Submission 22

LEADING AGE SERVICES
AUSTRALIA
QUEENSLAND

SUBMISSION

REVIEW OF THE *RETIREMENT VILLAGES ACT* 1999

FOR: QUEENSLAND PARLIAMENT - TRANSPORT, HOUSING AND LOCAL GOVERNMENT COMMITTEE

DATE: 20 SEPTEMBER 2012

CONTACT PERSON:

Ms Geri Taylor, Manager Policy and Retirement Living

Leading Age Services Australia Queensland

6 Pavilions Close, Jindalee Qld 4074

Telephone: (07) 3725 5555

Email: geri.taylor@qld.lasa.asn.au

All age services.

Executive Summary

The Queensland Retirement Village Industry has served older Queenslanders well avoiding many of the pitfalls experienced in other states. There have been only two closures of small villages in the last decade, reported Tribunal cases have been low and while negative media inflames passion and indignation on occasions, media attention and critics cannot point to any systemic industry failure or widespread dissatisfaction of residents living a village. Quite the contrary and this is because the majority of people working in the industry do so wanting to ensure older Queenslanders live well in their golden years.

Nevertheless, there are many challenges on the horizon for Queensland and for the retirement village industry. So the decision by the LNP Government to transfer responsibility for the Retirement Villages Act and for the industry to the Department of Housing and Public Works is to be commended. This will enable consideration of wider retirement village issues such as the viability of the industry, the demands arising from increasing percentage of older Queenslanders living longer and living better, the intersection of the industry with other key policy areas including community services, local government, planning and development and health. In addition, because of the decentralised nature of the state's population, the issues for those older Queenslanders living in retirement villages in non metropolitan regions has to be considered highly.

This Review of the Retirement Villages Act is timely. Leading Age Services Australia, formerly Aged Care Queensland, has a proud history of being a Queensland based organisation with a membership base of non for profit and family companies, and understand the unique characteristics of the state. Our Association looks forward to working with Government in progressing the matters arising from the Review.

While celebrating the fact that so many older Queenslanders are living longer and living better, providing adequate, appropriate and affordable housing for them will test Government and market resources. The reality is that the overwhelming majority of older people retire and remain in their own homes, but for those whose accommodation and care change there has to be alternatives and this is where the value of the retirement village sector come to the fore.

The retirement village industry is now identified as the site of low care and support for our older citizens as there has been a cessation of low care being provided in residential aged care facilities. This is a new phenomenon, one that will need considerable analysis before any new policy and regulation is considered. The state is at a disadvantage in that there is not a strong body of research to fall back on to inform and assess the industry. This must be rectified to ensure good public policy reactions.

This Submission is a descriptive one intended to inform those to whom the industry is relatively unknown. Leading Age Services Australia Queensland trusts it will assist the Committee's analysis and deliberations.

A. Preamble

Leading Age Services Australia Queensland - LASA Q, welcomes the opportunity to provide a submission to the Transport, Housing and Local Government Committee of the Queensland Parliament.

Our organisation is part of the national Leading Age Services Australia, a not for profit organisation representing owners and operators of retirement villages, community care, residential aged care facilities, pensioner rental and other housing facilities as well as industry providers working within the different sectors. Leading Age Services Australia advocates for health, community and accommodation needs of older Australians to help them live well, irrespective of their type of need, or where, or from whom they require services.

LASA Q was previously Aged Care Queensland, an organisation which has been in existence for over 23 years serving its diverse membership. With 400 members in Queensland, many located in rural and regional centres, LASA Q provides a wide range of member services including: formal educational and training through the nationally accredited Education Institute, an active Continuing Professional Development program and publications, advice and assistance on operational matters to members and to the community, conducts regional meetings on a continuing basis, and serves on a number of committees and reference groups for the professions and industry. It is a source of information and advice to the general community and residents of retirement villages and its' key staff are frequently asked to present at conferences.

LASA Q's Manager Policy and Retirement Living is on the OFT's Retirement Villages Ministerial Working Party, as are four members of the Retirement Living Committee. The Manager also is responsible for LASA's national retirement living and housing interests.

LASA Q holds 50 percent of the IP for ARVA (Australian Retirement Village Accreditation Scheme); and holds the copyright for the 2012 Classification of Guidelines, previously the 2005 Maintenance Reserve Fund & Capital Replacement Fund Guidelines.

LASA Q is a key stakeholder in the International Retirement Community Accreditation Scheme (IRCAS).

LASA Q also produces an annual publication Now That's Living that provides consumer information to intending residents. At Appendix 1 is a copy of the 2012 publication which is provided to libraries, pharmacies, GP Surgeries and community organisations. LASA Q staff frequently speak to community groups about ageing successfully and housing and care choices available in Queensland to promote a quality of living in retirement villages.

B. Overview of the Retirement Village Industry

- Retirement Villages are defined as a housing and care option for older Queenslanders and, as such, reflect many of the normal housing industry trends and contentious issues including planning and development difficulties, inconsistent State and Local Government policies and decisions, housing market demand and supply, adverse and ill informed media;
- Retirement villages are not a single product - there are a number of housing products available such as independent living units, supported accommodation, serviced apartments, assisted living and other combinations. The unifying criteria is that they operate under the state's retirement village legislation and so can discriminate on an age basis;
- In Queensland there are 317 retirement villages and around 30,000+ residents with approximately 70 percent single person households;
- They are one housing choice for older Australians along with downsizing from a current home to free up income, buying into naturally occurring retirement communities (NORCs) as seen on the Gold Coast under a Body Corporate system, buying into a manufactured home estate, entering private or public rental accommodation and other alternative housing options in lieu of remaining in the family home;
- The majority of retirees do remain in the family home and when they downsize they try to stay in their familiar neighbourhood – a 5 to 10 km radius - although this does vary with affluent buyers;
- Retirement villages per se are still overwhelmingly owned by not for profit operators although there are major for profit corporations from the residential sector who have entered the market in recent years and now the balance is around 40 percent in the for profit sector;
- Queensland has benefited from having a number of long established small family companies own and operate villages for many years as well as large not for profit providers who have shaped the industry well. This has resulted in only two closures in the last 10 years – one of which was by a Sydney based company;
- The philosophy of operating a retirement village varies from those operators who work from the basis that they develop an accommodation option only, to those who recognise that they provide housing as an 'apartment for life' for older Australians to 'age in place' with the provision or facilitation of care and support that can range from minimal support to palliative care. This is more and more the prevailing philosophy and in part has been brought about by the Commonwealth Government's Age Care Policies and the increasing longevity of older Australians which delays consideration of alternative housing options;
- The retirement village industry can still be regarded as a young industry even though it has been in existence since the late 1800s with benevolent societies providing some housing for their older, indigent members. The big expansion in villages occurred after the Second World War when the Commonwealth supported the not for profit sector in developing independent living units for those of limited means;
- Compared to other housing and residential aged care, there is not a comprehensive body of evidence about the industry since the 2001 Stimson Report [1] although there has been one-off studies and some commercially undertaken resident satisfaction surveys and property studies. The AHURI 2010 Service Integrated Housing Report [2] provided a

very clear analysis of the fact that older Australians will continue to age in their family home with a percentage moving to retirement villages for support and care. Since 2011 LASA Q has been in negotiations with Professors Andrew Jones and Robert Stimson to undertake more comprehensive studies and use this Submission to argue that, for Queensland, research is urgently needed apart from knowing about the owner status, the location and the size of retirement villages. In Queensland there is limited information on their characteristics, their resident profile, their financial situation and other parameters. This is especially important considering the state's decentralised population and service delivery across rural and regional Queensland. LASA Q has raised this with government;

- There is also not a strong research base to the benefits or otherwise of the industry and the evolving benefits to residents although some early research is promising. Certainly, the overwhelming majority of residents when independently and confidentially surveyed say they are pleased that they moved to the retirement village although they, like the normal Queensland population, remain concerned with the cost of utilities, insurances and the general cost of living;
- Retirement villages around Australia are governed by state/territory based legislation which differs from state to state, and is commonly grounded around consumer protection and ignores other public policy considerations such as seniors housing policy and age friendly neighbourhood policy;
- Influencing policy and decision makers about the benefits of supporting the retirement village industry in an environment of adverse media attention and where there is little understanding of the industry is a demanding task, and requires consistency and dedicated resources. This is mirrored in the effort to bring diverse industry participants to embrace strong corporate governance principles and practices based around transparency of operations, and acceptance that they are one component in the housing and care continuum for older Australians;
- The August 2011 Productivity Commission Report 'Caring for Older Australians[3] pointed to a number of reforms in the residential aged care sector which, when and if taken up by the Commonwealth, will have an increasing impact on the retirement village industry – and indeed on the quality of life for older Queenslanders. Central to these reforms is more 'user pays' which will herald the development of other models of care and accommodation, more care in the home - again on a user pays basis, and a lower allocation of the numbers of places funded by the Commonwealth government as subsidies for residential aged care beds. This will put strain on access to residential aged care facilities;
- **The largest single reason why older Australians move to a retirement village is that they believe they will be able to live in an age friendly environment and be able to access care and support as, and when, they need to do so;**
- Early research is pointing to the fact that retirement village tenure has positive health benefits and longer independent living than similar cohorts in the general community. For example, the Illawarra Retirement Trust reported to the Productivity Commission in its' submission to the 2011 Caring for Older Australians inquiry that their residents enjoyed four extra years of living independently compared to similar cohorts in the general community. This has been reinforced by work done at York University in the United Kingdom[4];

- Older Australians will continue to remain in the family home for their retirement years so living in a retirement village will remain an attractive option for only some of them – a niche market for previous home owners, with a smaller niche market moving to an assisted living facility. It is suggested that around 5 to 6 percent of those over 65 years move to a retirement village, but this increases to around 10 percent for those over 75 years in populations having a higher percentage of aged persons such as seen in South Australia;
- Increasingly, they will become a more attractive destination for those over 80 years of age, particularly when higher levels of care and support can be provided in them such as in assisted living facilities and serviced apartments in retirement villages. This will be magnified because of the constraints in the supply of places in residential aged care facilities; and the drying up of low care places because of the ageing in place policy pursued by the Commonwealth Government;
- Retirement village life does help older adults age gracefully by offering the best of two colliding worlds: 'ageing in place' to avoid institutional living while creating tight community bonds to foster better health and social connections.

C. Principles for a review of the Retirement Villages Act

For an efficient and viable retirement village industry, one that inspires community confidence, consumer well being, and viability and expansion, the review of the Retirement Villages Act should follow these principles:

- Future Amendments to the Retirement Villages Act 1999 will be cognizant that the retirement village model is unique as an accommodation, support and care option for older Queenslanders and is expected to grow exponentially in the coming decades;
- Any Amendments to the Retirement Villages Act 1999 will be considered after appropriate research is undertaken that supports the intent of the amendment to address a systemic shortcoming in the present legislation that cannot be remedied with the inspectorial and penalty options in the current legislation;
- Amendments to the Retirement Villages Act 1999 will be considered after due consultation with key industry representatives including the Retirement Villages Ministerial Working Party;
- Regulatory Impact Assessments will be undertaken before any proposals are submitted to Parliament and allow adequate time for the industry to respond to the Assessment;
- Amendments to the Retirement Villages Act 1999 will be progressed within a framework of social policy for older Queenslanders;
- Amendments to the Retirement Villages Act 1999 will be progressed to support seniors' housing developments to better meet the needs of older Queenslanders in both metropolitan and Regional Queensland; and to facilitate innovative affordable housing solutions.

D. Points requested to be addressed in Submissions

The Committee raised a number of queries directed to both operators and to residents. These will be replied to seriatim and include a sample of quoted responses from residents in LASA Q's member villages.

TERMS OF REFERENCE **1. Consider whether the Act provides adequate fair trading practice protections for residents; including providing appropriate material to enable informed decisions to be made.**

ISSUES FOR COMMENT

1. ***Do you think the Act promotes consumer protection and fair trading practices? If not, where you believe improvement is required?***

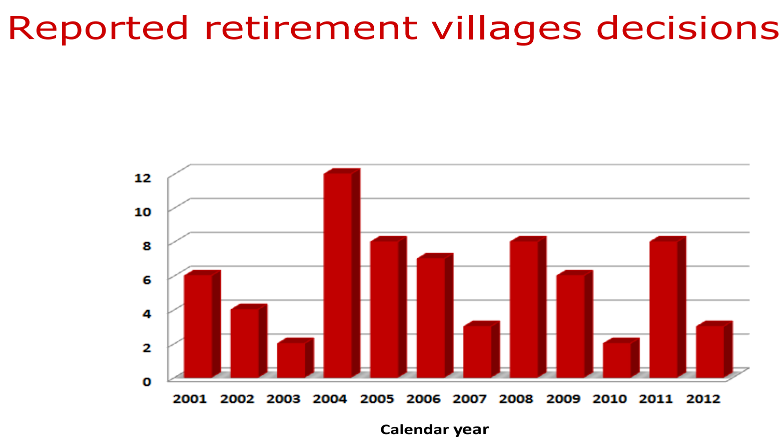
Legislation provides the parameters for the administration of a retirement village but cannot regulate for all the interplays that occur in this dynamic environment between consumers and providers as each interaction is contingent on factors such as communication styles, perceptions, values and context.

