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Retirement Villages Act Review
Consumer Affairs Victoria
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AAG submission- Victorian Retirement Villages Act 1986 Review

6 December 2019

To Whom it May Concern,

The Australian Association of Gerontology (AAG) thanks Consumer Affairs Victoria for the opportunity to comment on the review of the [Retirement Villages Act 1986](#). AAG would also like to acknowledge and thank Consumer Affairs Victoria for the comprehensive [Issues Paper](#) it developed to assist stakeholders in responding to this review.

AAG's purpose is to improve the experience of ageing through connecting research, policy and practice. Its principles are to be evidence informed, multi-disciplinary and holistic, independent, collaborative and fair. AAG has a growing membership of over 1,350 professionals working across every State and Territory in Australia representing all sectors and disciplines in ageing including research, policy, education, aged care, health and allied health, and consumer advocacy. AAG has 18 Collaborating Research Centres which represent all major research in ageing and aged care and is connected internationally as the executive office of both the International Association of Gerontology and Geriatrics Asia Oceania Region and the International Longevity Centre – Australia.

AAG has a Housing and Built Environment Special Interest Group (HBESIG), Chaired by Dr Victoria Cornell, that includes experts on the intersections between ageing, housing and the environment. **AAG would be honoured to connect Consumer Affairs Victoria with experts that can provide research evidence on any issues that arise during your review of the Retirement Villages Act 1986.**

Attachment 1 provides AAG's responses to the specific questions asked by Consumer Affairs Victoria in its Issues Paper.

AAG notes that it also made a submission to the Victorian Parliament's Legal and Social Issues Committee's 2016 inquiry on the operation and regulation of the retirement housing sector (<https://www.aag.asn.au/news-publications/aag-submissions/victorian-parliamentary-inquiry-into-retirement-housing>). **The issues raised in the 2016 AAG submission remain as relevant today, and AAG requests that Consumer Affairs Victoria consider [this 2016 AAG submission on retirement housing](#) in their current review.**

AAG notes the breaches of "day to day" tenancy rights and human rights highlighted by the resident perspectives in the Housing for the Aged Action Group (HAAG) submission to Consumer Affairs Victoria for this review. AAG endorses HAAG's position that legislative safeguards must be enacted to prevent these breaches from occurring in the future.

In collaboration with the HBESIG, AAG has recently published the following evidence-based papers that may be of interest to Consumer Affairs Victoria in conducting this review:

AAG Position Paper: Regulating accessible housing enables all Australians to age in a place of their choosing (<https://www.aag.asn.au/news-publications/policy-papers/aag-position-paper-regulating-accessible-housing-enables-all-australians-to-age-in-a-place-of-their-choosing>)

- This Position Paper has been developed in response to the September 2018 Australian Building Codes Board's (ABCB's) Accessible Housing Options Paper. It states AAG's position that:
 - A minimum accessibility standard should be regulated for all new housing so that all Australians can age in a place of their choosing

Australian Association of Gerontology acknowledges Traditional Owners of Country throughout Australia and recognises the continuing connection to lands, waters and communities. We pay our respect to Aboriginal and Torres Strait Islander cultures, to Elders past, present and emerging, and to all Aboriginal and Torres Strait Islander peoples including members of the Stolen Generations. For further information see AAG's [Aboriginal and Torres Strait Islander Ageing Advisory Group](#)

- The Livable Housing Design Guidelines (LHDG) Gold Level specifications should be set as the minimum requirement, with the addition of some Platinum Level features

Collaborative papers on older women experiencing or at risk of homelessness

(<https://www.aag.asn.au/news-publications/policy-papers/aag-collaborative-project-on-older-women-experiencing-or-at-risk-of-homelessness>)

In August 2018 AAG in collaboration with a range of experts, advocates and services providers launched three papers addressing older women who are experiencing, or at risk of, homelessness:

