

Review of the *Retirement Villages Act 1999*

Decision Regulatory Impact Statement



August 2017

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1 Introduction

1.1 Executive summary

The Decision Regulatory Impact Statement (Decision RIS) is a stand-alone document that builds on the 2014 Consultation Regulatory Impact Statement (Consultation RIS) and the further work and consultation undertaken in 2016 and 2017 for the *Queensland Housing Strategy 2017-2027* (Queensland Housing Strategy). It makes recommendations to either implement as proposed in the Consultation RIS or implement with changes, stating reasons for the changes including those as a result of further consultation responses and research.

The *Retirement Villages Act 1999* (the Act) regulates retirement villages in Queensland and has been reviewed to ensure that it continues to meet community expectations, protects residents, promotes fair trading practices and encourages the growth and viability of the retirement villages industry.

On 2 August 2012, the Legislative Assembly agreed that the then Transport, Housing and Local Government Committee should review the Act. In November 2012, the Committee published its report, which recommended 37 reforms (Report No. 13, *Review of the Retirement Villages Act 1999*). Throughout 2013, a Ministerial working party of key industry and consumer representatives proposed several measures to address the Committee recommendations.

The Office of Best Practice Regulation nominated four issues which, prior to implementation, required regulatory impact assessment to weigh up the impacts on business, community and government. A Consultation RIS was released for public consultation on 12 August until 24 September 2014. A total of 34 submissions were received.

The four issues and associated options assessed in the Consultation RIS were:

- The legal, financial and practical considerations when an existing retirement village closes down, including whether compensation should be paid to the remaining residents and how village units are valued. Reform options include (a) making it compulsory for the retirement village scheme operator (operator) to disclose, in the village public information document, what they will do if the village closes, and (b) amending the Act to prescribe a series of requirements which the operator must consider when managing closure of their village.
- Managing behavioural issues such as harassment, intimidation and infringement of privacy between residents and other people at a retirement village. Reform options include (a) making it essential for the operator to disclose, in the village public information document, how they will manage key behavioural issues, and (b) amending the Act to introduce fairness principles and enable any breaches to be resolved by the dispute resolution process or through arbitration.

- Whether operators should be able to offer prospective residents alternative payment models to the model prescribed in the Act, such as charging rent instead of asking for payment of an exit fee, and how such models should be developed. Reform options include (a) allowing operators to devise alternative payment models, which must incorporate adequate terms to protect consumers, and (b) amending the Act to prescribe the alternative payment models, which operators may then adopt, together with the corresponding terms to protect consumers.
- Whether a resident who has left the village should be entitled to their exit entitlement before resale of their unit, particularly in circumstances where there is a significant delay in reselling the unit. Reform options include (a) making it compulsory for the operator to disclose, in the village public information document, whether they offer early payment of the exit entitlement, and (b) amending the Act to make it compulsory for the exit entitlement to be paid to the resident after 18 months, unless this would cause undue hardship for the operator.

In 2015, the incoming Government made an election commitment to “examine the results of the consultation thus far to determine if a more extensive solution is required before a response to Report No. 13 – *Review of the Retirement Villages Act 1999*”. The Department of Housing and Public Works (the department) subsequently conducted research and consulted with working party members individually about reform options.

During 2016, further consultation took place as part of the community engagement process for the development of the Queensland Housing Strategy. In September 2016, targeted consultation on proposed options was undertaken with industry, consumer advocates and resident representatives, and on 24 May 2017 key preferred options were presented to the Ministerial Housing Council for consideration.

A set of preferred options was identified after consideration of the submissions received through the Consultation RIS process, and subsequent consultations for the Queensland Housing Strategy conducted during 2016 and 2017. The preferred options aim to enhance consumer protection balanced with industry viability and ensure effective compliance processes.

The preferred reform options for the four issues set out in the Consultation RIS are to:

- require a new process to ensure consumers are protected where there are changes to village operations, including village closure and wind-down, village takeover and village redevelopment
- introduce prescribed behavioural standards for operators, staff and residents
- continue to consider matters relating to alternative payment models beyond the timeframe of this Decision RIS, considering the need for further extensive consultation and the depth of the cost/benefit analysis required to address this issue
- require village operators to pay residents their ‘exit entitlement’ 18 months after the resident leaves unless this would cause the operator undue hardship.

Industry and operator stakeholders have generally provided qualified support for the preferred reform options dealing with changes to village operations and prescribed behavioural standards. Operators have concerns that the proposed requirement to pay residents their exit entitlement within 18 months of leaving the village is a disincentive to investment, which they claim may significantly impact on rural and regional operators and

potentially impair otherwise solvent operators. Their preference is to allow market forces to prevail, although acknowledge that operators need to commit to their exit entitlements policy (for example by disclosure in the pre-contractual documentation).

Retirement village resident stakeholders are supportive of the preferred options for changes to village operations, prescribed behavioural standards and the requirement that the resident's exit entitlement be paid within 18 months, although some residents would prefer a six-month period.

A two-staged approach to progressing the reform options is proposed. This would enable regulatory amendments to be implemented in the short term for: new processes and consumer protections related to changes in village operations, prescribed behavioural standards, and exit entitlements. Reforms to alternative financial payment models would be examined through further consultation and economic modelling to consider potential impacts on industry viability and consumer choice.

This further consultation and research will be considered in the context of the continued modernisation of the housing regulatory framework so consumers are protected and empowered and the industry can supply quality services. This includes a commitment under the Queensland Housing Strategy to streamline the legislative frameworks for regulated forms of housing (such as retirement villages and residential parks) to promote resident protection, innovation and regulatory consistency.

1.2 Overview of the retirement village industry and schemes

There are presently 315 retirement village schemes registered in Queensland. Most villages are in metropolitan areas, particularly Brisbane and its surrounds, and along the coast. The industry estimates there are approximately 28,000 units and around 42,000 Queenslanders residing in retirement villages, with the majority of units occupied by single people. Although a person must be at least 55 years of age to enter a retirement village, the average entry age is now closer to 75 years.

Villages are operated by either not-for-profit, church/charitable entities or by commercial businesses. There is an increasing trend for new retirement villages to be developed in conjunction with a separate, but co-located and linked aged care facility.

While there is great diversity in the types of retirement village schemes presently on offer in Queensland, there are some features and regulatory requirements which are common to all. A retirement village scheme is a contractual agreement whereby older or retired people acquire a right to reside in a retirement village. The village itself consists of self-contained units and communal facilities. Each village is managed by a scheme operator. According to the Act, the operator must register the scheme with the administering department (section 27) and also lodge the village public information document (PID) and annual financial reports (section 35).

Most villages are leasehold, where ownership of a unit remains with the operator, and residents enter a 99-year lease registered on the title deed for their unit. A variation on this (common in the church and charitable sector of the industry, and increasingly common in the commercial sector) is a licence arrangement, whereby the resident's right to reside is not registered on the title deed.

Another variation are freehold villages, which arose from existing group titles (body corporate) schemes that restructured to fall within the scope of the Act. In these villages, the resident holds freehold title to their unit, and although this creates an overlap in legislative requirements between the Act and the *Body Corporate and Community Management Act 1997*, any inconsistency is resolved in favour of the *Retirement Villages Act 1999*.

1.3 Retirement village legislation

Before 1989, there was no specific retirement village legislation in Queensland. The Act was a combination of retirement village laws from other jurisdictions, and was introduced to address the needs of consumers arising from rapid growth in this new type of housing. The Act, which commenced in 2000, introduced key accountability and transparency requirements, particularly the resident and operator funds used to meet maintenance and capital costs, respectively.

Following an extensive review of the Act, the *Retirement Villages Amendment Act 2006* was passed. This resulted in major changes to village budgeting, resident meetings and the meaning of key definitions. There were also amendments to the rights of a relative or spouse of a resident living in the village and resident charges, which accrue after the resident leaves their unit but before it is resold.

One of the key objectives of the Act is consumer protection, which is shown through clearly outlining rights and obligations, and by regulating operator's decisions. Without such a focus, the Act would not recognise the particular vulnerabilities of consumers covered by the Act, which may lead to a failure in the regulations if the retirement village industry is no longer able to help the needs of the very consumers it serves. Such statutory intervention is therefore in the public interest; to the extent the benefits produced outweigh the costs associated with restricting competition.

The effectiveness of the legislation to protect consumers may be gauged according to its ability to help residents and prospective residents to effectively assess the facilities, services and financial requirements of individual retirement villages. This will help consumers decide whether that village suits their needs and circumstances, and to compare different villages and contrast retirement villages with other types of accommodation for older people.

1.4 Review timeline and consultation

Since 2012, the Queensland Government has undertaken extensive consultation with a range of key stakeholders (industry, resident advocacy groups and residents) and the general public regarding issues with the Act. The key events in the review of the Act are:

- Following the 2012 state election, in the July-December 2012 'Six-month action plan', the government at that time committed to 'commence a review of the Retirement Villages Act to ensure the welfare of seniors is protected'.
- The review of the Act was referred to the then Transport, Housing and Local Government Committee of the Parliament, which released a report on 29 November 2012 entitled 'Review of the *Retirement Villages Act 1999*', being Report No.13 of the

Transport, Housing and Local Government Committee, which contained 37 recommendations.

- On 26 February 2013, the Honourable Tim Mander MP, Minister for Housing and Public Works, tabled the Queensland Government response to the report of the Committee.
- On 25 March 2013, the first meeting of the Ministerial working party was held, with seven subsequent meetings held from April to October 2013.
- On 5 December 2013, the Ministerial working party presented an Outcomes Report to the Minister, outlining its proposed action in relation to the recommendations of the Committee.
- On 12 August 2014, the then Government released a Consultation RIS for public consultation until 24 September 2014, receiving a total of 34 submissions.
- In early 2015, the incoming Government made an election commitment to “examine the results of the consultation thus far to determine if a more extensive solution is required before a response to Report No. 13 – *Review of the Retirement Villages Act 1999*”.
- In March 2016, the Government released the *Working together for better housing and sustainable communities* Discussion Paper for state-wide consultation to July 2016 for development of the Queensland Housing Strategy.
- In September 2016, the department held separate stakeholder meetings to discuss proposed reform options, comprising an industry roundtable meeting, a consumer advocate roundtable meeting, and a retirement village resident workshop.
- In May 2017, the Ministerial Housing Council was presented with some key preferred options.
- In July 2017, the Government released the Queensland Housing Strategy and *2017-2020 Action Plan*, which committed to ‘amend the Retirement Villages Act 1999 and the Manufactured Homes (Residential Parks) Act 2003 to improve pre-contractual disclosure processes and introduce new behaviour standards to make it easier to address undesirable behaviour in residential parks and retirement villages, and if necessary, undergo dispute resolution processes.’

1.4.1 The report of the Parliamentary Committee

The Issues Paper released by the Committee attracted 23 written submissions, with several of those contributors invited to address the Committee at the public hearing. The final Committee report contained 37 recommendations, ranging from straightforward initiatives such as publishing factsheets through to significant amendments to the Act.

1.4.2 Ministerial working party

In early 2013 the former Minister for Housing and Public Works convened a working party to ensure stakeholders were involved in both testing the reasoning behind each recommendation and developing options for legislative and other required actions.

The Ministerial working party represented diverse interests, and some members agreed more strongly than others about certain outcomes. Despite this, proposals to address all 37 recommendations were ultimately endorsed by the working party in the Outcomes Report presented to the Minister in December 2013. It should be noted members sometimes compromised to reach a negotiated outcome, on the basis that most outcomes

would be subjected to further (and broader) consultation (including during the RIS process) before being implemented.

1.4.3 Consultation RIS

The options outlined in the Consultation RIS arose from discussions of the Ministerial working party, and reflect an informed view of the costs and benefits occurring as a result of different courses of regulatory action.

As part of the Consultation RIS process a qualitative risk analysis was conducted on the potential costs and benefits of the various options, to broadly assess each alternative in terms of its impact relative to the other costs and benefits.

The Government received 34 submissions from stakeholders in response to the Consultation RIS, ranging from retirement village residents to peak bodies such as National Seniors Australia and industry peak bodies such as Leading Age Services Australia Queensland (LASAQ). Consultation also included face to face meetings with stakeholders prior to the release of the Consultation RIS for public consultation. See Appendix 1 for list of submissions.

1.4.4 Housing Strategy consultations

In 2015, the incoming Government made an election commitment to “examine the results of the consultation thus far to determine if a more extensive solution is required before a response to Report No. 13 – *Review of the Retirement Villages Act 1999*”. The department subsequently conducted research and consulted with working party members individually about reform options.

During 2016, further written submissions and consultation occurred as part of the community engagement process for the development of a Queensland Housing Strategy. In September 2016, targeted consultation on proposed options was undertaken with industry, consumer advocates and resident representatives, and key preferred options were presented to the Ministerial Housing Council on 24 May 2017. Further consultation occurred with the Ministerial Housing Council and other key stakeholders on the draft Bill in July 2017. See Appendix 2 for list of consultation participants.

