

Western Australia Division

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AUSTRALIAN PROPERTY INSTITUTE (Inc)
WESTERN AUSTRALIAN DIVISION

SUBMISSION TO

**SUBMISSION TO GOVERNMENT
OF WESTERN AUSTRALIA,
DEPARTMENT OF COMMERCE,
CONSUMER PROTECTION**

IN REGARD TO

*Statutory Review
Residential Parks (Long Stay Tenants) Act 2006*

Prepared for API (WA) by:

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17 September 2014

Statutory Review of the Residential Parks Legislation
Department of Commerce
(Consumer Protection Division)
Locked Bag 14
Cloisters Square PO
Perth WA 6850

By email: consultations@commerce.wa.gov.au

RE: Statutory Review of the Residential Parks (Long-Stay Tenants) Act 2006 (June 2014)

Thank you for the opportunity to submit comments on the Statutory Review of the *Residential Parks (Long-Stay Tenants) Act 2006* (June 2014).

The Australian Property Institute (API) originally known as the Australian Institute of Valuers and Land Economists, was formed in 1926. Today, it represents the interests of approximately 9,000 property experts throughout Australia, and is the country's peak professional property organisation. The API represents the interests of more than 700 property professionals in WA. The majority of API members are valuers including residential, commercial and plant and machinery valuers.

The membership also includes property advisers, property analysts and fund managers, property lawyers, and property researchers and academics. The API has individual membership, not corporate membership.

The API's role is to set and maintain the highest standards of professional practice, education, ethics and professional conduct for its members and the broader property profession. The API has established numerous standards and guides contained in the Australia and New Zealand Valuation and Property Standards Manual prepared in conjunction with the Property Institute of New Zealand. The API routinely consults with governments and government regulatory authorities on behalf of its members and makes submissions to them.

The Australian Property Institute – Western Australian Division provides the following comments in relation to the key issues and proposals detailed below (limited to those sections which are considered of relevance to our members)

Key Issues and Proposals

Termination of Tenancy on the Sale of Park if Vacant Possession is required (p54 of Consultation Regulatory Impact Statement)

Subject to necessary Notice being given to Tenants, the API supports the Operator's right to terminate a lease if the property is placed under contract subject to vacant possession.

As a number of caravan parks have strong underlying land values, a caravan park operation may not necessarily represent the site's highest and best use.

If the site's highest and best use is not as a caravan park, a detrimental lease could potentially negatively impact its overall market value.

The API believes that a Caravan Park Operator should be able to maintain the right to sell a property in accordance with its highest and best use principles.

The API reiterates the importance of the status quo remaining the same.

Point 11 – Compensation (p62 of Consultation Regulatory Impact Statement)

Although the API generally supports Tenants being entitled to fair compensation, we believe it is imperative that new legislation is clear of what should and should not be compensated.

If the new legislation is not clear, a Caravan Park Operator could potentially expose themselves to unnecessary litigation.

If the new legislation is not clear and operating a caravan park becomes too litigious, we believe that it could potentially make caravan parks not desirable to own and operate.

As a result we believe unknown compensation costs, increased litigation and high insurance premiums could negatively impact the market value of a caravan park.

Rent Variation (p88 of Consultation Regulatory Impact Statement)

The API is of the opinion that both Tenants and Caravan Park Operators should be able to freely negotiate rental increases payable over the term of the Tenancy Agreement.

We believe that fixing rent reviews to the Consumer Price Index (CPI) could potentially negatively impact the viability of a caravan park.

Depending on market conditions, fixed or CPI rent reviews can either create a below market or above market passing rent.

Regular open market rent reviews that do not include a ratchet clause would allow for a rent to be corrected to reflect what other residents are paying in comparable caravan parks.

The API reiterates the importance of the status quo remaining the same.

The API appreciates this opportunity to provide comment and is interested in submitting further comment once draft legislation has been prepared.

Please feel free to contact us if further clarification of any elements of this submission is required.

Yours sincerely



Kevin Di Prinzio
Chair of the Legislative Review Committee
AUSTRALIAN PROPERTY INSTITUTE (WA DIVISION)