

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Subcommittee

Inquiry into the retirement housing sector

Melbourne — 16 November 2016

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Dr Tom Jeavons, Deputy Chair, Peninsula Advisory Committee for Elders.

The CHAIR — Thank you very much for joining us, Mr Tom Jeavons, from the Peninsula Advisory Committee for Elders, or PACE. Before I invite you to make some opening remarks I will just caution that all evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege. We have allowed about 45 minutes for our time today. I invite you to make some opening remarks and thereafter the committee will have questions. I would like to thank you for your submission to the inquiry, which the committee has read.

Mr JEAVONS — First of all, thank you very much for the invitation to speak today. I make this presentation today as deputy chair of PACE, which as you said is an acronym for the Peninsula Advisory Committee for Elders. It is important to realise that PACE acts as a consultative committee to council. It is made up of volunteers, and their task is to keep their ears tuned to public opinion, particularly of older people who live on the Mornington Peninsula, and to advocate to the council on people's behalf. Before I start I just want to apologise on behalf of our chair, Jeanette Lane. She would have done this presentation, but she had another engagement. It is now my task to do it.

It is quite important to realise that the focus of this presentation is on residential parks. I know the scope of the inquiry is quite broad, but in this presentation today we are just going to have a look at caravan parks that have changed in nature over the years and become residential parks. The submission that PACE made in June makes a number of points, and I am glad of the opportunity to elaborate on those today.

In the last 10 years there has been a transition on the peninsula from holiday caravan parks to permanent residential accommodation, and this has happened almost by stealth. It has been done without adequate governance structures in place. We at PACE strongly believe that reforms are necessary, particularly at state legislative level, because to some extent the local council, although well meaning, are tied by the legislative environment in which they work, which is determined by the state. The risk is that some of these residential parks on the peninsula could, over time, develop into ghettos of poverty.

When you have a look at the population of the Mornington Peninsula, we have approximately 30 per cent or more — I think it is roughly 32 per cent — of people who are over the age of 60. When you compare that to the suburban areas of Melbourne, which have 14 per cent, it is more than double. We estimate that on the peninsula there are 39 caravan and residential parks and villages. We know that at least 11, possibly more, have permanent residents living in them, and we estimate that they would total over 1000 owner-renters. I know those figures sound a bit rubbery, and it is because there is basically a lack of hard data on this. Just recently there has been an attempt to get some more data, and I am going to present some of that today.

It is true to say that the majority of people living in this type of accommodation are older people who are retired or semi-retired. These are people who cannot afford, due to their circumstances, to live in the more expensive retirement villages. These people, because of the location of the parks, are very much marginalised, and there really is not adequate supervision and control of those parks to ensure their health and wellbeing. We consider this to be a serious issue. Just recently the Mornington Peninsula Shire Council funded a survey on residential parks which was conducted by the Peninsula Residential Parks & Villages Association. Although there is no report as such, I have got some early results. There were 11 parks surveyed. There were 5 returns out of 11 — 1 in Mornington and 2 in Dromana and another 2 in Hastings.

Ms SYMES — Sorry, do you mean that five replied?

Mr JEAVONS — Yes, 5 parks out of 11 parks replied. In each of those parks there were a number of returns. This is despite the fact that the survey forms were given to the park managers or owners. The Association only got back 5 out of the 11. The total number of returns from those five residential parks was 160 from individual people, which roughly represents about 25 per cent of the population in those five parks. We could argue that this is not a representative sample, but I think it is going to provide us with a snapshot of people who live in residential parks on the peninsula. I would like to just go through some of the early results.

Ninety per cent of those 160 replies were from people over the age of 60, with 16 per cent over the age of 80. Sixty per cent of the replies were from people who were single, and 90 per cent were pensioners. Women outnumbered men two to one. Almost all the residents who replied to the survey owned their own relocatable home on a leased site. The average number of years that they had spent on those sites was seven. Most had a written lease of some type — I will come back to this point in a minute — but it is interesting that 13 per cent

had no written lease. When we have a look at the length of the lease that was agreed to, it varies from 1 year to 99 years. There is tremendous variation across those parks.

The weekly rent on average paid by the residents varies, but it is mainly between \$120 and \$150 per week. That includes the cost of rates, rubbish collection, water and the maintenance of the park. It does not include, obviously, utility costs like electricity and gas. The manager, in some cases, was also the owner of the park, which makes negotiations tricky. A quarter of the parks had no residents committee. Two out of three of the parks did not have access to public transport because they were sited on outlying land where there was no bus service. One-third of the respondents to the questionnaire said that they were not aware of their rights as residents of these parks.