In the Retirement Village industry, over regulation and compliance does result in less innovation and reform, and also in less product offerings to the market. The balance in regulation is to:

- ensure consumer protection
- have ethical and professional standards by operators
- minimise financial and reputational risks for all
- strengthen community confidence
- promote a viable market by allowing choice and options for consumers.

The current Retirement Villages Act (the Act) has promoted fair trading practices by scheme operators as evidenced by the small number of QCAT Tribunal cases reported over the last decade.

Table 1: Reported QCAT Tribunal Decisions in a 10 year period.



Source: Minter Ellison Lawyers 2012[5]

Other Comments:

- The current Act meets the intent of consumer protection. S86 provides additional protection for residents against misleading or deceptive conduct.
- There are some drafting issues and lack of clarity such as in Section 53A with the 2012 Amendment to the Act and it is silent on some matters for a Closure of a Retirement Village. There are sections that compromise the efficient management of the village and can lead to unintended degradation of a village by giving residents the opportunity to veto budgets purely on a cost basis; and the classification of Utilities in S106 rather than S107 poses operational difficulties well outside the control of the scheme operator.
- There is a continual tension between setting annual General Services budgets that are the most affordable for residents and making sound business decisions that are in the best interests for the viability of the village over the longer term.
- Any suggestion that the current Act requires strengthening to improve consumer protection is unwarranted considering the plethora of consumer directed legislation including:

  - ➢ Commonwealth's National Consumer Protection Act 2009
  - ➢ Commonwealth's Competition and Consumer Act 2010 formally known as the Fair Trading Act
  - ➢ Commonwealth's Trade Practices Act 1974
  - ➢ Sale of Goods Act 1986 (Queensland).

LASA Q has no interest in supporting members who operate outside strong corporate governance standards but we do support those against whom frivolous or vexatious complaints/disputes have been made.

In the current Act, there is provision for the Department of Fair Trading to take action and impose penalties for breaches by scheme operators. The absence of any such action by the Department, since 2006, provides evidence that the industry is well regulated and conforms to the Act's requirements. As such, the Act is protective of both residents and scheme operators and that is an important nexus.

Comparing the Queensland Act with other jurisdictions, the Act is a comprehensive one, provides a framework to protect consumers and adequate direction to and control of scheme operators. Any reform that adds to the complexity of the compliance regime will serve as a disincentive to continual investment in this key area of seniors housing - problematic at a time when there is pressing need for more supply over the next decade and beyond.

The OFT had a Ministerial Working Party Retirement Villages which had been dormant in 2011 but did meet once in early 2012 before the Government changed. At the meeting topics such as:

- a simplified PID
- dealing with the closure of retirement villages
- reinstating the cooling off provision that existed in the Act prior to 2006
- dealing with new partners in the village - the love in a retirement village situation

were discussed with the agreement that there was value in progressing these matters with the industry for the benefit of residents, provide clarity for scheme operators and improve the legislative base. LASA Q supports the examination of these topics with a view to further amendments to the Act after due consultation with the industry and the assessment of the veracity of the issues.

The Act does have the disadvantage in that it imposes the same compliance regime and costs on very small villages in rural and regional sites as on large corporate entities. The 'one size fits all approach' poses viability issues for some small villages.

A key concern for LASA Q members is the lack of an evidence base to guide government on the true state of the industry. The consumer organisation, ARQRV, state that there are 4000 complaints from residents on their books, but when pressed to allow the industry to work with them in a collaborative manner to overcome such concerns, this did not occur. The concern is that if these complaints are being portrayed as a major problem in the industry to government, without being assessed as valid or something that could be resolved through education and training for both residents and scheme operators, they could be the basis of further amendments to the Act. After all, complaints may be related to perception and personal views rather than a matter of substance and backed by evidence.

The proposed simplified Public Information Document that was developed by Minter Ellison with reference to NSW's more simplified PID, on behalf of both LASA Q and RVAQ, has been progressed and is being negotiated with the ARQRV (and has been informally forwarded to the Department of Housing and Public Works). It has the benefit of increasing clarity to prospective residents and reducing the onerous processes that the scheme operator is subject to in preparing them and the costs associated with any changes.

RECOMMENDATIONS:

- Note LASA Q's policy position that the current Act offers a level of consumer protection to safeguard residents in a comprehensive manner
- Note that the current Act provides Government with inspectorial rights and the option to impose penalties for breaches of the Act
- Note that the Retirement Villages Ministerial Working Party had agreed on a number of key topics to be considered as an Agenda for further refinement of the Act
- Note that the proposed simplified PID can be introduced without any amendment to the Act
- Note that the Agenda includes progressing a simplified PID to increase clarity and transparency for both residents and scheme operators
- Note that a disadvantage of the Act is that it is a one size fits all which may not be appropriate for small villages in rural and regional Queensland
- Note that there is not a body of evidence and research to guide the industry and Government about it. This includes the level of valid complaints about industry and the weaknesses and strengths of it.

Questions 2, 3 and 4 have been addressed by a sample of residents in LASA Q's member villages and a sample of these are included below. The names and village are not supplied with the submission but can be released confidentially to the Committee if requested.

It is worthwhile to highlight that in spite of adverse media stories, the overwhelming majority of residents are satisfied with living in their village community and this continues to be reinforced in independent surveys conducted by qualified professional social science surveys. Substantive Resident Satisfaction surveys can be tabled for the Committee's benefit as desired.

2. If you have considered becoming a resident of a retirement village, did you have all the information you needed to make an informed decision? Was the information presented in an easy to understand way? What could have helped you in this process, for example independent fact sheets based on the Act.

1.	When I was considering entering …….in 2000-2002, I was very fully supplied with all the information I required, especially the accounts which, as a professional economist, I scrutinised very thoroughly to consider the (long run) viability of …….; there was more than sufficient information given me in the operating accounts and in the balance sheets to satisfy me on these matters. I realise that it may be difficult for a lay person to extract the essence from a necessarily complex set of accounts (which have to satisfy all the conventions of accounting), but it is always possible for such a person to show the accounts to his/her own accountant for an independent opinion. I don't know whether a standardised 'simple' extract from the accounts is a possibility: probably not. Perhaps it is best simply to advise a person intending to enter a retirement village to get his or her own independent professional advice. I did also show the documents to my lawyer for an opinion (and this was very helpful)
2.	There was plenty of information on the net. The ………village readily provided us with a PID document. Any questions asked were answered on the spot or with a following email. The process was very streamlined and informative.
3.	Yes. Improved document structure. The visual separation of the Act provisions and the specifics of how the Village operated under the Act could be improved in terms of presentation. Yes, all necessary information was in the document.
4.	Following my initial enquiry regarding purchase of a unit (Right to Reside), I received a PID and a Residence Contract. The information I received was informative, clear and reasonably concise. I can't think of anything else that I really needed to know to make an informed decision.
5.	Question Part A – Yes Question Part B – Yes Question Part C – No other help needed.
6.	Yes, certainly independent fact sheets based on the Act would be helpful. The process for us was simply overwhelming in sifting through vast acres of material from too many sources, and through the differences across States (our move into a retirement complex was interstate). There are too many types of residential options available, all with different financial requirements/conditions/charges, and different Acts too that may regulate these options (over 50s, over 55s, villas, villages, hostels, domains, units etc. etc.). One peak body for the whole of Australia, or each State, one reputable website too would be helpful. The Act itself is almost incomprehensible unless you have a degree.
7.	Yes we had all the information we needed without a doubt. The information we received was terrific and we were able to understand all of it. I don't think I really needed anything else.
8.	Yes had information presented to me that fully explained the position where it was easy to make an informed decision. Written information was easy to read and understand.
9.	Yes and a Public Information Document was handed to us. (Any fact sheets would be a help.)

3. Does the public information document include all relevant information to enable prospective residents to make informed decisions? Is there any other information you believe should be required to be included in the public information document?

1.	Yes. I didn't think at the time that there was any additional information I required.
2.	The document was very well set out and information easy to read and understand.
3.	Question Part A – Yes. Part B – No.
4.	Yes, The PID adequately covered all the information I needed. The Residence Contract was more specific in my case, and probably made the PID easier to understand.
5.	Question Part A – Yes Question Part B – No
6.	We had difficulty finding an independent solicitor who knew the RVA, so a suggestion would be to provide an accredited group of solicitors who do, and who are recommended.
7.	Yes, the Public Information Document provided everything that we needed to know.
8.	Yes easy to read and understand for prospective residents and fully covered.
9.	I think so.

4. Have you had any experiences where you felt as though your rights as a consumer of services provided by a retirement village operator were not protected? This could include, for example, being misled or deceived, having false expectations set by an operator that were not met once you moved in to a village or being taken advantage of.

1.	No. All my expectations were met. I have seen during my 10 years of residence that….. struggles with a system where the government increases operating requirements on the Village, but (a) Does not increase the government subsidies to enable the village to do this; and (b) Controls (or, more bluntly, unreasonably limits) the fees etc which the village is permitted by the government to charge.
2.	I have not experienced any of the above. The village operators have gone out of their way to meet the needs of the residents and have acted on resident suggestions such as extra clothes lines and resident community gardening areas.
3.	No.
7.	No, we have never had one instance where we feel we have been mislead or deceived. All of our expectations have been met. If there is anything we need fixed, we just have to ask and it is taken care of very quickly. We love living here. We have peace of mind and are very comfortable.
8.	My rights and services supplied have been always properly received and protected.

Note: Random sample – many responses omitted as replies with no.

Other Comments: From LASA Q's members' perspective, the experience is that deciding to live in a retirement village is a decision not lightly taken by potential residents, nor their families who may be assisting a parent. LASA Q members report that, more and more frequently, the decision to move into a retirement village is being decided by the potential resident and perhaps their family support. In the retirement village serviced apartments and stand alone assisted living facilities, it is nearly always decided by the family member supporting the parent to move.

Potential residents commonly take up to two years to make the decision and even if they decide to move within an earlier time frame, they have to sell their current home. Because this is a purchase based around lifestyle – access to support and care, a ready made community, safety, improved amenities and quality of living and less home maintenance concerns etc., and unlikely to realise significant increases in capital gain on the purchase, except in boom housing times, it is not a decision taken lightly.

Marketing material will always point out the positives of retirement village life while the Public Information Document (PID) spells out the factual detail. The Government's Retire Smart provides a valuable consumer document although there has been some criticism that the wording could be more consumer friendly. Many villages have Open Days and schedule information sessions to provide further detail about their particular village. The 14 day cooling off period is also a safety check for those who have made a commitment but then have second thoughts about their decision.

RECOMMENDATIONS:

- Note the sample of responses from residents to questions 2, 3, and 4
- Note that LASA Q can provide copies of Resident Satisfaction surveys that show the high levels of satisfaction of residents who live in retirement villages
- Note that older Queenslanders take their time to decide to move to a retirement village.

5. ***Do you have any views about how the Act compares with other legislation to provide consumer protection as well as business viability, for example, the Residential Tenancies and Rooming Accommodation Act 2008 or the Body Corporate and Community Management Act 1997?***

The Retirement Villages Act 1999, the Residential Tenancies and Rooming Accommodation Act 2008, the Body Corporate and Community Management Act 1997, and indeed, the Manufactured Homes (Residential Parks) Act 2003 are consumer directed housing legislation. Some LASA Q members do operate pensioner rental facilities consistent with their mission, while some members own retirement villages that operate under the Body Corporate and Community Management Act as well as the Retirement Villages Act. The latter is much less common in Queensland compared to other Australian states.

However from a seniors housing perspective, there are large numbers of older Queenslanders living in naturally occurring retirement communities (NORCs) on the Gold Coast, Sunshine Coast and other attractive coastal areas in higher density developments. This take up is expected to increase in the coming decades.

The Retirement Villages Act S24 states that the Act takes primacy over the Body Corporate and Community Management Act, although dealing with two differing sets of regulation adds to compliance costs. This is why the corporate governance standards of the scheme operator and the skills, training and ability of him/her is so important to the success of the village, the resident satisfaction and the confidence of the community in them.

This is also the reason why LASA Q will recommence the Diploma of Management (Retirement Villages) through its' nationally certified Education Institute in 2013. See Appendix 2 for an outline of the program.

RECOMMENDATIONS:

- Note that the number of retirement villages in Queensland which operate under the Body Corporate and Community Management Act 1997 is insignificant.

TERMS OF REFERENCE
2. Consider whether the Act does not include unnecessary restrictions and provisions which increase the affordability of living in a retirement village.

ISSUES FOR COMMENT

6. ***Is the exit fee an appropriate source of profit for a retirement village operator? What other approaches might encourage operators to invest in the retirement village model?***

The Exit Fee remains the only source of profit for a scheme operator if the model is to be affordable to modest home owners who are the majority of retirement village residents.

It is the only source of income after the initial development of the village.

It is the reassurance to financiers that there is a sound business case for the development of the village and its ongoing viability.

In many retirement villages, residents do have the option to pay a premium on their entry price to avoid an exit fee but this is not popular. Residents state that they would prefer to use the money to invest and/or to fund their quality of living during their tenure.

