out from under them to developers.

We have to recognise that the most heartache that occurs for people affected by these changes tend to be those tenants who own the dwelling but not the site that the dwelling is on when they are subsequently forced to move. Depending on the age and the state of the dwelling, we need to acknowledge that a lot of the time, unfortunately, the dwelling may not be capable of being moved anywhere. A dwelling's initial cost and/or quality ranges significantly. It can be as low as $20 000 to as high as $270 000. The life of a manufactured home can be as long as 75 years, but when a person is living in a caravan, it can also be significantly shorter. Even if the dwelling is capable of being moved, which, as I say, it may not be, the approximate cost of relocation can range from about $14 000 to as high as $40 000. Again, I remind members that we are talking about people who are often on low or fixed incomes. That amount of money can be absolutely prohibitive.

Hon Rick Mazza: It's more than the home is worth.

Hon ALISON XAMON: Hon Rick Mazza makes the point that often the cost of the relocation can be more than the cost of the home itself. That is actually true.

Of course, a number of things factor into the cost of this. We could be talking about disconnections and reconnections, if we are talking about dwellings that have been plumbed in, and also sometimes the dwellings need to be cut in half to be successfully transported. They then have to be reconnected and those things cost a lot of money. Therefore, it is quite likely, as I said, that the tenant may simply not have the financial means to relocate the dwelling. Even if they could afford to relocate, the cost of relocation could be so close to the cost of replacing the dwelling that it is just not worth it. Even then, if the tenant can overcome all those problems, there is the problem of finding a new site for the dwelling as well. The Park Home Owners Association has said that sites are increasingly hard to find and park operators are increasingly providing their own onsite dwellings rather than sites only. Also, as caravans become more and more self-contained, holiday-makers who own caravans are not necessarily needing a caravan park. This has reduced the demand for sites only, making fewer of them available to a relocating park home owner. The Park Home Owners Association says that selling the dwelling, unfortunately, is also next to impossible. The market for them is just too small; it is just really, really small.

The outcome of all this is that if long-stay tenants with their own dwelling are forced to relocate for any reason, they face the very real prospect of losing their homes and, unfortunately, with that, almost all the wealth that they may have accumulated. For exactly the same reasons, these home owners are extremely vulnerable to price gouging if park operators happen to be unscrupulous. Once they move in with their dwelling, they have to stay put or they run the risk of losing pretty much their main asset in life. They have certainly almost no ability to renegotiate their contract because, unlike other tenants, they cannot just move on if they do not like the terms. I am talking about an extremely unequal power imbalance. The Park Home Owners Association says that around 20 per cent of park home owners are currently on periodic leases subject to only 180 days' notice. Those people, of course, are the most vulnerable people of all.

I want to make some comments about some significant parallels with retirement village residents. Again, I am talking about a group of people who tend to love the lifestyle that they have chosen to move into but who have unequal bargaining power between the parties. Again, this tends to be older Western Australians who have their wealth largely invested in their home, with the difficulty and high expense of exit, hence the vulnerability of residents to unfair practices, unconscionable contracts and occasional unscrupulous contractors who choose to take advantage of this. At the same time, again, there needs to be a model that is viable for operators. I put forward a motion on retirement villages in this house, which was supported by the entire house in November 2018. At that point, I said that three changes were needed. We needed fairer contracts and training for managers because, unlike the usual residential tenancy, there are no trained professional managing agents who liaise between tenants and landlords. The actions of one manager, unfortunately, can affect a huge number of tenants. I also said that we needed a forum for dispute resolution that would not disadvantage either party, whether by expense or by the intimidating processes of a long delay. I note that I am talking about a group of people who are in a very similar situation to those who are affected directly by this legislation. I hope that we will see the second tranche of reform around retirement villages soon, because I know that that population of Western Australians is also very much looking forward to overdue reform.