That is one type of data that has been collected in the last few months. In addition to that, PACE has also carried out some one-on-one interviews. We interviewed the chair of the Peninsula Residential Parks and Villages Group, and we also interviewed some members of the committee of Dromana Holiday Village. As I go through some of the recommendations that were made in the submission I would like to try to fill in some detail provided by those interviews and also the data that the survey produced.

The CHAIR — We have been through your submission. If you can focus on the additional points to what is in your submission, that would be useful.

Mr JEAVONS — Yes. You saw in that snapshot that there was quite a difference in the length of tenure of the lease and this is probably the no. 1 major concern to people living in these parks. There is clearly a need for some standardised leasing arrangement to provide better protection. I have heard some people say that even those leases that are 99 years in length have not yet been fully tested in a court of law. I do not know whether this is true or not, but there is some speculation about that. For this reason people who are living under those circumstances on these lease sites have quite a high level of anxiety because they feel that their rights are possibly not going to be protected.

The second issue I want to look at is the lack of consistency in the governance of residential parks. Some parks are well managed and well maintained with adequate safety, but at the other end of the spectrum there are some that are clearly not. When owners take over the park they sometimes act as managers as well as owners, and I know there have been at the Dromana Holiday Village over the last three years a large number of disputes between the residents and the owner/manager. I know that the owner has attempted to put managers in place, but the length of time they stay there is approximately two months. In the last three years I think they have experienced something like about 30 managers.

Fire and safety requirements are another issue. From the point of view of older people, there are special requirements, particularly if they are disabled and have mobility problems. The parks often do not have the amenities that allow them to fully participate in park life. On top of that, many residents report the fact that when they signed the contract to take over the relocatable home the contract that was signed was not clear and they did not fully understand the implications of each of the statements. There seems to be a large variation in the clauses relating to the exit and resale of relocatables. Some of these caravan parks, like the ones I know in Hastings, have high exit fees, which can be as much as 30 per cent of the sale price. The deferred management fee model obviously needs to be looked at. So PACE would recommend that contracts fully disclose all the details — the site fees, the projected fee increases, what is covered by the fee, the obligations of both the manager/owner and the residents. In the case of dispute resolution, we support strongly the establishment of a retirement housing ombudsman to administer complaints.

In regard to planning issues, this too is a problem area. In many cases local council have given permits for the establishment of these caravan parks on the outskirts of residential areas. In many cases these permits were given years ago when the parks were basically caravan parks, and from that point of view you could probably understand why the permit was given for locating there. But because many of them have now changed into residential areas, those locations which do not have good access to facilities and in particular do not have good access to public transport are difficult. The one at Dromana, for example, Dromana Holiday Village, has no footpath in front of it and people who wish to move from the park by foot to the beach have to cross a number of highways and negotiate part of the journey on grass. We would recommend that the whole planning process needs to be reviewed, in particular looking at the location of residential parks to ensure that public transport is available and, if it is not, we raise the question of maybe the possibility of building into the planning permit a requirement that the owner of the park provide a private bus.

The next issue is building regulations. In some parks the quality of the relocatable housing is very poor. Australian standards are not adhered to and there is no monitoring of these building standards because currently no building permits are required for relocatable homes. Therefore we recommend that that loophole be closed. Changes to the Building Act are needed so that they are covered by that Act. This will ensure much better building standards and will also ensure — and this is most important — provision for disabled access. Many of the relocatable units lack the space for ramp access, the hallways within the unit are too narrow for wheelchairs, there are no fire walls between units and units are placed extremely close together, which would mean that if there was a fire in one it could quickly spread to others.

I visited this week in preparation for this inquiry the Dromana Holiday Village and there was one unit pointed out to me that had been built on top of a stormwater drainage pit, and to access the pit the floorboards of the house have to be removed to expose the pit. How this happened we do not know. There was also another area where sewage was actually seeping to the surface because of poor plumbing standards. I was told that in regard to disabled older people there was one unit where an older lady, who I think had had a stroke, was living with her son, who went to work. Each morning he went to work he would lock her in the unit for the whole day because — well, I can only surmise — he did not wish her to come outside because of the risk of further injury to her. I passed one unit in that park that was two storeys high. It is extremely hard to believe that that unit is relocatable. There are quite a few others that are quite substantial units that have obviously gone well beyond what the original intentions were in building those relocatable homes. This needs to be attended to, and our recommendation is that there be a revision of the Building Act so that relocatable homes are included.

As I said before, the role of local council is limited, so clearly changes at state level are needed to cover residential parks. Ten years ago there were not many. Today on the Mornington Peninsula there are at least 1000 or more people living in this kind of accommodation. This is a significant problem. With the large percentage of people on the peninsula ageing and with our demographics the way they are there is going to be a need for more low-cost housing. The peninsula, as you probably know, is a strange mix of very rich areas and very poor areas. Those who come from the poor areas want to continue living on the peninsula, and in many cases their only option is to live in what was originally a caravan park, so they need adequate protection and they are not getting it under the current legislation.

