

**Retirement Villages Amendment
(Records and Notices) Regulations 2013
and
Retirement Villages Amendment (Contractual
Arrangements) Regulations 2013**

Consumer Affairs Victoria

Regulatory Impact Statement

Disclaimer

Because this publication avoids the use of legal language, information about the law may have been expressed in general statements. This Regulatory Impact Statement should not be relied upon as a substitute for professional legal advice.

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Retirement Villages Amendment (Records and Notices) Regulations 2013

Retirement Villages Amendment (Contractual Arrangements) Regulations 2013

Regulatory Impact Statement

This Regulatory Impact Statement has been prepared to fulfil the requirements of the *Subordinate Legislation Act 1994* and to facilitate public consultation on the proposed Retirement Villages Amendment (Records and Notices) Regulations 2013 and the proposed Retirement Villages Amendment (Contractual Arrangements) Regulations 2013, including drafts of the forms of the factsheet and enhanced disclosure statement. The aim of the proposed regulations is to improve retirement village contracts and information disclosure. A copy of each of the proposed regulations and drafts of the forms of the factsheet and the disclosure statement are provided in the appendices to this Regulatory Impact Statement.

Public comments and submissions are invited on the proposed regulations and documents, in response to information provided in this Regulatory Impact Statement.

All submissions will be treated as public documents, and will be available to other stakeholders, on request, under the *Freedom of Information Act 1982* or by being posted on the Consumer Affairs Victoria website at www.consumer.vic.gov.au.

Written comments and submissions should be in Microsoft Word format and should be forwarded by email or post no later than the close of business on 19 July 2013 to:

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3 April 2013

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Dear Ms Nigro

ADVICE ON THE ADEQUACY OF REGULATORY IMPACT STATEMENT

Thank you for seeking advice on the Regulatory Impact Statement (RIS) on the proposed *Retirement Villages Amendment (Records and Notices) Regulations 2013* and *Retirement Villages Amendment (Contractual Arrangements) Regulations 2013*.

The Victorian Competition and Efficiency Commission (VCEC) advises on the adequacy of RISs as required under section 10(3) of the *Subordinate Legislation Act 1994* (the Act). I advise the final version of the RIS received by the VCEC on 20 March 2013 meets the requirements of section 10 of the Act.

The VCEC's advice is based on the adequacy of the evidence presented in the RIS and is focused on the quality of the analysis rather than the merits of the proposal itself. **Therefore, the VCEC's advice the RIS is adequate does not represent an endorsement of the proposal.**

In the interests of transparency, it is government policy VCEC's advice be published with the RIS when it is released for consultation.

If you have any questions, please contact RegulationReview@vcec.vic.gov.au.

Yours sincerely

Andrew Walker

Assistant Director

Victorian Competition and Efficiency Commission



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Executive Summary

Retirement villages are a distinctive form of housing providing independent and community-based accommodation for senior Victorians. There are over 400 retirement villages on the Consumer Affairs Victoria Retirement Village Register. There are an estimated 37,700 Victorians living in retirement villages and the number of such residents is likely to increase, given the state's ageing population.

Retirement villages make an important contribution to the Victorian economy. It is estimated that the retirement village sector contributes approximately \$1 billion in turnover to the Victorian economy, \$0.6 billion to Victoria's Gross Domestic Product and 8,500 jobs in Victoria.

Moving into a retirement village is a significant lifestyle and financial decision. Prospective residents need the right information to make informed choices.

Seniors and their families may not realise that buying into a retirement village is not the same as a conventional property purchase. They can be unaware that residents may face substantial costs when leaving a village.

Retirement village contracts are often long and complicated, making it difficult for prospective residents to identify the critical information they need to assess the suitability of a village, to compare villages and to know their rights and obligations after becoming a resident.

The nature of retirement village contracts can make it expensive to seek professional advice about them. Additionally, very few legal or financial advisory professionals have retirement village expertise.

The Victorian Government has made a commitment to actively promote a better understanding of retirement village residents' rights and obligations both prior to entry to a village, and also while a resident. This serves the purpose of the *Retirement Villages Act 1986* (Retirement Villages Act): 'to clarify and protect the rights of persons who live in, or wish to live in retirement villages'¹.

