

**Minister for Communities and Housing, Minister for Digital Economy
and Minister for the Arts**

**Response to
Community Support and Services Committee Report No. 24, 57th Parliament**

Housing Legislation Amendment Bill 2022

INTRODUCTION

The Housing Legislation Amendment Bill 2022 (the Bill) amends the *Housing Act 2003* (Housing Act) and the *Retirement Villages Act 1999* (RV Act).

On 22 October 2022, the Bill was introduced into the Queensland Parliament and was then referred to the Community Support and Services Committee for detailed consideration.

On 16 December 2022, the Community Support and Services Committee tabled its Report No. 24 on the Bill.

The Queensland Government response to the recommendations contained in the Report on matters raised by the Committee is provided below.

RESPONSE TO RECOMMENDATIONS

Recommendation 1

The committee recommends the Housing Legislation Amendment Bill 2022 be passed.

Queensland Government response

The Government notes the recommendation that the Bill be passed and thanks the Committee for its thorough and considered examination of the Bill.

Recommendation 2

The committee recommends that the Minister for Department of Communities, Housing and Digital Economy consider whether the definition of 'party' to a charitable donation needs to be clarified in the Bill, and clarify:

- *the evidence that would be required for a non-profit organisation to notify the registrar of titles of the existence of a charitable deed*
- *the process surrounding removal of an administrative advice, including the evidence that would be required of a person to remove the record of the existence of the deed from the freehold land register*
- *the need for modifications to the requirements of the Land Title Practice Manual.*

Queensland Government response

The Government notes that the intent of the recommendation is to ensure that a registered property owner can remove an administrative advice, where they are not also a party to the donation deed. The government does not consider it necessary to clarify the definition of 'party' to achieve this outcome. However, amendments will be moved during consideration in detail to ensure that either the registered owner of the property or a party to a charitable donation deed is able to remove the advice.

The Government also notes the intent of the recommendation that the process and evidentiary requirements for parties wishing to lodge or remove an administrative advice be clear for stakeholders. However, it is not considered necessary to amend the Bill for this purpose. Such details will be made clear in procedural information on the Titles Queensland website and in the forms for requesting the depositing or removal of an administrative advice. The Land Title Practice Manual includes information and examples to assist in completing all titles registry forms. Titles Queensland advise there will be no evidentiary requirements beyond the requirement for the form to name, and be signed by, the authorised party (or their solicitor). The Government notes the low likelihood of an unauthorised lodgement or removal of an administrative advice occurring, given the administrative advice itself does not confer any benefits or create any obligation to donate to Homes for Homes, nor does it permit or prevent dealings on the title. It is simply a reminder that a donation deed is associated with the property.

Recommendation 3

That the responsible department (currently the Department of Communities, Housing and Digital Economy) ensure that community messaging and communication materials associated with the donation deed model clearly and simply communicate the voluntary nature of the administrative advice and the process of removing the administrative advice if the registered owner of the land so desires.

Queensland Government response

The Government accepts the recommendation.

The Department of Communities, Housing and Digital Economy (the department) will work closely with Homes for Homes Limited, Titles Queensland and other stakeholders as required, to ensure that communication materials associated with the initiative provide clear messages about the voluntary nature of the donation deed model and how it works, as well as the purpose and nature of the administrative advice and the process for recording and removing any advice.

Recommendation 4

That the Minister for Department of Communities, Housing and Digital Economy consider whether there is a need to amend proposed new s 94I, paragraph (b)(ii)(A) of the definition of 'charitable donation deed' to include the words 'in the State', to ensure that when donated proceeds that are used to provide, or assist an entity to provide, a social housing service are so used only in Queensland.

Queensland Government response

The Government accepts the recommendation and considers it consistent with the policy intent of the Bill.

Amendments will be moved during consideration in detail to address the recommendation.

Recommendation 5

That the responsible department (currently the Department of Communities, Housing and Digital Economy) continue to consult with scheme operators, residents and other key stakeholders when drafting the proposed amending regulation to ensure that financial documents and statements available to scheme operators and residents are clear and appropriate.

Queensland Government response

The Government accepts the recommendation.

