

Submission to the Residential Tenancies Act Review – Fairer Safer Housing

I write this submission as the owner and operator of the Log Cabin Park in Langwarrin, a suburb of the City of Frankston. Our caravan park is comprised of 150 sites, of which 27 are Part 4A sites, or “owner-renters,” and the remaining 123 sites are available to “renter-renters”. That is, the sites contain furnished, heated and air conditioned cabins which are available for medium to long term rental to caravan park residents.

My father, Robert Brown, established the caravan park in the early 1980s. Robert has an extensive background in property development after graduating from University of Melbourne’s MBA program in the 1970s. Prior to joining my father in operating the business full time in 2008, I worked in Property Valuation and was employed in an executive position with the Victorian Caravan Parks Association.

As the caravan park industry has matured over the past 30 years, operators have become increasingly professional and informed in our management approach, largely through the information, education and support provided by industry associations including the Victorian Caravan Parks Association and the Real Estate Institute of Victoria. We regularly attend conferences with the caravan parks Association and three of our staff members have undertaken formal training with the Real Estate Institute of Victoria.

Our caravan park is situated in an Industrial zone, though the surrounding developments are a mixture of residential and commercial property. Our caravan park residents enjoy easy access to public transport, local schools, TAFEs, hospitals, public swimming pools, the freeway network and two major shopping centres. Across the road from the caravan park is the McClelland Gallery and Sculpture Park, an internationally significant art gallery established in the 1970s and developed by the late Dame Elisabeth Murdoch AC DBE. From a personal perspective, my family and I lived in the caravan park from 1985 until 1993 so I can personally endorse our caravan park and its location as comfortably liveable.

We consider that we are providing affordable, safe residential accommodation of a satisfactory standard to relatively high-risk residents. Frankston ranks as the 8th most disadvantaged municipality in metropolitan Melbourne according to the SEIFA Index (Socio-Economic Indexes for Area) 2011¹. In addition to issues of low income, high unemployment, low educational attainment as reflected in the SEIFA ranking, the City of Frankston has ongoing problems associated with alcohol and drug abuse as well as violent crime².

The “relatively high-risk residents” referred to above include those who have been unable to secure private rental properties due to insufficient rental history, uncertain employment status or who have been otherwise disadvantaged by or discriminated against in the mainstream private rental market.

We also house people who seek out accommodation in caravan parks specifically as a first preference due the flexibility of our rental terms. We do not require residents to commit to a fixed

¹ http://www.parliament.vic.gov.au/images/stories/LRDCPC/Submissions/Submission_80_-_Frankston_City_Council.pdf

² <http://www.theage.com.au/victoria/frankston-has-one-of-the-highest-rates-of-hospital-admissions-for-alcohol-and-drug-abuse-in-victoria-20141118-11pcpd.html>

term lease and residents are required to give a minimum of only 7 days' notice when they wish to vacate the caravan park. 38% of our current residents have lived in the park for less than one year. 64% of current residents have lived in the park for less than 2 years. Our median length of occupancy for current residents is 1 year and 3 months.

Owner-renters of our 27 Part 4A Sites have chosen to live in our caravan park for lifestyle reasons, their average length of occupancy is just under 12 years and they help to provide a community environment within the caravan park.

Some combination of owner-renters and renter-renters is very common in our industry³. The Victorian Caravan Parks Association data shows that the vast majority of caravan parks in Victoria maintain some combination of Site Tenants, other residents and holiday-makers both short- and long-term. Residential Parks are a relatively recent development and represent the market's response to a shortage of affordable, independent-living style housing for our ageing Baby Boomer generation.

