

16 December 2024

## Capital works, Modifications and Terminations of RVs

Following consultation with representatives of the Department of Energy, Mines, Industry Regulation and Safety (DEMIRS) on Monday 25 November 2024, this submission articulates the retirement living industry's response to the third consultation paper on proposed amendments to the Retirement Villages Regulations 1992 relating to capital works, modifications and terminations of RVs.

### Preliminary comments

The Property Council and Retirement Living Council's (PCRLC) response emphasises that industry is not opposed to the introduction of mandatory reserve funds for capital maintenance, noting that approximately 90 per cent of operators already have reserve funds in place. However, given the consequence is that an operator will need to divest existing reserve fund amounts into separate funds, we strongly recommend longer lead-times for the transitional arrangements into a separate mandatory capital maintenance fund and potentially establishing a capital replacement fund.

The PCRLC notes that the NSW Retirement Villages Regulations Asset Management Plans have formed the basis of the draft regulations for capital works and funds. As there are known deficiencies with the NSW approach to Asset Management Plans, such that they will undergo regulatory reform in 2025, we recommend the QLD equivalent document is used as an alternative.

The PCRLC is pleased to note that multi-stage developments are exempted from these consultation plans.

### Capital works

The PCRLC notes through the consultation paper that capital replacement and maintenance funds are to be transferred and separated within three months of section 41C coming into effect. This proposed provision is unworkable, as operators will require considerably more time to prepare given they prepare long-term maintenance plans. The PCRLC therefore proposes that the transitional arrangements are extended until the later of 1 July 2027 or the financial year following proclamation of the Amendment Bill.

The PCRLC welcomes the carve out for strata title villages given the different village models and recommends extending this to purple title for both consistency and clarity across documentation. Additionally, the PCRLC seeks clarity that day-to-day level maintenance is not to be included in capital works plans.

### Draft example modification plan

Given the length and repetition of some of the sections in their current draft form, the PCRLC recommends the modification plan document be shortened substantially.

We recommend removing information that is not directly relevant to the modification of a village, including but not limited to tenure type, number of units in the village, and number of residents currently in the village. This information changes frequently and adds unnecessary administrative burden to operators without providing residents with relevant and pertinent information regarding modification of the village.

Instead, the PCRLC recommends “Part 3.9 Detailed explanation of proposed modification” forms the central part of the modification plan document, with supplementary, relevant and important information being the timeframes as outlined in “Part 5.1 and 5.2 – Timeframes for proposed modification”. Industry notes these parts ultimately reflect the resolution of the modification plan that residents will be approving.

The PCRLC recommends the emphasis be on information relevant to premises that are affected by the changes and an outline of the proposed plan, the communication strategy undertaken and the impact on residents continuing to reside in the Village during implementation of the plan.

We recommend the inclusion of the following as key points for the modification plan, as currently laid out in Attachment B:

- Overview of modification
- Reason for modification
- Overview of anticipated timeframes
- Overview of impacts on residents
- Overview of the consultation process for the proposed modification

### **Draft example termination plan**

The PCRLC recommends the termination plan is shortened in a similar fashion to the draft example modification plan. Many provisions are not relevant to the termination plan, including but not limited to consultation of former residents, tenure type and number of residents currently in the village, and the financial arrangements for accommodation units. Similarly to the draft example modification plan, this information adds unnecessary administrative burden to operators and does not provide relevant information to residents in a concise manner.

We recommend the emphasis be on information relevant to premises that are affected by the changes and an outline of the proposed plan, communication strategy undertaken and impact on residents continuing to reside in the Village during implementation of the plan.

### **Response to consultation questions**

The PCRLC has provided attachments to this submission of the draft plans for capital maintenance and capital replacement, draft example of a modification plan, and the draft example of a termination plan, with proposed changes marked up. The consultation papers’ questions are answered throughout this paper and through the attached documentation.

### **Next Steps**

If you require further information or clarification on this submission, please contact Andrew Thomson, WA Policy and Research Advisor, at [athomson@propertycouncil.com.au](mailto:athomson@propertycouncil.com.au) or on 0409 470 336.



Yours sincerely,

A handwritten signature in black ink, appearing to read 'N Brischetto', with a long horizontal flourish extending to the right.

**Nicola Brischetto**  
WA Executive Director  
Property Council of Australia