There is quite a long history on this issue—the history of trying to find a balance between the interests of long-stay tenants and park operators. Since the 1970s, people have been living rather than holidaying in WA caravan parks. I note that at that time it was generally considered to be illegal, but the passage of the Caravan Parks and Camping Grounds Act 1995 allowed caravan parks to legally provide long-term residential accommodation. That act deals primarily with infrastructure issues because contractual and tenancy matters were regulated under the Residential Tenancies Act. However, the Residential Tenancies Act did not satisfactorily address the needs of this group of

tenants. I note that as far back as 2001 the Labor Party talked about amending the act to provide more certainty for residents in caravan parks and park home owners, and that the Greens, through my former parliamentary colleague and friend Hon Giz Watson, also drew attention to concerns in this area. At that time, in 2001, Hon Giz Watson talked about the unjust practices by certain park operators, including overcharging for electricity; 60 days without grounds for termination, despite it being almost impossible to move or sell a dwelling in that time; many tenants not having a lease; arbitrary extra charges, such as for visitors to use the pool; and park operators charging commission for the sale of park homes, despite not being involved in the change of ownership. The Greens raised these concerns 19 years ago. I know that at that time park operators were also unhappy with the act. They thought that it was too onerous, especially on evicting problem tenants. They raised the concern that often park operators were lessors of the residential park, which precluded them from offering long-term leases to tenants. Some park operators, like many long-stay tenants, simply had not understood or appreciated what they were buying into. A statutory review of the Residential Tenancies Act was split into two projects. One project focused on residential park long-stay tenants and the other on residential tenancies generally. That review led to the 2006 act specifically for this kind of tenancy.

In 2009, the Economics and Industry Standing Committee in the other place tabled what was, again, a unanimous report, which seems to be a common theme when Parliament starts looking at these matters, titled "Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia". That report identified that caravan parks providing people the opportunity for this sort of housing were starting to disappear and those that remained were being filled by long-stay tenants rather than tourists, and, importantly, that park operators found they needed to have at least some long-stay tenants to remain viable because it has the effect of stabilising their income. Obviously, issues arise with those parks that have a combination of tourism-based users and permanent residential users. Some had developed into purely residential parks and we had an emerging trend around lifestyle villages. It has been identified that there are two reasons people become long-stay tenants. As I said earlier, it is about lifestyle and being able to be in affordable accommodation in a location that can be quite desirable. Again, as I have already said, that report found that we are talking about elderly people with not many assets and few opportunities. I think the important thing to note in that report's findings, which is worth repeating, is that essentially these residents are one step away from having to be in public housing or even homeless. That is the vulnerability of the residents we are talking about trying to support. Once people are in a residential park, they often became trapped; they lose asset value if they move and are unable to find alternative similarly priced parks or other accommodation. The redevelopment of those parks in particular caused residents significant dislocation and often substantial hardship.

It seems to be a bit of a theme that a lot of people who buy into these parks are not necessarily fully aware of what they are buying into—that they do not own or have a lifelong lease over the land and their dwelling and can face imminent eviction. A lot of the time people do not seem to realise that. They also do not necessarily realise that even though they are buying a dwelling, that dwelling is depreciating over time while the value of the land belonging to the park operator is increasing. Some dwellings were being sold at vastly inflated prices, yet some dwellings deteriorate so much that it is not feasible to move them later on.

The Standing Committee on Legislation notes that the Economics and Industry Standing Committee in its 2009 report again confirmed that neither park operators nor long-stay tenants were happy with the act. Tenants were concerned about too little protection, whereas park operators were concerned that they had too much. There is contention around security of tenure, because even though the act requires agreements to be in writing, tenants felt their tenure was no more secure than before. Another source of contention was without grounds termination, with tenants resenting being required to relocate on only 60 or even 180 days' notice without reason or compensation, and park operators saying that it was too difficult to evict problem tenants.

A third problem was with the marketing and sale of dwellings. Tenants were finding that they were selling their properties to buyers who did not fully understand the terms of the leasing of the site that the dwelling was on. The Economics and Industry Standing Committee did not recommend amending the act, preferring to focus instead on increasing the supply of alternative forms of affordable and available housing, including park homes and lifestyle villages on low-cost rural-zoned land. That report recommended that the government identify land suitable for the development of these sorts of long-stay caravan parks and vest this land in local government authorities either in perpetuity or in a 50-year lease. The report also recommended that the Department of Commerce disclosure booklet be urgently revised to contain a clear and explicit notification of the limits of a long-stay tenancy agreement.