The Exit Fee is a deferred fee for living in a community where there are a number of amenities to provide a quality of daily living for residents in their village neighbourhood; where they have footpaths, roads and lighting to assist them to mobilise safety and comfortably; where they have access to amenities such as a library, community centre, swimming pool (in many instances), transport and nice grounds to add to the quality of living.

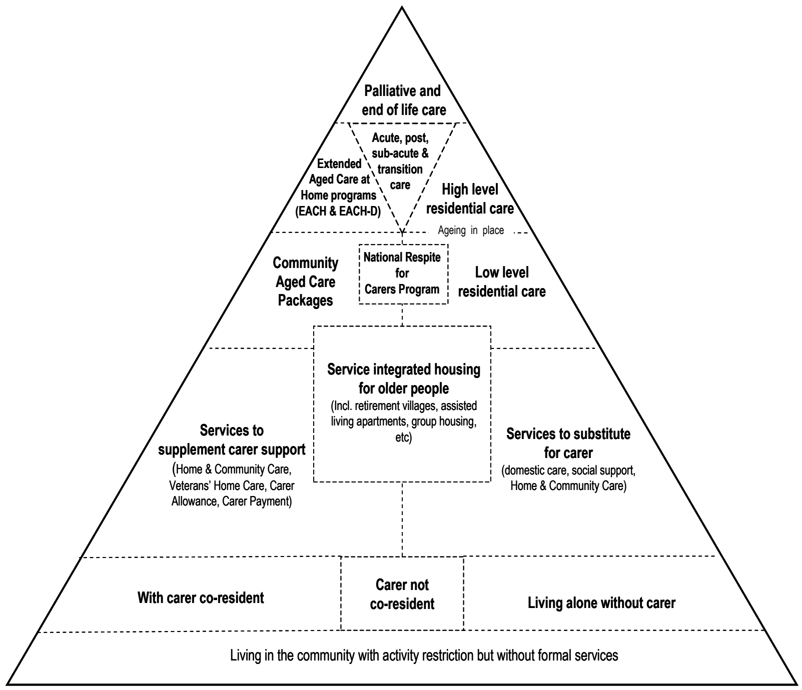
Just as in life for everyone in a market driven economy, this has to be paid for. The Exit Fee model is based on a ‘user pays’ approach. There isn’t any government subsidy to defray costs of development or operation, nor are there any public - private partnerships or largesse from the State or Local Governments to develop retirement villages in catchment areas where there are larger numbers of older persons and age friendly housing shortages.

The Exit Fee is the payment after the resident tenure is completed - so instead of having a higher entry price which minimises affordability to the average retiree, it is due on termination of a lease which is usually due to death of the resident. This sometimes causes issues for families who see their inheritance diminished or if a resident’s tenure ceases because they have to move into a residential aged care facility. Mostly, however, families are grateful that their parents have lived in an environment where they have been able to remain independent and supported with necessary services in the retirement village environment. Where the unit is subject to sale before the resident is paid the exit entitlement and the resident moves to an aged care facility, the resident may need to pay interest (set by the Commonwealth Government at 7.66 percent as of 30 September 2012 quarter) to the residential aged care facility until their Bond or Periodic Payment can be finalised (normally after the sale of their village unit). This is exactly the same as what occurs in the general community. If an elderly Queenslander has to go into a residential aged care facility and is not deemed to have concessional status, they have to pay the Accommodation Bond through the sale of their home.

Internationally the Exit Fee is unusual. In the USA there isn’t an Exit Fee and many large and lavish villages use a rental model. In addition, in sunbelt economies, there are huge retirement communities where up to 35,000 people live, such as Sun City outside Phoenix Arizona, where seniors buy their home or condominium and pay a monthly fee for the amenities and administration of the community. New Zealand, where there is a flourishing retirement village sector, has the Exit Fee model; the UK where the ‘apartments for life’ model is becoming more popular, have higher monthly fees and higher entry prices after buy in but no exit fee and; in Canada, there is a mixture of rental facilities and ‘buy ins’ again with monthly charges which reflects the diversity of the seniors financial situation.

These international models offer some direction for future housing with care options – the service integrated housing model, but there has to be a responsive government environment for the market to invest in such long term projects which require long lead times before profits can be realised.

Figure 1: Current models of care in the aged care system



Source: Productivity Commission Report Caring for Older Australians August 2011 [6]

The 2011 Productivity Commission Report Caring for Older Australians described the current aged care system and at the centre is the service integrated housing model. They made a recommendation that if taken up by the Commonwealth Government, this would radically alter the housing and care product offerings as it would mean that older Australians could draw down on their savings in an Aged Pensioners Savings Account - realised after the sale of the family home, to fund both their accommodation and their care needs. The recommendation is that:

Recommendation 7.3

> *The Australian Government should establish an Australian Age Pensioners Savings Account scheme to allow recipients of the age and service-related pensions to establish an account with the Government (or its agent) with some or all of the proceeds of the sale of their principal residence.*

- *The account would be exempt from both the Age Pension assets and income tests and would pay interest equal to the prevailing consumer price index to maintain its real value. All accounts would be free of entry, exit and management fees.*
- *Apart from the proceeds from the sale of a principal residence (including the sale of any subsequent principal residences), no other amounts should be able to be deposited into the account.*
- *Account holders would be able to flexibly draw upon the balance in the account.* [7]

Developing a retirement village

Financing is required to develop retirement villages. This includes funds for the purchase of the land (for existing bank customers), to gain development approval – always an onerous and lengthy process, to develop and promote the village and build it – usually in stages. The scheme operator obtains revenue from the initial sale of the village's accommodation which is their development profit - around 10 - 17 percent. This profit is used to fund the next stage of the village, set monies aside to meet their obligations for the Capital Replacement Fund, meet costs (General Services and Maintenance Reserve Fund) for unoccupied units that are completed but not sold, subsidise staff (which may include catering, care and support staff and not just gardeners, handymen and administration staff), the village operations including all the amenities, and very importantly pay down debt.

Affordability factors to move to and live in a retirement village

The buy in price for a unit is usually pitched at a percentage of the house prices in the surrounding suburbs. This allows the village to be attractive to a population living within a 5 to 10 kilometre radius and so they will have 25 to 30 percent left over after their sale for a quality of life in their remaining retirement years, on the proviso that it does not materially affect their pension entitlements. The affordability of living in a retirement village is a concern for both residents and the scheme operator, and is one that is common in other countries where there are retirement villages even operating without Exit Fees.

This is because the residents live on fixed incomes and any unexpected variations from an anticipated annual budget, results in a variation to their quality of living. Unfortunately this is also an issue for retirees living in the general community, particularly over the last half decade when utility prices, cost of living, health care costs and insurances have risen significantly. The majority of retirement village residents are aged or veteran pensioners (around 80%); and even for self funded retirees, who have seen their retirement portfolio shrink since the Global Financial crisis which affected the Australian Share Market and superannuation funds, cost of living pressures take on an overwhelming concern. By way of illustration:

The Australian Superannuation Funds Association released their ASFA Retirement Standard for December 2011 that show, in general, a couple looking to achieve a comfortable retirement needs to spend $55,249 a year, while those seeking a 'modest' retirement lifestyle need to spend $31,675 a year.

Table 2: ASFA Budgets for various households and living standards

(December Quarter 2011)

	Modest lifestyle – single	Modest lifestyle – couple	Comfortable lifestyle – single	Comfortable lifestyle – couple
Housing – ongoing only	$58.20	$55.87	$67.46	$78.20
Energy	$34.35	$45.62	$34.86	$47.28
Food	$74.61	$154.56	$106.59	$191.86
Clothing	$18.08	$29.36	$39.14	$58.72
Household goods and services	$26.08	$35.36	$73.36	$85.94
Health	$34.32	$66.24	$68.09	$120.18
Transport	$92.21	$94.82	$137.41	$140.02
Leisure	$73.40	$109.36	$222.44	$304.83
Communications	$9.30	$16.29	$25.57	$32.55
Total per week	$420.57	$607.47	$774.93	$1,059.57

Total per year	**$21,930**	**$31,675**	**$40,407**	**$55,249**

Source: ASFA 2011: www.asfa.com.au [9]

The ABS state that since 1998 the Analytical Living Cost Indexes for aged pensioners has risen 53.7% as at the June 2012 Quarter while the CPI Reference Point for the same period was 49.1%.

To assist in understanding the structure of the exit fee and the fact that it is not an excessive deferred management charge relative to the length of tenure experienced by the majority of retirement village residents and the amenities enjoyed during their life in the village, scheme operators provide information that is transparent and easily understood.

An industry leader has provided his powerpoint for this submission as an example of the information and affordability of a move to his village would mean for a resident. This powerpoint is at Appendix 3 and is normally used to inform potential residents at community information sessions.

RECOMMENDATIONS:

- Note that the Exit Fee is an accepted consequence of providing affordable housing living in a village with amenities; and a living environment that is conducive to a quality of living
- Note that pensioners, who make up the majority of residents in retirement villages, are concerned with the impost of higher costs of living relative to their fixed incomes. But that is the same for pensioners living in the general community
- Note that higher living costs is a reality for which there is little remedy for older Queenslanders without better Concessions and income support from Governments
- Note that retirement village products are really a **service integrated housing model** that the Productivity Commission recognised in their Caring for Older Australians Report
- Note that a future federal Government may embrace the recommendations of the Productivity Commission's Report which will change the options for older Australians seeking accommodation and care options
- Note that when the Exit Fee is amortised over a set period it is reasonable for many who accept that they have bought into a life style product rather than a housing appreciation model
- Note the powerpoint presentation provided to demonstrate the concept of an Exit Fee.

7. Do you believe that the current retirement village model 'locks' residents in to a village, and that this may affect how responsive operators are to their requests?

This is a two themed question: Does the Exit Fee lock residents into a village? Are scheme operators responsive or not responsive to a resident's requests to exit a village?

In brief in regard to the first question: Living in a retirement village is a housing and care option in which a resident enjoys the benefit on the basis that they will be paying on exit. This relates to enjoying an affordable life style. It would be highly unusual for a resident to move to a retirement village with the belief that they move out in the short term. The conditions for their entry into a retirement village have been disclosed fully. A resident cannot expect that if they change their mind, they won't have to pay an Exit Fee. For the majority of residents, this is not an issue as moving to a retirement village is envisaged as the final housing choice to be made. It is highly unusual for 80 year olds to be home hunting out of a village into other housing.

There would be benefit if the Act could be modified so that scheme operators could offer different options without having to rely on the Exit Fee. The current Act enshrined the Exit Fee. New generations of seniors will want other options.

In brief in regard to the second question, scheme operators will always assist a resident with information about their exit entitlements, although in smaller village this can be an administrative burden.

Other Comments:

- Critical to adequate disclosure about the information provided to residents on the Exit Fee is the clarity and accuracy of the Public Information Document. Again, this relies on the professionalism and skills of those marketing and selling the unit, the clarity of the Disclosure Documents and other information provided to residents, the understanding and expertise of the independent lawyer used by the potential resident; and the ability of the individual/family member handling the process for their parent;
- For a number of reasons, the exit fee may be a dissatisfier for a resident but for the majority it could be stated they accept that their exit fee enables them to leverage a standard of living not available to them in the general community;
- It is inconceivable that a resident does not know that their tenure includes an exit fee charge when their lease concludes. The disclosure regime clearly sets out details of the Exit Fee, how it is calculated and when it is payable;
- If true, it would be expected that the OFT would have moved quickly on this breach of the Act, as amended in 2006, to sanction scheme operators and these would have been successful. There is no evidence of this or Tribunal cases that support this belief.
- The suggested lack of knowledge by individual residents that they did not know an exit fee was part of their contract, could have occurred if a family member has the Enduring Power of Attorney, or there may be a family lawyer, who handled all financial matters for a resident and this has not been disclosed to the resident. Alternatively, a couple may have moved to a village and one of the couple who handled all the financial matters in the relationship deceases and the remaining partner does not remember any conversation on this matter

- Also, there may be instances where residents moved into a village before the PID was such a prominent disclosure document and after a lengthy period of time this has faded from a resident's memory
- Regardless of a resident's tenure period, there is an obligation to pay their Exit Fee for the amenity he/she has enjoyed whilst living in the village. The Exit Fee for each village is commonly set on a Risk Assessment Actuarial basis for a six year period. That is the average time that it is expected a resident will remain in the village after which he/she is not obligated to meet a higher exit fee levy. Although there are always outliers, around 75 percent of residents reside for longer lengths of time with tenure of twenty plus years not uncommon in some long established villages. In effect, these residents benefit from long tenure
- Scheme Operators are responsive to a resident's request to move from a village and some operators - if part of a larger organisation, can offer to transfer a resident to another village near to where they want to live. Other reasons why residents move is because of family. Sometimes the gain from the sale of the retirement village unit will enable a parent to live with the family and grandchildren, and financially assist them either to buy a house, pay down the mortgage or upgrade a house. There are some who don't enjoy living in a retirement village because of the life and/or the people in them. After all a retirement village is a microcosm of the general community
- A resident can exit a village and, if so, the scheme operator will commonly action as quickly as possible - to comply with Section 58, S59, S60 of the Act, and for their own financial security to turn the unit around as soon as possible. This will enable a payout to the outgoing resident and the receipt of an incoming contribution from a new resident. Such action will minimise the contribution the scheme operator will have to make to the General Services Charge and Maintenance Trust account whilst the unit is vacant – Section 104, S105
- It is detrimental - for all the obvious marketing and financial reasons, to have a number of vacant units in a village
- In this current market, some villages in Queensland are having difficulty in reselling their vacant units but in others they still have an extended waiting list. Just as in the general real estate market it is about location, the reputation of the retirement village scheme operator, the supply and competition from other villages in a catchment area and the opportunity to realise the asking price on the home being sold to finance the move to a village.

