

28 April 2025

## Dispute Resolution, Retirement Villages Register and Amendments to CAS and PRIS

Following consultation with representatives of the Department of Energy, Mines, Industry Regulation and Safety (DEMIRS) on Wednesday 2 April 2025, this submission articulates the retirement living industry's response to the fifth consultation paper on proposed amendments to the Retirement Villages Regulations 1992 relating to dispute resolution, retirement villages register, and amendments to Community Arrangement Statement (CAS) and Prospective Resident Information Statement (PRIS).

### Preliminary comments

The Property Council welcomes the transfer of the Fair Trading (Retirement Villages Code) Regulations 2022 into the Retirement Villages Regulations, which will streamline and consolidate the information presented to residents.

The Property Council recommends the exclusion of the number of each type of unit available from both the CAS and retirement villages register. Rather than streamlining and simplifying information and disclosure processes, including this breakdown will potentially confuse prospective residents and burden operators. The Property Council recommends operators provide an overall number of units available and a list of the different types of units.

As a general comment, the Property Council submits that the CAS should operate as a general overview of the Village and allow the PRIS to provide the specific information relevant to the premises proposed to be occupied by the prospective resident. For example, the CAS may include a general question such as 'Do residents share in the capital gain or capital loss on the resale of their unit?'. The response could be then 'Yes', or 'No', or 'Subject to unit type or negotiation'. The PRIS would then provide the detail, as it does in the template.

### Dispute Resolution

The definition of *retirement village dispute* in clause 29 of the Code excludes matters that may be determined by the State Administrative Tribunal (SAT).

That may exclude several matters in dispute that could be resolved at the village level, such as disputes arising from a service contract (s55 of the *Retirement Villages Act 1992*).

If the intent is to use the Dispute Resolution mechanism in the regulations to avoid matters going to SAT then in our view the definition of dispute in the regulations may need to be reconsidered.

In relation to 2(a), the Property Council seeks clarity on what is meant by a *suitable person or body*, and whether the operator themselves or a representative of the operator would qualify as the appropriate person.

Further, the Property Council seeks confirmation that an operator will also be able to initiate a dispute resolution process. If this is not the case, we recommend the regulations be drafted to allow this.

### **Information proposed to be included in the WA retirement villages register**

The Property Council notes much of the information proposed to be included in the retirement villages register is also included in the CAS. The Property Council recommends operators only be required to submit the relevant information once, to avoid duplication and inefficiency. Where possible, information should be automatically cross populated to both the CAS and register at the same time. In line with previous recommendations, we want to avoid a register that is cumbersome, with overly prescriptive information.

The Property Council recommends that the form of information to be included in the register be of a generic and summary nature to allow the CAS to provide the more detailed and current information for the use of prospective residents and the community. We note that the CAS is just one of the items to be included and maintained on the register. Industry's view is that the additional information set out at page 2 of the consultation paper under s78(1)(f) is not required.

Importantly, we want to avoid the implementation in NSW, where we understand difficulties in data collection, collation and entry on the departmental side led to issues with the veracity and usefulness of information publicly available to both residents and operators.

We recommend roll out of the register be delayed until the technological requirements are understood and functioning systems developed or procured. Further, we suggest the department establish a pilot program for operators to ensure the system is fit for purpose.

### **Update on CAS and PRIS forms**

As stated in previous submissions, the Property Council strongly recommends the CAS provides high-level information on what a particular village offers. This is particularly important considering the "warranty of the correctness of the information" that a residence contract provides regarding the CAS.

The Property Council notes several challenges when disclosing the value of an ingoing contribution for any unit. Industry can provide recent sales data for a particular type of unit, but notes that with market volatility, the value of a unit sold on a particular date may not be representative of the value of that same unit 12 or 18 months later.

The Property Council recommends including a "starting from" value that is subject to availability and confirmation rather than a range. At the same time, we note these values can change frequently. We stress the importance of ensuring veracity of the CAS considering the statutory warranty. This point is particularly important in Part 8 and Part 9 of the CAS.

The Property Council recommends shortening the third bullet point near the start of the CAS to only include the first sentence, to read "Retirement villages can change over time."

In *Part 2 – Accommodation Types and Type of residential premises by reference to tenure type*, we suggest removing these two tables of detail as to the number of residential premises by

accommodation type and tenure. This information may change regularly and should not be included, given it could cause an operator to misstate information by accident or omission when the same information is available elsewhere.

In *Part 6 – Services*, we note definitions will be required within the regulations, including in relation to “optional personal services”. Similarly, the range of services funded from recurrent charges may be extensive, such as accounting, auditing, and regulatory compliance. Provision may need to be made to allow for summary or categories to be used to explain services. Some of the services in the template may be grouped as ‘Maintenance of common areas’ to cover gutter cleaning, gardening, pest control and window cleaning.

In *Part 8 – Range of ingoing contribution and other entry costs to enter the village*, the Property Council notes that “duty” is incorrectly referred to as “stamp duty” in the documentation and recommends the addition of the words “(purple/strata/community title only)” as is included in the current Form 1 document.

The Property Council encourages the consistent use of language as per the Act, including in *Part 10 – Exit fees*, where “departure fee” and “deferred management fee” should be referred to as “exit fee”. We note that the reference to “sale costs of the unit” does not account for the reletting or re-leasing of units that can occur rather than sale.

In *Part 11 – Reinstatement and renovation of the unit*, we recommend removing the bracketed words “(including floor coverings, painting, window fittings)”.

Similarly, in the PRIS document, in *Part 5 – Exit fees*, we recommend removing the bracketed words “(including floor coverings, painting, window fittings)”.

## 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,



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