

30 October 2024

To: Christine Mullins  
Department of Energy, Mines, Industry Regulation and Safety  
Consumer Protection Division  
140 William Street, Perth WA 6000

Dear Christine,

**RE: Retirement Village Regulations – Consultation Paper #2**

Thank you for the invitation to provide a submission on the Retirement Village (RV) Regulations rules of conduct and budget obligations.

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.

The proposed conduct rules for operators and residents require further refinement to ensure clarity, balance and practicality. For operators, some rules are duplicative, particularly in areas such as professionalism and care. More clarity is needed around protecting information in line with existing privacy legislation. While the rules for residents are generally appropriate, they are fewer in number and could be expanded to create a more equitable framework. To be effective, the conduct rules should promote fairness, streamline obligations and avoid unnecessary duplication with existing workplace and privacy regulations.

Below, we outline our responses to the provided questions:

**Question 1: Proposed conduct rules for operators**

**a) Are the conduct rules proposed for operators appropriate? Yes or no.**

No, there are concerns about clarity and practicality.

**b) If no, what amendments do you suggest?**

There are duplications within the rules that require revision. For example, there is a lack of distinction between points c (exercising skill, care and diligence) and d (acting with honesty, fairness and professionalism). It is unclear how these are distinct and how they would be audited.

Point f about protecting information may raise concerns under existing privacy legislation, such as the Privacy Act. Privacy laws, which are federally regulated, take precedence and could create confusion if these rules add overlapping requirements. Operators already must comply with these laws, so it is unnecessary and potentially risky to impose additional conduct obligations that could contradict or duplicate federal requirements. Clarity is needed on how this rule interacts with privacy laws to ensure operators know their responsibilities and avoid conflicts.

In addition, point h, regarding managing conflicts of interest, is vague. Operators already have these obligations. It is unclear how a separate conflict-of-interest rule is needed beyond these obligations and clarity is required on what specific scenarios this is meant to address.

## Question 2: Proposed conduct rules for residents

**a) Are the conduct rules proposed for residents appropriate? Yes or no.**

Yes, the conduct rules are appropriate but could be expanded for better balance with the operator rules.

**b) If no, what amendments do you suggest?**

While the 4 proposed conduct rules for residents cover important aspects, there is a noticeable imbalance compared to the 8 conduct rules for operators.

Residents should be required to treat contractors with respect. There have been cases where residents have harassed contractors over minor issues such as noise or parking and this behaviour should be explicitly addressed in the conduct rules.

**c) Should it be a term of every village contract that the resident will respect the rights of other residents of, and other persons in, the village? (as is the case in NSW).**

Yes, incorporating this term into every village contract would establish a baseline for respectful behaviour and help prevent conflict, ensuring a harmonious village environment.

## Question 3: Proposed requirements regarding training and competencies

**a) Are the proposed requirements above appropriate? Yes or no.**

No, they are too broad and introduce unnecessary duplication with existing HR and workplace regulations.

**b) If not, what requirements should be included, excluded, or amended?**

Operators already comply with the Fair Work Act, which governs recruitment, training and management of staff. Introducing additional requirements through retirement village regulations risks duplicating existing HR obligations and could impose unnecessary administrative burdens on operators.

A key concern is that the proposed requirements appear to apply to all staff members, including cleaners, gardeners and maintenance workers, which may not be practical or necessary. Training requirements should be proportionate to the role and focus on practical skills rather than formal qualifications. For example, while village managers do not need academic degrees, they should be trained in handling disputes and managing difficult residents, which are essential skills for their role. Such skills, while valuable, may not be a priority for the gardeners or maintenance workers.

The section on performance standards should focus less on creating new requirements for performance assessment and management, as these are already covered by employment law. Instead, it should emphasise ensuring that staff have the relevant competencies required for their specific roles within the village.

While the requirement to train staff in complaint handling and dispute resolution is appropriate, it lacks specificity. Clearer guidelines on the level of training required are necessary. For instance, it should differentiate between basic training (e.g., a short video) and more comprehensive education, without imposing an excessive burden on operators.

Another significant concern is the cost of training. Under current operating budgets, it is already difficult to get residents to pay 50% of professional organisation registrations and it is unlikely they will agree to cover additional training costs. Therefore, the financial implications of these new requirements need to be carefully considered to avoid overburdening operators.