2 Introduction to issues

The main objects of the Act (section 3) are to:

- (a) promote consumer protection and fair trading practices in the operation of retirement villages and supply of services to residents, and
- (b) encourage the continued growth and viability of the retirement village industry.

In an increasingly competitive market for retirement housing and lifestyle, sustained profitable growth of the retirement village industry is dependent upon satisfying existing consumers as well as attracting new consumers. Industry and government face a number of challenges in enabling the provision of these valuable services against the backdrop of legacy industry and regulatory arrangements, some of which are delivering sub-optimal outcomes for industry and consumers.

For the retirement village industry to be viable, it needs to ensure this accommodation model continues to be available to assist housing an ageing population, but also supports residents by ensuring they can resell their units, and do so quickly and at a good price.

The real conflict between these objectives is related to the degree to which the consumer protections in the Act are prescriptive. On one hand, it is common for residents to demand tighter regulation to deal with emerging issues, yet on the other hand operators often push for increased flexibility to permit individual villages to manage issues. Such conflict is understandable, given that the Act prescribes a one-size-fits-all regulatory framework for an industry which, although endorsing the same contractual model for rights and obligations, encompasses a very broad variety of village types: from small, church and charity run villages in regional areas, to large, high-end villages in cities, and a range of variations in between.

The main objective of this Decision RIS is to identify the balance of prescription and flexibility needed to ensure the workability of any regulatory change for protecting the welfare and interests of residents without compromising the viability of the industry.

The following four areas originally identified in the Consultation RIS and considered further through subsequent consultation present challenges in meeting these dual objectives:

1. **Changes in village operations** (including village closure and wind-down, village takeover and village redevelopment). The Consultation RIS limited this issue to village closure (deciding the processes to be followed should a retirement village need to close down), however subsequent stakeholder consultations and issues within the retirement village industry indicated that reform options should address the broader issues of changes in village operations.
2. **Behavioural standards** (management of behavioural issues affecting interaction between people at a retirement village)
3. **Alternative payment models** (allowing operators to offer prospective residents payment models which are different to the model presently prescribed in the Act)
4. **Early payment of the exit entitlement** (whether a resident who leaves a retirement village should have access to their exit entitlement before resale of their unit).

Other issues raised by the Parliamentary Committee and/or the Ministerial working party about the Act, and the proposed action to address these were included in the Consultation RIS. Although some of these additional issues will require regulatory change, and have been the subject of consultation, none were assessed as having a significant impact on the community, business or government. Therefore, these were not included within the impact analysis in the Consultation RIS, and are not addressed in the Decision RIS.

2.1 Pre-contractual disclosure

One critical theme applying to the four issues in the Decision RIS is the extent to which they could be addressed by improving disclosure of contract conditions prior to signing of those documents (pre-contractual disclosure).

Improving pre-contractual disclosure is presented as an option to address three of the four key issues examined in this RIS. In such instances, pre-contractual disclosure is recommended to make prospective residents better aware of their rights and obligations should they buy into a particular village, and as a means of encouraging the marketplace to resolve issues which may be less suited to a purely regulatory response.

The preferred option is to improve pre-contractual disclosure processes, by introducing a two stage, 21-day process prior to final execution of the residence contract that will enable prospective residents to 'shop around', seek expert legal and financial advice, and carefully consider their decision. There would be capacity to shorten this process if the prospective resident obtains legal advice, so residents can move in more quickly while still preserving vital protection provided by obtaining legal advice.

This option has been given in-principle support by the Ministerial working party members and key industry and resident stakeholders during the consultations for the Housing Strategy.

As pre-contractual disclosure alone would fail to effectively deliver the intended consumer protections, this RIS also includes additional regulatory options, where key rights and obligations are prescribed in the Act, thereby providing a base level of protection.

3 Change in village operations

3.1 Executive summary

- In the past, retirement village closures have had substantial impacts on residents and highlighted the lack of process in the Act to manage such situations. The actual closure incidents and the issues they presented caused disruption to the lives of residents and their families. These incidents also caused concern to the broader retirement village industry.
- The Parliamentary Committee recommended amendments to the Act to provide for the protection of residents in the event a retirement village closes down or is in the process of closing down. The Ministerial working party supported this recommendation.
- Subsequent stakeholder consultations and issues within the retirement village industry, in particular around village redevelopment, indicated that reform options should address the broader issues of changes in village operations. Changes in retirement village operations covers village closure and wind-down, village redevelopment and village takeover.
- Key issues for residents and operators arising from changes in village operations are:
 - notifying residents about the closure, redevelopment or takeover
 - meeting operating costs of the village between the decision to close or redevelop and actual closure or redevelopment
 - valuing the units, particularly where a village is winding down or transferring from current design
 - disbursing any balance of the general services charge or the maintenance reserve funds
 - timing payment of the resident's exit entitlement
 - calculating the operator's exit fee and other associated fees
 - compensating residents for actual costs incurred in having to find alternative accommodation
 - relocating residents to new accommodation.
- The current regime for addressing changes in village operations is inadequate, with limited appropriate checks and powers to protect residents and ensure transparency around plans for village closure / wind-down, redevelopment or takeover.
- Three options for the changes in village operations were consulted on: firstly, to maintain the Status Quo; secondly to require Mandatory Disclosure in pre-contractual documents of processes for changes in village operations, and thirdly, setting Prescribed Requirements which an operator must consider when devising a plan for closure, redevelopment or takeover, and have this plan reviewed and approved by the chief executive.
- Following extensive consultation through the Consultation RIS and Queensland Housing Strategy development process, Option 3 - Prescribed Requirements is the

preferred option for village closure/wind-down, village redevelopment and village takeover. This option gives the operator flexibility to develop and implement a plan which suits the particular circumstances of their village and the needs of the village residents, while ensuring the plan has clear and enforceable requirements to ensure key consumer protections are incorporated. For village closure/wind down or redevelopment, the residents will be asked to approve the plan. Where the residents do not approve the plan, the operator may apply to the chief executive for approval. The review of the plan by the chief executive (including the discretion to amend and add to it as necessary) will further safeguard these consumer protections. Option 3 has been updated and refined.

3.2 Issue and background

The Consultation RIS limited discussion of this issue to village closure (deciding the processes to be followed should a retirement village need to close down); however subsequent stakeholder consultations and issues within the retirement village industry, in particular around village redevelopment, indicated that reform options should address the broader issues of changes in village operations. Changes in retirement village operations covers village closure and wind-down, village redevelopment and village takeover by another operator.

The approach of the Parliamentary Committee, and supported by the Ministerial working party, was to address the issue of village closure by expanding the existing legislative framework for village closure in the Act.

3.2.1 Village closure and wind-down

A number of potential scenarios may bring about village closure. An operator may decide to close the village to realise the value of the land, rather than spending their own funds to improve the village business model, or repair or redevelop the village buildings which have fallen into serious disrepair or reached the end of their useful life. An operator may decide to refurbish or change the use of the village requiring the village to be vacant in order to upgrade its use. For example; faced with high land prices and increasing land shortages. an operator may choose to expand its operations by replacing single storey units from an existing retirement village with high rise unit blocks. A viable village may suffer a fraud in the form of a massive capital flight of the villages' resources, or a village may be poorly run, with some possibilities of fraud causing bankruptcy.

Operators wanting to close their village may choose to 'wind it down' slowly, by not reselling units as they fall vacant, rather than promptly applying to close the village once they have decided not to continue as a long-term going concern. As a result, communal facilities might not be maintained due to the decreasing number of residents available to contribute to the maintenance reserve fund, in turn affecting the day-to-day amenity of the village and causing the overall value of the village to fall.

Once the closure of the village becomes public knowledge, the value of the remaining residents' units may fall reducing their exit entitlement and their capacity to afford alternative accommodation. Residents experiencing a fall in the value of their units may find it difficult to challenge this low valuation by initiating a retirement village dispute,

because the valuation requirements in the Act are only activated after the resident terminates their contract and thus give up occupancy of their unit.

Whether a village is closed slowly or in a timelier manner, the closure is a disruptive and stressful experience for residents, particularly if they are elderly and/ or have limited financial resources beyond the capital tied up in their retirement village unit. Village closure and wind-down can also negatively impact the retirement village industry, generating bad publicity for the industry.

In the past, retirement village closures have had substantial impacts on residents and highlighted the lack of process in the Act to manage such situations. The actual closure incidents and the issues they presented caused disruption to the lives of residents and their families. These incidents also caused concern to the broader retirement village industry.

The Act has several provisions relating to the registration of a scheme and could be used in instances of where a village is closing and/or winding down:

- When the chief executive reasonably believes it is necessary to protect the interests of residents of a particular village, the chief executive can apply to the District Court for orders that a person be appointed to manage a village (section 38).
- The Act provides a scheme may be deregistered by the chief executive (section 28A), but only if the chief executive has reasonable grounds for believing the scheme is no longer operating. In this situation, the chief executive provides a deregistration notice to the operator (section 28A (2)), however, the operator may apply to Queensland Civil and Administrative Tribunal (QCAT) for a review of this decision (section 29(3)).
- When a retirement village has stopped operating or an operator proposes to stop operating it, the Act allows an operator to apply to the chief executive to cancel the registration (section 40). The application must demonstrate that notice has been given to the village residents advising them:
 - that the operator has asked the chief executive to cancel to the registration of the scheme
 - if there is a statutory charge over the land whether or not the operator has asked the chief executive to release the statutory charge under section 124
 - how it will affect the person if the scheme is cancelled
 - that within 60 days after the person receives the notice the person may by written notice object to the chief executive about the cancellation.
- The chief executive may then cancel the registration if satisfied that doing so is appropriate, and after taking into account any objections lodged by the residents in response to the operator's notice (section 41).

Despite these provisions, the Act is currently silent on the following matters:

- (a) When the chief executive applies to the District Court for a manager to be appointed, who pays for the manager.
- (b) In a case of proposed village closure where residents make objections, the process that should be followed including how the chief executive is to balance resident objections with information received from the operator to determine if cancellation of registration is appropriate.

- (c) What happens if the operator or residents object to the chief executive's decision to cancel or not cancel the registration of a village (however it is noted that an administrative appeal could be made).
- (d) Guidance about the process for village closure generally including how residents' interests should be managed and protected. For example, the Act provides no guidance on the amount of advance notice an operator should provide residents when an operator plans to wind-down and close or simply close a village; how residents would be relocated and compensated; what would happen to general services and maintenance reserve funds residents have contributed to; or how units are to be valued when the retirement village is closing or being wound down.

3.2.2 Village redevelopment without closure

Retirement village redevelopment may include new units or facilities being built on vacant land in a retirement village, or an operator may relocate residents to different units within a village while it is being refurbished or redeveloped.

Redevelopment can occur unexpectedly for residents causing them personal and financial detriment, such as stress and adverse health effects from construction work or from being relocated. A resident wishing to leave the village may find their unit more difficult to sell when construction work is underway, and buyers may prefer the new units for sale after the redevelopment. A redevelopment which adds many new units may also affect the value of a resident's unit therefore affecting the resident's exit entitlement.

Other than the chief executive's powers in section 38 to appoint a manager for the village to protect the interests of residents, the Act contains no provisions in relation to village redevelopment without closure.

3.2.3 Village takeover

A retirement village may be taken over by a new operator because it is in financial difficulty, be sold to an associated company, or because its current operator may want to leave the retirement village industry. This may result in a substantial change in the nature of the village. For example, a village originally focused on offering seniors an active retirement lifestyle may shift its focus to provision of aged care services resulting in a village significantly different in nature to the one a resident bought into.

Other than the chief executive's powers in section 38 to appoint a manager for the village to protect the interests of residents, the Act has no provisions in relation to village takeover.

3.3 Policy objectives

The relevant policy objective is to ensure changes to village operations (village closures and wind-down, village redevelopment and village takeovers) are adequately managed, and to achieve this in a way which complies with the broader objectives of the Act.

The key issues to be addressed for operators and residents include:

- (a) processes for notifying residents about the closure, redevelopment or takeover

- (b) meeting operating costs of the village between the decision to close or redevelop and actual closure or redevelopment
- (c) valuing the units, particularly where a village is winding down or transferring from current design (e.g. low set village being redeveloped to high-rise)
- (d) disbursing any balance of the general services charge or the maintenance reserve fund
- (e) timing payment of the resident's exit entitlement
- (f) calculating the operator's exit fee and any other associated fees
- (g) compensating residents for actual costs incurred in having to find alternative accommodation
- (h) relocating residents to new accommodation.