The department will continue to consult with scheme operators, residents and other key stakeholders when drafting the proposed amendment regulation and other financial guidance material for improved financial reporting for retirement villages. Consultation will be conducted through the Housing Legislation Consultative Group, comprising representative groups for scheme operators, residents, seniors and legal groups. Consultative Group members include the Property Council of Australia, Aged and Community Care Providers Association, Urban Development Institute of Australia, Association of Residents of Queensland Retirement Villages, Council on the Ageing Queensland, National Seniors Australia, Caxton Legal Centre's Queensland Retirement Village and Park Advice Service and the Queensland Law Society. The Australian Institute of Quantity Surveyors (AIQS) will also be consulted.

Recommendation 6

That the Minister for Department of Communities, Housing and Digital Economy consider amending the definition of 'quantity surveyor' to narrow the likelihood of a conflict of interest where the number of available/qualified quantity surveyors is limited.

Queensland Government response

The Government notes the intent of the recommendation to ensure there will be a sufficient number of suitably qualified and independent quantity surveyors in Queensland, especially in regional Queensland.

The Government does not support amending the definition of 'quantity surveyor' in the Bill, as defining a 'quantity surveyor' to mean a person who holds a member grade, or a fellow grade, membership with the AIQS is necessary to provide an appropriate level of assurance that quantity surveyors preparing reports for retirement villages are subject to professional qualifications and standards, continuing education and a code of conduct.

The AIQS code of conduct contains provisions on conflict of interest and how these are to be managed with the client and other interested parties. This includes, if a conflict cannot be removed or mitigated, allowing for the parties affected to mutually agree that the quantity surveyor can properly continue with the service, and the disclosure of the conflict of interest in any reports prepared for the client relating to the matter. This supports the policy intent of the Bill to maintain public confidence in the retirement village industry by enhancing the

financial transparency of the operations of retirement villages and the accountability of scheme operators.

The AIQS has advised the department that there are approximately 308 quantity surveyors with the required memberships operating across Queensland, including in regional areas. The RV Act requires independent quantity surveyors' written reports to be prepared annually for the village capital replacement and maintenance reserve funds.

The Government will monitor implementation and impacts for scheme operators and quantity surveyors, including the availability of qualified quantity surveyors in regional areas, resulting from the definition of quantity surveyors in the Bill.

Recommendation 7

That the Minister for Department of Communities, Housing and Digital Economy consider compliance measures to ensure any extra costs associated with the proposed financial reporting requirements are not passed onto retirement village residents.

Queensland Government response

The Government notes the recommendation and advises that the department's compliance approach will be to ensure that any extra costs associated with the new financial reporting requirements that scheme operators pass onto residents through increased charges are legitimate, justifiable, accounted for in budgets and financial statements and are allowable under the RV Act.

Under the RV Act and retirement village model, residents pay a general services charge which covers general services supplied or made available to all residents, such as management and administration of the village, including staff costs, and accountancy and audit fees. The RV Act sets out the requirements for fixing the general services charge each year, including allowable increases.

The Government does not support amending the Bill to exclude legitimate additional costs associated with the new financial reporting requirements being passed onto residents. It does not expect any new costs to be significant, other than first year implementation costs, and will enforce compliance with the RV Act to ensure residents are protected. Scheme operators may choose to meet additional costs from their own funds.

Recommendation 8

That the responsible department (currently the Department of Communities, Housing and Digital Economy) continue to consult with key stakeholders to ensure that all guidelines created under the Retirement Villages Act 1999 are clear and useful for both retirement village scheme operators and residents.

Queensland Government response

The Government accepts the recommendation.

The department will continue to consult with key stakeholders on guidelines created under the RV Act to ensure they meet the purpose set out in the RV Act and are in a form that is clear and useful for scheme operators and residents.

Recommendation 9

That the responsible department (currently the Department of Communities, Housing and Digital Economy) continue to consult with key stakeholders to ensure the proposed transitional arrangements are clear, appropriate and reasonable.

Queensland Government response

The Government accepts the recommendation.

The department will continue to consult with key stakeholders on the proposed transitional arrangements for the new financial reporting requirements to be contained in the amendment regulation to ensure these are clear, appropriate and reasonable for both scheme operators and residents. First-year transitional provisions in the regulation may be required for moving to some new requirements and implementation timeframes. The department will take a supportive and capacity building approach with scheme operators and residents to assist with understanding and implementing the new financial reporting requirements.

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Tabled ☒

By Leave ☐

MP: HON ENOCH MP.

Clerk's Signature: *Matthews*