

15 August 2024

To: Regulatory Services  
Department of Housing, Local Government, Planning and Public Works  
Level 22, 1 William Street BRISBANE QLD 4001  
[RegServicesRVconsultation@housing.qld.gov.au](mailto:RegServicesRVconsultation@housing.qld.gov.au)

To: Regulatory Services,

**RE: Submission to the draft Financial Guidance Materials for the Retirement Villages Amendment Regulation 2024**

Thank you for the invitation to provide a submission on the draft Financial Guidance Materials (FGM), following recent amendments to the Queensland Retirement Villages Regulation 2018 (Regulation). The purpose of the FGM is to assist industry to comply with the implementation of these Regulations.

The Aged & Community Care Providers Association (ACCPA) is the national Industry Association for over 1,000 aged care providers offering retirement living, seniors housing, residential care, home care, community care and related services across Australia.

Below, we have responded to the consultation questions:

***Clarity and methodology***

- 1. Are the Financial Guidance Materials (FGM) clear?**
  - a. If not, do they need further clarification, or references to the Act or Regs inserted to assist cross referencing such requirements?**

The first section of the FGM is explanatory material that reiterates what is in the Regulations but in a reordered manner, making it easier to navigate. During stakeholder consultations for the Regulations, it was noted that the original structure was difficult to navigate even for trained professionals. The new structure of the FGM is a positive change, allowing readers to find all relevant information in one place.

- b. Or can you suggest any other changes to increase clarity?**

Including practical deidentified examples and / or case studies would illustrate how to apply the guidelines in different scenarios. A glossary of terms and abbreviations used at the end of the document could also help users understand the specific jargon and technical language. Visual aids such as infographics or flowcharts / other diagrams could clarify complex processes and requirements, making the document more accessible to users who may not be familiar with all the financial and Regulatory terms.

**2. Is the structure of the Financial Guidance Materials suitable?**

**a. If not, can you suggest any changes?**

The structure is well organised, effectively reordering the regulatory content for easier navigation. Adding a frequently asked questions (FAQ) section at the end of the document could address common queries and issues that operators may encounter. This section could cover typical questions about understanding specific requirements and clarifying common misunderstandings. An FAQ could serve as a quick troubleshooting guide for users and reduce the need for direct support.

**3. Are the proforma templates informative and do they assist all reporting requirements?**

**a. Can you suggest any improvements?**

The proforma templates are informative but we propose the following improvements:

- Making these templates available in editable formats such as Microsoft Excel or Word would improve their usability. Operators could easily customise and fill out the templates electronically;
- Providing examples of completed templates with annotations explaining each section may also serve as a practical guide. These templates are designed to help operators comply with the Regulations, but operators should be aware that simply using these templates does not guarantee compliance; and
- There should be a disclaimer that these templates should be used as a guide, and operators must ensure all regulatory requirements are met.

**b. Are they a benefit to operators in complying with the Retirement Village Regulation?**

The templates are beneficial as they provide a standardised format for compliance, ensuring that all necessary information is included. This consistency may help operators meet regulatory requirements efficiently and can improve the accuracy and transparency of financial reporting across different retirement villages.

**General feedback**

**4. Do you have any other feedback on the draft Financial Guidance Materials (FGM) that would help with the practical application of the Retirement Villages Regulation?**

The following analysis highlights discrepancies and inconsistencies between the FGM and the Regulations, specifically in relation to the GSC and MRF budgets, annual financial statements and quarterly financial statements, as detailed below:

- 1. Pages 6 to 7** – The FGM states that a GSC budget must show a separate line item for GSC expected to be paid by the "scheme operator (section 105)". The corresponding provision of the Regulations (section 12(c)(ii) of Schedule 5A) refers only to section 105(1)(a) and (c) of the Act, not section 105(1)(b). It is not clear why this provision of the Regulations does not refer to section 105(1) of the Act in its entirety, but regardless this appears to create an

inconsistency between the FGM and the Regulations. In this instance, it may be preferable for the Regulations to be amended to match the FGM, as:

- a. The corresponding requirement for annual financial statements (**AFS**) – see section 14(c) of Schedule 5B of the Regulation - refers to GSC payable by the operator under sections 104(3) and 105(1) of the Act;
  - b. Section 18(a) of Schedule 5B of the Regulation requires this part of the AFS to be, as close as practicable, in the same form as the GSC budget; and
  - c. The apparent discrepancy between this requirement (i.e. under the Regulation) for the GSC budget vs the AFS will likely interfere with operators' obligations to show corresponding amounts in the GSC budgets and AFS for comparison purposes.
2. **Page 10** – The comments in item 1 above apply equally to the MRF budget and corresponding part of the AFS – see section 7(c)(ii) of Schedule 5A of the Regulation and section 8(c) of Schedule 5B of the Regulation. Further, the bullet point list of required line items for expected income of the MRF budget appears to be inconsistent with the Regulation and the Act, in that:
  - a. It requires separate line items for expected income from current residents and former residents, whereas section 7(c)(i) of Schedule 5A of the Regulation only requires the total of such expected income, i.e. for both current and former residents combined (unless the Department's view is that separation of expected income from current residents vs former residents is required by the reference to "each type of expected income" in section 7(a) of Schedule 5A of the Regulation – if so, it would be helpful if this were clarified in the FGM and/or the Regulation). Initial stakeholder feedback in response to the original draft Amendment Regulation expressed the view that the level of granularity suggested by the FGM in this regard would be unduly onerous on operators and serve little benefit – separate line items simply for expected income from residents (current and former combined) and the operator should be regarded as sufficient; and
  - b. It does not accurately and comprehensively describe the circumstances in which the operator is required to pay MRF contributions under sections 104 and 105 of the Act.
3. **Page 16** – The FGM states that quarterly financial statements (QFS) must state, for each of the three statutory funds (i.e. CRF, MRF and GSCF), "previous year comparative figures for the relevant period". However, the Regulations adopt the wording "corresponding amount for the previous relevant period" – see sections 5, 11 and 17 of Schedule 5B of the Regulation. Further, the Regulation defines "relevant period" for a QFS as "the financial quarter to which the quarterly financial statement relates". For example, the wording used in the Regulation would require comparison of relevant amounts for the December quarter to corresponding amounts for the immediately preceding September quarter, not the December quarter of the previous year as envisaged by the wording used in the FGM. This inconsistency is liable to create confusion. More fundamentally, it remains unclear how the sections 4(b), 6(b), 10(b), 12(b), 16(b) and 18(b) of Schedule 5B of the Regulation are to be applied in respect of QFS.