A further report arose out of a request by the Legislative Assembly that the committee investigate the closure of park homes and mass eviction of long-stay tenants, particularly looking at what had happened since 2006, to check that Residential Parks (Long-stay Tenants) Act 2006 had been complied with. At that time, all parties agreed that the act, unfortunately, simply was not delivering the outcomes that it was meant to. It was the same committee as in 2011. The committee took the opportunity to follow up the extent to which its previous recommendations had been implemented by the government and its agencies. I note that the committee did not consider the adequacy of the act itself. There have been concerns about trying to get accurate data about park closures, but it did appear at

that point that since 2006 about five parks had closed. That translated to a loss of about 323 long-stay sites. Those closures were happening because of increased land prices and increased operating costs that were luring operators into either selling up the subdivision or moving more into resort-style accommodation. That meant long-stay tenants were finding they were being evicted.

The committee noted that the Department of Commerce had begun compliance monitoring in 2010 and had audited 90 parks, but that proactive compliance monitoring was separate from the department's reactive complaints process. Via that compliance monitoring, 51 breaches were identified. Some of those were multiple breaches by the same parks and 26 breaches related to a lack of disclosure by park operators. I asked at the briefing for current figures on the rate of compliance monitoring by the department and how many and what kind of breaches are being identified in that way. I was subsequently advised that there were 97 proactive visits between June 2016 and February 2019.

I have not yet been advised how many breaches were identified that way and what kind of breaches they were, so I am asking whether the minister can please now supply that information.

On the problem of residents not being aware of the tenure of what they were buying, the Department of Commerce produced a document that explains the rights and responsibilities of each party to a long-stay contract and also introduced a seniors housing advisory centre that provides information around the pros and cons of all the available accommodation options.

On the issue of supply that I spoke about before, the Department of Environment and Conservation was commended by the committee for its progress in increasing the supply of camping and caravanning facilities for short-stay tourists. In contrast, I note that the Department of Planning got brickbats from the committee for a lack of progress in finding and procuring land for caravanning or rezoning cheaper rural land for lifestyle villages. The Department of Planning at the time argued that such land would be better used for agricultural purposes and expressed concerns about the logistics of providing sewerage and reticulation requirements and the proximity of essential services for lifestyle village residents in rural-zoned areas. I note that, at the time, that position was agreed by the Department of Housing, but it suggested that lifestyle villages on the fringes of country towns could be a solution. However, I note that consensus on this issue was not agreed and the committee considered that the Department of Planning just needed to try harder, particularly in relation to the Peel, Bunbury and broader south west regions.

Problems with particular parks have been brought to the attention of the Parliament in both houses for some time. A grievance was raised in the other place about an operator that was charging tenants arbitrary entry and exit fees of something between $20 000 and $30 000, about which they had never been informed. Following that first grievance, a complaint of unconscionable conduct was taken to the Supreme Court by the Department of Commerce. There is a history of concern about poor operators that really demonstrates why we need urgent reform in this space.

By the time the statutory review of the act had been completed in 2017, tabled, and subsequently considered by the department, the final position was finally presented by government. It was that the act continue to apply to both site-only and dwelling tenancies, strata title caravan parks and virtually all non-holiday tenancies, with contracting out of the act and/or standard contract terms prohibited; content enforcement in the variation of park rules; disclosure to tenants and prospective tenants, including consequences for non-disclosure; and no mandatory minimum fixed-lease periods. It also referred to the need to remove termination without grounds for periodic tenancies and replace it with expanded grounds for termination, and that contracts should not automatically terminate upon mortgagee possession. The review went on to put a range of other things around the way that leases needed to operate; the compensation that needed to be made available, and how one could do that; what to do when a sole tenant dies; and restrictions on rent increases. There were various recommendations around fees and charges and what the responsibilities of operators need to be. It referred to some of the conduct that was expected of operators and to the role that the State Administrative Tribunal could play.