Consumer Affairs Victoria circulated an Options Paper for public consultation from 19 October to 19 December 2011, called 'Retirement villages: contract and information disclosure options'. It canvassed proposals to:

- improve the disclosure of information to prospective residents;
- set out matters that must and must not be included in contracts;
- specify a basic set of mandatory rights and obligations for village operators and residents;
- standardise the structure of village contracts; and
- provide for a condition report on leased or licensed units.

Targeted consultations were undertaken with stakeholders to progress these proposals at a forum held in Melbourne in February 2012.

¹ See section 1 of the Retirement Villages Act.

A paper detailing the recommendations that Consumer Affairs Victoria intended to make to the Minister for Consumer Affairs arising from the Options Paper and the targeted consultations was posted on the Consumer Affairs Victoria website in April 2012, with a revised version posted in September 2012. Targeted stakeholders were advised of these postings and several made further submissions.

There are three main proposals.

- To improve ‘intermediate’ stage information for prospective retirement village residents through the introduction of a factsheet and the opportunity to inspect prescribed documents about a retirement village. ‘Intermediate’ stage information is information that is relevant to a prospective resident who is at the stage of investigating possible villages. Intermediate stage information is distinct from the more general information that a prospective resident would seek at the earlier stage when considering whether retirement village living generally is right for them. The earlier stage information is provided by Consumer Affairs Victoria, for instance, on its website. Intermediate stage information disclosure is also distinct from the more particular information a prospective resident would seek at the next stage, when they are about to sign a contract for a particular unit, that is at the pre-contractual stage.
- To improve pre-contractual information disclosure by enhancing the information that must be included in the disclosure statement that the Retirement Villages Act requires a retirement village operator (owner or manager) to give to a proposed resident at least 21 days before they sign a contract to enter a retirement village, with a summary of the costs of entering, living in and leaving a village.
- To improve the accessibility and comparability of retirement village contracts by standardising their structure through prescribing:
 - a basic set of mandatory terms;
 - matters that must be included in contracts;
 - matters that are banned from being included in contracts; and
 - standard layout of contracts including the form and the order of matters.

Implementation of these proposals requires the making of additional regulations under the Retirement Villages Act, including for the introduction of a factsheet and for an expanded disclosure statement under the Act, both in a form approved by the Director of Consumer Affairs Victoria. The regulations that require amendment are the Retirement Villages (Records and Notices) Regulations 2005 and the Retirement Villages (Contractual Arrangements) Regulations 2006. This Regulatory Impact Statement, describing the proposed regulations and their costs, has been prepared as a basis for public consultation on the proposed regulations and on draft forms of the factsheet and disclosure statement. Drafts of the proposed regulations and forms are included in Appendices C, D, E and F.

This Regulatory Impact Statement provides an oversight of the Victorian retirement village sector. It summarises the regulation that currently applies to retirement villages in Victoria and other states and territories. It describes the problems that the proposed regulations are intended to address. It also specifies the objectives of the proposed

regulations. The general aim is to reduce consumer detriment and increase consumer benefit relating to retirement villages by improving information disclosure by operators to prospective and proposed retirement village residents, and by standardising the structure of village contracts. There may also be benefits for retirement village operators arising from a reduction in the number and nature of disputes between operators and residents.

The specific objectives of the proposals are to assist prospective and proposed residents² to compare villages and to choose a retirement village that meets their personal and social needs, and to understand their rights and obligations and their financial commitment before entering a retirement village.

Three options are considered in this Regulatory Impact Statement, one for each of the three proposals arising from the 2011 Options Paper. These are:

- **Option 1** – improving intermediate stage information disclosure by the introduction of a factsheet and document inspection. Two forms of the factsheet are considered and examined in Options 1a and 1b;
- **Option 2** – improving the existing level of pre-contractual disclosure by enhancing the current disclosure statement. Two forms of the disclosure statement are considered and examined in Options 2a and 2b; and
- **Option 3** – measures to standardise the structure of village contracts. Two approaches to contract standardisation are examined in Options 3a and 3b.

The proposals are treated as three separate options in this Regulatory Impact Statement, since each could be introduced as a ‘stand alone’ reform.