The key issues for the regulator in these situations include:

- (a) how to help prospective residents make fully informed decisions when selecting a retirement village including drawing the attention of prospective residents to the issue of potential village closure and redevelopment issues, making them a key point of consideration and comparison – along with more immediate factors such as buy-in price and village amenity - when deciding to enter a retirement village
- (b) ensuring that operators' plans are transparent and ethical
- (c) encouraging behaviour in the industry that promotes passive operators to adopt a process equal to that implemented by more proactive and transparent operators
- (d) ensuring that a process for village closure is not overly prescriptive and benefits the operator and residents
- (e) there is no prescribed process in the Act that requires the appropriate checks (e.g. suitability) on new operators where the village has been or is being taken over
- (f) limitations in the chief executive's powers to take action to protect residents and operators
- (g) who bears the cost of a manager when one is appointed under section 38 of the Act.

The issue of change in village operations is dealt with differently in other Australian jurisdictions. There is no uniformity of treatment of village closures across jurisdictions, although some states include a statutory notice period when operators seek to terminate a retirement village scheme.

3.4 Proposed options and consultation responses

The Consultation RIS proposed three options to address village closure and wind-down. Option 1 – Status Quo; Option 2 – Mandatory Disclosure (in pre-contractual documents) and Option 3: Prescribed Requirements.

Given similar resident and stakeholder issues and the inadequacy of the Act to address the broader issues of change in village operations, these three options were extended to also address village redevelopment and village takeover.

3.4.1 Village closure and wind-down

Village closure was considered by the Parliamentary Committee, and Ministerial working party and discussed in the Consultation RIS. The Ministerial working party agreed that the Act should be amended to provide improved protection of residents where a retirement

village closes down or is in the process of closing down, with this enhanced legislative framework supported by expanded roles for QCAT and the chief executive.

QCAT would be empowered to determine a process for village closure which best suits individual circumstances, having regard to how units are to be valued, how balances of remaining funds are distributed, and whether residents are entitled to compensation. The existing powers of the chief executive would need to be expanded in relation to initiating deregistration of a scheme and applying to the District Court for appointment of a village manager.

More recent consultation with stakeholders has provided in-principle support of the preferred option 3 Prescribed closure requirements.

Consultation has demonstrated that both residents and operators wish for the Government to 'get on the front foot' in preventing village closures which have caused problems to stakeholders, and which highlighted the lack of processes in the Act. Consultation has demonstrated that stakeholders would like to see government, to the extent that is possible, prevent village closures to protect residents and enhance the viability and reputation of the industry.

Based on the submissions received which addressed village closure and wind-down, and subsequent targeted consultations:

Option 1 - Status Quo received no support

Option 1 is to maintain the status quo and not take any action to address the issues arising from village closure, received no support. LASAQ and the Association of Residents of Queensland Retirement Villages (ARQRV) specifically stated the need to strengthen legislation as their reason for rejecting the status quo. Furthermore, the Queensland Law Society submitted that Option 1 does not adequately protect residents in providing a framework for both the resident and the scheme operator.

Option 2 - Mandatory Disclosure was considered by some stakeholders

Option 2 is to amend the Act to require the PID to specifically disclose how the operator will manage each of the key issues arising from village closure. Furthermore, if the operator does not intend to plan ahead to manage the issues arising from village closure (in whole or partly) the PID must (a) expressly state this, and (b) explain the impact of this decision.

This option allows market forces to influence an effective, fair and efficient means of addressing the issues. It is likely that prospective residents will favour those villages having processes which best manage the issues, and over time, other villages will adopt similar (or better) processes to complete. This option does not force the operator to change their present business model. Instead, it encourages operators to develop workable and commercially sustainable ways of dealing with the issues.

Mandatory Disclosure in pre-contractual documents was favoured by two resident submissions, and National Seniors favoured the implementation of a combination of Option 2 and Option 3. While the combination of Option 2 and Option 3 is theoretically

possible, it is difficult to envisage an effective practical implementation. Operators would need to outline their own village closure process or expressly refer to the absence of a process, while simultaneously abiding by regulation. This would likely entail significant compliance costs for industry while consumer and government benefits would be uncertain.

The ARQRV, the Property Council of Australia and the two resident submissions were concerned that this option would add further complexity to the PID. The ARQRV also asserted that operators would likely draft the Mandatory Disclosure provisions with general phrases which are difficult to enforce, such as using 'best endeavours' or 'all reasonable steps'. While supportive of Option 2 and Option 3, National Seniors does not disagree on this point noting that 'Option 3 is the only option that provides residents with the level of certainty and guidance required.' Similarly, the Queensland Law Society is concerned about the effectiveness of Mandatory Disclosure about a hypothetical event and the difficulty of 'over-prescribing' while still failing to achieve certainty for parties to the contract. LASAQ also noted the difficulty of a specific regulation anticipating the future in this way. From an industry perspective, LASAQ also opted against Mandatory Disclosure due to the potential to create negative industry perceptions which may be associated with provisions in the PID related to village closure.

Option 3 - Prescribed Closure Requirements was widely supported by stakeholders

Option 3 prescribes a series of requirements which the operator must consider when developing a plan to manage village closure, once the decision to close is made. The operator must develop and implement a plan for closure of the retirement village once they are aware that their village will be closed down or wound-down to potentially close in the future, which covers:

- the amount of closure notice which should be given to residents
- the way in which operating costs of the village are met between the decision to close and actual closure
- the criteria for valuing the units, particularly where a village is winding down
- disbursement of any balance of general services charges or the maintenance reserve fund
- when residents are to be paid their exit entitlement.

In developing this closure plan, and outlining how the matters listed above are addressed, the following points should be considered:

- whether compensation should be paid to residents, covering actual costs involved in having to find alternative accommodation
- whether to reduce (partly or in total) the exit fee the operator would normally receive
- whether to actively assist with relocation of residents to new accommodation, and how this could be achieved
- whether there are any statutory charges which will need to be released under section 124 once the village is closed.

Once developed, this closure plan must be submitted to the residents for consideration at a residents' meeting, with residents asked to pass the closure plan by special resolution. Failing approval by the residents, the operator may apply to the chief executive for assessment and approval. The chief executive will only be able to approve the closure plan where it provides for a clear, orderly and fair process for closure of the village.

The chief executive will also be given the power to require changes to the plan to ensure the above considerations have been adequately addressed. If approved, the chief executive must give the operator written notice of the decision, as well as a QCAT information notice to all residents.

The approved closure plan may be revised on the chief executive's initiative or on application by the scheme operator.

The operator will be required to implement the approved closure plan, and may be asked to notify the chief executive about how it is being implemented. However, the operator may discontinue closure of a retirement village, and after notification, the closure plan will no longer be approved.

By having the requirements for the closure plan prescribed in the Act, this option will give the operator, residents and the chief executive clear guidelines about whether the plan provides a clear, orderly and fair process for village closure.

In accordance with natural justice, the operator or the residents could seek administrative review of the chief executive's decisions about (a) the adequacy of the closure plan, including any adjustments or additions made to the plan, and/or (b) cancelling registration.

Further, as the requirements for a closure plan would be prescribed in the Act and Regulation, a failure by the operator to properly consider any of them when developing the plan would also amount to a retirement village dispute, which the residents could take to QCAT for review. If QCAT found there were deficiencies in the plan, it could direct the operator to revise it in accordance with requirements in the Act before the plan could be submitted to the chief executive for approval.

In situations where the interests of residents are being adversely affected, this option would also prescribe a new basis for the chief executive to deregister a scheme, particularly if a village is being deliberately run down towards eventual closure. This ground should include a 'show cause' process, whereby the operator must justify to the chief executive why the scheme should not be deregistered. Again, the operator or residents could seek administrative review of the final decision by the chief executive. Should the chief executive decide it is in the best interests of residents to deregister the scheme, the standard closure plan process detailed above will come into play.

Finally, this option would extend the existing power of the chief executive to apply to the District Court to appoint a manager for a village, if necessary to protect the interests of the village residents (section 38). The manager will either be appointed to (a) guide the village back to operating in compliance with the Act so the scheme may continue, or (b) implement the closure plan.

This option gives the operator flexibility to develop and implement a closure plan which suits the particular circumstances of their village and the needs of the village residents, while ensuring the plan has clear and enforceable requirements to ensure key consumer protections are incorporated. The review of the plan by the chief executive (including the discretion to amend and add to it as necessary) will further safeguard these consumer protections. Where a village is being run down towards closure, the option also empowers the chief executive to act to protect the interests of residents.

Option 3 was favoured by LASAQ, the Property Council of Australia, the Queensland Law Society and four resident submissions. The ARQRV favoured a variation of Option 3.

National Seniors and the ARQRV see a need for government regulation, noting that village closure is outside of residents' control and potentially impacts on their ability to afford future housing, particularly given residents' elderly status, fixed incomes and heavy financial commitment to their existing retirement village. National Seniors believes that it is essential for government to evaluate and approve all closure plans. Likewise, the Queensland Law Society prefers Option 3 to enable the Government to consider the appropriate plan at the appropriate time.

LASAQ emphasises that village closure processes should be determined when the event occurs, which means that legislation should be flexible and adaptable to the situation presented. LASAQ sees a need for plans to be provided to the chief executive for consideration and approval but does not want legislation to prescribe what is required to be in the plan. LASAQ refers the Government to the termination of community title schemes (Part 9 of Chapter 2 of the *Body Corporate and Community Management Act 1997*).

The ARQRV sees the need for legislation but does not advocate Option 3 on the basis that village closure is often practically associated with a wind-down of the village as the operator allows the village to fall into disrepair which devalues the units and reduces potential exit payments. The ARQRV concedes that operators allow a village to fall into disrepair in circumstances of village closure and other circumstances as well. The ARQRV outlines specific reforms for valuing retirement villages and refers to specific sections of the *Retail Shop Leases Act 1994* to address instances in which a landlord and a tenant cannot agree on a fair market rental. The ARQRV also proposes reform to ensure that operators have a duty to expend funds in the maintenance reserve fund and the capital replacement fund.

Option 3: Prescribed closure requirement – summary of key stakeholder impacts

Stakeholder	Advantages	Disadvantages
Residents	<ul style="list-style-type: none"> • More certainty about what will happen if their village closes. • Clarity about the critical matters to be included in a closure plan. • Less likely to be financially disadvantaged. • Review process will provide a potential opportunity to comment on the operator's closure plan. 	<ul style="list-style-type: none"> • Operators may choose to pursue a closure option instead of finding alternate approaches. • Residents less likely to initiate their own disputes about the adequacy of the closure plan.
Operators	<ul style="list-style-type: none"> • Clarity about the critical matters to be included in a closure plan. 	<ul style="list-style-type: none"> • Operators who may otherwise have been prepared to continue to run a marginally financial village may choose to pursue a closure option.

Stakeholder	Advantages	Disadvantages
Government	<ul style="list-style-type: none"> • Evaluate the adequacy of closure plans. • Increase existing powers. 	<ul style="list-style-type: none"> • Operators who may otherwise have been prepared to continue to run a marginally financial village may choose to pursue a closure option.

3.4.2 Village redevelopment without closure

Option 1 - Status Quo received no support

Option 1 to retain the Status Quo was not supported by stakeholders.

Option 2: Mandatory pre-contractual disclosure was considered by stakeholders

Option 2 has similar requirements and rationale to Option 2 for village closure and wind-down. It would amend the Act to require village redevelopment process to be detailed in the pre-contractual disclosure documents. If the operator does not intend to plan ahead to manage the issues arising from village redevelopment these documents must expressly state this and explain the impact of this decision.

Likewise, this option allows market forces to influence an effective, fair and efficient means of addressing the issues. It is likely that prospective residents will favour those villages having processes which best manage the issues, and over time, other villages will adopt similar (or better) processes to complete. This option does not force the operator to change their present business model. Instead, it encourages operators to develop workable and commercially sustainable ways of dealing with the issues.

Option 3: Prescribed redevelopment requirements was widely supported by stakeholders

The third option prescribes a series of requirements, which the operator must consider when devising a plan to manage village redevelopment, once the decision is made to re-develop a village while it is still operating.

A redevelopment plan must be developed by the operator. The Act and Regulation will prescribe what must be included in the redevelopment plan and it may be an approved form.

Once developed, this redevelopment plan must be submitted to the residents for consideration at a residents' meeting, with residents asked to pass the redevelopment plan by special resolution. Failing approval by the residents, the operator may apply to the chief executive for assessment and approval. The chief executive will only be able to approve the redevelopment plan where it provides for a clear, orderly and fair process for redevelopment of the village.

The chief executive will also be given the power to require changes to the plan to ensure the above considerations have been adequately addressed. If approved, the chief executive must give the operator written notice of the decision, as well as a QCAT information notice to all residents.

The approved redevelopment plan may be revised on the chief executive’s initiative or on application by the scheme operator.

The operator will be required to implement the approved redevelopment plan, and may be asked to notify the chief executive about how it is being implemented. However, the operator may discontinue redevelopment of a retirement village, and after notification, the redevelopment plan will no longer be approved.

By having the requirements for the redevelopment plan prescribed in the Act and Regulation, this option will give the operator, residents and the chief executive clear guidelines about whether the plan provides a clear, orderly and fair process for village redevelopment.