1. **Background Paper— For policy makers and people working with older people.** The Background Paper provides a summary of the research evidence, service provider experiences and feedback, current Australian statistics, and current Australian services. The aim of this paper is to provide an introduction to the diverse experiences and needs of older people, and in particular older women, who are experiencing, or at risk of, homelessness. The intended audience is policy-makers and people working with older Australians, including personal care workers in facilities and people’s homes, aged care leaders, health and allied health professionals, and researchers.
2. **Position Paper—For Federal, State and Territory Australian governments.** The recommendations in this Position Paper have been developed based on the evidence summarised in the Background Paper- Older women experiencing, or at risk of, homelessness. This Position Paper is aimed at Federal, State and Territory Australian governments.
3. **Things to consider - For practitioners and service providers who are not experienced and/or specialised in providing services.** This document outlines issues for practitioners and service providers to consider when working with older women who are experiencing, or at risk of, homelessness. The target audience is primarily practitioners and service providers who are not experienced and/or specialised in providing services to older women experiencing, or at risk of, homelessness.

Please do not hesitate to contact me if you have any questions about this submission, would like more evidence on a specific issue, or would like to be connected with one of AAG’s experts on the intersections between ageing, housing and the environment.

Kindest regards,



James Beckford Saunders, Chief Executive Officer



Attachment 1- AAG responses to specific questions raised in the Issues Paper

1. Should the payment of an ongoing contribution be the defining factor in determining whether the Retirement Villages Act 1986 (RV Act) applies to a retirement village? If not, what other considerations would be appropriate?
2. Is the definition of 'retirement village' under the RV Act otherwise appropriate? If not, what changes would you recommend?

AAG submits that an ongoing contribution should not be the defining factor in determining whether or not the RV Act applies to a retirement village. AAG considers that there should be more retirement villages developed that are affordable for people who cannot pay an ongoing contribution and that these should be regulated under the RV Act to ensure safety and quality standards are upheld. As stated in [AAG's Position Paper on older women experiencing, or at risk of homelessness](#); there is an urgent need to address the lack of affordable, appropriate and secure housing supply. AAG therefore encourages the development of retirement villages through Government-funding, cross-subsidisation (i.e. a mix of contribution and non-contribution residents based on income and asset assessments) and/or charitable funds that allow residents to lease a dwelling without the need to pay a co-contribution, and that villages set aside properties for rental tenure occupation in addition to license to occupy.

AAG's position is that the current first clause in the RV Act to define a retirement village is sufficient as it is, namely:

"retirement village means a community the majority of which is [retired persons](#) who are provided with accommodation and [services](#) other than [services](#) that are provided in a [residential care facility](#)"

AAG acknowledges and understands the rationale behind the ongoing contribution being a defining factor as described on p.21 of the [Issues Paper](#). However, AAG notes that there are other factors relating to the payment of ongoing contributions (e.g. rent) that place people at risk, this includes clauses that relate to non-payment of the lease and also options for ending the agreement¹.

AAG suggests there should be further consideration about aligning the definitions and requirements for other forms of retirement housing where both accommodation and services are provided (such as residential parks).

3. Is the current purpose of the RV Act still appropriate? If not, what do you think the legislative purpose of the RV Act should be?

17. What do you consider to be the benefits and costs of introducing a form of mandatory accreditation for retirement villages?

18. What do you consider to be the necessary elements of any mandatory accreditation scheme?

AAG submits that the current purpose of the RV Act to 'clarify and protect the rights of persons who live in, or wish to live in, retirement villages' is still appropriate. The description of what the RV Act seeks to achieve on pages 18-19 of the [Issues Paper](#) remains relevant today.

However, AAG submits that 'day-to-day' protections should be included in the RV Act in order to fully protect the rights of persons who live in retirement villages, including the mandatory accreditation of retirement villages against a range of standards. This is in line with the recommendation by the Victorian Parliament's Legal and Social Issues Committee's 2016 inquiry on the operation and regulation of the retirement housing sector (the Parliamentary Inquiry) noted on pages 31-32 of the [Issues Paper](#). **AAG submits that the accreditation scheme should relate not only to financial and tenancy-related rights¹, but also to the appropriateness, safety and quality of the dwellings and service provision relating to peoples' needs as they age.**

AAG submits that retirement village dwellings should be regulated to ensure the minimum standard of Livable Housing Design Guidelines (LHDG) Gold Level specifications, with the addition of some Platinum Level features are met. This is in line with the [AAG Position Paper: Regulating accessible housing enables all Australians to age in a place of their choosing](#) which provides more details on the minimum standards.