Two other available options are considered in this Regulatory Impact Statement and assessed as being non-viable. These options are: self-regulation through an industry code of practice; and the use of fully prescribed contracts.

Retirement village operators, prospective retirement village residents and existing residents would all be affected by the proposed regulations and forms. While the initial impact would be on operators and prospective residents, existing as well as future residents would also be affected since the costs of compliance may ultimately be borne by them, through increased fees and charges. Existing and future residents may also be affected to the extent that the proposed regulations and forms reduce disputes between residents and operators³.

This Regulatory Impact Statement includes a detailed description of the precise requirements that retirement village operators would be required to meet under the proposed regulations. It also attempts to estimate the financial cost of the proposed regulations and forms. It does not attempt to quantify the benefits of the proposals, which are personal and social in nature.

² A ‘prospective’ resident is the term used in this Regulatory Impact Statement to describe a retiree who is interested in one or a small number of retirement villages, while a ‘proposed’ resident is a retiree who is interested in a particular unit in a particular village and is about to enter a contract.

³ Any new regulations or forms requirements would operate prospectively and would not apply to or affect residents who enter a village before they commence.

The total cost of introducing information disclosure at the intermediate stage (with the Option 1a factsheet), including the upfront costs to operators of preparing for the new requirements over a 10-year period, is estimated to be \$1,705,972.

The total cost of improving information disclosure at the pre-contractual stage (with the Option 2a disclosure statement), including the upfront costs to operators of preparing for the new requirements over a 10-year period, is estimated to be \$1,712,053.

The total cost of introducing contract standardisation requirements (Option 3a) over a 10-year period is estimated to be \$2,645,936. This includes \$1,346,138 for implementing standard layouts for retirement village contracts.

If all three options are adopted, the estimated total cost over a 10-year period would be \$6,063,962.

For retirement village operators the upfront cost of preparing for the new requirements is estimated to be \$2,822,914 or \$6,753 per village. The ongoing cost to operators of complying with the requirements is estimated to be \$3,241,048 over 10 years or \$728 per village in the first year. Therefore, the total first year compliance cost for operators, including the upfront and ongoing costs, is estimated to be \$7,481 per village. The cost to operators may be offset by savings to operators arising from a reduction in disputes as a result of improved disclosure.

If operators pass these costs on to residents, the cost per resident is estimated to be \$84 in the first year comprising \$76 per resident for the upfront cost and \$8 per resident for the ongoing costs.

The costs would be met differently by different groups of villages. In this Regulatory Impact Statement retirement villages are divided into two groups:

- villages that are part of, or affiliated with, larger organisations that have access to internal corporate and legal expertise - described as 'Group Y' villages; and
- villages that are stand-alone or part of a group of up to four villages and, therefore, likely to be small businesses - described as 'Group Z' villages.

The cost of implementing Options 1a, 2a and 3a is estimated to be higher for Group Z villages than for Group Y villages. This is because Group Z villages are not expected to benefit from the economies of scale anticipated for Group Y villages.

The upfront cost for operators of Group Z villages is estimated to be \$1,835,232 or \$9,867 per village, and the ongoing cost is estimated to be \$1,641,855 over 10 years or \$829 per village in the first year. Combining the upfront and ongoing costs for the first year would mean a total cost for Group Z operators of \$10,696 per village.

For Group Y village operators the equivalent costs are estimated to be: an upfront cost of \$987,682 or \$4,257 per village; an ongoing cost of \$1,599,193 over 10 years or \$647 per village in the first year; and a total first year cost, including upfront and ongoing costs, of \$4,904 per village.

If the compliance costs are passed on to residents, the cost for Group Z village residents is estimated to be \$120 per resident in the first year, comprising \$111 for the upfront cost and \$9 for the ongoing cost. The first year costs for residents of Group Y villages are

estimated to be \$55 per resident in the first year, comprising \$48 for the upfront cost and \$7 for the ongoing costs.

It is intended that, if the proposed regulations are to proceed, they would be made by September 2013 and commence six months after being made (i.e., at the latest, in March 2014) to allow sufficient time for operators to prepare the information and forms for the intermediate and pre-contractual stages, and to make the requisite changes to their contracts. The commencement date of the regulations will also be the commencement date of the *Retirement Villages Amendment (Information Disclosure) Act 2013* (the Retirement Villages Amendment (Information Disclosure) Act), which received Royal Assent on 12 February 2013 and, which provides authority for the proposed regulations for the factsheet and document inspection.