Finally, the minister in this government announced that cabinet had endorsed reform. As a result, we have this bill in front of us. The changes that it makes are largely faithful to what had been explored. I note that, if passed, the bill will come into effect after regulations have been drafted. A question I have for the minister is where the regulations pertaining to this bill are at. I certainly hope that they are at least close to being drafted, because a lot of time has passed. That would enable the legislation to occur sooner rather than later.

I am satisfied that this bill is much fairer insofar as it relates to new contracts. As I understand it, tenants on existing contracts, including future tenants to whom an existing contract is assigned, will not get the benefit of three very important protections: the prohibition in the bill on market rent review; the prohibition in the bill on contract terms that prevent a tenant from selling a dwelling onsite; and the protection against termination of the lease upon mortgagee possession if the mortgage were entered into before the commencement of the bill. The rationale for this is that there is a limit to how much government can interfere with private contractual arrangements, especially bearing in mind their impact on the viability of a residential park.

The preservation of rent provisions in existing contracts, in particular, periodic leases, is a matter that really concerns the Park Home Owners Association WA Incorporated. It says that about 28 per cent of park home owners are on periodic leases subject to 180 days' notice, and that some of those existing contracts have a whopping increase in rent of six per cent annually, with the tenant having entered into the contract at a time when that was normal. That is just exorbitant. I do not know how that could ever be justified. I am very, very pleased to see that the Standing Committee on Legislation has confirmed that all long-stay tenants, whether on new contracts or existing contracts, including periodic leases, will be able to apply to the State Administrative Tribunal for relief if their contract terms are harsh or unreasonable. I think all members here would agree that a six per cent annual increase in rent or any other matter in the current environment would most certainly be harsh or unreasonable . That avenue has now been incorporated in clause 59. That is mentioned throughout the report of the Standing Committee on Legislation, but I once again ask the minister to please confirm for the record that the issue of the capacity to address harsh or unreasonable contract terms will apply to all long-stay tenants, whether existing or new.

As I said earlier, another thing that needs to improve is the managerial skills of residential park managers , because there are no trained professional managing agents who liaise between tenants and landlords, and the actions of one manager can affect a large number of residents. I have heard some pretty awful stories about how people have been treated by managers, sometimes because the managers simply do not know what they are doing, but sometimes it is a little bit more insidious than that. The retirement village sector is talking about requiring managers to get a certificate IV qualification, effectively. I acknowledge that although some residential parks are small, some are regional and some are mixed-use parks that may have only a few long-stay tenants, they still need to have some sort of training requirement. There is an absolute need for and merit to improving managers' skills to a level that ensures that everybody is able to live a harmonious existence, and that problems are less likely to be encountered and can be addressed promptly and appropriately when they are.

I would like confirmation of my understanding from the briefing, which happened a very long time ago, that an education campaign about all parties' rights and obligations will be rolled out with this bill . I am also aware of the department's landlord handbook and would very much like to see the department develop something along those lines for park operators. I understand that New South Wales has tried requiring managers to undergo a short course, but the content has not proven to be as useful as it could be. I ask the minister in her response to please explain in detail what this government will do to ensure that residential park managers have the information they need to carry out their functions effectively, which will be of benefit to not only park operators, but also long-stay tenants.

As I have mentioned, under this bill, disputes will be determined by the State Administrative Tribunal. I understand that the State Administrative Tribunal does not expect its workload to increase significantly and it believes it has sufficient resources to deal with its responsibilities. I therefore ask the minister to please confirm for the record that this is the case. I also ask the minister to please advise the house of the current waiting time for a SAT determination.

Another issue, of course, is that although the SAT process is less formal than that of a court, the reality, particularly for seniors and vulnerable people—this was certainly borne out by the investigations and deliberations of the inquiry into elder abuse—is that SAT can be a really intimidating place. We need to ensure that park home owners who attempt to utilise SAT for some sort of remedy can do so in a way that is accessible and not intimidating so that the process can be used as it is meant to be. I therefore ask the minister: what support will be given to long-stay tenants to help them effectively use the SAT process? An obvious way is to ensure that Tenancy WA or a similar entity can be resourced to help vulnerable tenants navigate their way through.