In accordance with natural justice, the operator or the residents could seek administrative review of the chief executive’s decisions about the adequacy of the redevelopment plan, including any adjustments or additions made to the plan.

Further, as the requirements for a redevelopment plan would be prescribed in the Act, a failure by the operator to properly consider any of them when devising the plan would also amount to a retirement village dispute, which the residents could take to QCAT for review. If QCAT found there were deficiencies in the plan, it could direct the operator to revise it in accordance with requirements in the Act before the plan could be submitted to the chief executive for approval.

Finally, this option would extend the existing power of the chief executive to apply to the District Court to appoint a manager for a village, if necessary to protect the interests of the village residents. The manager will either be appointed to (a) guide the village back to operating in compliance with the Act so the scheme may continue, or (b) implement the redevelopment plan.

This option will apply to all resident regardless of tenure type or when they entered their residence contract.

Resident and consumer advocates support Option 3, and industry stakeholders have provided qualified support.

Option 3: Prescribed redevelopment requirement – summary of key stakeholder impacts

Stakeholder	Advantages	Disadvantages
Residents	<ul style="list-style-type: none"> • More certainty about what will happen if their village is redeveloped. • Clarity about the critical matters to be included in a redevelopment plan. • Less likely to be financially disadvantaged. • Review process will provide a potential opportunity to comment on the operator’s redevelopment plan. 	<ul style="list-style-type: none"> • Potentially make residents less likely to initiate their own disputes about the adequacy of the redevelopment plan.

Industry	<ul style="list-style-type: none"> • Clarity about the critical matters to be included in a redevelopment plan. 	<ul style="list-style-type: none"> • Loss of flexibility.
Government	<ul style="list-style-type: none"> • Evaluate the adequacy of redevelopment plans. • Increase existing powers. 	<ul style="list-style-type: none"> • Requires resources to analyse redevelopment plans.

3.4.3 Village takeover

Option 1: Status Quo was not supported

Option 2: Mandatory pre-contractual disclosure was considered by stakeholders

Option 2 would amend the Act to require village takeover process to be detailed in the pre-contractual disclosure documents. If the operator does not intend to plan ahead to manage the issues arising from village takeover these documents must expressly state this and explain the impact of this decision.

Option 3: Prescribed takeover requirements and reduced exit fee was supported by stakeholders

The third option prescribes a series of requirements which the operator must consider when developing a plan to manage village takeover. A transition plan must be developed and the operator must advise the chief executive as early as possible. The plan must be independently reviewed and approved by the chief executive, and will only be approved if it provides for a clear, orderly and fair transition. If a resident or operator disagrees with the chief executive's decision they may apply to QCAT for review.

The Act and Regulation will prescribe what must be included in the plan and may be an approved form. A plan must be submitted to the chief executive for assessment and approval. The chief executive will also be given the power to make changes to the plan to ensure the above considerations have been adequately addressed.

Residents may be consulted by the chief executive as part of the assessment process and will receive notice of the proposed takeover. The process for approval of a transition plan is slightly different from that for a redevelopment or closure plan, in that the transition plan is submitted directly to the chief executive, rather than first seeking approval of residents. This change was made to accommodate industry stakeholder feedback that the sale of a retirement village may be of a confidential nature until settlement has occurred and the commercial aspects of the sale need to be protected.

By having the requirements for the transition plan prescribed in the Act and Regulation, this option will give the operator, residents and the chief executive clear guidelines about whether the plan provides a clear, orderly and fair process for village takeover.

Finally, this option would extend the existing power of the chief executive to apply to the District Court to appoint a manager for a village, if necessary to protect the interests of the village residents. Depending on the final decision of the chief executive, the manager will either be appointed to (a) guide the village back to operating in compliance with the Act so the scheme may continue, or (b) implement the transition plan.

This option will apply to all residents regardless of tenure type or when they entered their residence contract.

Option 3: Prescribed takeover requirement – summary of key stakeholder impacts

Stakeholder	Advantages	Disadvantages
Residents	<ul style="list-style-type: none"> • More certainty about what will happen if their village is taken over. • Clarity about the critical matters to be included in a transition plan • Less likely to be financially disadvantaged • Review process will provide a potential opportunity to comment on the operator's transition plan. • Clarity of arrangements supporting resident wellbeing 	<ul style="list-style-type: none"> • Potentially make residents less likely to initiate their own disputes about the adequacy of the transition plan.
Operators	<ul style="list-style-type: none"> • Clarity about the critical matters to be included in a transition plan 	<ul style="list-style-type: none"> • Loss of flexibility
Government	<ul style="list-style-type: none"> • Evaluate the adequacy of transition plans • Increase existing powers • Lower costs of enforcement • Clarity of arrangements supporting resident wellbeing 	<ul style="list-style-type: none"> • None identified.

3.5 Preferred option

Option 3 - Prescribed Requirements is the preferred option for village closure and wind-down, village redevelopment and village takeover. This option gives the operator flexibility to develop and implement a plan which suits the particular circumstances of their village and the needs of the village residents, while ensuring the plan has clear and enforceable requirements to ensure key consumer protections are incorporated. The review of the plan by the chief executive (including the discretion to amend and add to it as necessary) will further safeguard these consumer protections. Option 3 has been updated and refined through the Consultation RIS and Housing Strategy development process.

In acknowledging the ARQRV and other stakeholder concerns, the proposed legislative changes related to prescribed closure requirements will provide better incentives for

operators and protect residents in circumstances of village wind-down and closure. Firstly, the legislation will prescribe a valuation methodology to ensure that a valuer must value a unit in the context of its proper place within a village, on the premise that the village is being operated normally as a going concern. Furthermore, matters beyond a residents' control, such as poor upkeep of communal areas, will not be part of the valuation for the purposes of village closure.

Secondly, while the ARQRV's suggestion to mandate the expenditure of maintenance reserve funds and the capital replacement funds in the circumstance of deemed village wind-down has not been adopted, the overarching new arrangement will ensure that the party running the retirement village, whether that is the operator or an appointed manager, will continue to use these valuable funds in the best interests of residents and the village as a whole. It is contrary to the intention of the Act that an operator may fail to expend funds on matters such as maintenance while a village may decline in appearance, amenity and functionality.

The need for government action is recognised and the need for government to evaluate and approve closure and wind-down, transition and redevelopment plans, as was supported by various stakeholders. Changes in village operations will have their own unique circumstances which require tailored plans which safeguard the interests of all stakeholders, particularly residents. Option 3 has the flexibility to accommodate changes in village operations, particularly closures, which are highly damaging to residents and also those changes which are less serious.

The preferred legislative model will recognise the diversity of instances in how village closures practically occur, including through a wind-down process, and ensuring that a plan has clear and enforceable requirements to safeguard consumer protection. The oversight of these plans by the chief executive will further safeguard these consumer protections.

The government, with the aid of legislation, is well placed to empower industry and provide certainty and fairness to consumers, as evidenced by industry and resident requests for government assistance when villages closed, and more recently with issues with redevelopment of villages. The chief executive of the department responsible for administering the Act is best placed to oversee a plan which manages a retirement village closure as the chief executive already has a role in registering villages and has powers to seek appointment of a person to manage a village.

In light of consultation, Option 3 proposes the following:

- Strengthen section 38 relating to the powers of the chief executive to apply to the District Court to appoint a manager if the chief executive's inquiries reveal that it is necessary to intervene to protect residents' wellbeing or their financial security.
 - In considering light-touch and effective best practice regulation, this change is preferred, informed by the NSW regime.
- Allow operators to apply to the QCAT to order the termination of residents' contracts where the operator wishes to carry out substantial works to improve the village and needs the village to be vacant to do so, or if the operator wishes to use the village land for another purpose. QCAT must be satisfied that the residents have been given 12 months' notice, development consents have been obtained, the operator has arranged other accommodation for residents of a similar standard and which is acceptable to

them and the chief executive is satisfied with the proposed arrangements. Amend section 40 to permit the cancellation of registration by the chief executive once the above conditions have been satisfied.

- There are various instances where an operator may wish to repurpose or substantially improve a retirement village with the consent and support of existing residents. It is important that the Act allows for this with a flexible regulatory approach.
- Add 'how the operator is able to pay its debts as they become due in the normal course of business' to the list of considerations the operator must provide in their plan for retirement village closure.
 - The solvency of the operator is a key issue for the continued viability of any retirement village and therefore is a key issue for any village closure plan.

It is acknowledged that stakeholders have a significant appetite for change to better manage issues associated with changes to village operations. Across both residents and operator peak bodies, none of the 34 stakeholder submissions favoured Option 1 Status Quo for village closure, or the Status Quo for village redevelopment and takeover, based on later targeted consultations. In light of the consultation, impacts, costs and benefits, maintaining the Status Quo for changes in village operations poses unacceptable and unnecessary risks to residents, the industry and the Government.

Option 3 Prescribed Requirements is preferred over Option 2 Mandatory Disclosure when considering the consultation, impacts, costs and benefits. The importance of the resident's home provides justification for regulation and consumer protection rather than applying measures which entail less regulation, and are primarily relying on pre-contractual disclosure and a consumer's ability to make an informed judgement about an event which may be uncertain in terms of timing and scope.

While consumers can be supported to take an interest in changes in village operations when such information is disclosed to them, the costs of Mandatory Disclosure may outweigh the benefits. Clauses in the PID are linked to the contract which means that Mandatory Disclosure is only likely to apply to, and benefit, future retirement village residents, leaving the issue unresolved for current residents.

There is an obligation to create regulatory settings which are appropriate for disadvantaged people, and not only for those who may base decisions on what is presented to them in the pre-contractual disclosure process. Due to the complexity of the subject matter, it is conceivable that many consumers will have difficulties giving proper consideration to information about changes in village operations far in advance of, and in the unknown circumstances of any possible event, even with the aid of advice from their solicitor. While pre-contractual disclosure is an enabler of freedom of contract, the view expressed by the Queensland Law Society and the ARQRV is that consumers do not necessarily have these potential changes in front of mind when choosing a retirement village.

It is also a point noted by residents, the ARQRV and the Property Council of Australia that industry and government is moving to improve pre-contractual disclosure rather than risking further consumer confusion. Mandatory Disclosure in this circumstance presents its own burden on industry and consumers as the industry attempts to provide certainty in the event of a hypothetical future village event. As LASAQ expresses, the industry preference is for more collective solutions, whether forwarded by government via Option 3 or via

future shared industry standards. Outlining village closure provisions in the PID may create negative perceptions for the industry which are not necessarily proportionate to the probability and gravity of the risk at hand.

In assessing the costs and benefits, Option 2 Mandatory Disclosure was assessed as a light touch, primarily non-regulatory solution to address changes in village operations, which is essentially a contractual matter. Mandatory Disclosure may not solve all the problems at hand, and it is unlikely to have any potential to prevent village closures, which are events which affect the entire industry. Furthermore, disclosure clauses are unlikely to provide well adapted, detailed processes to manage a particular closure, redevelopment or takeover. Ultimately, consumers may not give proper regard to disclosures relating to changes in village operations.

3.6 Implementation, evaluation and compliance support strategy

As these measures will impact how industry conducts business, sufficient lead-in time and transitional arrangements will be implemented to ensure that these initiatives do not place an undue burden on industry and consumers. The adequacy and workability of the change in village operations measures will be evaluated by government at appropriate intervals to ensure that the policy intent is reflected in practice.

Under the *Housing Strategy 2017-2020 Action Plan*, advocacy and support will be provided through peak groups and resident committees to retirement village residents to assist with managing the reforms for changes in village operations.

4 Behavioural standards

4.1 Executive summary

- The Parliamentary Committee and the Ministerial working party acknowledged evidence of disputes in retirement villages in the form of resident-to-resident disputes and disputes between operators and residents. The Parliamentary Committee and the Ministerial working party endorsed the need for government intervention to promote village harmony. The Parliamentary Committee recommended amending the Act to include fairness principles and introduce a code of conduct for operators.
- Disputes between residents and operators can result in residents feeling threatened or intimidated while residents themselves have reportedly authored vexatious complaints or letters to operators or abused the operator or their staff. There is also the specific issue of operators failing to respond promptly to correspondence from residents, or from their family if the resident has died or moved out of the village.
- Consultation has revealed that day-to-day retirement village disharmony can take many forms. For example, the operator or residents' committee may allow irregularities in voting and village meetings. Residents may quarrel with other residents about noise, pets and visitors.
- Rights and obligations of both the operator and residents at a retirement village are regulated under the Act but only in connection with procedural matters and financial arrangements.
- The industry has demonstrated an awareness of the importance of village harmony. While disputes may have a serious practical and psychological impact on vulnerable residents, instances of 'bad behaviour' can detrimentally impact the reputation of a particular village and the industry which can lead to resident dissatisfaction and problems in attracting new residents.
- Measures to improve village harmony need to protect rights in a way that balances prescription and flexibility across a range of issues, such as:
 - privacy and independence, including a resident's right to quiet enjoyment of their unit and the communal facilities, and a resident's right to autonomy over personal, domestic and financial matters and over their possessions
 - freedom from harassment and intimidation, including a resident's right to express views about village issues without fear of recrimination, and the right of the operator and their employees to go about lawful village business
 - responses to correspondence to the operator, including a resident's right to receive a response within a reasonable timeframe
 - health and safety, including the right of a resident or an employee of the operator not to have their health and safety endangered.
- The Consultation RIS outlined three proposals. Firstly, retention of the Status Quo. Option 2 – Mandatory Disclosure, is to amend the Act to require the operator to specifically disclose in the PID how they will manage each of the key behavioural

issues at their retirement village. Option 3 – Prescribed Rights and Obligations is to manage the key behavioural issues at a retirement village by introducing fairness principles dealing with interactions between people at the village and expanding the existing dispute resolution process to make these principles enforceable.

