



16<sup>th</sup> August 2019

Regulatory Policy, Better Regulation Division  
NSW Department of Customer Service  
2-24 Rawson Place  
HAYMARKET NSW 2000

By email:

Dear Sir/Madam,

**RE: Submission on Retirement village exit entitlements & recurrent charges cap - Discussion Paper.**

Our organisation agrees totally with the need to re-structure imbalances within the retirement village industry. However, we are very concerned that the approach being proposed by Government will do more harm than good and have a multiple of unintended consequences for residents, operators and the industry.

Our views are based entirely on hands on experience at all levels of the industry and in all types of villages operating within the not for profit and private sector. The bona fides for our viewpoint lies in our background which is set out in the Corporate Profile attached (Attachment 1).

A key part of our background has been in assisting villages that have had problems where we have been able to restore services, amenity and values for the mutual benefit of all stakeholders (ie residents, operators, government etc.). Our view is that the approach suggested will make it almost impossible to turn a village around.

In 2012 we made overtures to resident bodies, industry associations and government as we foresaw that the industry was changing quickly but had some fundamental flaws. We felt these flaws would be addressed by adopting the concept of "Community Vitality" to help measure the things that matter most in a village and establish benchmarks.

The flaws we alluded to in 2012 were driven by several things but primarily the shift of the not for profit sector into the “lifestyle market” and the move by large corporate players to create large investment vehicles to build retirement “property” portfolios.

This was exacerbated when the Retirement Villages Association of Australia was merged into the Property Council of Australia creating a flawed focus. These shifts have not helped State Government as the communications they have had with industry over the past 10 years is often skewed.

Retirement villages are communities comprised of residents, operators, managers, staff, suppliers and other stakeholders. We have proven time and again that the best retirement villages are those where all these stakeholders “work together for mutual benefit”.

For this to happen we must first of all take power away from the outliers. It is not that they should not have a voice and listened to, just that the decision makers within the communities should balance the competing interests of all stakeholders to ensure a vibrant, safe and sustainable community. It is unfortunate that there is a cohort from every village who place no value on community and are generally disruptive. It is very dangerous if this cohort is permitted to set the agenda as seems to be happening at the moment.

It is just as important to weed out poor Operators who negatively impact on residents' lives and the communities that they are responsible for, they too should not set the agenda.

It is generally agreed that the majority of people living in retirement villages are very happy with their life. This is borne out by results of resident satisfaction and other surveys including Community Vitality reports we have conducted.

The measures being proposed by government threaten to drive capable independent operators like ourselves with an impeccable record out of the industry. This will be detrimental to many residents and also to small business owners who have invested significantly in this industry. There are also many other likely repercussions which will see diminished values for all, diminished development of future product, diminished refurbishment of older product and critically a diminished quality of life and financial investment for residents and much more.

It is our recommendation that the following system is introduced. It has some similarities to the Commonwealth Government Aged Care System:

- None of the measures proposed are introduced at this time.
- Standards of operation be established for the industry based on the principles of “Community Vitality”.

- A regime is established for all villages to be measured against those standards.
- Government has a range of sanctions available to apply where operators are not meeting standards. These sanctions could include the actions outlined in the discussion paper and more.

Attachment 2 sets out a proposed system for your consideration, we would welcome the opportunity to share and expand on our extensive experience and research to validate this approach as well as provide scientifically valid reports to form the basis of our Community Vitality research and benchmarking tool.

Vision Lifestyle Projects is not affiliated with any associations or major retirement village groups and would be very pleased to assist Government in developing this system.

Vision currently is involved in the following retirement communities:

**Hunters Hill Lodge** – A full management contract to manage the community, a strata titled 50 unit complex with a full level of services to residents with an average age of 88 years. 23 staff are employed to serve the residents and deliver a high-quality service. The ongoing viability of this operation will be severely threatened by some of the proposed changes.

**Huon Park Retirement Village** – A management contract to manage the services provided within the community and assist with the maintenance, management and renewal of the 134 independent living strata titled units and 40 Leasehold Serviced Apartments. Huon Park has no departure fees payable to an Operator or manager and much of the burden of the proposed changes could fall back on the residents in this village.

**The Heritage of Hunters Hill** – a caretaker management contract to manage the community on behalf of the Operator Manchester Unity, a subsidiary of HCF. The village consists of 42 Leasehold Independent Living Apartments in the boutique suburb of Hunters Hill. The village is operating well but investment in capital upgrades is on hold as the owners may need to fund other things under the proposed changes.