Given that training costs can accumulate significantly, these expenses should be integrated into the resident budget as part of recurrent charges to prevent undue financial strain on operators.

#### **Question 4: Conduct in the marketing of retirement villages?**

**a) What, if any, regulations are required with respect to conduct of operators in the marketing and advertising of retirement village?**

Moving marketing requirements from the RV Code to the Regulations is reasonable and should not add significant burden to operators, as many already comply with these standards.

Marketing regulations should ensure transparency and honesty, with clear descriptions of village services, fees and terms. For instance, important aspects such as "lease for life" arrangements should be clearly communicated in advertising materials to prevent misleading potential residents.

#### **Question 5: Resident consultation prior to preparation of draft annual budget**

**a) In what form should consultation be undertaken?**

Consultation should occur with the residents' committee or a finance sub-committee (if available), allowing for focused input from those residents who are best positioned to understand and provide constructive feedback on the budget. General meetings with all residents can lead to confusion and inefficiencies, particularly if many participants lack financial expertise. Consultation should be meaningful but not overly complex, ensuring that the budget process remains efficient while still involving resident input. It is also important to distinguish between consultation and approval, as approval is not necessarily required when budget adjustments do not exceed CPI limits.

**b) When should this consultation be undertaken?**

Consultation should take place after a draft budget has been prepared. Consulting residents before a draft is created is impractical, as operators need a solid starting point to engage with residents in a meaningful way. Once a draft budget has been formulated, residents can review it and provide feedback, which can then be incorporated into the final version. This approach allows for a more streamlined process and avoids the inefficiencies of consulting on a budget that does not yet exist. In addition, only a small number of residents typically have budget knowledge and the rest require guidance. Having a draft budget prepared first provides a clearer point of focus for those residents and allows for more productive consultation.

#### Question 6: Review of budget obligations in the RV Code

**a) Do you have any feedback on how the budget obligations (clauses 16-19 of the RV Code) may be streamlined or simplified?**

The proposed budget obligations are generally straightforward. Two additional items - consultation and insurance disclosure - are highlighted on page 5 of the consultation paper. Most operators already comply with these requirements, so they should not pose a significant burden.

We recommend a mechanism for extension be added to the regulations. Operators may face challenges in meeting deadlines, particularly when financial figures, such as insurance premiums, are not available in time for the budget preparation process. Allowing for an extension where necessary would provide flexibility for operators to present accurate and fully informed budgets without risking non-compliance with regulatory deadlines.

**Example operating budget template**

- The budget template should include approved and actual figures for each quarter/month, with year-to-date (YTD) totals for easier tracking throughout the year.
- Display vacant unit/villa days to clarify how these costs are expensed.
- Include reserve fund expenditures and totals for capital and maintenance funds.
- Clearly indicate maintenance expenses within the operating budget.
- Group expenses and income under general categories rather than itemising each cost and include insurance as a separate line item.

Additionally:

- Specify if budgets use cash or accrual-based accounting.
- Regulations should address how any budget deficits or surpluses are managed.

#### Question 7: Provision of information on insurance to residents

**a) Should regulations be made to require operators to provide information about insurance in relation to the RV to residents as part of their budget obligations? Yes or no.**

Yes, but the information provided should focus on the most relevant details for residents.

**b) If yes, what information should be included?**

Insurance disclosures should be clarified. The challenge lies in defining the depth of insurance information that needs to be provided. Operators need clear guidelines on how much detail to disclose, particularly regarding aspects like coverage types, premium calculations and excess amounts, to ensure residents are fully informed without overwhelming them with excessive or unnecessary information.

Residents often focus on the excess amounts rather than the coverage itself, which can fluctuate significantly from year to year (e.g., from \$500 to \$10,000 depending on weather events).

Information should include basic coverage details (e.g., public liability and building cover) but must also highlight the excess amounts, as this is the area that causes the most concern for residents.

Operators should provide as much information as possible about potential changes to excesses, even if they are speculative, to manage resident expectations.

Operators should also disclose how insurance costs are allocated within the village, including how fluctuations in premiums or excesses may affect residents.

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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