PACE has looked at the legislation that is in operation now in New South Wales on residential parks, which came into effect at the end of last year. We would encourage the committee to maybe benchmark any proposed legislation against the New South Wales model. Thank you very much.

The CHAIR — Thank you very much for your submission and for the points you have made. We are looking at other jurisdictions and what they do with benchmarking and how we can learn from other jurisdictions, so we will definitely be looking at that New South Wales model.

Ms SYMES — Thanks for your presentation. Just in relation to your suggestion that building permits be applicable to residential parks, we heard evidence earlier today from the Victorian Caravan Parks Association that that was considered as part of the amendments in 2008 and it was dismissed by both the association and the government at the time due to the cost-prohibitive results that would apply, which would effectively cut people out of that as a housing option. Do you stand by the fact that building permits are the way to go despite the cost, or is there another way?

Mr JEAVONS — Jaelyn, I take your point, but what is more important, having a safe place to live versus having unsafe poorly regulated buildings.

Ms SYMES — I am just saying is the building permit the only way around that issue, in your view?

Mr JEAVONS — I am a layperson so my opinion really probably does not count too much. You really do need to talk to the experts in this area. I think you are right. One of the issues is that you would not want to bring in a building permit process that would increase the prices of those temporary homes to a higher level because that would negate the availability of those homes to people who maybe cannot afford more expensive homes. But that has to be weighed up against the health and safety aspects of living in an environment where the risk of fire is high because of the close spacing of the units, the poor plumbing and other aspects that are leading to probably other health problems related to sewerage and things of this sort. I think a balance has to be reached. I do not know what the other solution to this is, but I know with the building inspectors who work for the council, their hands are tied. They cannot go into those parks because as soon as they do they open up a Pandora's box

of problems that would be very expensive to fix and they do not have any legal power anyhow to make any recommendations.

But unless we do something about this we are possibly going to get that ghetto environment that you know is common in the United States of America where this same thing has been happening. It leads to very, very difficult environmental conditions. Given the fact that most people who live in these homes are older people who need a lot of support, I think we need to do the right thing by them by making sure the building standards are correct.

Ms SYMES — Just coming back to your security of tenure issue, what would be optimum for you — long-term leases? You identified the problem that is there. Do you think it should be open for negotiation to be longer or it should have to be offered so that there is a minimum 10 or 20-year period? I just was not clear on what you were recommending there.

Mr JEAVONS — Yes. I think there needs to be a minimum period. I do not know what that is.

Ms SYMES — Right; okay.

Mr JEAVONS — I know that 12 months is not adequate and that there are other people who are living in parks with no tenure at all. So clearly that is inadequate. I know that people who have, say, beach boxes on Crown land along the foreshore are on a 99-year lease. That seems to be the standard length of time for that kind of thing. But this is not Crown land, it is privately owned land, so this is a question that the lawyers need to sort out. I am not a lawyer so I cannot really give an educated opinion. The main point is to have a minimum period of time, which is then standardised so that everyone knows exactly what the situation is. It might be 10 years, it might be 20 years, it might be 99 years.

Ms SYMES — And potentially the whole thing is undermined by the fact that you can be asked to vacate without cause anyway?

Mr JEAVONS — Yes. It is interesting. I got some information from the Mornington Gardens Holiday Village. This was a document that they were required to sign four years ago. It was based on the Victorian Caravan Parks Association document, the part 4A agreement. I am not sure whether that has been updated in the last year or so, but there are clauses in here that clearly violate the rights of the owners of these relocatable homes. For example, if a couple are in a relocatable home and one dies, then this document put together by the Victorian Caravan Parks Association suggests that the person who is left after the death of a spouse has to vacate the unit and the unit itself has to be removed from the park within a certain period of time. Now, the person who was the manager, or currently is the manager, of the Mornington Gardens park rightly put this document before the residents committee and allowed them to make some suggestions, and those clauses that were in the original document have been deleted so that single women or single men do not have the home that they have been in for a number of years ripped out from underneath their feet. But that document was used four years ago, and it is clearly biased towards the owner of the caravan park rather than the residents of the park.

So whatever legislation comes into effect, it needs to try to take that balanced view of protecting the rights of the resident, but also the rights of the owner need to be protected in a balanced way. At the moment some of these documents that are floating around seem to be skewed more towards the owner rather than the resident.

The CHAIR — Thank you very much for your evidence today and for the submission to the inquiry. We very much appreciate it. The Hansard transcript will be with you in the next week or so.

Witness withdrew.