Public comments and submissions are invited on the proposed regulations and draft forms, in response to the information presented in this Regulatory Impact Statement.

All submissions will be treated as public documents, and will be available to other stakeholders, on request, under the *Freedom of Information Act 1982* or by being posted on the Consumer Affairs Victoria website at www.consumer.vic.gov.au.

Written comments and submissions should be in Microsoft Word format and should be forwarded by email or post no later than the close of business on 19 July 2013 to Consumer Affairs Victoria at one of the addresses set out at the front of this Regulatory Impact Statement.

1 Retirement living and the regulatory framework

Key points:

- It is estimated that the retirement village sector contributes approximately \$1 billion in turnover to the Victorian economy, \$0.6 billion to Victoria's Gross Domestic Product and 8,500 jobs in Victoria.
- There are an estimated 37,700 Victorians living in retirement villages. Retirement village residents are mostly 75 years of age or older, single and female.
- Over 400 retirement villages are registered with Consumer Affairs Victoria: around 55 per cent are owned by not-for-profit organisations; and the remainder by commercial organisations. Commercial organisations generally operate multiple sites and own over 70 per cent of retirement village units.
- The most common form of retirement village accommodation is self-contained units, commonly referred to as 'independent living units'.
- Retirement villages are regulated in Victoria under the Retirement Villages Act and defined as a community where the majority of residents or their partners are retired (at least 55 years of age or have ceased full-time employment) and at least one resident has paid an ongoing contribution.
- In other states and territories there is generally more robust pre-contractual stage information disclosure and, in some instances, provision for information disclosure at the intermediate stage in a prospective resident's investigation of retirement villages.

1.1 What is a retirement village?

Retirement villages are 'intermediate' accommodation between community care and residential care. This is because the level of care and support in a retirement village is greater than if an individual was in their own home receiving community care, but less than if they were living in residential aged care.

Retirement villages are a distinct form of housing. The definition of a retirement village in the Retirement Villages Act requires the existence of a distinct community with a majority of retired persons. The Act defines a retired person as someone who is 55 years or over or who has retired from full-time employment, or whose partner satisfies these requirements.

The definition also distinguishes retirement villages from other forms of housing by the requirement for at least one resident to have paid an 'ongoing contribution'. An ongoing contribution is a payment made (other than rent) which gives a person a right to reside in the village. The definition of a retirement village also requires that accommodation and other services be provided to residents (excluding services that are provided in a residential care facility).

The most common form of retirement village accommodation is self-contained dwellings where an older person can live independently. These are sometimes referred to as

‘independent living units’ or ILUs, in contrast to serviced apartments or other units where some domestic assistance is also provided to the resident.

Services provided to retirement village residents typically include property maintenance, an emergency call system and some kind of common room or meeting place. Additional facilities that are provided at some retirement villages include consulting rooms, a library, a pool, a gym, and a café or restaurant.

Contractual arrangements underpinning tenure vary across the sector, but most adhere to a basic underlying model. In a typical village, the resident:

- enters into a contract to purchase a right to reside, linked to other contractual arrangements for the supply of services as a member of the village;
- makes regular payments (typically monthly) to cover the costs of the services and facilities provided to the village community;
- may make separate payments to the operator for the provision of personal services (typically in a serviced apartment); and
- particularly in commercial villages, will receive after exit either the proceeds of the re-sale of the residence right or a refund of the ingoing contribution, net of a fee commonly known as a ‘deferred management fee’⁴.

Tenure in retirement villages can take a variety of forms. In Victoria, the most common tenure offered to residents is loan-licence or loan-lease⁵. The second most common form of tenure is strata-title⁶. Other forms of title that can be used but that are rare include unit trust and company title. Some not-for-profit retirement villages offer residents a periodic tenancy.

Around half of retirement villages are co-located with residential aged care facilities. Aged care is regulated under the Commonwealth *Aged Care Act 1997* and related legislation and is not considered further in this Regulatory Impact Statement.