¹ AAG notes the breaches of 'day-to-day' tenancy rights and human rights highlighted by the resident perspectives in the Housing for the Aged Action Group (HAAG) submission to Consumer Affairs Victoria for this review. **AAG endorses HAAG's position that legislative safeguards must be enacted to prevent these breaches from occurring in the future.**

AAG submits that Consumer Affairs Victoria consider whether any of the findings and recommendations of the current Royal Commission into Aged Care Quality and Safety (Aged Care RC) may be applicable to the retirement villages sector as well. [AAG made this submission to the Aged Care RC](#) calling for a human rights-based approach to aged care policy development; the same principles should be applied when reviewing the RV Act. For example, the accreditation standards should address discrimination in a similar way to the [Aged Care Diversity Framework and Action Plans](#).

AAG notes that the Federal Government is currently considering the draft Aged Care Homelessness Action Plan for approval and implementation. The draft action plans developed by Housing for the Aged Action Group (HAAG) in consultation with a wide range of stakeholders, including AAG, are [available here on HAAG's website](#):

1. [Draft Provider Homelessness Action Plan](#). Three levels of actions are presented in this document: 1. Foundational Actions, 2. Moving Forward, and 3. Leading the Way. The "Leading the Way" actions include specific actions for specialist homelessness aged care services.
2. [Draft Consumer Homelessness Action Plan](#). This one-page document is intended both to help people who have experienced, or been at risk of, homelessness express their needs when speaking with aged care providers, and as a resource to support people working in aged care to understand the perspectives of people who have experienced, or been at risk of, homelessness.
3. [Draft Action Plan for the Australian Government proposed by those consulted](#). This document outlines actions for the Australian Government that those consulted identified as needing to be implemented in order for aged care providers to be able to meet the needs of people who have experienced, or been at risk of, homelessness.

AAG submits that many of the Aged Care Action Plan recommendations to aged care providers and Government to make their services more inclusive and thereby reduce the risk of homelessness in older people, are also applicable to retirement villages. Either the legislation, or related policy documents, should help to ensure the inclusivity, cultural sensitivity, safety and appropriateness of retirement villages and their services in order to protect peoples' rights.

4. What improvements could be made to the register of retirement villages?

5. What other information should operators be required to include in the register?

AAG submits that the current retirement village public register (<https://registers.consumer.vic.gov.au/rvsearch>) could be expanded to include information on:

- the magnitude of the co-contributions needed and other costs under the contract (in line with the fact sheet and disclosure obligations outlined in the [Issues Paper](#)- see also our response to points 7, 14 and 16 below),
- any breaches of relevant legislation the village has been investigated for and the outcomes of these investigations, and
- contact details in addition to a postal address for the village include a website, phone number and email address.

AAG submits that registration with Consumer Affairs Victoria and the provision of the above information to the register (at a minimum) should be mandatory for all retirement villages.

7. When advertising the 'price' of a retirement village unit, should there be a requirement to include a reference to any deferred management fees and other departure fees and charges?

14. Should retirement village operators be required to disclose ingoing prices for entering a retirement village with and without deferred management fees? If so, what form should this take? If not, why not?

16. When should retirement village operators be required to provide a resident with an estimate of their departure fees and what are your reasons?

AAG submits that when advertising the 'price' of a retirement village unit, there should be a requirement to include a reference to ongoing service fees, any deferred management fees and other departure fees and arrangements (e.g. for the refurbishment and sale of the property). This should be publicly available information to aid people in comparing and choosing a retirement village (see response to points 4 and 5 above).