1. SECURITY OF TENURE

I note that Page 5 of the Consultation Paper states that security of tenure in caravan parks is a key issue in this review of the Residential Tenancies Act. Caravan parks have long suffered a stigma with respect to security of tenure that is arguably undeserved. Both the Australian Housing and Urban Research Institute and the Australian Bureau of Statistics have labelled caravan park residents as "marginally housed." Whilst these organisations originally based this characterisation on the existence of shared toilet and shower amenities, which are no longer required in caravan parks such as ours as each cabin has its own bathroom, this change in the standard of caravan park living is not reflected in the contemporary discussion of homelessness, social and affordable housing.

In a 2010 submission to the Family and Community Development Committee Inquiry into the adequacy and future direction of public housing in Victoria, Frankston Council stated the following⁴-

"Tenants in caravan and cabin parks have no security of tenure, and poor living conditions can exacerbate the complex social issues that residents often experience."

Legal security of tenure is granted to residents of caravan parks by the Residential Tenancies Act. The Act protects residents from forced eviction, harassment and provides a formal dispute resolution process through VCAT. The same Residential Tenancies Act provides tenants of private rental properties a similar level of security of tenure. The major difference between the two categories of renter is the reasons and notice period required to end a tenancy. The Act was drafted in this way to reflect the inherent differences between renting privately and renting in managed premises such as a caravan park.

³ Peter Corish, *Submission in response to Options paper: "Tenancy Policy Framework for Residential Parks"*, Victorian Caravan Parks Association, 2009, p3

⁴http://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/56th/ph/submissions/S94_Frankston_City_Council.pdf

1.1 Tenant Mobility

It is important to differentiate the particular needs of caravan park residents from those renting in the broader private rental market. There is a significant portion of caravan park residents who choose this form of tenancy specifically because of the flexibility afforded by the Residential Tenancies Act with respect to caravan parks, which is not available in other forms of rental housing. Security of tenure can be less important than flexibility of tenure due to the changing personal circumstances of a significant portion of caravan park residents. Examples of such groups include-

- **Workers on temporary projects.**

We currently house two residents who are performing work in relation to the broadband rollout in our region. They are unable to commute from their homes to work due to the distance and the duration of the project. We have also housed workers involved in the Peninsula Link construction for months at a time.

- **People who have recently separated from their partners/spouses**

Marital and domestic partnership breakdown causes significant housing difficulties for many families, as couples are forced to fund two households instead of one. Complicating the situation is the possibility of reconciliation. 17% of our residents who vacated the park over the past year cited familial reconciliation as their reason for vacating. In such circumstances, residents prefer the flexibility of caravan park accommodation rather than committing to a 6 or 12 month, fixed term lease.

Additionally, the superior level of security which managed premises such as caravan parks are able to provide can give assurance to those people who may be escaping violent relationships. Caravan parks frequently regulate vehicle access with the use of boom gates, on-site Managers are available during business hours and owners and managers frequently live on site in caravan parks. Log Cabin Park offers a security patrol service on call and an advanced digital surveillance system. Combined with the close-knit community aspect that parks provide, caravan park living can feel safer than other forms of rental housing.

- **People making the transition from extended hospitalisation or incarceration to living in the general community.**

Frequently such people require housing urgently but may not be prepared to commit to living in a specific location until they have secured employment.

Our caravan park runs at a higher vacancy rate than exists in the broader rental market, largely because of the shorter notice periods residents are required to give when they choose to vacate. This vacancy rate in addition to the fact that we have staff on site during business hours means that we can often organise housing for residents within a shorter time frame than in the broader rental market. Scheduled inspections, busy real estate agents, tenants required to give longer notice periods and the competition from other rental applicants can present impediments to the approval process in the broader rental market that do not apply to caravan park residency applicants.

○ **Casually employed and self-employed people.**

Employment uncertainty is a key factor in housing affordability for many tenants and residents alike. Due to the flexible nature of caravan park accommodation, residents whose employment status changes suddenly can give the minimum 7 days' notice of their intention to vacate, without concern for the financial responsibility involved in a long term lease.

For residents in all of the groups described above, caravan park residency enables a flexibility of tenure that is more compatible with their mobility needs. One of the major impediments to entering the private rental market for these residents is the possibility of a lease-break situation and its potential consequences, both short and long term.