RECOMMENDATIONS:

- ❖ Note that it is difficult to move out of a retirement village in the short term without difficulty because of the Exit Fee. The model was developed on the basis that residents would live in the village until they deceased, which the majority do so
- ❖ Note also that there is not any evidence that many residents want to terminate their lease for personal reasons

- ❖ Note that residents have been informed of the conditions of buying into a village and the scheme operator cannot be expected to forgo the Exit Fee because a resident leaves
- ❖ Note that it is in the scheme operator’s best interest to assist a resident’s termination as efficiently as possible and turn the unit over as soon as practical

8. *Is there an appropriate balance of the burden of responsibility for vacated residences?*

- The burden of responsibility for vacated residences is more heavily weighted to the scheme operator who has the responsibility of all the processes involved with the cessation of a lease, the reinstatement and/or refurbishment of the unit and its’ marketing for a quick turn around so the Exit Fee can be realised and an incoming contribution realised for the operator. Having said that, the emotional issues surrounding an exit of a resident, which may involve the resident moving to a residential aged care facility or deceased, overshadow the smooth processes in practice, especially if there are family or legal issues in play.
- The experience of LASA Q members is that the majority of residents who move to a village stay there until they decease. On average a smaller percentage move onto a residential aged care facility than the average percentage of 85 year olds from the general community. This may be because they are better supported in a village.
- It is not uncommon for there to be strong pressure on the scheme operator from family members to pay over the exit fee as soon as possible even if the Probate process has not concluded.
- The Act spells out the actions required of the Scheme Operator for vacated residences and these must be followed judiciously.

RECOMMENDATION:

- ❖ Note that the scheme operator carries the burden of responsibility for vacated residences and this is appropriate as it is their business.

9. *What is your experience of the affordability of retirement village living, with specific regard to the provisions described above?*

There are four funds for the operations of a retirement village. ACQ (now Leading Age Services Australia Queensland) developed guidelines for the definition of and allocation of expenditure to these different funds in 2005 and a copy of the 2012 Guidelines for the Classification of Expenditure relating to Leasehold and Loan Licence villages is provided at Appendix 4. The Guidelines were revised during 2010/11 with the ARQRV and the RVAQ and have been endorsed by all three bodies as guidelines with expert advice to be provided by appropriate legal and/or financial resources. However, they are accepted as a practical and useful reference for scheme operators and Residents' Committees.

- The Scheme Operator is responsible for CAPEX and the Capital Replacement Fund (CRF). The obligations for the latter fund are set out in the Act and are assessed on an annual basis by an independent Quality Surveyor with a site visit to a village required every three years. CAPEX are, as expected, funds that are separate to the CRF and that the scheme operator uses to upgrade the capital infrastructure of a village including refurbishing a unit to bring it to a standard to meet higher market expectations.
- It is essential that a village is profitable to enable the scheme operator to not only meet the obligations for the CRF, but to continually upgrade to meet the changing market needs of the aspirational buyers into a village over time. The scheme operator is also responsible for charges set in the Maintenance Reserve Fund and the General Services Charges if a unit is not resold within a set time; also for unsold completed units.
- If a scheme operator has an arrangement for residents, who have very limited means and perhaps never owned their home or had to move from a rural area to a regional or metropolitan city where buy in prices are beyond them. This is usually in the form of a lease on a long term rental basis. If so, the monthly rental generally covers the residents' contribution to the General Services Charges and the Maintenance Reserve Fund. If there is any shortfall, this is again made up by the scheme operator. This is an important community contribution by mission led organisations and provides security of tenure for some of the most disadvantaged older Queenslanders who otherwise would be in the private or public rental market.
- One of the true tests of affordability is the measure of bad debts which is the assessment of a resident's ability to meet the charges in the village. This is absolutely minimal in LASA Q's member villages as are terminations of a lease because of an inability to pay.
- There are instances where residents may be slow in meeting their financial obligations but those are usually where someone has an Enduring Power of Attorney. Essentially, if a resident is slow in paying their General Services Charges, they compromise the village operations as it is this fund that meets the operating costs on a daily basis, paying rates, utility charges, staff charges, gardening costs and similar. Finally, if there is financial stress some scheme operators may allow for the resident to pay a percentage of the charges and incur a debt deferred without interest to be recovered when the resident exits the village. Unlike any other market based industry, scheme operators cannot charge interest on outstanding debt and they have to put in any deficit for a village's operations.
- LASA Q assists members to understand the Act's financial requirements and the administration of the Budget and accounting processes through CPD programs and courses, specific advice to member queries and referral to accounting firms.

RECOMMENDATIONS:

- Note that LASA Q holds the copyright on the 2012 Guidelines for the Classification of Expenditure in villages; and that is a useful primer for scheme operators and residents committees. The Guidelines have been provided to Government
- Note that LASA Q conducts Continuing Professional Development seminars for scheme operators which assists them in the accurate treatment of village expenditure
- Note that LASA Q's Education Institute Diploma of Management (Retirement Villages) course contains models on Financial Administration
- Note that the scheme operator is unable to charge interest on any outstanding debts
- Note that there is minimal bad debts in member villages
- Note that long term leases that are available in some mission based organisations assist older Queenslanders with little resources

10. Are you aware of any unnecessary restrictions or provisions which affect the affordability of living in a retirement village?

The customer base for retirement villages are previous home owners who are retired and living on an aged pension and need or will need in the future care and support services, ideally from the public sector community care services. Note that this service provision is moving to a more user pays model arising from the Commonwealth's Living Better, Living Longer policy response to the Productivity Commission's Report.

The majority of retirement villages in Queensland are modest ones in that they cater for those older Queenslanders who have sold their home but have minimal other assets.

Because of Queensland's rural and regional characteristics, retirement villages in these locations tend to be very modest because of lower home values in non metropolitan areas.

The restrictions impacting on the affordability of living in a retirement village, relate in part to the price of buying into a village which has been developed to conform with all the planning and infrastructure requirements demanded by local Councils. Planning and Development costs push up retirement village construction costs that then have to passed on to consumers at point of sale.

All potential residents have to find a village that they can afford to buy into and manage the ongoing charges.

Scheme operators realise that their market is the affordable housing market and tailor their products accordingly.

The not for profit sector's mission has strategies to ensure that they fulfil their mission by assisting those with very limited means to access a move to a village.

Some scheme operators offset the buy-in price to increase the affordability and hold it until termination of the lease. However since the media attention about exit fees, scheme operators are reluctant to do anything that may reflect adversely when a resident exits.

The advantage of living in a retirement village is that the General Services Budget and Maintenance Reserve Budget is set on an annual basis so a resident has advice about their weekly charges for the new financial year before it commences which allows them to cash flow these charges against their income.

Some local Councils provide concessions for pensioners and Rates relief. This is not standard across the state and particularly disadvantages retirement village residents (who are not normally not eligible) compared with pensioners living in the general community who receive these concessions. It is most unfair and LASA Q has been lobbying Government on this matter without success to date.

The affordability of living in a village is an issue for each potential resident based on the accuracy of the Public Information Document received, the contract to be entered into and the decision making process undertaken by each person after due consideration of the benefits or otherwise of such as move.

RECOMMENDATIONS:

- ❖ Note that the affordability of living in a retirement village is impacted by the costs of buying in which in turn relate to the development costs for the village
- ❖ Note that the affordability of living in a village relates to the costs of living which is assisted by some local Councils providing concessions and Rates relief to pensioner resident but others do not do so even though they do so for pensioners living in the general community
- ❖ Note that the not for profit sector has a mission to assist those older Queenslanders of limited means and offer tailored assistance to help them move into one of their villages.

11. Is the governance of these funds appropriate?

The Act is specific about the treatment of the General Services Charges, the Maintenance Reserve Fund, the Capital Replacement Fund, Budgetary processes and disclosure and the Annual General Meeting at which residents receive the Audited Statements. Tribunal cases that have looked at inappropriate treatment of charges have usually revealed that it is a lack of information or understanding by one of the parties involved or an interpretation of the Act which is at odds with other legal interpretations of a particular section of the Act that resulted in a dispute.

There have not been disputes about the governance of the funds. Disputation has been around the classification of expenditure in the Capital Replacement Fund or other Funds. This is why the

2012 Classification of Guidelines is an important aid to villages and is a superior example of industry self regulation.

The IRCAS Accreditation standards also put weight on the governance of these funds. A copy of the IRCAS standards is provided as Appendix 5.

RECOMMENDATION:

- Note governance of funds is not an issue in the industry.

TERMS OF REFERENCE
3. Consider whether the Act provides adequate certainty, accountability and transparency for residents in relation to their financial obligations, including the interests of residents in the event of a village closing down.

ISSUES FOR COMMENT

12. Should residents have to state that they are considering leaving the village in order to receive an estimate of their exit fee? Is there another way that residents can receive this information?

It is not uncommon that a resident requests an estimate of their likely Exit Fee because of requests from their financial planners or Centrelink (if moving to a residential aged care facility). Section 54 of the Act deals with this.

Some LASA Q member villages report that because they have small villages with limited financial staff resources, they do not have the resources to respond immediately to requests as it is a complex and administrative load not easily able to be undertaken. In some villages, residents receive an annualised statement about their exit fee.

The PID provides examples on how an Exit Fee is calculated for a particular resident's contract. Still it is problematic to be absolutely definitive about what an exit fee may look like in 10 years.

To date a ready calculator has not been developed to enable spot analysis to be undertaken by a resident.

It is not necessary for a resident to state to the scheme operator why they want to receive an estimate of their exit fee. However, many do so as this starts the discussion about terminating a lease and the exiting arrangements that need to be actioned by the resident and the scheme operator.

Section 54 of the Act details the scheme operator's obligations if a resident asks for an estimate of their exit fee.

RECOMMENDATIONS:

- Note that it is not a problem for a resident to request an estimate of their exit fee obligations.

13. If you are a resident of a retirement village, do you have certainty in your financial obligations with regard to living in the village? If not, what aspects remain uncertain? Do you have any recommendations about how this could be improved?

This query is better directed to residents and some comments from them are below. In summary, the PID provides information about the financial aspects of living in a village and the clarity of it could be improved by taking up the proposed simplified model developed in 2012.

The industry has proposed the use of a check list to ensure that every aspect is covered before a resident signs the contract, with the resident and the scheme operator both signing each section as it is explained. This would assist in understanding.

The critical questions residents should know about moving to a retirement village are how much will it cost to move in, to live in over a period of time and to leave?

Below are residents' responses to this question:

1.	I regard myself as having pretty reasonable certainty in relation to my financial obligations.
2.	Financial obligations were clearly set out by the scheme operators. Any increases are very clearly explained.
3.	Yes
4.	The financial obligations were clearly defined in the Residence Contract. I'm not so sure of this, in the unlikely event that the village is closed, sold, or ownership went into liquidation.
5.	Question Part A – Yes Question Part B – None Question Part C – NO
6.	Much of this was made clear in the PID, including exit fees.
7.	Yes, I have certainty. I have no problems with anything to do with my financial obligations. I don't think I can provide any suggestions as to how it can be improved as we are already so happy here. There is no need to worry about the upkeep of our house anymore. We still feel like we are on a holiday every day! We don't mind paying the exit fee or the General Services Fee because we have peace of mind living in a retirement village.
8.	Yes the details of my financial obligations with regard to living in the village has always been fully understood.

9.	I think so.

RECOMMENDATIONS:

- Note residents' comments
- Note the need to refine the PID for clarity and simplicity.

14. Currently, residents need to request financial information from operators of retirement villages. However, some operators provide this information as a matter of course, without waiting to be asked. Does this represent 'best practice' (see term of reference 5)? Do you feel comfortable asking for financial information? Should it be a requirement of the Act that operators proactively provide quarterly and annual financial information to residents (or publish it somewhere it can be readily accessed), rather than waiting to be asked to provide it?

As identified in the Issues Paper question, it is better practice to provide regular financial information to residents.

The Residents Committee or a regularised Residents Forum (more common in small villages) is the conduit between village management and the resident body, and presents resident issues to the scheme operator.

The scheme operator cannot require the formation of a Residents Committee as it is the residents body's decision to determine what representation they want on financial matters.

To some extent, the amount of trust and confidence in the quality of the scheme operator minimises the suspicion about the village's financial management. Trust and confidence is very common in the faith and charitable based villages, where there is shared values and understanding of the rationale for the village's existence, and in those smaller family owned companies who are in the industry because of a passion for older Queenslanders and a wish to own quality businesses.

It is worthwhile to highlight that a village is not a housing collective or co-operative where everyone manages the resources and the staff, and decisions are made collectively. A resident moves to a village where professionals are employed to administer the village according to the Act, and the myriad of other compliance regulations that have to be followed.