9. What, if any, further improvements could be made to improve prospective residents' understanding of the potential financial and contractual arrangements relevant to living in a retirement village?

10. Are the current timeframes for provision of a Factsheet and Disclosure Statement to prospective residents appropriate?

See AAG response to points 4 and 5 above.

21. Should there be any additional limitations or requirements on persons who can be involved in promoting or operating retirement villages?

22. What do you consider to be the benefits and costs of mandating training and professional development requirements for retirement village managers and employees?

23. How should any requisite professional development requirements and training be determined?

24. Are there other ways to ensure that retirement village managers and employees have the requisite skills and professionalism to undertake their responsibilities?

AAG supports the recommendation by the Parliamentary Inquiry's recommendation noted on pages 33-35 of the [Issues Paper](#) that "there should be a dedicated, nationally-recognised qualification under the Australian Qualifications Framework (AQF) available to retirement village managers - ideally at the Certificate IV, Diploma, or Advanced Diploma level". **AAG supports a human rights-based, holistic and multidisciplinary approach to meeting peoples' needs as they age, and submits that a mandatory minimum qualification for retirement village managers must reflect such an approach.**

Minimum training requirements should also be considered for other key staff at retirement villages, especially those involved in direct service provision to residents. This includes minimum requirements for experience, Codes of Conduct, education and training for people providing management and administrative services, gardening, repair and maintenance services, recreation or entertainment services, as well as 'personal services' under the RV Act, such as laundry and cleaning services, meals and 'care services', for example, nursing or medical services.

AAG submits that Consumer Affairs Victoria considers the recommendations of the recent [Aged Care Workforce Strategy Taskforce \(ACWST\) report titled A Matter of Care](#) and the [submissions made by AAG to the ACWST](#) when considering training and professional development options for retirement village managers and other staff.

39. Do you think retirement villages should provide privately funded care services?

40. Is the current regulatory framework for the delivery of privately funded care services sufficient to ensure that potentially vulnerable and frail residents receive safe and high quality standards of care?

41. What role, if any, should retirement village operators have in ensuring the safety and welfare of their residents, taking into account a resident's right to autonomy and privacy?

AAG submits that people living in retirement villages and receiving services to support them as they age should be given the same protections as those receiving aged care services. One option is that retirement villages that provide services to residents should be required to meet the same requirements and adhere with the same codes as aged care providers. See also AAG response to points 21-24 above. As a minimum, AAG submits that the Act should articulate a set of rights for residents. This could include, for example rights to security of tenure, to a safe environment, to the maintenance of common areas in good repair, to quiet enjoyment, to receive services of an appropriate standard, to protection from discrimination etc.

AAG submits that the RV Act should include provisions that prohibit retirement village providers from in any way restricting or interfering with residents entering into agreements with, and receiving services from, external service providers (including aged care service providers).

As submitted in response to points 3, 17 and 18 above; **AAG submits that Consumer Affairs Victoria consider whether any of the findings and recommendations of the current Royal Commission into Aged Care Quality and Safety (Aged Care RC) may be applicable to the retirement villages sector as well.** [AAG made this submission to the Aged Care RC](#) calling for a human rights-based approach to aged care policy development; the same principles should be applied when reviewing the RV Act.

46. What are your views on the reform proposals identified by the review of internal dispute resolution procedures in retirement villages outlined in this Paper?

AAG supports the proposed reforms identified during the 2017 Consumer Affairs Victoria review of internal dispute resolution procedures outlined on pages 49-50 of the [Issues Paper](#):

- *“Introduce a definition of ‘complaint’ into the RV Act, and clarify requirements around recording complaints”*
- *“Introduce a requirement that any dispute resolution body considering a retirement village dispute takes into account the extent to which the good practice protocols have been followed”*
- *“Clarify in legislation the avenues for directing complaints about village managers”*
- *“Remove the role of residents committees in resident dispute mediation”*

In addition, AAG has in-principle support for the proposed new body or extended powers of an existing Ombudsman to provide external dispute resolution to the retirement village sector as recommended by the Parliamentary Inquiry.