

Briefing Note – Victorian Government response to the Retirement Housing sector inquiry

Report reviewed

[Victorian Government response to the Legal and Social Issues Committee's *Inquiry into the retirement housing sector*](#), September 2017

Purpose of this note

This briefing note gives a summary and analysis of the Victorian Government's response to the Inquiry which may inform discussion on issues related to retirement villages.

Background to the inquiry and government response

On 24 February 2016, the Legislative Council of the Victorian Parliament agreed to a motion that the Legal and Social Issues Committee inquire into the operation and regulation of the retirement housing sector, **with the aim of identifying opportunities for improvement and reform**. The Committee issued its report [Inquiry into the retirement housing sector](#) on 7 March 2017 following a 12-month investigation. The government's response report, the subject of this briefing note, was tabled in Parliament on 7 September 2017.

The 'retirement housing sector' included retirement villages, caravan parks, residential parks and independent living units although recommendations were only directed to retirement villages. In particular, the Committee was asked to consider:

1. Existing legislation that relates to retirement housing, to ensure it reflects the diversity of retirement housing types, and includes proper consumer protections, dispute resolution procedures, fair pricing and consistent management standards across the sector.
2. Comparable reviews and recommendations for reform in other Australian and overseas jurisdictions.
3. The experiences and views of residents of retirement housing and their families and retirement housing owners and managers.
4. The option to appoint a retirement housing ombudsman.
5. The impact of local government rating on retirement housing.

The report included 15 recommendations, 13 of which were directed to the Victorian Government aimed at both government and the sector itself.

There were 766 submissions received from stakeholder groups including:

- retirement housing residents
- operators
- consumer organisations
- local councils
- academics and researchers
- organisations representing the retirement property sector (including [ACSA](#) and the [Property Council of Australia](#))

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What is the government's response?

Note that the Inquiry report is ordered by recommendation: this summary is ordered by issue.

1. Review the *Retirement Villages Act 1986* (Act) – **terms of reference will be developed** once reforms arising from various related reviews are implemented and their impact assessed.
Recommendations from the Inquiry that will form part of the review:
 - Define who pays for what repairs and maintenance
 - Operators disclose ingoing prices
 - Apply deferred management fees on a pro rata basis
 - Operators to provide annual estimate of exit fees on request
 - Operators to report on compliance with maintenance plans
2. Concise and clear contracts – Amendments to contract layout and structure to address length and complexity **came into effect 1 July 2014** in the *Retirement Villages (Contractual Arrangements) Regulations 2006*.
3. Standard documents –
 - Enhanced disclosure statement – *Retirement Villages (Records and Notices) Regulations* **were amended in 2015**. Village operators must now provide disclosure statements to prospective residents to show the costs of entering, living in and leaving the village, including estimates of the resident's exit entitlement after 1, 2 5 and 10 years' residence
 - Standardised village factsheets – *Retirement Villages (Records and Notices) Regulations* **were amended in 2015**. Village operators must now provide village factsheets to prospective residents. These must refer to retirement village information on the Consumer Affairs Victoria's website. **By late 2017 or early 2018 further amendments** will require factsheets to make references to the website more prominent and to specifically refer to its *Guide to choosing and living in a retirement village* booklet.
4. 'Aged care rule' – This financial arrangement applies when a departing retirement village resident enters aged care. If the village exit payment hasn't yet been finalised, operators must fund the aged care daily accommodation payments (DAP) from expected exit amounts. This **new aged care rule commenced on 30 July 2017** through the *Retirement Villages (Contractual Arrangements) Regulations 2017*.

That is, village operators are required to "fund residents' choices to pay RADs or DAPs, applicable only to residents who entered their village before the remade Contractual Arrangements Regulations, and to pay DAPs only for new residents" (*Victorian Government response to the Legal and Social Issues Committee's Inquiry into the retirement housing sector*, page 18).

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5. Village accreditation - The Government **will examine options** for a mandatory scheme. It expects to consider the implications for retirement villages and residents where a retirement village fails to achieve or maintain accreditation.
6. Legal and general practitioners' professional accreditation and training – The Law Institute of Victoria is proposing professional development **to be piloted in November 2017**
7. Accredited and non-accredited courses for village managers - The Government **will work with industry and consumer bodies** to make progress on this.
8. Dispute resolution –
 - Review of the Act - Consumer Affairs Victoria (CAV) is **currently reviewing** the adequacy of resolution of disputes arrangements in retirement villages in the Act
 - Review of VCAT - *Access to Justice Review* has **recommended changes** to the Victorian Civil and Administrative Tribunal's (VCAT) dispute resolution systems and processes broadly and includes expanding alternative processes.
 - Ombudsman – The *Access to Justice Review* was **unable to recommend the establishment of a retirement village ombudsman** or extending the powers of an existing ombudsman. A broader regulatory context of retirement housing and a comprehensive cost-benefit analysis would need to be conducted with input from the industry, village residents, and advocacy groups. Strong justification would be needed given the other priorities of the civil justice system.
 - Retirement Housing Assistance and Advocacy Program – This is one of the four service areas **already funded by the Tenancy and Consumer Program 2017-21**. It provides assistance for vulnerable and disadvantaged tenants and consumers.
 - Housing for the Aged Action Group (HAAG) - **The Tenancy and Consumer Program 2017-21 provides HAAG with \$1.2 million** for its support to Victorians aged 55 or over who live in retirement and rental villages, or as permanent residents of caravan and residential parks.
9. Review of all unit holders and owners' corporation voting rights - part of the **current Government's Consumer Property Law Review** is with the *Owners Corporations Act 2006*. There are provisions in this Act which are inconsistent with the RV Act. "Leaseholders pay the owners corporation for services and facilities, but unlike owners of units, have no say in the rules of that owners' corporation that govern the provision of those services and the use of those facilities". This can also apply to fees charged.
10. Design villages with ageing in place in mind – The Government **encourages the sector** to do this. It supports a universal design approach to all future infrastructure development.

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11. Retirement Housing Zones – The Government **did not support this recommendation** as current residential zoning already provides for retirement villages. The Department of Environment, Land, Water and Planning is currently reviewing planning provisions which includes looking at streamlining the approvals process for aged care accommodation.
12. Local government differential rating – **The Committee did not make a recommendation** to Government in its Inquiry report but puts arguments ‘for’ such as residents pay twice for council services; and ‘against’ such as rates are not on a cost-per-service basis. Reduced rates would mean higher rates for others. Some councils do however provide differential rating.