Of course, ensuring that we continue to have a good supply of residential park sites means that more affordable housing options are available for everyone and it increases the chance that long-stay tenants who ultimately have to relocate for whatever reason will have somewhere to go. As has been said in previous committee reports from the other place, the supply of affordable housing such as this very much needs to be pursued. To this end, I note that it has been previously said that it is important to zone caravan parks in perpetuity and/or procure more land. In fact, quite a lot of criticism has been made about the lack of progress on this. Again, the Park Home Owners Association WA has approached the government about zoning caravan parks in perpetuity and I understand that Shelter WA has also been advocating for social housing to be made available at caravan parks. I am therefore asking the minister to please update the house on the progress it has made towards zoning caravan parks in perpetuity to assist with the continued supply of sites.

I was contacted by the Caravan Industry Association Western Australia which raised concerns about SAT determining last October that to be a park home owner as defined under the Caravan Parks and Camping Grounds Act 1995, the dwelling must be a means of transport and not merely moveable. Our concern is that this creates uncertainty, so the association was seeking to amend the definition of "park home" in the act. That is not one of the acts being amended by this bill. The term used in the bill and in the Residential Parks (Long-stay Tenants) Act 2006 is not "park home", it is "relocatable home", which is defined quite broadly. With the sender's permission, I forwarded that correspondence to the minister's office in March and I received a response recently. I therefore ask the minister to please confirm that the matter has been considered by a working group and the outcome is that although

the bill is not being amended to address this issue because it has financial implications that would require Treasury consideration, current arrangements have been grandfathered and the Minister for Local Government will progress the necessary amendments. I understand that to be the case.

With those many comments—this is something I have been keen to see for quite some time, so I wanted to say quite a lot—I indicate once again that the Greens absolutely support this bill. We are particularly keen to get assurance from the minister that proposed section 62A will apply to existing contracts. I now look forward to going through the multiple amendments on the supplementary notice paper, many of which have arisen as a result of the good work of the Standing Committee on Legislation.

HON LAURIE GRAHAM (Agricultural) [3.54 pm]: I rise to make a few comments on the Residential Parks (Long-stay Tenants) Amendment Bill 2018, mainly from the perspective of the owners in residential parks as opposed to those in caravan parks. I understand that roughly 20 000 people will be affected by this bill. The group of people in residential parks—I will refer to two in particular—is very much disadvantaged due to advice that the State Administrative Tribunal cannot rule on compensation. Therefore, the problem all the residential owners have is that if they are told to move on because the park is to be redeveloped or for some other reason, there is no compensation.

I will move on to the two residential parks. At El Caballo Lifestyle Village, three gentlemen—Geoffrey Mitchell, Douglas Craig and Richard Johnson—did an extensive consultation on behalf of the 28 house owners there. Their concern for the last couple of years has been that the owner of that property was financially vulnerable, which is the easiest way to describe the situation. They went to SAT and had a win. When they went to implement SAT's ruling, they were told that if it were implemented, the lifestyle village would go into liquidation. They were shown the relevant clauses that determined they would not have been entitled to any compensation towards moving, so they are very anxious for this bill to pass as soon as possible. There is a slightly different problem at Harbour Pines Retirement Village in Geraldton, but I think it is a common problem elsewhere, whereby the owner looks at the bank accounts et cetera set up in trust for the purpose of the administration of these lifestyle villages as though it is his own money and does whatever he likes. Despite direction from the department that he is in breach of his contract, he takes no notice. A classic example is that not long ago, he advised the residents of a bill for over $20 000 for the NBN installation, which was done, in fact, for free in the Geraldton area. He put that $20 000-odd in his back pocket until it looked like the residents were going to go to SAT over it and he then put it back. For the last 10 months, they have paid for the office of a manager but there has not been a manager in place and the office is not there anymore to use. The residents are really frustrated and they desperately need this bill to go through so they can proceed with their life and be sure. At the same time, there is a high vacancy rate in both those villages. People are not moving into El Caballo. As I said 28 units are owned by residents and the owner owns three. Three are vacant but no-one has taken up the possibility of another 100 in that situation. In Harbour Pines in Geraldton, there are eight units, which are mainly deceased estates, that will not sell, so the deceased estates have to continue to pay the monthly fees until they are sold. That is another problem and it is all related to people waiting for the bill to pass.