Many older Queenslanders move to a retirement village so they don't have to worry about matters relating to rates, insurances, maintenance, and managing tradespersons and similar. They have retired and want to enjoy life without all the frustrations that attend such activities. Also they are usually too busy living their own lives to want to be involved with mundane matters.

In member villages, the scheme operator provides a monthly report which usually contains financial information for the Residents Committee and/or for meetings called by the Residents Committee for the resident body. Consistent with the Act, management provides quarterly statements to the Residents Committee and/or to all residents. This may be by hard copy, on a village's intranet, a presentation or placed on a Notice Board. Larger villages usually have a Finance Subcommittee of the Residents Committee and it is either the Residents Committee or its Finance Subcommittee that plays a large part in assisting management with Budget preparations, monitoring the Budget expenditure trends, informing the Residents Committee and being involved in decisions about reining in expenditure to ensure that the General Services Budget does not go into a deficit; or supporting the scheme operator when unanticipated costs occur.

Information sessions on a variety of topics are scheduled throughout the year also and it is not uncommon for a mid year financial review of the General Services Budget to be the focus of such a session. In large organisations, where Budget preparation is managed centrally, there is still involvement with residents by the corporate office staff, perhaps regional managers and others.

RECOMMENDATIONS:

- Note that scheme operators follow better practice by being transparent and open in the financial information provided to residents
- Note that while Residents Committees are common in large villages, this may not be so in smaller villages by resident decree
- Note that if residents trust the scheme operator and have confidence in the efficient management of their village, they are more likely to leave many of the operational issues to the scheme operator to deal with on their behalf
- Better practice processes with financial information includes full disclosure to the Residents Committee or Residents Forum or at Information sessions
- Quarterly statements are provided to residents via the Residents Committee and/or to all residents. This does provide a better trend analysis although in some member villages monthly reports are available also
- Note that retirement villages do not operate as a housing collective. Residents move to a village where professional staff deal with the every day matters for them.

15. What is your experience of the exit fee, is it variable within your village, or a fixed percentage or amount? Do you believe the system is fair and transparent?

This question is best answered by residents and a sample of their responses is shown below:-

1.	My exit fee, about which I was fully informed before entering, was fully acceptable to me. The exit fee was a fixed percentage, per annum, of my entry lease capped at ten years. At the time I looked on it, and still do, as very reasonably approximating to what I would have incurred on (physical) depreciation of a dwelling I owned. So I believe the system at ….. is fair and transparent. (I should add that…….'s system of retrieving my villa, and paying to my

	estate the remaining part of my entry fee, is very attractive to me in relieving my executors of the necessity to go through a real estate sale transaction; for that benefit I was always, and still am, quite prepared to forgo possible capital gain (and forgoing, let us not forget, possible capital loss!)).
2.	The exit fee is a fixed percentage amount depending on how long you reside. I have not had any experience as yet so cannot comment on the fairness. However, human nature being what it is most people do not like the thought of exit fees including myself. It was a fixed part of the package and I wished to reside in the village.
3.	Question Part A – Our experience was that the topic held no surprises, the structure is specifically set out in documentation. The Exit Fee is an annual percentage scale based on a 10 year span, after which the exit fee is fixed as a percentage of Entry Fee. Part B – Yes, because it is comparable to other Villages, and is prescribed in the documentation.
4.	The exit fee is a variable percentage for 10 years. It is transparent. Probably fair as the entry age to this village is 70 years, and turnover of units will naturally be higher than villages with a lower entry age.
5.	Question Part A – No significantly variable Question Part B – Yes
7.	The ……………… Village we live in has the exit fee capped at 25% and we think that is very fair and reasonable. You are basically paying for the right to live in a property for the rest of your life and it is very fair.
8.	The Exit Fee is a fixed percentage, fully transparent and understood by me and other residences.
9.	Cannot answer, not enough time offered to consider this question, it possibly has information required in PID. Fact sheets could be helpful.

Other Comments:

The exit fee is variable within a village because of the time of entry into a village, the prevailing legislation at point of entry, and whether a scheme operator has lowered the entry contribution to promote affordability for a resident to enter the village on the basis that the offset will be realised on termination of the lease. In other words, the scheme operator will forgo income on entry for revenue on exit.

The Exit Fee arrangements vary between 25 – 40 percent with the majority of exit fees for LASA Q members around 30 percent. Some villages arrange a smaller exit fee obligation spread over many years, say at 3 percent per annum, while others where there is a larger infrastructure and the scheme operator may pay for additional staff and services such as in a assisted living facility, the exit fee is higher.

The question whether the system is fair is an assessment that residents make prior to their entry. They are always encouraged to shop around and compare villages by our members so that they can make an assessment of the value proposition for them. This is an individual assessment based on the aspirations and needs of potential residents. Because a resident enters into an individual and confidential contract, there isn't any way the resident body can assess the transparency of the exit fee arrangements. Contract Law is individually based. It would be a death knell for the industry if Exit Fees were capped and non market forces imposed on the industry.

On the query about transparency, that is why the industry hopes to have a simplified PID to increase clarity of the information provided about living in a retirement village and the matters therein including the exit fee.

RECOMMENDATIONS:

- Note confidential residents' responses
- Note that retirement villages do not operate as a housing collective
- Note that exit fees are variable because of a number of actors such as time of entry, the prevailing legislation at entry and individual contracts
- Note that the fairness and transparency of the exit fee can only be applied to an individual resident and their contract
- If Government attempted to impose a cap on exit fees, and thus impose non market conditions on a market that is self funded, the market would respond by exiting the industry
- Note that the proposed simplified PID improves transparency of information and comparison between villages.

16. The Act provides that a resident who dies is liable to pay personal services charges for up to 28 days after the termination of their contract.[33] As a resident has to give one month notice to terminate their contract, this may mean they, or their estate, continue to pay personal services charges for up to two months after they die. Is this reasonable?

The estate of a resident who deceases is responsible for personal charges ***only*** up to 28 days but practically this is reduced to the time it takes to alter a staff roster – usually 14 days.

The estate is not liable for any personal charges for a longer period. The resident is responsible for General Services Charges up to 3 months after termination as that is the time line for reinstatement of a unit. After that, the costs are shared between the resident and scheme operator up to 9 months and then it becomes the responsibility of the scheme operator alone as required in the Act.

As previously stated, this is one reason why the scheme operator wishes for a resale as soon as possible to reduce these ongoing charges for both the resident and themselves. By way of contrast, in a strata title unit in the general community, the owner is responsible for all ongoing Body Corporate charges until the unit is sold.

RECOMMENDATION:

- Note that if a resident who receives personal services in a retirement village dies, their estate is responsible to a continuation of those charges up to 28 days and in many cases the charge is for a smaller period than allowed in the Act.

17. Has the 2012 clarification of how to work out exit fees under section 53A of the Act provided improved certainty and transparency in the financial obligations of residents of retirement villages?

The 2011 Amendment to the Retirement Villages Act that came into effect on 1 March 2012 did provide certainty for all new contracts entered into after that date, but is confusing for existing contracts.

Section 53A requires the exit fees payable under those contracts to be worked out on a pro rata daily basis unless the contract provides '*a way of working out the exit fee that is not on a daily basis*'.

Section 53A gives virtually no guidance other than one incorrect example formula as to when a contract will be taken to provide '*a way of working out the exit fee that is not on a daily basis*'.

It is unclear what is required to render any particular exit fee clause in a residence contract to provide for the working out of the exit fee 'on a daily basis'. This section is unsatisfactorily vague for operators and residents, and is capable of resulting in disputes. At the 2011 Public Hearings to the Legal Affairs, Police, Corrective Services and Emergency Services Committee, this concern was raised by the industry.

The Retirement Villages Ministerial Working Party is the preferred industry forum to advance the resolution of this difficulty.

RECOMMENDATIONS:

- Note the uncertainty with existing contracts from 1 March 2012 with the 2011 Civil Proceedings Bill Amendment to Section 53A of the Retirement Villages Act.

- Note the industry's preference that the uncertainty surrounding the drafting of Section 53A arising from the December 2011 Amendment to the Retirement Villages Act, as contained in the 2011 Civil Proceedings Bill, should be referred to the Retirement Villages' Ministerial Working Party for an acceptable resolution to be determined in a timely matter.
- Note that inaction to the foregoing will result in Tribunal level disputation.

18. Has there been litigation over exit fees that are not calculated on a daily basis, or an increase in fees being expressed as a deferred payment of a portion of the entry fee?

Since the 2011 Amendment which came into effect on 1 March 2012, there have not been any reported decisions of the QCAT on Section 53A or about exit fees generally. The absence of litigation, however, should not be taken as an indication that Section 53A is clear and unambiguous, as there has been insufficient time for the amendment to be scrutinised independently by Counsel.

19. Does the Act provide sufficient certainty, accountability and transparency for residents in relation to their financial obligations in the event of their retirement village closing down?

20. Should the exit entitlement calculation be adjusted in the event that a retirement village is closing?

21. Are retirement village residents clear on how money in village funds, such as capital replacement or the like, are managed upon closure of a retirement village? Does the Act need to be amended to provide increased clarity for residents and operators?

See attached submission (Appendix 6) on the Closure of Retirement Villages submitted by then ACQ (now LASA Q) in October 2011 which provides LASA Q position on these questions.

The Act is silent on the closure of a retirement village and matters pertaining to a closure because of bankruptcy, malfeasance or operational reasons. It would be onerous to develop amendments to the Act to cover all rationales for closure of a village, but this is a worthwhile endeavour in conjunction with the industry, while providing sufficient time for consultation and assessment of a regulatory impact. There is nothing more distressing to have elderly persons in fear of eviction because of no fault of their own. With the two closures in recent years, the industry worked to relocate the residents and in particular in Hervey Bay members offered more options as 'concessional residents' than were taken up.

RECOMMENDATION:

- Note ACQ's (now LASA Q) October 2011 submission on Closure of Retirement Villages.

TERMS OF REFERENCE
4. Consider whether the Act provides sufficient clarity and certainty in relation to the rights and obligations of residents and scheme operators.

22. Does the public information document and residence contract provide sufficient clarity of residents' rights and obligations when entering a retirement village?

The PID does provide a lot of detail but because of the regulated format for the PID, the information is presented in a clumsy and convoluted fashion which is confusing to residents and to the scheme operator. This is why the industry wishes to have a more simplified PID.

A resident's contract can be relatively silent on rights and obligations and that is because it is a legal document relating to contractual matters only.

It is difficult to see how detailing the rights and obligations in the Act would result in anything more that a regression to the minimal and is therefore not supported by LASA Q. There is not any strong evidence that residents or scheme operators are negligent because of a lack of clarity and certainty about their rights and obligations.

Currently a formalised Orientation for a new resident, the supply of a Resident Handbook and a village's Code of Conduct does provide information and support for a new resident entering the village to understand their rights and obligations; whilst the Corporate Governance standards and training and development for the scheme operators.

RECOMMENDATION:

- Note LASA Q's position not to enshrine Rights and Obligations of residents and scheme operators in the Act.

23. Is the Act clear about the rights and obligations of retirement village scheme operators? If it is not, how could it be improved?

The Act is very clear on the obligations of scheme operators, although in practice there is ambiguity around the detail. This is not to be unexpected. The retirement village industry is dynamic with individuals interacting with each other on a variety of topics at different times and with varying expectations and understanding.

Improving the competency of scheme operators relies to a large extent on their Professional Development opportunities, the Performance Development process undertaken, the village's Code of Conduct, the information contained in the Staff Handbook, and the skills and attributes of the scheme operator. Ensuring access to continuing professional development is important as is operating with resource to an industry community of practice to assist in skills and knowledge enhancements.

24. Is there sufficient clarity and certainty in relation to the rights and obligations of residents and operators to terminate a contract to reside in a retirement village, or to reinstate a unit after it is vacated or about resale obligations of a unit in a village after a resident leaves?

The Act does provide the necessary clarity and certainty. The reasons why a contract is terminated is usually death or a resident's actions that compromise the safety of the resident or other residents living in the village and/or their quality of life. There are other unusual reasons such as offenses against the Public Health Act, criminal convictions, or non registered persons living with a resident, but death and health status reasons are the most common.

The skill of the scheme operator in dealing sympathetically with the stakeholders is key for a smooth termination of a lease. Sometimes it is difficult, in the face of family opposition, when cognitive impairment is a factor. An example of this is where a resident is deteriorating mentally and is threatening another resident(s). Residents are loathe to make a complaint to the Police about another resident and the Police will not act on a complaint made by the scheme operator.

The reinstatement of a unit and resale obligations are detailed in the PID, in Retire Smart and in the individual contracts. Division 4 and 5 in the Act contains the sections relating to a termination of a lease and matters therein.

There are the reinstatement guidelines in the Act and these are repeated for the resident in their contract. In some contracts, reinstatement costs are managed by the scheme operator if there is no capital gain sharing; and in others the sharing of the capital gain may alter the contributions made by the scheme operator and the departing resident.

TERMS OF REFERENCE
5. Consider whether the Act should make provision for scheme operators to develop and adopt best practice standards in operating villages, or require operators to comply with mandatory standards or accreditation.

The objective of LASA Q member villages is to have best practice standards and members work assiduously to do so. Adherence to corporate governance standards and accountability are essential elements in pursing best practice and achieving 'magnet status'.