In the event that a tenant of a private rental property wishes to vacate the property at short notice, he, she or they may have to break a fixed term lease. Lease-break costs to the tenant include:

- rent payable until the expiry of the lease or until a new tenancy begins at that property
- The cost of re-advertising the property
- Re-letting fees (administrative costs to the real estate agent)

If a tenant is facing severe financial hardship, they must apply to VCAT, pay an application fee and then prove their hardship to the Tribunal Member in order to have the fees waived or reduced. An additional, unseen cost of a lease-break situation is the potential effect on the tenants' rental history, which may obstruct their access to private rental accommodation in future.

By contrast, a caravan park resident is required to give only 7 days' notice of their intention to vacate. There are no lease-break costs because there is no lease.

1.2 Flexibility for the Caravan Park Owner

Although security of tenure is an important consideration for many tenants, there is a significant segment of the rental market who values the flexibility of tenure that is afforded to residents of caravan parks by the Residential Tenancies Act in its current form. Likewise, this flexibility is of equal use to caravan park owners as it enables the continued provision of affordable and safe accommodation.

A major difference between operating a caravan park and a private rental property is that we, as caravan park owners, are responsible for the safety, well-being and quiet enjoyment of all of our residents in 150 neighbouring sites. A private landlord is most often responsible for one tenant or tenants in one property, while an estate agent may be responsible for a large rental roll but the managed properties are rarely in immediate proximity to one another and the effects that one problem resident may have on his or her neighbours are of little concern to a real estate agent or private landlord.

In the context of a caravan park, the park owner's obligation to all residents means that it is important for the Residential Tenancies Act to enable shorter notice periods once it has been determined that residents must vacate the premises. This is particularly vital in situations of violence and danger on managed premises.

Unlike private landlords who use residential property investments as a means of capital speculation, income supplementation or tax minimisation, we as caravan parks owners rely on the caravan park business as our primary source of income. We consider ourselves professional landlords with 30 years' experience sustaining a profitable business model. Changes to notice periods for termination of residency will have a direct and significant consequence to the profitability of our business.

Of the residents who have vacated the caravan park within the past year, 13 sites were vacated due to eviction for non-payment of rent. The current notice period for residency termination due to non-payment of rent is 7 days in caravan parks. Should that notice period have been 14 days, for example, our business would have suffered additional losses averaging \$230 per site, or just under \$3,000 in total. It is technically possible to claim this additional amount from the resident's Bond, however with the waiting times for VCAT hearings of 2 – 4 weeks, the delay between the issuing of an order of possession and the execution of a warrant of possession by Victoria Police of up to 2 weeks, the total amount of unpaid rent would already exceed the Bond amount (4 weeks' rent) by the time the legal process of evicting a resident in arrears is completed. Further losses owing to cleaning, damage to cabins and unpaid power and gas losses would also be borne by the caravan park owner where the cost exceeds the Bond amount.

The unseen cost of increasing this notice period, however, is the inadvertent effect on neighbouring residents. Residents who are unable to pay their rent often fail to pay their power costs. In the past twelve months we have had two separate incidents of such residents effectively stealing electricity from neighbouring sites by breaking the locks on neighbouring cabin's powerheads and connecting outdoor extension leads to their own cabin. On one particularly memorable occasion in years past, a skilled resident stole natural gas by redirecting pipework supplying his and neighbouring cabins.

The logical consequence of increasing notice periods for park owner-induced termination of residency is to increase weekly rental amounts. This would threaten the affordability of caravan park accommodation and ultimately undermine the basis on which our business model is able to compete in the residential property market.

In operating our business, we find that the current provisions of the Residential Tenancies Act are sufficient with respect to minimum notice periods for terminating a residency. Whilst we rarely evict residents for reasons unrelated to non-payment of rent, it has not been our experience that residents encounter undue difficulty in obtaining accommodation elsewhere within the notice period provided for under the Act.