I commend this bill and look forward to its passage.

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [3.58 pm] — in reply: I thank members very much for supporting the Residential Parks (Long-stay Tenants) Amendment Bill 2018 and I hope that we can make some good progress.

I notice that Hon Nick Goiran spent some time outlining his concerns about the bill's delay. I want to make it very clear that although it has been a long process, it started in 2012 with the review of the legislation and we got the bill approved and into the Parliament in mid-2018. It came into this place towards the end of 2018.

The ACTING PRESIDENT (Hon Matthew Swinbourn): Minister, can you stand in front of your microphone because the sound is coming in and out.

Hon ALANNAH MacTIERNAN: When it was due to be debated, it was evident that members in this place had a lot of concerns about it. Therefore, a decision was made to refer the bill to a committee because of the number of concerns raised in briefings. We did that. That came back in late March and then obviously the government had to consider the report and work out what it was going to do, what sort of changes would be involved and put forward some amendments because we do take the committee process very seriously. On 13 and 20 August, and 3 September, it was listed as one of the bills, and I think it actually was the second priority one week, but it was certainly amongst the government's priorities. However, as has been said, we had considerable difficulty getting all our priority legislation through and then come October, of course, we had the voluntary assisted dying legislation. There has certainly been no lack of enthusiasm by our government for this bill; it is just that it has been a challenge to get the legislation through.

Hon Nick Goiran went through a few of the issues that were of concern to the committee, and I very much appreciate his suggestion that we deal with those issues in committee rather than in the second reading response. I think that is very sensible and I will certainly do that.

Hon Rick Mazza focused on the needs of the park owners and he wanted to make sure that there is a commercially viable option to run and to operate these residential parks while at the same time giving security of tenure and conditions to tenants. The member asked why the legislation covers tenants that rent both the site and the dwelling and why would they not be under the Residential Tenancies Act. Indeed, that came up during the review, but the very strong feeling was that because there is a mix in most of the sites where some people own the dwellings themselves and some people rent both the land and the dwelling, it made more sense for everyone in that park to be regulated under one piece of legislation rather than having two pieces of legislation.

I note that the member said he found out only last night that this legislation was coming on. I have some correspondence from the office of Hon Sue Ellery that makes it clear that some correspondence was sent to that member on Wednesday, 6 May, indicating that in this week we had listed —

Hon Colin Holt: The supplementary notice paper only got published last night.

Hon ALANNAH MacTIERNAN: No, some of those amendments had been there for some time and there were further ones. Amendments were added to the latest draft last night—that is true—but some of those amendments have been in the supplementary notice paper, as I understand it, for quite some time.

Hon Nick Goiran: The whole bill's been there for some time.

Hon ALANNAH MacTIERNAN: Yes, but Hon Rick Mazza said he found out only last night that the bill was coming on. I do not know what happened, but I was sent a piece of correspondence that suggests the member was notified on 6 May. Anyhow, we will press on.

Hon Alison Xamon also talked about the need to make sure that we balance both sides—that security of tenure and fairness and decency in conditions—while ensuring that these operations were financially sustainable. She sought some very specific confirmations, one of which regarded proposed section 62A(2) and the ability to go to the State Administrative Tribunal when provisions are harsh, unconscionable or inconsistent with the act. Hon Alison Xamon can be assured that yes, this does apply to existing and future agreements. That advice has been confirmed by Parliamentary Counsel's Office.

Hon Alison Xamon noted that there were two half-day workshops, which were very extensive. They were with different stakeholder groups, which, I think, shows the level of engagement.

Hon Alison Xamon asked about the regulations. They are being prepared, although we cannot really finalise their preparation until the legislation is passed because we cannot predict which regulations we are going to need until this house has made a determination on the shape of the bill. But, obviously, changes that do not require regulations may come into effect very early on in the piece.