Accreditation is one approach in developing better practice standards and that is one reason why the International Retirement Community Accreditation Scheme (IRCAS) standards have been developed.

IRCAS is a partnership between the large not for profit national organisations ACSA – Aged and Community Services Australia and Leading Age Services Australia. Both are national organisations that represent members who operate for profit and not for profit residential aged care facilities, community care organisations, retirement housing - such as retirement villages and rental housing. Some members work in the NRAS schemes and in the disability housing sector.

The IRCAS standards grew out of the ARVA standards (Australian Retirement Village Accreditation Scheme). Aged Care Queensland (now LASA Q) owns 50 percent of the IP for those standards. Queensland traditionally has always had a higher percentage of their villages accredited than in other states as this was managed though Aged Care Queensland up until recently when it was transferred to QIP as part of the introduction to the IRCAS system.

The development of IRCAS and the outsourcing of the accreditation regime to Quality in Practice, an internationally certificated auditing body that accredits general practitioner surgeries, allied health professional practices, dental practices and diagnostic imaging entities among others demonstrates a strong commitment to arms length assessment by expert auditors involved in other health and community services accreditation schemes.

The IRCAS standards have been provided for the Committee's information. See Appendix 5. It is expected that any IRCAS surveyor holds a Diploma of Quality Auditing before undertaking surveys and LASA Q's Diploma of Management (Retirement Villages) features two specific Quality modules.

25. *How does the Act currently encourage best practice in the operation of retirement villages, if at all?*

The Act provides guidelines and directions for the industry and scheme operators, but it cannot be the definitive driver for best practice in a retirement village. Scheme operators must meet the compliance standards required in the Act. They must also meet the compliance requirements in many other acts such as the 2011 Work, Health and Safety Legislation and Regulations, Fair Work Act, Anti Discrimination legislation, National Privacy legislation, Food safety legislation, Public Health legislation, other Consumer Protection legislation, Local Government Regulations and a myriad of other regulatory regimes.

In addition, they must operate according to contemporary management principles, within a corporate governance framework, execute their role and responsibilities according to the mission of the organisation and over all operate competently with a strong consumer orientation and an understanding of the special characteristics of the residents who live in the village.

The pursuit of best practice in retirement villages is consistent with other organisations as a multifaceted approach. This starts with the leadership of an organisation, the corporate governance standards adopted for the operations of it, the risk management approaches used to ensure safe and efficient practices and one that meets compliance regulations, the training and development of staff, consumer practices and a willingness to be benchmarked against peers in the industry. Not uncommonly best practice retirement villages operate as 'magnet sites' for innovation and reform, and tend to be early adopters of new information and service approaches. Their Boards insists on accreditation status and they tend to embrace new technology to assist in efficiency and efficacy of their operations.

In the retirement living industry, the importance of good corporate governance is magnified by the size of the ageing population and the high expectations of those exploring retirement village options. It also recognises that, with the average age of residents moving to a village being 75 + years, there is an extra duty of care and consideration required even though the residents remain relatively healthy and active.

26. How are residents assured quality service provision by the Act at all? Should best practice in retirement villages be achieved through mandatory accreditation, or are there other ways to ensure best practice?

There are many excellent and accredited retirement villages operating in Queensland, some are smaller ones in regional centres and other larger ones are often in the metropolitan areas. One virtue of the smaller villages in regional and rural Queensland is their family type culture which encourages trust and confidence by residents in village management. Although many of the smaller country villages have not been accredited because of the costs associated with the past scheme, the IRCAS scheme will make this option more attractive because of its' distance accreditation process.

27. Do you think that mandatory accreditation or standards that retirement villages – or providers of services within retirement villages – have to follow would improve the standard of care provided across the sector?

Many LASA Q members have a Total Quality Control approach that encompasses standards for their residential aged care facilities, home care services and retirement villages. They agree with the notion that mandatory standards imposed by government on the residential aged care industry focus more on minimal standards; and the over regulation and compliance of that industry stifles good consumer service, product differentiation and reform.

For that reason mandatory accreditation is not supported by the LASA Q member body. All support quality improvement through the pursuit of industry based approaches. Without mandatory accreditation or a good take up of an accreditation regime, the pursuit of best practice is achieved in villages by attention to corporate governance standards, and working to develop their organisation along management principles that balance internal systems and approaches and strategy and customer service. The reality is that if accreditation becomes the primary vehicle by which the general community is confident that a village is well managed, more and more villages will pursue voluntary accreditation status.

The ARQRV have stated that they do not have a problem with villages pursuing accreditation as it is directed to marketing benefit as long as the scheme operator pays for it. LASA Q's position is that gaining accreditation provides a benchmark that the residents of a village can be confident is well managed and the standards reflect the needs of consumers. It is not a marketing ploy, rather that a village, when benchmarked against other villages meets expectations. As such, both the resident body and the operator gain from the process and should share the costs of it.

28. What are the advantages and disadvantages of mandatory accreditation of the retirement villages industry?

The disadvantage of requiring mandatory accreditation is that it would be seen as an impost and could promote the development of low cost accreditation schemes that in themselves are not grounded in best practice standards.

More preferable would be for government to determine a policy position that it is expected Queensland retirement villages achieve accreditation though an industry supported scheme within a 5 year period. Over that time the industry would evolve and mature and a higher level of public accountability is inevitable with the larger number of older Queenslanders who move into villages. Hospitals are required to publish the quality of their operations; and the accreditation status of residential aged care facilities is similarly available to the public through the Commonwealth Government website. It could be postulated that similar accountability disclosure will be required for retirement villages in the medium term. If so, this should be state based and managed by government to ensure impartiality.

RECOMMENDATION:

- Note LASA Q's policy position taken in responses to questions 25, 26, 27, 28 and follow up any additional information requirements.

TERMS OF REFERENCE
6. Consider whether the Act adequately promotes innovation and expansion in the retirement village industry, avoids purely 'red tape' requirements, and facilitates the ongoing viability of villages.

29. How does the Act support or limit expansion of the retirement village industry?

Regulation is the administrative and implementation framework deemed necessary to produce preferred outcomes for social policy legislation. Because social policy legislation is usually directed to special and sometimes vulnerable groups in the Australian population such as older

Queenslanders, the regulatory framework is often seen as cumbersome and burdensome. The new LNP government has come into office with an agenda of reducing red tape and encouraging development whilst protecting special groups in the population.

Retirement Village developments will only occur with certainty about regulation

Development is unlikely by those willing to invest in retirement village developments in this present climate if they face unknown changes to the retirement village legislation which could place their funding model and development program at risk. A senior Jones Lang LaSalle executive [9] spoke at LASA Q's recent Service Integrated Housing conference and told the audience that some bankers are only lending 30 percent of the financing for retirement villages which puts further constraints on developers who have to manage all risks. They will not invest unless their medium term (20 years) financial model appears safe.

For example, the Issues Paper states that the current legislation supports the retirement village industry. This was not evident with the process undertaken by the previous Government where the Amendment to the Act - S53A, was pushed through because of negative media stories about excessive exit fees. There was no consideration of the veracity that this was a common situation throughout the industry; nor was any Regulatory Impact Assessment made. Even more invidious was the retrospective nature of the legislation which meant some contracts had to be revised. This created distrust and concern by residents who immediately believed that they had been misled by the scheme operator even though those contracts may have been signed over a decade ago. That trust and confidence is unlikely to recover.

The reported reductions in revenue arising from the 2011 Amendment on Exit Fees ranged from $14000 in small villages to many millions in large corporate entities as a result of the retrospective nature with reductions in valuation to the portfolios going forward.

30. Can you identify any requirements in the Act that appear to be purely 'red tape' requirements, rather than essential provisions to regulate the industry?

Red tape requirements for the industry are more commonly experienced in matters in which involve interaction with Local Government for planning and development and/or redevelopment. There is no doubt that the LNP government should be cognizant of the difficulties faced by developers whether they come from the church and charitable or private sector. As Steven Rowley and Peter Phibbs [10] describe it:

"***The development industry delivers housing in return for a profit. Without this profit development does not occur. Assessments of development feasibility take into account market demand and supply, what is permissible under planning policy, development costs, infrastructure contributions as well as finance charges, professional fees and land***

costs. Developers will assess many sites and reject perhaps 95 per cent of them because they are financially unfeasible. On infill development sites there are a variety of additional barriers to generating profit and therefore the delivery of infill housing of all types. The barriers to delivering diverse and affordable housing are even greater."

The authors go on to describe the planning steps and processes to progress barriers to infill development and offer suggestions to facilitate delivery of diverse and affordable housing on infill sites. See Appendix 7 and 8.

The blockage in housing supply especially for affordable housing – LASA Q members' key interest, is in part due to red tape at state and local government level, infra structure charges and similar. In 2009, the then Lord Mayor, Campbell Newman supported a Taskforce into Retirement and Aged Care that proposed a number of principles and initiatives to facilitate developments for older Queenslanders. Considering the pressures to develop affordable seniors housing models, apart from some initial activity benefiting only a small number of sites, little has come to pass; and other local Councils have failed to follow through with reforms.

Local Councils reluctance to assist residents in retirement villages

On an operational level, Council decision making and processes also cause concern as does the exclusion of some pensioner retirement village residents from concessions available to other pensioner households in the general community. In one Council, pensioner residents in a retirement village may receive Rates reduction and other concessions which are not available to residents in another local Council. At the State Government Level, residents in retirement villages are not eligible to apply for a range of concessions available to residents who reside in strata title units in the general community because village residents are considered to be part of a commercial enterprise rather than a residential housing estate.

Compliance imposts for small villages

The Act centres on 'the one size first all' approach such as the requirement for small villages, those under 50 beds which includes many in rural and regional areas, having to undertake the same processes as for large metropolitan villages.

For example, it is an appropriate legislative requirement to have independent Quality Surveyors undertake a three yearly on site inspection to assess the funding allocation required to replace a village's Capital Infrastructure and maintain the infrastructure by having a 10 year plan for Capital Replacement and Maintenance Reserve Funds. Nevertheless, this imposes costs on the small villages which usually have modest community infrastructure and minimal cash flows. To reduce red tape requirements in the Act, it would be preferable if an onsite quantity surveyor inspection only took place once every 5-7 years with the desk top review continuing to be undertaken annually.

Another issue for smaller villages that are managed by a voluntary community management bodies is the requirement to have auditors undertake an annual audit of the end of year Financial Statements. In small villages where the Budgets are below a certain quantum, it would seem reasonable for Audits of the Financial Statements to be undertaken at a two to three year interval providing other safeguards have been established, such as the General Services Budget and the Maintenance Reserve Fund Expenditure are within expected parameters and Capital Replacement expenditure is consistent with the QS report .

Government Red Tape with the PIDs and Audited Financial Statements reports

The necessity to provide an updated hard copy of the PIDs to, now, the Department of Housing and Public Works is more red tape and compliance cost to all villages. If the PID changes, as it commonly does in developing villages, further copies have to be provided. The PID is updated by the government in July each year and all PIDs have to reflect the latest version. All villages have to submit an updated PID annually as the Budget advice in them changes. Additionally, each year the Auditors' Reports have to be forwarded in hard copy to the Department. It must be a heavy workload for Departmental Officers to review each Report from the 317 villages in detail. It should be emphasised that members advise that there has never been any follow up to the reports submitted or on the updated PIDs.

It would seem reasonable that a simplified PID has the Annual Budget as a separate annexure to the PID that is provided in soft copy to be stored and reviewed electronically by Government. More preferable would be updated PIDs and Annual Financial Statements to be provided by exception. The department could ask for a random sample from villages on a rolling basis if desired, or consider some other form of compliance such as a one page Statutory Declaration verifying village compliance with the Act These could be followed up on a random basis and penalties applied to a village if it was found to be in breach. This would not only reduce the red tape and compliance burden on the villages but it would also free up departmental officers from receiving these onerous documents and dealing with them.

RECOMMENDATIONS:

- Note recommendations for the reduction in red tape
- Note that these suggestions to reduce red tape could be advanced with the Retirement Villages Ministerial Task Force or a Working Group within it, if desired
- Note that the LNP Government can support the reduction of red tape for the retirement village industry by:
  - Consider relaxing the compliance regulations for smaller villages and those located in rural and regional sites;
  - Consider alternate processes for assessing compliance for all villages by reducing and changing the obligation of scheme operators to submit new PIDs as a routine each year, and when there are minor changes to the PID which does not materially change disclosure;

- Consider dropping the requirement to submit a full hard copy of the Audited Statements each year and supplying them electronically; or have scheme operators supply a one page Statutory Declaration testifying to compliance and instituting appropriate checking procedures to verify the accuracy of the advice provided;
- Requiring local Councils to reduce their planning red tape and requirements that at each stage of a developing village a major process has to be redone and submitted back to Council;
- Requiring local Councils to be consistent in their allocation of Concessions to residents in retirement villages who consume substantially less than other rate payers but receive little benefit because of it;
- Recognise that those who live in retirement villages are living in a housing estate and not a commercial enterprise and amend regulation to facilitate receipt of concessions available to other older Queenslanders.

31. Does the Act support innovation within the industry, or is this limited by the Act?

In Queensland, there is a variety of retirement village products under the Act where residents buy into a village through freehold, leasehold or loan licence.