- The majority of the 34 submissions received expressed views on retirement village disharmony between operators and residents and resident-to-resident disturbances. Only a few submissions contemplated either retaining the status quo or mandatory disclosure from operators as the preferred means to bring more harmony to retirement village life in these circumstances.
- Option 3 to prescribe rights and obligations for behavioural standards in the Act was broadly supported by resident, consumer and industry stakeholders. This option was further refined in consultation with stakeholders in 2016.
- Option 3 Prescribed Rights and Obligations is the preferred Option over Option 1 and Option 2 for various reasons including:
 - the legislative prescription of basic standards of behaviour will prevent many problems from arising in the first place and should significantly reduce the number of complaints about operator conduct that are made to the ARQRV, the department or QCAT.
 - to deter the instigation of behavioural problems, as stakeholder feedback has indicated that the presence of legislative rights will be a strong deterrent.
 - enforceable behavioural standards prescribed in legislation will provide a favourable universal solution for all residents of Queensland retirement villages rather than just those who choose to live in a particular village with particular standards in place.

4.2 Issue and background

Although the Act regulates many financial and operational interactions between operators and residents, it is silent about behavioural issues in retirement villages between different residents in a village as well as between residents and operators. Behavioural issues can:

- inhibit open and constructive relationships between operators and residents, souring financial and operational interactions between operators and residents and in turn be the underlying cause of formal retirement village disputes
- reduce the quality of life for individuals causing them to feel unhappy, distressed, anxious, upset and intimidated
- lower the amenity of a retirement village, damaging the village's ability to attract prospective residents
- potentially diminish the overall appeal of retirement villages as an accommodation option.

The impact of behavioural issues on residents is further increased as they are more likely to adversely affect residents' health. Also, residents cannot quickly remove themselves from the situation due to the significant costs associated with leaving a retirement village.

With respect to disputes between residents, it is noted some operators can be reluctant to become involved in disputes between residents for fear of either being seen to be taking sides or preventing the residents from resolving the matter informally between themselves. However, some operators would like the ability/power to step in, but feel they cannot.

Key behavioural issues of concern are:

- interference with privacy and independence of residents, including interference with a resident's right to quiet enjoyment of their unit and the communal facilities, interference with a resident's right to autonomy over personal, domestic and financial matters and over their possessions.
- harassment and intimidation, including interference with a resident's right to express views about village issues without fear of recrimination, and interference with the right of the operator and staff to go about lawful village business.
- interference with health and safety, including the right of a resident or staff member of the operator not to have their health and safety endangered.
- a lack of operator response or timely operator response to correspondence by residents or family members of a resident on behalf of a resident or a resident's estate.

Currently, there are only limited ways that behavioural issues at a retirement village may be dealt with, for example:

- for behavioural issues between different residents in a retirement village, free neighbourhood mediation services provided by the Department of Justice and Attorney-General may be available.
- where the operator, or their employee, is bullied by a resident or their family, this may constitute workplace harassment and be pursued through workplace relations laws. Very serious examples of harassment involving violence, assault, or stalking may amount to a criminal offence. However, these laws do not provide a way of resolving the types of intimidation and harassment which village residents may encounter.
- it should be noted that the *Body Corporate and Community Management Act 1997*, which applies to community title schemes (excluding properties under the Act), includes provisions relating to managing disputes between owners, occupiers, the body corporate, letting agents and service contractors. These disputes include contraventions of the Act, performance of body corporate managers and engagement of service contractors. These disputes would be considered similar to disputes occurring in retirement villages.
- body corporate disputes¹ are managed through self-resolution or internal dispute resolution in the first instance direct with the other party, presenting a motion to the committee or to a general meeting. Where self-resolution does not work, parties can apply for conciliation and must show that self-resolution has been tried before applying. In conciliation, a person who is employed by the Department of Justice and Attorney-General helps both parties try to resolve the issue. However, where conciliation does not work, parties can apply for adjudication which is a more formal process. Adjudication can only occur if self-resolution and in most cases conciliation is attempted, and the adjudicator considers submissions from all parties involved.

¹ <https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/body-corporate-disputes/types-of-dispute-resolution/>

4.3 Policy objectives

The Act creates rights and obligations for both the operator and residents, but these do not address behavioural issues affecting general interaction between people at a retirement village. Any reform to address these issues must also be consistent with the overarching objective of the Act, which is to (a) promote consumer protection and fair trading practices in the operation of retirement villages and supply of services to residents, and (b) encourage the continued growth and viability of the retirement village industry.

The key policy objective is to find a way to protect rights in a way that balances prescription and flexibility across a range of issues, such as:

- privacy and independence including a resident's right to quiet enjoyment of their unit and the communal facilities, and a resident's right to autonomy over personal, domestic and financial matters and over their possessions.
- harassment and intimidation including a resident's right to express views about village issues without fear of recrimination, and the right of the operator and their employees to go about lawful village business.
- responses to correspondence to the operator including a resident's right to receive a response within a reasonable timeframe.
- health and safety including the right of a resident or an employee of the operator not to have their health and safety endangered.

New South Wales and Victoria legislate a series of fundamental rights and obligations for residents and operators which address behavioural issues. The Ministerial working party endorsed the rights of residents (and other people at a retirement village) prescribed in the *NSW Retirement Villages Act 1999*, which are reflected in the key issues described above.

4.4 Proposed options and consultation responses

The Consultation RIS proposed three options for managing the key behavioural issues affecting interaction at a retirement village. Option 1 – Status Quo; Option 2 – Mandatory Disclosure; Option 3 – Prescribed Rights and Obligations.

Behavioural issues (fairness principles) have been considered by the former Parliamentary Committee and Ministerial working party. Leading industry organisations including the Property Council of Australia and LASAQ agreed it was important for residents and operators to behave in accordance with the 'generally-accepted norms within a village', as reflected in the rights listed in the *NSW Retirement Villages Act 1999*. However, LASAQ suggested any prescribed rights should not impose any obligation on the operator to ensure the health and safety of residents. For example, the operator should not be required to guard residents against passive smoking risks or assaults arising from village break and enter crimes. Similarly, LASAQ noted any prescribed rights must be drafted so as to not conflict with, or duplicate, existing laws about privacy and bullying.

National Seniors noted anecdotal evidence that some residents leave their retirement village because of the 'disruptive behaviour' of other residents. However, the organisation was not aware of instances of bad behaviour 'so serious' that it resulted in a dispute being initiated. National Seniors supported an approach such as Option 3 because it imposed the necessary range of fairness principles, and also made them 'enforceable' – noting that

‘guidelines are useful, but weak’, and ‘it is easy to ignore guidelines, but not so easy to ignore enforceable principles or laws’.

The government received 34 submissions in response to the Consultation RIS. Many stakeholders responding to the Consultation RIS expressed views on retirement village disharmony between operators and residents and resident-to-resident disturbances. A number of resident submissions evidenced the harmonious lifestyles which villages deliver to them. These submissions demonstrate not only the richness and diversity that village life can deliver but further reinforce the importance of resolving disharmony in village life.

Only two submissions contemplated either retaining the status quo or mandatory disclosure from operators as the preferred means to bring more harmony to retirement village life. Stakeholders generally expressed a need for improved rules and argued that the government should implement these rules via legislation.

In light of consultation, it is recognised how important it is for residents to enjoy all aspects of the retirement village experience, whether those experiences are communal or independent. In keeping with common law notions of property, submissions demonstrated that residents are entitled to ‘quiet enjoyment’. Residents also expect an enjoyment in their more social and communal experiences in a retirement village, which are related to the shared spaces of the village.

In general, submissions from residents raised issues about disputes and disharmony within retirement villages. Concerns ranged from a lack of respect and the need for better trained village managers to the need to address resident-to-resident disputes effectively while safeguarding the wellbeing of elderly parties to the dispute.

Of the 11 submissions which refer to behavioural standards, one resident submission favoured Option 1 - Status Quo. One resident submission favoured Option 2 - Mandatory Disclosure. National Seniors and one resident submission favoured the implementation of both Option 2 and Option 3.

Option 3 - Prescribed Rights and Obligations was favoured by LASAQ, the ARQRV, the Property Council of Australia, the Queensland Law Society and three resident submissions.

Behavioural issues are a concern for all key stakeholders and the adoption of prescribed rights for residents and operators is strongly supported through the consultations. Stakeholders also agree that the rights need to have a level of enforceability but believe simply having the rights enshrined in legislation could serve as a strong deterrent for the majority of behavioural issues.

All key stakeholders generally favoured the NSW approach in sections 66 and 83 of the *Retirement Villages Act 1999* (NSW). Residents supported the adoption of an additional resident right, which is the right to receive a response from an operator to correspondence within a reasonable timeframe.

When there is a behavioural issue between residents, residents’ groups support the ability for a resident to take formal action about the matter (through pursuing arbitration). Resident groups also support the inclusion of a resident’s right to receive a response to

correspondence from the operator within 6 weeks. Industry groups by contrast prefer the adoption of NSW legislation (particularly sections 66 and 83) which does not include the residents right to receive an operator response to correspondence and the resident right to take another resident who breaches their rights to arbitration.

Option 1 - Status Quo received little support

The first option to maintain the status quo, and not take any action to manage the key behavioural issues affecting interaction at a retirement village, received no support from peak resident and industry bodies. One resident submission that nominated this option did not wish to provide comments.

Option 2 - Mandatory Disclosure was considered by stakeholders

The second option is to amend the Act to require the operator to specifically disclose in the PID how they will manage each of the key behavioural issues at their retirement village. The three most likely ways that this might be done are (a) introducing new rights and/or obligations in the village by-laws, (b) incorporating new rights and/or obligations in future residence contracts, or (c) adhering to a voluntary, industry-based code of conduct prescribing new rights and obligations. If the operator does not intend to plan ahead to manage the key behavioural issues at a retirement village (in whole or partly), the PID must (a) expressly state this, and (b) explain the importance of this decision.

Under this option, a prospective resident would be able to identify the processes in place, and compare and contrast the processes at different villages to (a) safeguard privacy and independence, (b) prevent harassment and intimidation, (c) respond to resident correspondence, and (d) ensure health and safety.

Option 2 would also amend the Act to require the operator to adopt a process for resolving breaches of these rights and obligations, depending on what process is implemented. For example, informal village mediation may be suitable where the rights and obligations are included in village by-laws, while a breach of rights and obligations incorporated into the residence contract would automatically give rise to a standard retirement village dispute.

From the Consultation RIS submissions, one resident submission favoured Option 2, and National Seniors and one resident submission favoured the implementation of both Option 2 and Option 3. National Seniors supports Option 2 and Option 3 on the basis that disclosure requirements in the PID are required so that residents enter the village fully aware of their rights and obligations. The resident who supports both Option 2 and Option 3 reasons that the two options need not be mutually exclusive.

The ARQRV did not support further 'information overload' with Mandatory Disclosure outlined in the PID, and also perceived a potential reputational risk if such content was outlined in the PID, while noting that prospective residents are not concerned about these issues at the point of entry. The Property Council of Australia considers that Mandatory Disclosure would likely result in the duplication of policies across the industry, adding unnecessary time, cost and complexity to the disclosure process. LASAQ saw potential for ineffective and costly duplication of processes as each village would be required to devise their own resident to resident dispute processes. While LASAQ does not support Option 2, as key stakeholders of the International Retirement Community Accreditation Scheme

(IRCAS), LASAQ does support and sees a possible enlarged contribution of quality systems, incorporating fairness principles, throughout the retirement village industry in the future.

The Queensland Law Society did not support Option 2 because the operator is placed in the invidious position of needing to both promote the interests of residents and their own interests, often in the same circumstance. LASAQ shared a similar concern in opposing Option 2 as it placed an obligation on operators to become involved in a dispute on behalf of a resident, whereas operators should only intervene on their own behalf.

National Seniors query how operators are positioned to form judgements about appropriate behaviour in retirement villages, 'as there is no guarantee that an operator's judgement will reflect acceptable community standards.'

LASAQ outlines a significant concern with the viability of Option 2 as Mandatory Disclosure in the PID is attached to the contract. This may only apply to future residents of retirement villages, as they agree to future contracts, and would not benefit the current cohort of residents.