Similarly, supported residential services are not considered further in this Regulatory Impact Statement as they are distinct from retirement villages. In addition to providing accommodation, supported residential services provide ‘special or personal care’ as defined in the Victorian *Health Services Act 1988*, resident tenure is by licence only, no ingoing contribution is payable and there is no minimum age restriction.

⁴ The Allen Consulting Group, ‘Retirement Villages (Contractual Arrangements) Regulations 2006 and Estate Agents (Retirement Villages)’, Regulatory Impact Statement, 2006, page 2.

⁵ A resident may be granted a right to occupy a unit in a retirement village by way of a long-term or indefinite lease or licence, which includes the right to use common areas and the village facilities. ‘Loan’ refers to the refundable ‘ingoing contribution’ that the resident pays to enter a village, which can be characterised as a loan (typically, interest-free) made to the operator by the resident that is repayable when the lease or licence terminates, with the operator entitled to off-set certain amounts against the payment due to the resident.

⁶ Strata title has the same meaning as in its general usage, i.e. the ownership of a unit or lot in a plan of subdivision. In such retirement villages, the developer typically retains ownership of the lots on which the village facilities are located. The owners corporation owns the common area: in broad-acre subdivisions, the common area includes such things as roads, paths and gardens; and, in high-rise subdivisions, stairwells, corridors and lifts.

1.2 Retirement Village Industry

It is estimated that the retirement village sector contributes up to:

- \$1 billion in turnover across the Victorian economy, comprising the operations of retirement villages themselves and the broader economy;
- \$0.6 billion to Victoria's Gross Domestic Product; and
- 8,500 jobs across retirement villages, construction and other sectors supporting retirement village services in Victoria⁷.

There are over 400 retirement villages on the Consumer Affairs Victoria Retirement Village Register. Around 55 per cent of these villages are owned by not-for-profit organisations, with the remainder being owned by commercial entities. However, 70 per cent of retirement village units are owned by commercial entities and the remainder by not-for-profit organisations because commercial villages are generally of a larger size than villages owned by not-for-profit organisations⁸.

Among the commercial operators, there are larger groups operating multiple sites (such as Aveo Livewell, Stockland, Australian Unity and Lend Lease Primelife) and small to mid-size independent operators who manage one to three villages⁹. Not-for-profit operators include larger church and charitable organisations (such as Catholic Homes for the Elderly and Royal Freemasons) and individual community-aided retirement villages.

Historically, not-for-profit and/or community-aided retirement villages offered their units at subsidised rates for financially disadvantaged retirees. While some continue to do so, there appears to be a trend towards not-for-profit retirement villages offering units at commercial rates and using the revenue to subsidise their aged care activities or in some cases, completely unrelated activities of the overarching organisation¹⁰.

Since 1986, there has been no significant form of government funding provided directly to retirement village operators. However, it is understood that a small number of not-for-profit retirement village operators were able to secure some funds through the National Rental Affordability Scheme.

Since the merger of the Retirement Village Association with the Property Council of Australia¹¹, there are two main Victorian retirement village industry organisations: the

⁷ These estimates are based on Australia-wide data provided in the Retirement Village Association submission to the Consumer Affairs Victoria 'Retirement villages: Contract and information disclosure options' paper published in October 2011. The submission noted that the retirement village sector contributes approximately \$4.7 billion in turnover to the Australian economy, \$2.6 billion to Australia's Gross Domestic Product and 38,000 jobs Australia-wide (see page 2). The estimates for Victoria is based on its share of Australia's Gross Domestic Product for 2011-12 of 22.3 per cent as specified in the Commonwealth Department of Foreign Affairs and Trade, Region Fact Sheet, Victoria, December 2012.

⁸ McMullen P & Towart L, 'An insight to Retirement Living', Jones Lang LaSalle, 2007, page 2 and 3.

⁹ Retirement Village Association submission to the, 'Caring for Older Australians Inquiry Report', Productivity Commission, Australian Government, Melbourne, August 2011, page.11.

¹⁰ Jones Lang LaSalle, 'National Retirement Village and Seniors Living Research', report prepared for the Social Policy Research Centre, May, cited in Eardley, T, Tannous, K, Thompson, D and Mourad, T, 'The Provision of Commonwealth Rent Assistance to Residents of Non-Standard Forms of Accommodation for Older People', SPRC Report 11/10, prepared for the Department of Families, Housing, Community Services and Indigenous Affairs, Social Policy Research Centre, University of New South Wales, November 2010, page 21.