As previously stated, most purchasers pay an Exit Fee although in some villages the option of paying a premium on the entry price in lieu of an exit fee is available or, particularly in the not for profit sector, a long term lease may be offered without an entry contribution to assist disadvantaged older Queenslanders. The common models of housing are:

- stand alone ILU villages – homes, villas, apartments
- villages that comprise ILUs and Serviced/Supported apartments
- Assisted Living facilities.

Assisted Living facilities

Although Assisted Living facilities have been established for a large number of years in Australia, they have become more prominent in the last decade in Queensland. This is because of the increased numbers and availability of Commonwealth funded community care packages which allow older and more frail persons to buy into accommodation and receive care and support that historically would have only been provided in a residential aged care facility or to those able to fund 24 hour care in their own home. The average entry age into an assisted living village is the mid to late 80s. This is similar to the age for the majority of those who enter a residential aged care facility.

In Canada, the USA and the UK, the model is more developed and most of the establishment issues have been resolved, although it is acknowledged that having one's parent or older family member requiring skilled care and support on a 24 hour basis and paying for it on a user pays model always invokes strong financially driven emotional concerns.

The perceived advantages for residents (and their families) who move to an assisted living facility is that they combine higher levels of skilled nursing care and support with being able to live in their 'own home' – a one, two or three bedroom unit. This does come at a financial cost which more and more people are willing to pay either through their monthly General Services Charges or when their lease is terminated and the cost is added to their Exit Fee. As the 2011 Productivity Commission's Report Caring for Older Australians [10] found older people do not want to enter a traditional nursing home because of the connotation that the end of their life is close as is the loss of independence, decision making and control over their daily life. There is excellent care provided in the majority of residential aged care facilities but the opposition to entering one is an ingrained concern and any alternatives such as remaining in the family home with care and support, moving to a retirement village with supported living, or moving to a purpose built assisted living facility is viewed as providing a window of normal living for them for the last 4 to 5 years of their life.

Still, just as with the Exit Fee in regular retirement villages when a resident moves in, usually at the behest of their family, and the care costs start mounting up there is unhappiness and complaints.

The Assisted Living sector is dealing with the level of dissatisfaction by providing more information to the resident and the family, being very explicit about what they can offer; and what it costs. A set of care standards for assisted living facilities is being finalised that will enable assessment within the IRCAS Accreditation process. This sector will become more important as an accommodation and care option as the supply of residential aged care facilities becomes tighter over the coming decade.

The need for more flexibility in the Act to support expansion of the industry to have new products

The foregoing does provide examples of different housing options that can operate under the Retirement Villages Act. It could be anticipated that more product differentiation will emerge as the numbers of over 75s cohort in the Queensland community grow over the coming decades. The key to the longevity of the Retirement Village Act is whether legislation will become more flexible to support emerging housing models that do not only rely on an exit fee but facilitate accommodation with care and support in a 'managed community'. Certainly, within a public policy framework, Government should consider supporting innovation and reform product developments as options emerge, rather than being responsible for the shrinking of the market because of inflexible legislation.

Already scheme operators wanting to enter the retirement village market (in low socio economic status suburbs) to provide accommodation and care have sought advice from LASA Q and legal experts about different models. One such model proposes being able to have a surplus in the General Services Charges to offset an entry charge in order to increase affordability for pensioners. However, this is in breach of the current Act.

The current housing market and the very tight financial situation does impose constraints on developments, redevelopments and the viability of the industry at this time. Retirement villages do well in housing boom times, but when the market turns the retirement village market is negatively affected. Some LASA Q members have extended waiting lists. Others that are developing villages sell out within six months of opening their doors. To a large extent it is true that the criteria - location, price, reputation and product for buying a house is the same for buying into a retirement village with the added criteria of care and support.

Across all states in Australia, the retirement village sector has developed some unique characteristics and in Queensland this is characterised by a large percentage of large not for profit providers – both faith based and benevolent societies, and until recently by small well managed family companies that have a commitment to the state and older Queenslanders. Traditionally, some local Councils also owned small retirement villages but over the years these have been gifted to not for profit entities.

For many LASA Q members, there are advantages in that their retirement village is one part of an integrated site which could comprise a village and a residential aged care facility. At some sites, there may also be rental units and/or low cost affordable housing. The attractiveness of having 24 hour staff, and offering lifestyle coordination services and facilitating care options are incentives to move to a retirement village.

The housing needs and desires of the retiree market are met by a variety of options and choices and the retirement village sector is just one option. It does have the advantage as the only segment in the housing market able to discriminate on age, although this distinction is blurring in reality.

There are other housing options for older Queenslanders who market their offering as retirement villages - rental villages or manufactured home sites. The retirement village industry frequently receives negative publicity due to problems in other housing models being attributed to a retirement village. This is one reason for the perception that all scheme operators are ‘unscrupulous’.

LASA Q members are drawn from the non for profit and the for profit sectors.

The value of the not for profit sector in the seniors housing market

Of course, historically the not for profit sector was exempt from the sections of the Retirement Villages Act until 2002. This was in recognition of the valuable role this sector played and continues to play in the provision of affordable housing, care and support services to the most vulnerable in our society. In the main, the not for profit sector provides retirement village housing options in rural and regional Australia, often where there is insufficient market for the private sector to invest. This is an important asset for older Queenslanders and one Government should acknowledge and smooth the process for the sector in senior housing wherever possible. This sector's contribution to affordable housing for disadvantaged older Queenslanders reduces the contribution to which Government would be forced to respond.

Small private family companies play a valuable role

The small family companies that invest in their local communities also make a unique contribution in regional areas. For example, in one smaller Central Queensland regional city, a small family company spent $31million in 2004/5 to build an ILU village comprising 172 x 2 and 3 bedroom stand alone villas with a buy in price of $175k to $250k and an exit fee of 30% over 7 years. In the 7 years since completion, there has been only three villas that have turned over. This reveals the commitment made to the industry and the patience of the owners. There would be much easier returns investing $31million in bonds. There are other examples in LASA Q.

32. ***What are some key factors that facilitate, or hinder, the viability of retirement villages?***

See above.

33. ***Is there enough flexibility under the current Act for different models of retirement villages that cater for the varying needs and desires of retirees?***

The evidence appears to be that this is not so with more and more seniors housing and care developments occurring outside the Act. This is especially so in the southern Eastern mainland states.

34. ***Is there a difference in the viability of for-profit and not-for-profit retirement villages?***

Both sectors have different constraints and different opportunities. The for profit sector now is going to have to deal with an assertive ATO looking at the other GST applications in their business.

The not for profit sector has large and diverse portfolios and are often found in rural and regional areas in which it is not sustainable for the private sector to invest.

RECOMMENDATIONS:

- Understand that the resident profile in Queensland retirement villages range from the young old (65+) to the old old (85+) cohorts and the majority remain active, enthusiastic and committed to life even though many may have compromised health status and limited financial resources
- Provide certainty to the industry by judicious development of Issues Papers combined with research on matters of concern to government rather than instituting media driven legislative changes
- Engage with the industry to better understand how the industry works and the benefit it provides for Queensland consumers and the Queensland economy
- Having the Retirement Villages Ministerial Working Party as a sounding board for Retirement Village Housing Policy and similar
- Ensure that the Planning Act caters for the developments of retirement villages and other senior housing initiatives within existing communities
- Encourage local Councils to consider the benefits of having retirement villages as part of their council precincts so older Queenslanders can remain in their current neighbourhoods that they know well
- Seek to have local Councils minimise their infrastructure charges so that a development in one suburb does not charge one price for and another in another local Council charges significantly more for the same utility. See example below:

Water and Sewerage Charges	Village 1 Toowoomba 246 Units 2010/11	Village 2 Redcliffe 226 Units 2011/12
Water	$48,747	$96,108
Sewerage	$78,323	$178,771

- Consider the development of greyfield developments for seniors housing so older Queenslanders can remain in their familiar neighbourhoods where possible
- Consider Code Assessable developments
- Fund research to have an objective basis for policy making and decisions.

TERMS OF REFERENCE
7. Consider whether the Act affords residents all reasonable opportunities to be involved, should they wish to be, in budgetary and other decisions affecting their financial obligations.

35. Do all retirement villages have residents committees? For those that do, how effective are they in helping residents be involved in budgetary, and other, decisions?

The principle is that all residents have the right and are encouraged to form a Residents Committee and to have it as an incorporated body. Scheme operators support them in an advisory and a financial capacity. These committees are voluntary and it depends on a particular resident body as to whether they want to commit to a formal committee. These are more common in larger villages. Where a Residents Committee is not established, many villages opt to have a Social Committee.

Many residents who move to a retirement village do so to relinquish control over the management of housing issues and leave it to the professional village management. Where a Residents Committee exist, they are effective in representing the resident body to management and resolving many of the issues that can occur with communal living. In some villages, committees have a number of sub committees such as a Finance Sub Committee, a Social Sub committee and other special interest groups that add to a vitality of village life and assist the Residents Committee to function effectively in the residents' interests. Other villages may elect to have only a Residents' Forum or are agreeable to leave that responsibility totally with the scheme operator.

36. Are there appropriate provisions in the Act for residents to be involved in decisions that affect their financial obligations? If not, what change would you like to see?

A sample response from a resident is shown below:-

1.	Yes. Furthermore, ……. is, in my opinion, very conscientious in involving residents in decisions; but some of these decisions, especially those involving expansion of the Village and acquisition of land have, necessarily in my opinion, to be held in close confidence at early stages. Observing and considering these issues over the perspective of ten years of residence, I would not like to see any changes which hampered the CEO and the Board in their ability to act 'in confidence' on these matters.

Efficient financial administration is an ongoing priority for scheme operators. Residents are involved in the process through village management reports, information sessions pre Budget preparation, the Budgetary process itself and Budget monitoring reports:

The Residents Committee, has a right to be given a copy of the draft budgets for the financial year for the general services charges, maintenance reserve fund and capital replacement fund (Sections 93 (3), 99 (3) and 102 A (3)) and to meet with the operator to discuss those draft budgets (S 129B)

A right to vote on a Special Resolution about whether to approve increases in general services charges above the CPI percentage increase for the relevant financial year (after taking into account Section 107 items (S 106)

A right to vote on a Special Resolution about whether to introduce a new service for which a services charge is to be made or may be made (S 108)

A right to vote on a Special Resolution about whether to approve a capital improvement, for which all residents of the village will be jointly responsible for the cost (S 90B)

A right to receive quarterly financial statements (S 112 (1))

Through the Residents Committee, a right to receive explanations about expenditure excesses over budget estimates (S 112 (4))

A right to receive audited Annual Financial Statements about the income, expenditure, assets and liabilities of the village (S 113)

A right to vote on a Special Resolution about whether to approve an insurance excess exceeding the prescribed maximum (S 110).

Where there is a Residents Forum, it usually meets with the scheme operator to look at budgetary issues. In the absence of both these bodies, the scheme operator arranges Information Sessions with residents on a regular basis to ensure their obligations are met.

In freehold villages as well as the above (if there are leasehold units in the village) there is a Body Corporate Committee which oversees the Administration and Sinking Fund accounts. If the village is purely a freehold one, the Body Corporate and Community Management Act has to be mindful of the requirements under the Retirement Villages Act (Section 24).

The foregoing demonstrates that there are appropriate provisions in the Act for residents to be involved in decisions that affect their financial obligations. It is up to them to do so.

37. Is the level of power provided to residents by the Act appropriate relative to their level of financial and personal investment in the retirement village?

Residents Committees are generally very effective in dealing with the scheme operator and as a conduit between the residents; and with the financial disclosure on a ongoing basis, can be involved with the business aspects of the village's operations.

As previously stated, many choose a retirement village lifestyle as they no longer want the burden of having to think about things like maintenance and services.

Resident contracts are the mechanism for ensuring the operator fulfils obligations and residents' surveys reveal that in the main they are comfortable with this arrangement. This is demonstrated by the absence of formal disputes on this topic.

38. Should resident participation be mandatory in retirement village decision-making processes for decisions that affect their financial obligations?

Mandatory resident participation and/or the establishment of a resident committee cannot be prescribed and impossible to police. Operators have to be very cautious in demanding mandatory behaviour of people living independently

39. Other than residents committees, how are residents involved in budgetary and other decisions affecting their financial obligations?

The Residents' Committee is the primary vehicle for involvement in budgeting and other financial matters. Being active on the Committee, attending village Budget Information Sessions and the Annual General Meeting to receive the Audited Financial Statements; and understanding that the General Services Charges is the vehicle by which the village functions in a financially sustainable manner.

RECOMMENDATIONS:

- Note the extensive existing provisions within the Retirement Villages Act that afford residents with an appropriate level of information, oversight and involvement in protecting their financial interest
- Note that resident contracts are the appropriate mechanism to protect the interests of retirement village residents
- Note that mandatory residents committees and resident involvement is unenforceable.

TERMS OF REFERENCE
8. Consider whether the Act adequately provides a timely, informal and cost-effective process for resolving disputes between residents and scheme operators.

It is important that media stories should not drive public policy. Any proposed legislation should be based on systemic and judicious investigation and consideration of the impact of reacting to the media stories that are usually around one off events that occur, rather than a systemic weakness in an industry. It is not a problem that residents in retirement villages protest and agitate about rights and issues, as that is the basis for continuous quality improvement of operations and better risk management by scheme operators.