Option 3 - Prescribed Rights and Obligations was widely supported by stakeholders

The third option is to manage the key behavioural issues at a retirement village by introducing fairness principles dealing with interaction between people at the village, and expanding the existing dispute resolution process to make these principles enforceable. The Act would be amended to introduce prescribed rights and obligations for residents and the operator, as detailed below.

The Act would be amended to ensure both the operator or residents do not unreasonably interfere with the following rights of a resident to:

- (a) privacy, which includes a right to quiet enjoyment of their unit and the communal facilities.
- (b) autonomy over their personal, domestic and financial matters and over their possessions.
- (c) not be harassed or intimidated, which includes a right to express views about village issues without fear of recrimination.
- (d) not have their health and safety endangered.
- (e) receive a response from the operator to correspondence within a reasonable timeframe.

The right in (e) is also owed to a family member of a resident, when writing on behalf of the resident or their estate. The rights in (a) to (e) are owed by the operator either directly or through the actions of their employees at the retirement village.

The Act would be amended to provide that a resident must not unreasonably interfere with the following rights of the operator to not:

- (a) be harassed or intimidated.
- (b) have their health and safety endangered.

The rights in (a) and (b) are owed to the operator and their employees at the retirement village.

Under Option 3 in the Consultation RIS, the Act would prescribe a maximum time (being six weeks) within which the operator must respond to correspondence. In other words, a response may be received anytime within six weeks, provided such time is reasonable in the circumstances; however, a response after six weeks is automatically deemed unreasonable.

This option would also allow the Act to be amended to make a breach of any of these rights a retirement village dispute, and thereby able to be pursued under the dispute resolution process. To facilitate this, the existing dispute resolution process will be expanded to include independent and binding arbitration. Where resolution of a breach is through arbitration, the decision would be final and binding.

Option 3 - Prescribed Rights and Obligations was favoured by LASAQ, the ARQRV, the Property Council of Australia, the Queensland Law Society and three resident submissions. National Seniors and one resident submission favoured the implementation of both Option 2 and Option 3.

National Seniors believes that prescribed rights and obligations will ensure a level of consistency and certainty which will ultimately reduce costs for village operators and result in a more enjoyable life for village residents. The ARQRV believes that if the Act requires certain basic standards of behaviour to be adhered to, it will prevent many problems from arising in the first place, and should significantly reduce the number of complaints about operator conduct that are made to the ARQRV, the department or QCAT. It is also believed that embedding basic behavioural standards in the Act will increase consumer confidence in retirement villages and enhance the viability of the industry.

The Queensland Law Society believes that the concept of introducing fairness principles and making the principles enforceable, is the best option. The Property Council of Australia agreed that it was appropriate for fairness principles to be included in the Act. In a similar way, LASAQ supports amendments to the Act to introduce fairness principles and LASAQ conditionally supports making fairness principles enforceable.

The Queensland Law Society, the Property Council of Australia and LASAQ explicitly supported the replication of section 66 and section 83 of the NSW *Retirement Village Act 1999*. Specifically, the Property Council of Australia refers to the industry benefits of harmonising provisions in Queensland and NSW.

LASAQ makes it clear that resident rights should not be too absolute. For example, there are apparently legitimate circumstances in which operators should have a right to enter a resident's unit similar to section 67 of NSW Retirement Village Act. LASAQ is supportive of an operator being able to commence tribunal proceedings where internal dispute resolution for a dispute between two residents has been unsuccessful but LASAQ warns against allowing residents to initiate proceedings at QCAT, as the actual QCAT process could itself be used in a threatening and bullying manner by the parties to the dispute.

The targeted industry, consumer and resident consultations conducted in September 2016 supported Option 3 and assisted with fine tuning the prescribed rights and obligations provisions.

Option 3: Prescribed rights and obligations – summary of key stakeholder impacts

Stakeholder	Advantages	Disadvantages
Residents	<ul style="list-style-type: none"> • Including prescribed rights within the Act may deter bad behaviour and disputes • Clear statements about what is expected through behavioural standards. 	<ul style="list-style-type: none"> • Disputes may result due to the introduced requirements.
Industry	<ul style="list-style-type: none"> • May deter bad behaviour. • In a better position to address or prevent bad behaviour. • Standard of conduct in the village may rise and the overall amenity of the village may increase. 	<ul style="list-style-type: none"> • Disputes may result due to the introduced requirements.
Government	<ul style="list-style-type: none"> • The number of behavioural issue complaints directed to government may be reduced. • Reduce tribunal/court intervention. 	<ul style="list-style-type: none"> • May increase the types of disputes heard by the tribunal.

4.5 Preferred option

In view of the consultation feedback and the costs, benefits and impacts, Option 3 - Prescribed Rights and Obligations is the preferred option. The role of regulation in this instance is to empower industry and residents.

It is noted that Option 3 was widely supported by stakeholders, including LASAQ, the ARQRV, the Property Council of Australia, the Queensland Law Society and three resident submissions, and by further targeted resident and industry consultations in September 2016.

Key industry stakeholders such as the Queensland Law Society, the Property Council of Australia and LASAQ expressed a specific interest in replicating section 66 and section 83 of the NSW *Retirement Village Act 1999*. The department has had discussions with NSW policy officials to gauge the effectiveness of these principles. Industry support of an existing model is an indication of stakeholder 'buy in' and feasibility for the Queensland marketplace.

The Queensland Law Society notes that if principles were legislated, the principles should be enforceable, and conditional support is provided by LASAQ for enforceable principles. Option 3 entails the government acknowledging the widespread concern from residents and industry about village disharmony and implementing the best possible legislative regime to solve the problems presented by this.

Rights and obligations prescribed in legislation will provide a universal solution for all residents of Queensland retirement villages rather than just those consumers who choose to live in a particular village with a particular set of standards in place. This measure is consistent with the government's obligation to address issues faced by existing and future retirement village residents. The presence of legislative rights is likely to be a stronger deterrent than if rights were established in other ways such as through contractual arrangements. Further, addressing behavioural problems through contractual arrangements will only help new residents, with no contractual compulsion to provide these benefits to existing residents. Regulation will improve consumer confidence in the retirement village industry. The mediatory role of government means that government is uniquely placed to improve consumer confidence in this way.

In assessing the costs and efficiency of Option 3 compared to alternative policy propositions, it is noted that the government's prescription of rights and obligations is a 'one-off' task which is informed by best practice in other jurisdictions. Alternative policy proposals would entail the prescription of rights and obligations being undertaken by several entities in various forms across Queensland. Option 3 is likely to deliver substantial economies of scale in the prescription of rights process as this process needs to be undertaken only once rather than by each operator.

Since the prescribed rights and obligations will be universal in Queensland, the provisions will be interpreted more frequently by dispute resolution bodies, when compared to alternative policy proposals which may entail provisions unique to a particular retirement village. Having a common set of prescribed standards will mean that the interpretation of the prescribed rights and obligations will be more universally understood, rather than each interpretation process being a one-off task. This repetition and precedent will lower the costs of complying with the best practice standards for all stakeholders while improving the clarity of rights and obligations across the industry.

In light of all the costs, benefits and impacts, Option 3 – Prescribed Rights and Obligations is the preferred option as it will deliver the greatest net benefit to residents, industry and government. Option 3 has the capacity to solve the problems at hand while imposing costs which are comparable to or lower than other options, despite the need to regulate.

The particular model for Option 3 has been considered in light of consultation. The process of prescribing rights and obligations is based upon implementing workable and fair provisions. Neither residents nor operators would benefit if the government outlined rights in legislation which were not practically relevant, workable or added undue costs to the 'day to day' experience of residents in a retirement village. While stakeholders were generally supportive of the model outlined in the Consultation RIS, there have been some changes to fine tune the model, in light of further consultation.

The Act will be amended to introduce enforceable rights for operators and residents regarding the key behavioural issues. The proposed amendments will be modelled on sections 66 and 83 of the *Retirement Villages Act 1999* (NSW) but also include an additional right of residents to receive a response to correspondence from an operator within 21 days (reduced from the 6-week timeframe in the Consultation RIS). This right will also extend to a resident's representative or a family member of a resident, when writing on behalf of the resident or the resident's estate.

Enforcement of the rights will occur through the existing three step dispute resolution process under the Part 9 of the Act, comprising preliminary negotiation, mediation and QCAT resolution. Granting an operator the discretion to pursue breaches, by a resident, of another resident's right, however does recognise that in some instances, behavioural issues have broader implications for the retirement village or residents more generally. For example, a breach by a resident of another resident's right may affect the reputation of the village, consequentially negatively impacting on the sale of units or the quality of life of a large number of residents.

With respect to the alternative options, Option 1 - Status Quo is not supported, and the consensus view that action is needed from government and industry is noted.

National Seniors and one resident supported the implementation of both Option 2 and Option 3, however there may be difficulties in implementing both Option 2 and Option 3. If legislation was to prescribe rights and obligations, then any Mandatory Disclosure could not vary the statutory provisions but could only add content. It is unlikely that government would want to mandate that industry and residents give regard to one standard and then have an obligation to create another standard or expressly disclose that there is an absence of formal standards, even if the statutory standards were drafted in a general way while operator disclosure was specific.

The ARQRV, the Property Council of Australia and LASAQ make persuasive points about the inefficiencies that Option 2 - Mandatory Disclosure, may entail. In assessing the costs and benefits of Option 2, the reasons to not support Mandatory Disclosure were carefully considered. Firstly, Mandatory Disclosure entails significant administrative costs, compliance costs and duplication. These inefficiencies are best illustrated by LASAQ which has indicated that the industry may transition towards shared IRCAS standards in the future. Secondly, due to their core business and possible conflicts of interest, operators do not appear best placed to make best practice standards. Thirdly, it is unlikely that Mandatory Disclosure will solve all the problems posed by village disharmony. For example, retirement village consumers generally want behavioural standards 'which work' in the unlikely event that they need them. The problems posed by village disharmony are not solved if villages vary greatly in the effectiveness of their best practice standards, because the government supports policy settings which promote the interests of residents in all Queensland retirement villages.

4.6 Implementation, evaluation and compliance support strategy

These measures will require fine-tuning to ensure the legislative detail reflects the policy intent of Option 3, which received significant support from stakeholders. The adequacy and workability of the enforceable behaviour standards will be evaluated by government at appropriate intervals to ensure that the policy intent is reflected in practice.

Under the Queensland Housing Strategy Action Plan, advocacy and support will be provided through peak groups and resident committees to retirement village residents to assist with introducing enforceable behaviour standards. Retirement village residents will be assisted to understand their rights and obligations to ensure that residents have a positive retirement village experience.

5 Exit entitlement when sale is delayed

5.1 Executive summary

- The Act does not address payment of a former resident's exit entitlement when a unit resale is delayed and remains unsold for a significant period.
- The policy objective of this Decision RIS involves managing the issues arising from a substantial delay in reselling a resident's unit, and to ensure any solution evenly balances prescription and flexibility - that is, it delivers consumer protections and maintains viability of the industry.
- The Consultation RIS outlined three options to address this policy objective, being (1) maintain the status quo, (2) require the operator to disclose whether they offer early payment of the exit entitlement, and (3) require the exit entitlement to be paid to the resident after 18 months unless this would cause undue hardship for the operator.
- Throughout the review of the Act, resident and industry stakeholders have held divergent views on the likely impacts and ways to address this issue. This included consultations across all stages - Parliamentary Committee, Ministerial working party, Consultation RIS, and targeted consultations during 2016.
- Resident stakeholders have called on the Government to legislate for 'compulsory buy back' of units by the operator which remain unsold for a significant period of time. When resale is delayed for months or even years, a resident can be left financially vulnerable, especially if they depend on their exit entitlement to move to a place in aged care.
- Industry and operator stakeholders have supported a status quo approach, whereby the market is left to drive the timing and sale of retirement village units. Any prescribed payment of exit entitlements is considered to have negative impacts on the financial position or profitability of operators.
- The preferred option is to implement Option 3 – Prescribed early payment of exit entitlement - as it provides workable solutions for both resident and operator. The preferred option has the support of the majority of the Ministerial working party members. The Property Council of Australia has expressed that their preferred option is to maintain the status quo.
- The proposed provisions for implementing Option 3 have been carefully considered to ensure a balance between protecting consumer interests and responding to industry concerns about viability and growth.
- To respond to this issue and strengthen consumer protection, the Act will be amended to require an operator to pay exit entitlements 18 months after the resident leaves unless doing so would cause the operator financial hardship, in which case the operator can apply to QCAT for an extension or alternative payment arrangement.

- The amendments will broadly reflect the approaches taken in section 27 of the *Retirement Villages Act 2016 (SA)* and section 181 of the *Retirement Villages Act 1999 (NSW)*.