2. Closure of Caravan Parks

Within the Frankston area, we have seen some caravan park closures in recent years as bayside properties with main road frontage are acquired for higher density residential development. Additionally, we have observed one local caravan park transition from a traditional hybrid style caravan park into a Residential Village, offering exclusively Part 4A sites. These residents are required to pay between \$200,000 and \$400,000 to acquire a mobile home and then pay weekly site fees of some \$185 per week under a long term lease agreement. Owner-renter residents in our caravan park have not paid such high prices to acquire their cabins and our weekly site fee is

approximately \$50 per week lower than in the newer style residential / retirement parks. In the event that we were to redevelop our business in this style, the vast majority of our residents would be forced to find alternative accommodation as they may be unable to raise the funds required to purchase a mobile home at current marking pricing, and to cover the increase in weekly Site Fees. Residents in residential / retirement style parks pay a higher price for greater security of tenure, which is clearly a priority for these residents. Residents in more traditional style caravan parks do not necessarily view a long term lease as a benefit but in a lot of cases, as a restriction of their mobility and are likely to be either unwilling or unable to pay for this product of little perceived value.

3. Vulnerable and Disadvantaged Residents

Due to the affordable nature of caravan park accommodation, many of our residents belong to vulnerable and disadvantaged groups. Specifically, of our residents whose households are comprised of a couple with children, 40% are same-sex couple headed households. Additionally, we have housed many transgender residents over the past 10 years and consequently have become familiar with the specific issues faced by transgender people as well as those in the broader LGBTIQ community, including difficulty securing accommodation and employment as a result of discrimination by private landlords and real estate agents. Additionally, LGBTIQ residents have at times reported abuse and harassment from neighbouring residents, something which private landlords and real estate agents are powerless to prevent. Caravan park owners are empowered to act upon such complaints by way of enforcing our caravan park Rules thus ensuring our residents' peaceful and quiet enjoyment of their sites, a right to which all residents are entitled under the Residential Tenancies Act.

As professional landlords with decades of hands-on experience providing affordable accommodation in a socially and economically disadvantaged region, we take seriously our responsibilities under equal opportunity legislation and also the need to preserve the dignity of all residents. We do not feel that this conflicts with the aim of running a profitable business on an ongoing basis.

We feel that our position and approach is in stark contrast with that of private landlords, many of whom have limited experience, education or training in the provision of accommodation. Further, although real estate agents undergo a minimum level of formal training, which includes a briefing on equal opportunity obligations, they are ultimately guided by the direction of their landlord clients.

The loss or reduction of caravan parks from the accommodation sector would cause further disadvantage to already disadvantaged groups as options for independent, safe, secure and affordable housing would be restricted. This would in turn put further pressure on public housing.

4. Resolving Disputes in Caravan Parks

During her presentation to the Victorian Caravan Parks Association Annual Conference in August 2013, VCAT Member Jacquelyn Kefford reported that 400 applications relating to caravan park owners and residents had been lodged with VCAT over a three year period⁵. That amounts to less than one quarter of one percent of all Residential Tenancies disputes heard at VCAT per year. Of these 400 applications, Kefford stated that some 20% were brought by the resident and 80% by the caravan park owner. The data indicates the current method of dispute resolution through VCAT is not deficient. Kefford advised park owners that the miniscule number of applications made by residents is a consequence of good business practice and well written caravan park rules.

5. Conclusion

There are substantial differences in the motivations and circumstances of caravan park residents as distinct from tenants in the broader private rental market. The Residential Tenancies Act in its present form adequately accounts for these differences and provides a solid legal framework for an economically sustainable industry that provides relatively high-risk residents with safe, secure and affordable accommodation of a satisfactory standard.

⁵ Kefford, J. *Proceedings of the Annual Conference of the Victorian Caravan Parks Association*, Melbourne, 2013