What is a problem is if one or two residents agitate and the other residents do not support the basis of their concern and neither does the Residents Committee, but the dispute escalates to the Tribunal. The PID does provide a lot of detail but because of the regulated format for the PID, the information is presented in a clumsy and convoluted fashion which is confusing to residents and to the scheme operator.

Some people who move into a retirement village react to the perception of their life and their self importance is slipping away as they realise that the move is their final destination. There is a sense of loss and grief for many who may have moved because the family home is too big to manage, or their neighbourhood has changed, or they have experienced a death of a spouse or close friend and have seen their savings erode because of the GFC. Anger is a natural reaction and village management have to be very skilled in ensuring that this reaction is not destructive for a resident or other residents or staff. The majority of residents overcome this anger, grief and sense of loss but for some it becomes an ongoing reaction to daily life and leads to complaints, disputes and tensions within a village.

Residents who live in a retirement village are a microcosm of retirees living in the general community and it is not uncommon for minor disputes or major ones to surface in a retirement village between residents. This is absolutely destructive to the ambience of the village.

Also in some villages, residents mistakenly believe that because they pay their General Services Charges they are, in fact, the Board of Management for the village with staff answerable to them. This sometimes leads to bullying and harassment of village staff and undue interference in the administration of the village such as overseeing gardening and grounds staff, demanding to inspect all invoices, bank accounts and similar. Fortunately, this is the exception rather than the norm and the Residents Committee is key to promoting residents rights within the intent of the Act.

PIDs and Residents Handbooks detail the rights and obligations of residents towards each other, to staff and to management and likewise by the scheme operator as part of the criteria of living ‘in quiet enjoyment’ in a village.

40. Did you receive adequate information about the dispute resolution process when you entered your retirement village?

Residents' responses to the survey on this question were clear and they advise this information is available in their PID and Residents Handbook. There is a high level of awareness within retirement villages about complaint rights. For example:

7.	Yes, we received adequate information. The process was outlined in the Public Information Document we received when we were looking to purchase our unit. We also have the process outlined in the book we received when we moved in. If we ever have a dispute, we can refer to that book so we can follow the rights steps. We know there is an internal process you follow first and then we can escalate it if need be.

The Scheme Operator provides detailed information about Dispute Resolution in the PID and in the Residents Handbook and Village Bylaws spell out the policy and procedure.

The Queensland Government's Retire Smart also provides a good overview of the process.

The introduction of the proposed simplified PID, which includes information about Dispute Resolution in a clearer format, would enhance the clarity of information to prospective residents.

The Residents Committee and word of mouth amongst residents helps to spread the information about complaints.

IRCAS Standard 2 – Quality Management assesses the village on its attention to this topic:

A complaint handling system must be modelled on principles of fairness, accessibility, responsiveness and efficiency. Complaint handling must also be integrated with the day-to-day operations of the village. It is important for village operators to assign a single point of responsibility for the management of complaints. The person responsible for complaint management must have a positive attitude toward complaints, must understand how the complaint management system works and be skilled in key complaint management processes, such as investigation.

The foundation of effective complaint management is clear, comprehensive, documented policy guidelines, which describe the complaint management system and role of each member of the village team in the system.

The complaint management system should incorporate mechanisms for:

- *Lodging of complaints (complaints should be welcomed and be easily lodged)*
- *Logging and recording complaints on a complaint register*
- *Acknowledging complaints, including providing the complainant with information about how complaints management works*
- *Investigating complaints to determine the cause and related issues*
- *Acting on issues that arise from the investigation*

- *Providing feedback to complainants about the outcome of their complaint, and*
- *Facilitating escalation of the complaint if the complainant is not satisfied with the outcome of the complaint investigation process.*

Reference to the *Australian Standard AS ISO 10002-2006, 'Customer Satisfaction – guidelines for complaints handling in organizations* provides member villages with useful and practical approaches to dealing confidently with complaints/likely disputes.

Section 154 of the Act mandates preliminary negotiation of retirement village disputes at the village level. This enables an effective internal dispute resolution process and provides residents and operators with an opportunity to resolve an issue quickly. Then there is the ability to apply for a mediation conference with the QCAT (S155-165). This provides an avenue for both residents and operators to effectively deal with a dispute prior to possible escalation. Should this fail, an application may be made to the Tribunal for a hearing of the dispute. A hearing of the dispute by the Tribunal and the making of appropriate orders (Part 10) should finalise the matter.

Other Disputes:

What is not covered by the Act, are incidences of victimisation or harassment occurring between residents in a village. Sometimes communal living does not work and irritations escalate into resident to resident aggravations and disputes which, if not resolved quickly can cause irreparable harm to a village culture.

PIDs and Village Rules usually have a clause in them which spells out the requirement for all residents not to impinge on the quiet enjoyment of other residents and this is the mechanism by which a scheme operator can address the problem using principles of conflict resolution and dispute management.

LASA Q members usually have a section in their PID which describes the action to be taken by the scheme operator in the event of such an event.

RECOMMENDATIONS:

- ❖ Note the current dispute resolution process as outlined in Part 9, Divisions 1, 2 & 3 of the Act is comprehensive and effective
- ❖ Note that scheme operators who function within a better practice and risk management paradigms see complaints and disputes as an opportunity to improve resident satisfaction
- ❖ Note that LASA Q's policy is that there should be an internal Dispute Resolution mechanism in place where it is practical and feasible to do so as resolution of disputes as early resolution reduces the risk to the harmony of the village.

41. How effectively are disputes resolved in your retirement village, either as an operator or resident?

Evidence that disputes are resolved at the local level is seen in the low numbers of reporting from LASA Q members.

The ARQRV often assist in resolution processes at the village level.

See sample below of a resident's response to this question:

2.	There is a monthly residents meeting where issues can be discussed. The village manager can also be approached if the matter is personal. Disputes up to date seem to be eventually resolved or be undergoing resolution. Probably as effective as is possible given the complexity of human nature and the number of diverse individuals involved.

42. Should the Act require that all retirement villages have an internal dispute resolution process, in addition to that provided by the Act?

This is recommended if the village infrastructure can support it especially as the Act infers that residents should be going to a QCAT process as early as possible. Research on conflict resolution/dispute is unambiguous in that as far as practical and within reasonable parameters the least damage to individuals and an organisation is if matters can be resolved in a timely, courteous, well communicated, clearly structured process at a local level. See attached flow chart at Appendix 9.

43. Is the current dispute resolution process effective for the potentially vulnerable members of our community it is intended for, or are there more appropriate options that should be developed?

As far as possible, the resolution of a dispute should be resolved at the local level, including an internal Meditation process. Residents also have the option of seeking support from the ARQRV or other Advocacy agencies involved in seniors' support. Not uncommonly with a dispute or concern a resident will have a 'support person' to assist them in speaking to village management and this overcomes the disadvantage of a potentially vulnerable resident making a complaint.

If the Dispute is between two residents, a not uncommon event, and it cannot be resolved by the scheme operator on an informal basis within a short time frame and with reference to the Village By Laws and PID, an internal Dispute Resolution Committee can be formed to seek a solution.

44. Are residents of retirement villages aware of their right to complain? Should this be included in the Act?

See previous responses highlighting the information provided to residents about their rights.

45. How are residents protected from being victimized when they complain or use the dispute resolution process, if at all?

It is highly unfortunate if a resident is victimised if they complain or use the dispute resolution process. It would be unusual for the ARQRV not to approach LASA Q if they believed that this was a situation in a member village. This has not occurred.

As identified earlier, operating within a Continuous Quality Improvement Framework results in scheme operators seeing complaints as an opportunity to improve an aspect of the village, if the complaint is valid; and/or improve communications with a resident who may for a number of reasons feel aggrieved.

There is a body of Commonwealth and State legislation about bullying, victimisation and discrimination and that the scheme operator is bound to adhere to under compliance and corporate governance standards.

What can occur from time to time is that a resident may complain about a particular matter and other residents do not agree with him/her which in turn causes tensions between the person complaining and the body of residents. This is where the Residents Committee plays an important role.

RECOMMENDATION:

- Note that Dispute Resolution mechanisms are in place, there is information for residents to act on concerns, there is documentation to guide the resident making the complaint and the scheme operator to deal with it, and that there is good documentation in the PID, Residents Handbook and Village Policy and Procedure Manual to address disputes
- Note that the Act is silent on resident to resident disputes but there are other mechanisms to deal with this situation
- Note that it is LASA Q's policy that disputes should be resolved as quickly as practical and at local level to minimise consequential disharmony in the village.

46. How often are disputes resolved through a residents committee, rather than the formal process?

As the Residents Committee is a matter for the committee, the scheme operator may not be aware of a resident attempting to raise a dispute. For LASA Q members it is the norm that the scheme operator deals with disputes in a formal manner unless the dispute can be resolved by management decree.

47. Is QCAT effective in resolving disputes for residents of retirement villages?

QCAT's Annual Reports 2009/10 and 2010/11 do not reveal any information on how many retirement village dispute applications have been lodged, how many have proceeded to mediation, how many have been resolved through mediation, how many have proceeded to a hearing or how many have been settled prior to a hearing. This is an oversight in benchmarking for scheme operators.

The industry considers QCAT generally to be effective as a forum for resolving disputes especially when it provides reassurance to LASA Q members that due process are in play for a timely resolution of a dispute. It plays an active role in the management of cases by making orders for the parties to comply, with a strict timetable for various steps to be taken by each party in the proceedings. Also, the strong emphasis QCAT puts on alternative means of dispute resolution in its processes (such as compulsory mediation and compulsory conferences chaired by a member of QCAT) is endorsed by LASA Q.

QCAT: Potential Reforms

Without a strong body of evidence it is difficult to make many comments. However, the few LASA Q members who have participated in QCAT matters – at any level – do feel at a disadvantage as they have not had any experience in such processes and the Tribunal it is sobering process.

There is also the reluctance of QCAT to allow legal representation for a scheme operator which could disadvantage an operator from a small village unused to formal legal processes. It is not uncommon for some consumer organisations to have an experienced advocate from the organisation represent a resident who may not want to present at a Tribunal. This then sets up an unequal representation – a skilled advocate well versed in the Act and previous Tribunal findings, and a small village operator with limited experience of the intricacies of the Act and the wider implications of a decision entered into.

The intent of consumer tribunals such as QCAT is that proceedings are conducted less formally than in a Court. This is to be encouraged. A consequence of this for scheme operators is that they can present to defend a claim against the village and during the proceedings the resident's advocate is permitted to change their claim or their argument without any adjournment to allow the scheme operator to consider the new grounds. This disadvantages the scheme operator.

A further disadvantage for the scheme operator is the reluctance to grant leave for either party to be represented by their lawyers at any stage of a QCAT matter. This was not the case with the previous Commercial and Consumer Tribunal. This results in the failure of appropriate legal arguments to be put forward and has the risk that the interests of justice are not well served. It is also inefficient as Tribunal members then have to determine the true facts of a claim, taking more time with the investigatory process.

LASA Q would like to encourage QCAT to develop Fact Sheets for the industry that spell out all the steps in the processes at the different stages of a dispute and offer training for industry representatives unfamiliar with the processes.

RECOMMENDATION:

- Seek responses from QCAT as part of this review process.

REFERENCES

1. Stimson R. 2002, The Retirement Village Industry in Australia. Evolution, Prospects, Challenges. University of Queensland Press, Brisbane Queensland
2. Jones, A, et al, 2010, Service Integrated Housing for Australians in later life. AHURI Final Report No. 141 Melbourne. Australian Housing and Urban Research Unit. Queensland Research Centre
3. Productivity Commission 2011, Caring for Older Australians, Report No. 53 Final Inquiry Report, Canberra
4. Croucher, K., Hicks, L. and Jackson, K. (2006) Housing With Care for Later Life: A Literature Review, York: Joseph Rowntree Foundation
5. Robin Lyons, Partner Minter Ellison. Presentation at the RVA Conference July 2012
6. Productivity Commission 2011, Caring for Older Australians, Report No. 53 Final Inquiry Report, Canberra p XXIV
7. Productivity Commission 2011, Caring for Older Australians, Report No. 53 Final Inquiry Report, Canberra p LXIV
8. The Australian Superannuation Funds Association. http://www.asfa.com.au
9. Rich, N, 2012 Future for Retirement Villages. Presentation Service Integrated Housing Conference Gold Coast 2012
10. Rowley, S and Phibbs, P. (2012) *Delivering diverse and affordable housing on infill development sites,* AHURI Final Report No. 193. Melbourne: Australian Housing and Urban Research Institute

APPENDICES

1. Aged Care Queensland's Now That's Living Magazine
2. Diploma of Management (Retirement Villages) through the Education Institute in 2013.
3. Presentation to potential residents at The Renaissance
4. 2012 Guidelines for the Classification of Expenditure
5. IRCAS Accreditation Standards
6. Closure of Retirement Villages Submission
7. Barriers to infill development for affordable housing (from Rowley & Phibbs)
8. Suggestions to enable the delivery of diverse and affordable housing (from Rowley & Phibbs)
9. Flow Chart: Management of Complaints