**Garden Village – Port Macquarie.** Vision has been engaged by this community based not for profit to provide a range of services to assist with the evolution of this community consisting of 225 independent living units on a collocated site with aged care facilities. Vision's services have included advisory, benchmarking, training & development, mentoring, pricing, marketing and sales with a focus on a new stage of the village that opened in October 2018. Although all residents of this

community are regarded as 'non registered interest holders', the new development has been set up differently so as to provide residents with an opportunity to share capital gain. The changes would penalise this operator for being benevolent in its outlook.

**IRT Links Seaside.** Vision is a preferred agent for IRT, a large not for profit that primarily have 'non registered interest holders' within their 23 communities, Links Seaside residents are regarded as 'registered interest holders'.

**Blacktown Workers Club.** Vision has been providing advisory services on a proposed new community this large club is considering. This major project is on hold pending outcomes of this review.

As with these current projects, Vision's advice and managements covers a range of structures and markets including:

- For Profit & Not for Profit;
- Strata, Loan/Licence, Leasehold structures;
- Registered and Non-Registered Interest holders;
- Communities with and without Departure Fees;
- Independent Living Units & Serviced Apartments.

An outline of a presentation we have prepared is attached. The presentation will help government understand how approaching these issues from a sociological viewpoint rather than reacting to a cohort of outliers will produce better results for all. We are ready to make this presentation to Government personnel at any time.

## Before answering the specific questions from The Discussion Paper, we make the following comments:

We believe the approach being undertaken will cause more damage than good for industry stakeholders (residents, operators, government etc)

Many good operators who do a fantastic job stand to be penalised out of business.

An approach focused on creating a best practice environment focused on what we call "Community Vitality" will deliver far better results for all.

We agree operators have been accountable but feel a system of exemptions and sanctions managed under the umbrella of "Community Vitality" will be fairer for all.

## A reform to ensure payment of exit entitlements within set timeframes

### Identifying the Sydney Metropolitan Area

1. Is the description of the 'Sydney Metropolitan Area' appropriate? If not, why not, and what areas should be included or excluded?

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

### Exit entitlements - Calculating fair property values

2. Are the proposals for appointing a valuer, to determine the value of the property, necessary and appropriate?

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

3. Should the valuation be done by someone independent to both parties?

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

4. Do the provisions, above, adequately manage any potential or actual conflicts of interest? If not, why? How can conflicts of interest be better addressed?

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

5. What information should the operator be required to provide to the resident when the exit entitlement has been determined?

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

### Opt out provisions – Exit entitlements

- 6. Where residents wish to sell their residence on their own terms, under what circumstances should they be able to opt in or opt out of the exit entitlement provision?**

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

- 7. At what point, or time should residents be able to exercise these rights?**

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

- 8. Should former residents be able to change their mind and opt back into the provisions, after they have notified the operator they are opting out?**

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

### NSW Civil and Administrative Tribunal – Exit entitlements

- 9. What issues should the Tribunal take into account when considering whether or not the operator has done everything in their power to enable the sale of a premises?**

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

10. Are there any additional circumstances the Tribunal should be able to take into account when considering a hardship application from an operator?

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

### The trigger point

11. Are there any other factors that could affect the setting of a 'trigger point'?

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

12. Do you think any of the triggers listed would be suitable to start the 6 and 12 month periods? Can you think of any others?

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

### Other timing considerations for the transfer of payments

13. Would any of the current provisions in Victoria and South Australia as set out in Appendix A (in the discussion paper), be of benefit to NSW residents of retirement villages?

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

14. Would it benefit residents if the provisions were to apply to both registered and non-registered interest holders?

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

### Potential impacts of the reform

**15. Can you think of any other benefits or costs of this proposal? What are they?**

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

**16. Are the costs and benefits above, accurate? If not, please provide information to help work out the true costs and benefits.**

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

### A reform to limit recurrent charges

**17. As with residents with a non-registered interest, should the 'trigger' to commence the 42-day period begin when the resident permanently vacates the premises?**

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

### Commencement options for both proposals

**18. When is it appropriate to commence the provisions?**

**Vision Response:**



We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

**19. Should one or both of the proposals be 'grandfathered'? If not, please provide your reasons.**

**Vision Response:**

We feel this is an unnecessary distraction. A sanctions system will allow government to focus on where the problems are rather than dramatically impact an entire industry.

Regards

John Burgess

Director

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