4. **Page 16** – In the last bullet point list on the page, "(i.e. general services charges fund)" should be replaced by "(e.g. general services charges fund)" or "(i.e. general services charges fund, maintenance reserve fund and capital replacement fund)".
5. **Page 17** – The first bullet point list on this page lists types of GSC income that must be shown as separate line items in the GSC section of a QFS. In relation to the first 2 bullet points, see comments in paragraph 2a above (and refer to sections 14(a) and (b) of Schedule 5B of the Regulation).
6. **Page 18** – In relation to the comparisons to be shown in a QFS for the GSC:
  - a. see comments in paragraph 3 above; and
  - b. the requirement stated in the FGM to show the variance or difference "between the previous year and current year figures" does not appear to be consistent with the Regulation – section 18(b)(ii) of Schedule 5B of the Regulation instead requires reference to the amount of any difference between the relevant actual amount shown in the QFS and the corresponding amount in the GSC budget.
7. **Page 19** – In relation to the separate line items to be shown in the QFS for income of the MRF, see comments in paragraph 2a above (and refer to sections 8 (a) and (b) of Schedule 5B of the Regulation).
8. **Pages 19 to 20** – In relation to comparisons to be shown in the QFS for the MRF, see comments in paragraph 3 above (and refer to section 11 of Schedule 5B of the Regulation). Further, in contrast to the FGM, the Regulation does not require any reference to variance or difference between corresponding amounts (whether in relation to previous year actuals, budgeted amounts or otherwise), only that the corresponding amounts themselves be stated – see sections 11 and 12(b) of Schedule 5B of the Regulation.
9. **Page 21** – In relation to the comparisons to be shown in the QFS for the CRF, see comments in paragraph 8 above (and refer to sections 5 and 6(b) of Schedule 5B of the Regulation).
10. **Page 22** – Under the heading of "Additional inclusions" (for the CRF section of a QFS), the FGM requires a disclosure note in respect of any variances in the current quarter vs "budgeted amount for the quarter". The bullet points which immediately follow also refer to comparisons of actual quarterly amounts to budgeted amounts. Not only is such information not required by the Regulations, it is submitted that these references are meaningless, as there is no legal requirement for operators to prepare quarterly budgets, nor is this usual practice. See also the reference to a "Budget Qtr" column in Appendices 2.1, 2.2 and 2.3 of the FGM.
11. **Page 24** – In relation to the separate line items to be shown in an AFS for income of the GSC, see comments in paragraph 2a above (and refer to sections 14(a) and (b) of Schedule 5B of the Regulation).
12. **Page 25** – In relation to the comparisons to be shown in an AFS for the GSC, see comments in paragraph 6b above (and refer to section 18(b)(ii) of Schedule 5B of the Regulation).
13. **Page 25** – In the last paragraph, the cross-reference to section 5.4 should be to section 5.5.

- 14. Page 26** – In relation to the separate line items to be shown in an AFS for the income of the MRF, see comments in paragraph 2a above (and refer to sections 8(a) and (b) of Schedule 5B of the Regulation).
- 15. Pages 26 to 27** – In relation to the comparisons to be shown in an AFS for the MRF, in contrast to the FGM, the Regulation does not require any reference to variance or difference between corresponding amounts (whether in relation to previous year actuals, budgeted amounts or otherwise), only that the corresponding amounts themselves be stated – see sections 11 and 12(b) of Schedule 5B of the Regulation.
- 16. Page 27** – The cross-reference to section 5.4 should refer to section 5.5.
- 17. Page 28** – In relation to the comparisons to be shown in an AFS for the CRF, see comments in paragraph 15 above (and refer to sections 5 and 6(b) of Schedule 5B of the Regulation).
- 18. Page 29** – The cross-reference to section 5.4 should refer to section 5.5.
- 19. Page 32** – In relation to former resident liabilities, initial stakeholder feedback in response to the original draft Amendment Regulation included a request that section 26 of Schedule 5B be reworded to clarify that it only relates to former resident liabilities that are due, rather than using the words "becomes payable". While this change was not made to the final version of the Regulations, the FGM provides an opportunity to clarify that the relevant disclosure note is only required to address former resident liabilities that are due (e.g. it is not required to address a former resident's exit entitlements, where no resale has yet occurred and the 18 month buyback period has not yet expired, meaning that payment of the exit entitlement is not yet due).
- 20. Page 61** – Item 11 of Appendix 3.5 proposes a disclosure note as to amounts secured by an interest, mortgage or charge over the operator's property. This information is not required by the Regulation. Section 25(d) of Schedule 5B of the Regulation only requires reference to the identity of the person entitled to the benefit of the interest, mortgage or charge.
- 21.** Formatting issues need to be addressed, including bullet points and headings.

If you have any further questions or would like to discuss, please contact Mark Prosser, Director Retirement Living & Seniors Housing at [mark.prosser@accpa.asn.au](mailto:mark.prosser@accpa.asn.au).

Yours sincerely,



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