Hon Alison Xamon asked for figures on compliance monitoring. Over three years, there were 141 proactive compliance visits and no significant breaches were actioned. Generally, low-level matters were identified during these visits and they were remedied through education and by providing information to the park operators. There was a query regarding the ability for SAT to hear these matters. SAT was consulted during a review of the process and it has advised that it will be able to absorb the anticipated workload. It indicated that the direct majority of matters are resolved within nine weeks, and it has reduced fees for pensioners and concession card holders. Applications by concession card holders are generally reduced by around 70 per cent. The department provides advice and information services to long-stay tenants and operators. Also, in the event of a dispute, the tenants can lodge a complaint, which the department will seek to conciliate in order to avoid the need for the parties to make a SAT application.

Hon Laurie Graham talked very passionately about the concerns of residents and the awful circumstances that some of the tenants in a park home in his electorate are experiencing, and he pressed forward the need for us to have a dispute resolution mechanism in which harsh and unconscionable actions that are inconsistent with the act can be taken forward to SAT.

I thank members again for their support. Let us hope that we can make some progress on behalf of all those who live in and those who operate these residential park homes.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Matthew Swinbourn) in the chair; Hon Alannah MacTiernan (Minister for Regional Development) in charge of the bill.

Clause 1: Short title —

Hon NICK GOIRAN: I really have only one question on clause 1. The minister might recall that I referred to a letter from the Caravan Industry Association Western Australia in my contribution to the second reading debate. The letter is dated 29 March 2019. I want to draw the minister's attention to the final section of that letter. If the minister has a copy of the letter at her disposal, she will see that this four-page letter concludes with the heading "5. Additional change regarding the Caravan Parks and Camping Grounds Act 1995". The author of this letter is Craig Kenyon, the chief executive officer of the Caravan Industry Association Western Australia. He wrote —

> Finally, we have suggested one further change to the Bill which would have the effect of making a consequential amendment to the definition of "park home" in the Caravan Parks and Camping Grounds Act 1995 to provide clarity and certainty.

The part of the letter that I am particularly interested in states —

> We are meeting with the relevant Minister on 1 April 2019 to discuss this amendment in detail and intend to provide an update on this matter following that meeting.

My question is: did the meeting proceed on 1 April 2019; and, if so, what was the outcome of the meeting?

Hon ALANNAH MacTIERNAN: I understand that that meeting did proceed and that an undertaking was given to work to resolve the issue. I understand the attractiveness of the idea of popping in an amendment to deal with this, but as I understand it, we have had advice from both parliamentary counsel and the Clerk that it would not be appropriate to add it to this legislation because, although it is clearly related and something that does have to be dealt with, it really falls outside the four corners of this legislation. I certainly undertake to take this up with the Minister for Local Government. My recollection is that consideration of the Caravan Parks and Camping Grounds Act is underway, but I will seek to get an update from Minister Templeman on where that is up to. After that meeting, we did consider whether we could put an amendment in this legislation, but we were advised that that would not be the right thing to do.

Hon NICK GOIRAN: I thank the minister for her explanation. I accept the advice she has provided to the chamber that parliamentary counsel and the Clerk indicated to the government that to do something now would be outside the scope of this bill. It is regrettable that this matter was not addressed when the bill was in the other place, because I understand the other place has some capacity to extend the scope of bills to allow for this kind of thing. Unfortunately, we are not in such a luxurious position in this chamber, so we will have to press on. I think it would be fair and reasonable for the Caravan Industry Association Western Australia to be given a precise update on what the government is going to do. The minister indicated to the chamber that the best update it will receive is what she has said this afternoon; that is, the government is working to resolve the issue. The meeting took place on 1 April, not this year but last year. Putting to one side the Voluntary Assisted Dying Bill, COVID-19 and whatever other excuse the government wants to provide, I think it is reasonable that after 13 months the Caravan Industry Association be provided with an update.

I very much doubt that we will conclude proceedings on this bill today, given that there is a 15-page supplementary notice paper to get through. I note that most of the amendments come from the government.

Committee interrupted, pursuant to standing orders.

[Continued on page 2697.]

Sitting suspended from 4.15 to 4.30 pm