5.2 Issue and background

The practice at most retirement villages is for an outgoing resident to be paid their exit entitlement after the right to reside in their unit has been resold as the operator funds the exit entitlement from the resale proceeds. The exit entitlement (section 16) will be outlined in the residence contract, but is usually the amount of the resident's ingoing contribution less the exit fee, any outstanding fees and charges, any reinstatement costs and any costs of sale. Section 63 of the Act requires the day of payment is as stated under the former resident's residence contract or 14 days after the settlement day where the unit is resold. If specific criteria are met then an operator may pay the exit entitlement before the settlement day.

The Act does not address payment of a former resident's exit entitlement when a unit resale is delayed and remains unsold for a significant period. However, when resale is delayed by 6 months and the exit entitlement has not been paid, the former resident may engage a real estate agent and the former resident and the operator are to reconsider the resale value at least every three months and if possible agree in writing on a new resale value, which may be the same value (section 67).

Also under section 171, a former resident can apply to QCAT for an order that an operator pay their exit entitlement when they have been materially prejudiced by an operator's failure to comply with sections 58(2), 60(2), 65 and 67 of the Act.

Most residents use the majority of their capital (sale proceeds from their home, superannuation funds) to buy into a retirement village and depend on their exit entitlement to fund their next place of accommodation. When resale is delayed, a resident can be left financially vulnerable, especially if they depend on their exit entitlement to secure a place in aged care.

Selling a retirement village unit is different from selling a residential home, with a smaller market operating for retirement village units. A resident generally has less control over the sale process and unlike the sale of a residential home, cannot remain in their retirement village unit while their unit sells or cannot rent their unit out during this time.

As a result, residents have called on the government to legislate for 'compulsory buy back' of units by the operator which remain unsold for a significant period of time. In other words, the operator notionally 'buys back' the unit by paying out the outgoing resident's exit entitlement, without first waiting for resale of the unit to a new resident. Similar representations were made to the Parliamentary Committee, citing the legislative approach taken in other jurisdictions to address the problems caused by a delayed resale. In support of this, the representatives noted both the NSW and Victorian retirement village laws allow for early payment of the exit entitlement. However, there are significant restrictions on this right, and certain preconditions must be met before payment of the exit entitlement is required under these interstate provisions.

From an industry perspective, the financial model employed at most retirement villages makes it a requirement for payment of an outgoing resident's exit entitlement to be funded from the ingoing contribution paid by the incoming resident. Operators make their profit from reselling resident units, as other fees and charges are levied on a cost-recovery basis, and so operators may not have other sources of income from which to pay the exit entitlement.

While some individual operators are beginning to offer residence contracts which provide for operator 'buy backs' of the unit or the payment of an exit entitlement within a specified time period of the residents exit, most resident contracts do not contain such terms. Industry has concerns about a negative impact on viability with early payment of exit entitlements, especially where the timing of vacation of units, and the instances where units take a long time to sell, are unpredictable.

Unlike the broader property market, the sale of retirement villages units involves two parties (the village operator and the resident) with separate interests, and this is a critical difference. If a retirement village unit cannot be resold, it may be partially due to the business model of the operator (for example, the village facilities may be lacking, or the recurrent costs are too high). Furthermore, the sale price of a retirement village unit is not decided solely by the unit owner, but rather, jointly with the operator. The sales process is often controlled by the operator, at least for the first six months. In addition, the resident cannot rent out their unit or remain in the unit while it is for sale. As a result, a retirement village resident may be entitled to regulatory support and consideration beyond which a member of the general public selling their own home may reasonably expect.

In 2015, the department commissioned Queensland Treasury Corporation (QTC) to undertake a high level financial assessment of the retirement village industry. In April 2015, QTC provided the department with a draft report which highlight the following:

- underlying investment returns to publicly listed Commercial Retirement Village Operations (CRVOs) have been boosted in recent years by increasing property prices and other favourable market conditions stemming from strong demand associated with the ageing population in Australia.
- over the five years ended FY2014, the publicly listed CRVOs reported an average Return on Assets (RoA) of 1.4% in comparison with an underlying expected return of 14%.
- while returns for the broader commercial Retirement Village Industry (RVI) sector based on reported financial information appear low, the underlying returns generated by the sector appear to be much higher. There is a potential for current underlying returns to be boosted over the next few years due to a number of positive factors such as a favourable tax ruling and continued demand from an ageing population.
- PwC Australia and the Property Council of Australia have recently partnered to collate broader RVI data and found that the average village occupancy rate is 92 per cent, suggesting strong underlying demand.

5.3 Policy objectives

The Act regulates payment of the exit entitlement to a resident, but does not address the issue of significant delays in payment resulting from unsold units. Consequently, the relevant policy objective is to ensure the issues arising from substantial delays in reselling units are adequately managed, and in a way which complies with the broader objectives of the Act for both consumer protection and industry growth and viability.

These key issues are as follows:

- identifying a reasonable period within which resale of an outgoing resident's unit may be expected, particularly as this is needed to fund payment of the exit entitlement to the resident
- the hardship caused to the outgoing resident as a result of not being paid their exit entitlement (or part thereof) within a reasonable time after leaving the retirement village
- the hardship caused to the operator if the exit entitlement is paid out (in full or in part) without first receiving the proceeds from resale of the outgoing resident's unit.

5.4 Options and consultation responses

The Parliamentary Committee recommended amending the Act to require the operator to pay the exit entitlement within six months of the resident terminating their contract, but only where there were exceptional circumstances such as the village closing down or the resident being likely to experience severe hardship if no such payment was made. The Ministerial working party did not believe villages could financially support any buy-back regime, and instead proposed amending the Act to require the PID to disclose (a) whether the operator offered an option for early payment of the exit entitlement, and the circumstances in which this may apply, and (b) the sales history of units in the village over the previous year.

The Consultation RIS proposed three options to address the issues arising from a substantial delay in reselling a resident's unit: Option 1 – Status Quo; Option 2 – Mandatory Disclosure; and Option 3 – Prescribed Early Payment.

The issues canvassed in the Consultation RIS were subjected to preliminary consideration by the Ministerial working party. Option 3 reflects the key concern of the Parliamentary Committee and the approach taken in other jurisdictions, whereas Option 2 aligns with the approach preferred by the Ministerial working party.

The peak bodies which represent operators generally favoured Option 1 - Status Quo while residents and their peak bodies preferred Option 3 - Prescribed Early Payment of Exit Entitlement after a period of time (such as six months).

The government received 34 submissions from stakeholders in response to the Consultation RIS. In line with the findings of preliminary consultation and submissions previously made to the Parliamentary Committee, the exit entitlement issues remain among the most important retirement village issues.

Key stakeholder responses to the Consultation RIS and in later targeted consultations are largely consistent with the views expressed by these groups during the earlier Parliamentary Committee and Ministerial working party stages of the review of the Act.

Option 1 – Status Quo was widely supported by key industry and operator stakeholders

The first option is to maintain the Status Quo, and not take any action to address the issues arising from a substantial delay in reselling a resident's unit.

LASAQ, the Property Council of Australia and the Queensland Law Society support retaining the Status Quo - Option 1.

LASAQ favours retaining the Status Quo - Option 1, noting that mandating early exit payment (Option 3) is not in the interests of the continued growth and viability of the industry, which is an objective of the Act, and would introduce new red tape. While NSW and Victoria prescribe early payment in particular situations, these two regulatory regimes are not necessarily comparable to Queensland.

The Property Council of Australia advocates for Option 1 Status Quo as this issue is best addressed by market forces and the need for continued viability and growth of retirement villages. Option 2 and Option 3 do not address the key concerns of the Property Council of Australia and are not supported.

The Queensland Law Society advocates for Option 1 Status Quo, noting that retirement village units do sometimes remain for sale for a long period of time and consumers enter into contracts freely, and older residents who own units bear the risk under the contracts they agreed to. The Law Society raised concerns with Option 2 and Option 3.

A resident submission preferred Option 1 noting that an operator may want to advertise early payment in their PID, however the status quo is preferred as an operator should not have the burden of selling units in circumstances where both the operator and resident are subject to market forces.

Option 2 – Mandatory Disclosure was considered by stakeholders with little support.

The second option is to amend the Act to require the PID to specifically disclose (a) whether the operator offers an option to pay the exit entitlement before resale of the unit, and the circumstances in which this may apply, and (b) the sales history of units in the village over the previous year. Any early payment policy would only apply to residence contracts entered into after the Act was amended and the policy implemented (unless, of course, the operator generously elected to extend the policy to existing residents). Furthermore, if the operator does not offer any early pay option, the PID must (a) expressly state this, and (b) explain the consequences of this decision.

Under this option, prospective residents will potentially be both better informed about a retirement village's policy on the issue, and able to more directly compare and contrast

different villages, which may be crucial to their understanding of whether the village presents a 'good or bad risk'.

This option should enable market forces to decide an effective, fair and efficient means of addressing the issues arising from delayed resale. It is expected prospective residents will favour those villages having processes which best manage the issues, and over time, other villages would adopt similar (or better) processes to compete. This option does not require the operator to change their present business model - rather, it encourages operators to develop workable and commercially sustainable ways of dealing with the issues. The operator may adopt more than one early payment policy, to appeal to different classes of prospective residents.

Option 2 is not supported by the ARQRV, the LASAQ and the Queensland Law Society. The ARQRV rejected Option 2 - Mandatory Disclosure for several reasons. The complexity of contract clauses could mean operators 'promise to buy back the unit within a certain time but make the promise contingent on one or more discretionary factors that may seem reasonable but effectively render it unenforceable.' Mandatory Disclosure will not promote competition because leaving the retirement village is a remote concern for the retirement village consumer when entering a village, and could result in further information overload in the PID. Also, not all departing residents experience delays in selling, so Mandatory Disclosure will not be relevant to all.

LASAQ sees Option 2 as undesirable because operators may put their entire operation at risk keeping up with their competitors who offer early payment. Option 2 would increase the number of disputes going before QCAT, and would mean that recent pricing information is made public, which may increase resident dispute and disharmony. The LASAQ submitted that Option 2 would only be considered if there was no requirement to disclose recent sales.

The Queensland Law Society does not prefer Option 2 Mandatory Disclosure because consumers receive sufficient disclosure and additional measures such as disclosing recent sale prices entails privacy issues for the scheme operator.

A resident submitted that Option 2 is optimal and noted that outlining buybacks in the PID would better inform consumers and would allow prospective residents to more directly compare and contrast different villages. Another resident would like to see Option 2 and Option 3 implemented together.

Option 3 - Prescribed early payment was widely supported by resident and consumer stakeholders.

The third option is to amend the Act so that, in circumstances where an outgoing resident's unit remains unsold for 18 months, the operator is required to pay the resident their full exit entitlement. However, the operator may apply to the QCAT for an extension of time to pay all or some of the exit entitlement if full payment after 18 months would cause the operator undue hardship.

This option does not alter the method already prescribed in the Act for valuation of units, merely the timing for paying the exit entitlement. However, where a valuer is engaged, amendments are proposed to allow submissions to be made to the valuer, to require

information from the operator, and to specify matters to be considered by the valuer. These provisions would apply whenever a valuer is used, not only in cases of early payment of exit entitlements.

Under the Consultation RIS Option 3, the early payment requirement would only apply to those residence contracts entered into after the Act; however this is amended in the final recommended option.

This option balances the respective hardship to a resident arising from not receiving their exit entitlement within a reasonable period, against the hardship to the operator of having to pay the exit entitlement without first receiving the proceeds of reselling the resident's unit. After consultation with industry representatives, the period of 18 months was decided on as being the time within which most retirement village units are expected to be resold.

When a resident leaves the village, they are still liable for the general services charges for their unit for nine months or until it is resold, whichever is the earlier (section 104(2)). By similarly setting a timeframe for payment of the exit entitlement, this option corresponds with the existing provisions of the Act where financial responsibility for an unsold unit eventually reverts exclusively to the scheme operator.

However, this option also recognises that payment of the exit entitlement may cause significant financial hardship for the operator, particularly if this applies to several residents at once. Such hardship may be so severe as to jeopardise the viability of the retirement village, which obviously has negative consequences for the remaining residents of the village. Therefore, the ability of the operator to obtain an exemption from QCAT is a critical safeguard protecting both the operator and other residents.

While QCAT may exempt the operator from early payment of the full exit entitlement, this option also empowers QCAT to order the operator to make an early part payment where doing so would address the resident's problems (facilitating entry to an aged care facility) without having a negative impact on village finances.

Some key stakeholder views on early payment of exit entitlements were included in the Consultation RIS.

In response to Option 3, both the Property Council of Australia and LASAQ noted that a compulsory buy-back requirement had the potential to create a contingent liability for operators. Such a liability would need to be disclosed to an operator's financier, which in turn may (a) reduce the amount the financier is prepared to lend (the loan-to-value ratio), or (b) require an (exit entitlement) financial facility (or other cash reserves) to be maintained, thereby incurring annual fees even if such a facility is never called upon. The implications at a 'portfolio level' may potentially be to reduce the likelihood of developers constructing more retirement villages.

To illustrate the potential financial impact of Option 3 on operators, the Property Council of Australia and LASAQ put forward a 'real world case study' involving an actual retirement village, based on early payment after six months (and not 18 months as Option 3 proposes). LASAQ also noted compulsory buy-back would expose operators to an 'unexpected hit' on their balance sheet, cash flow and financing arrangements which may be difficult to absorb.

The Consultation RIS also included the Property Council of Australia and LASAQ observations in opposition to early payment of the exit entitlement (such as the approach in Option 3):

- a small village may either be unable to obtain the necessary financial facility, thereby putting them at higher risk of insolvency, or may only obtain one in exchange for agreeing to 'onerous covenants', thereby exposing them to higher costs of finance.
- the costs incurred in maintaining a financial facility are unlikely to be able to be passed on to the residents of the village through the general services charge, and will therefore significantly reduce the profitability of running a retirement village.
- as the option does not consider a resident's financial capacity outside the capital tied up in their retirement village unit, operators are, in effect, 'being asked to operate as a bank' for the resident.
- the option provides 'greater personal financial protection against hardship' than ordinary people in the community have when trying to sell their principal place of residence.

LASAQ and Property Council of Australia elaborated their views in submissions and later targeted consultations, and confirmed that mandatory buy-back is not supported.

LASAQ advised several negative impacts of Option 3 including: negative impact on cash flow and loan covenants; uncertainty which may jeopardise future sector financing and add to the cost of finance; increased financial risk of being a going concern and increased risks of village closure, noting that operators do not currently have pools of money set aside to fund early payments. The general attractiveness of the industry for operators and residents may be affected negatively.

Primarily LASAQ does not support Option 3 because early exit entitlement payments are not desirable for the future growth and viability of the industry. LASAQ submitted that if Option 3 was adopted, implementation should consider that residential property does not always sell when desired, and the retirement village industry should not be disadvantaged simply because a resident opts to pay their aged care charges by lump sum. LASAQ also noted that any early payment should not be unconditional and there should be the capacity for partial early payment of exit entitlements.

The Property Council of Australia submitted the following issues with Option 3:

- early payment would have a major negative impact on operators and future investment generally and on smaller villages in particular, with a potential for insolvencies.
- the operator's balance sheet, cash flow and financing arrangements will be negatively impacted.
- it is unlikely that the 'the finance industry' would see the provision which provides relief for operators experiencing hardship due to exit payments as adequate, due to overall uncertainty in outcomes. This may result in less favourable lending ratios and terms being offered as well as higher transaction costs
- the resident may not necessarily need the funds prior to sale while the retirement village 'is being asked to operate as a bank.'
- a compulsory early payment impacts on competitive neutrality as it imposes costs on a particular class of retirement village units while other similar products and services will be unaffected.

- under proposed Option 3, there may be limited incentive for the residents to maximise sale prices if they have received a partial or full early payment of their exit entitlement.
- the Queensland regime is not necessarily comparable to Victoria's regime so similar regulatory settings may not be appropriate.

The Queensland Law Society considers that Option 3 Prescribed Early Payment is not preferred as it may entail retrospective changes for a scheme, which may have commenced up to 30 years ago, to impose risks relating to units failing to sell, which is outside the control of both the resident and operator. QCAT would experience an increased workload to accommodate operators appealing due to hardship and residents challenging decisions made in the favour of the operator.

The ARQRV, National Seniors and resident stakeholder consultations support Option 3, but would prefer payment of exit entitlements after six months delayed sale and not the 18 months proposed in Option 3.

Likewise, the Consultation RIS included resident and consumer views on the impacts of delayed sale for residents and on Option 3. The ARQRV, through its legal representative, gave more detailed quantitative data about 50 residents who vacated their retirement village between December 2009 and February 2012. The average time taken to resell a unit was almost 9.5 months, with the average exit entitlement paid being \$189,375 (on an average ingoing contribution of \$233,587). Eight of the 50 resident units were resold after 18 months, with the times taken to resell ranging from 20 months to 34 months.

The ARQRV suggested that under a leasehold/licence arrangement, the ingoing contribution paid by the resident should be considered 'an interest-free loan' to the operator. As a result, residents are entitled to be repaid this amount (through the exit entitlement) within a reasonable time after leaving the retirement village. The ARQRV noted the Act required reinstatement work to be completed within 90 days of vacation, and so payment of the exit entitlement at six months would still allow the operator at least three months to secure a resale. The ARQRV also argued payment of the exit entitlement should not be dependent upon the resident first establishing 'hardship', because such a threshold was 'difficult to quantify'.

Further comments from the ARQRV in support of Option 3 note that units in well run and well-maintained villages sell close to their market value in a reasonable timeframe, and that the viability of the industry actually depends on this issue being addressed in the Act. The ARQRV argues that the industry can only grow if residents and their families have positive experiences from retirement village transactions.

National Seniors asserted that 'currently most often there are substantial delays for residents in the reselling of their unit'. National Seniors noted retirement villages do not presently appear to 'advertise upfront' whether they offer an early exit entitlement payment policy, and prospective residents do not usually check the 'sales history' of a village before signing up. However, if such information were disclosed, 'interested older people would soon take notice' and factor it into their decision-making process. Ultimately, National Seniors supported imposing a requirement for early payment of the exit entitlement as this would offer residents 'the most security and assurance that funds would be available'.

National Seniors supports Option 3 noting change is needed so that outgoing residents can quickly unlock capital which will assist them in the next stage of the aged care lifecycle such as residential aged care. A six month early payment timeframe is required and is optimal for various aged care requirements. Given that the early payment could cause financial distress to some village operators, they should be able to apply to QCAT for an exemption from the early payment requirement on the basis of village hardship.

Like the ARQRV and National Seniors, two resident submissions, a village residents committee, and the resident community strongly favoured Option 3. The resident's committee submission noted that Option 3 has the potential to release capital prior to sale, for current residents who had signed contracts allowing for exit payments upon sale rather than buyback, and that a three month or six month buyback period is optimal.

Option 3: Prescribed early payment – summary of key stakeholder impacts

Stakeholder	Advantages	Disadvantages
Residents	<ul style="list-style-type: none"> • Clear understanding of the process. • Financial security when moving to next accommodation. • The resident may only have to wait a maximum period to receive payment, increasing certainty. 	<ul style="list-style-type: none"> • If hardship is granted to the operator further delay in receiving payment. • Existing residents will not be entitled to an early payment (but issue is addressed in the recommended approach) • Operator may increase future ingoing contributions.
Industry	<ul style="list-style-type: none"> • Ability to apply through a dispute resolution service for an extension. 	<ul style="list-style-type: none"> • Business planning and associated cost (e.g. legal advice) may increase. • May reduce profits
Government	<ul style="list-style-type: none"> • Balances stakeholder expectations. • Operators may develop better workable and commercially sustainable ways of dealing with exit payment issues. 	<ul style="list-style-type: none"> • Potentially extra case work for QCAT. • Regulation and red tape increase.

5.5 Preferred option

The preferred option is to implement Option 3 – Prescribed early payment of exit entitlements, as it provides workable solutions for both resident and operator. The preferred option has the support of the majority of the Ministerial working party members. The Property Council has expressed that their preferred option is to maintain the status quo.

The proposed provisions for implementing Option 3 have been carefully considered to ensure a balance between protecting consumer interests and responding to industry concerns about viability and growth.

To respond to this issue and strengthen consumer protection, the Act should be amended to require an operator to pay exit entitlements 18 months after the resident leaves unless doing so would cause the operator financial hardship. The amendments will broadly reflect the approaches taken in section 27 of the *Retirement Villages Bill 2016 (SA)* and section 181 of the *Retirement Villages Act 1999 (NSW)*.

For current residence contracts where the resident has left the village but the exit entitlements have not yet been paid, the 18-month period will begin once the amendment comes into effect. For example, if before the amendment comes into effect, a resident has experienced a delayed resale for 12 months, once the amendment comes into effect the resident will then need to wait a further 18 months before the resident is entitled to payment of their exit entitlement. This clarifies the status for existing residents, as the Consultation RIS indicated that the early payment requirement would only apply to residence contracts entered after the Act was changed.

If paying the resident exit entitlement would cause the operator financial hardship, the operator will be able to apply to QCAT. If financial hardship is established, QCAT would then be able to grant the operator an extension; or establish any alternative payment arrangement that is fair in the circumstances for the operator and former resident, for example a part payment of the exit entitlement with the remainder or further part payments to be paid at a later date/s.

In a case where an extension is granted to the operator, the operator will have the ability to apply for further extensions.

To help facilitate efficient resale and support the new early payment of exit entitlement provisions, the Act should be amended to require the resale value of a retirement village unit to be reviewed after three months not the current six months. Consultation feedback has indicated that the 6 month period is too long to wait to revise the resale value and three months is more appropriate.

5.6 Implementation, evaluation and compliance support strategy

The adequacy and workability of the preferred option will be evaluated through ongoing consultative feedback from the retirement village industry and residents.

Appendix 1 – List of submissions to Consultation RIS

1. Royal Institute of Chartered Surveyors
2. Property Council of Australia
3. Oak Tree Retirement Village Residents Committee
4. Stockland Retirement Living
5. Association of Residents of Queensland Retirement Villages (ARQRV)
6. Leading Age Services Australia Queensland (LASAQ)
7. National Seniors
8. Queensland Law Society
9. 26 other submissions from individuals.

Appendix 2 - Consultation participants

Ministerial working party

There are several established, organised and proactive bodies representing both residents and operators in the retirement village industry. This has enabled government to conduct ongoing and targeted consultation processes in the review and development of legislation, and is an avenue through which information on changes may be efficiently disseminated to affected parties. These core consultation partners, which have also been active participants in previous Ministerial working parties and made submissions to the Committee, are as follows:

- Leading Age Services Australia Queensland (LASAQ) (formerly Aged Care Queensland Incorporated)
- Property Council of Australia Limited, Retirement Living Committee (Property Council of Australia) (formerly the Retirement Villages Association Limited)
- Association of Residents of Queensland Retirement Villages (ARQRV).

The existence of such large peak industry bodies ensure operator interests are comprehensively represented, as they not only have a large membership but encompass a wide range of villages from small and church-run through to expensive, high-end models.

Similarly, the ARQRV directly represents a large number of residents from varying types of villages, but is also extremely active in advancing the rights of all residents. These operator and resident bodies also have sufficient industry reach to ensure the particular concerns of both metropolitan and rural retirement villages are represented.

The Queensland Law Society is a vital stakeholder in any government legislative review process, and the Elder Law Committee, which comprises members with many years of direct experience in the retirement village industry, has made an extremely informed contribution to past reviews of the Act. The Elder Law Committee is also at the forefront of considering a range of other emerging seniors legal issues.

Given the age of people entering retirement villages, which although notionally beginning at 55, is more commonly over 70 years, seniors are also an important stakeholder group. However, this group may be difficult to reach as it comprises people who, while of an eligible age to enter a village, may not yet have considered this option, let alone started investigating the steps involved. The following bodies have proved valuable consultation partners in capturing the views of potential and prospective retirement village residents:

- Council on the Ageing Queensland (COTA)
- National Seniors Australia (National Seniors)
- Caxton Legal Centre Inc. (Seniors Legal and Support Service).

Housing Strategy and targeted stakeholder consultations

Retirement village workshop

- 19 residents from across a number of retirement villages, including some residents who had made submission to the Consultation RIS.

Industry roundtable meeting

- Leading Aged Services Australia, Queensland (LASAQ)
- Churches of Christ/ Leading Aged Services Queensland
- Property Council of Australia

Consumer advocates roundtable meeting

- Association of Residents of Queensland Retirement Villages (ARQRV)
- National Seniors Australia
- Queensland Law Society (Elder Law Committee)
- Council on the Ageing (COTA)
- Shine Retirement
- Park and Village Information Link (PAVIL), Caxton Legal Services

Ministerial Housing Council (and other stakeholders)

- Real Estate Institute of Queensland
- The Services Union
- Property Council of Australia
- Griffith University
- Association of Residents of Queensland Retirement Villages (ARQRV)
- Black Community Housing Services Ltd
- Strata Community Association, Queensland
- The Domestic and Family Violence Implementation Council
- Queensland Council of Social Services
- The University of Queensland Women's College
- Urban Development Institute of Australia
- Council on the Ageing Queensland
- Umpi Korumba Aboriginal and Torres Strait Islander Corporation for Housing
- Queenslanders with Disability Network
- Tenants Queensland
- Queensland Shelter
- Property Owners Association of Queensland
- Australian Resident Accommodation Managers Association
- Queensland Public Interest Law Clearing House
- Caravanning Queensland
- Manufactured Home Owners Association (MHOA) Qld
- Associated Residential Parks Qld (ARPQ)
- Caxton Legal Service (Parks and Village Information Link)
- Leading Age Services Australia, Queensland
- National Seniors Australia
- Queensland Law Society
- Supported Accommodation Providers Association.