¹¹ The Retirement Village Association merged with the Property Council of Australia as from 31 December 2012.

Retirement Living Council of the Property Council of Australia (including its Victorian Division) and Leading Age Services Australia - Victoria.

1.3 Retirement village residents

There are an estimated 37,700 Victorians living in retirement villages¹². It has been reported that the percentage of the population over a certain age living in a retirement village is greatest for the age group 75 years and over¹³. Most retirement village residents are thought to be female and single. The average stay in a retirement village is around 10 years¹⁴.

Residents decide to move to a retirement village for a range of ‘push’ and ‘pull’ factors (see Table 1). In this terminology, ‘push’ factors are the reasons why people leave where they are currently living and ‘pull’ factors are the reasons that attract people to move to a particular place, in this case a retirement village.

Table 1: Reasons people move to retirement villages

Top 5 Push Factors	Top 5 Pull Factors
1 Declining health – 26%	1 Medical support at hand – 16%
2 Downsizing – 18%	2 Community environment – 13%
3 Feeling unsafe at home – 15%	3 Easy to lock up and leave – 12%
4 Death of partner – 13%	4 Close to family – 11%
5 Difficulty getting around – 12%	5 New well-equipped home – 10%

Source: The McCrindel Baynes Villages Census Report 2011

1.4 Pricing structure and cost of living in a retirement village

Retirement village operators typically levy charges on residents at the point of entry, during their residency and upon their departure.

1.4.1 Upon entry

Residents pay an ‘ingoing contribution’ (loan-licence residents) or purchase price (strata title residents) to enter a village. On average, the ingoing contribution or purchase price for a two-bedroom retirement village unit is about 90 per cent of the median house price in the area in which it is located. The entry price for two-bedroom units that are less than 10 years old is on average just above the median house price, however, units that are more than 30 years old can be available for half the median house price¹⁵. Not-for-profit retirement villages offering subsidised units typically charge an ingoing contribution that is significantly below market value, although, in some cases, this is not refundable.

¹² Retirement Village Association submission to Consumer Affairs Victoria, ‘Retirement villages: Contract and information disclosure options’, October 2011, page 2.

¹³ McMullen P & Towart L, ‘An insight to Retirement Living’, Jones Lang LaSalle, 2007, page 4.

¹⁴ http://www.rva.com.au/pages/about_retirement_villages/fees_charges/exit_fees accessed 1 March 2012.

¹⁵ Choice, ‘Retirement villages’, February 2011. www.choice.com.au, accessed 7 March 2012.

1.4.2 During residency or ‘ongoing fees’

Residents are charged various ongoing fees while they are living in a village. Generally there is a maintenance or service charge but there may also be capital replacement fund fees, owners corporation fees, personal services fees or other fees¹⁶. The average monthly fees for a retirement village unit are about \$350 for independent living units, but can range from \$280 to \$650 and up to \$1,000 per month in resort-style villages in affluent areas¹⁷.

1.4.3 Upon departure

Upon departure, residents are typically charged an ‘exit’ or ‘deferred’ fee, sometimes referred to as a ‘deferred management fee’. Exit fees are typically 25-30 per cent of the ingoing contribution or the resale price¹⁸ but can be up to 40 per cent or more¹⁹.

It is thought that in Victoria, the dominant model is for the exit fee to be calculated with reference to the sale or re-leasing price of the unit. This means that the exact exit fee cannot be calculated until the unit is sold or re-leased.

Most exit fees will also vary according to the length of time a resident has lived in the village. For example, 2.5 per cent of the ingoing contribution or purchase price of the unit might be levied for each year of occupancy over a maximum period of 10 years (see Table 2).

Table 2: Example of deferred management fee over 10-year period

	Year 1	Year 2	Year 3	Year 4	Year 5	-	Year 10
Annual	2.5%	2.5%	2.5%	2.5%	2.5%	-	2.5%
Cumulative	2.5%	5.0%	7.5%	10.0%	12.5%	-	25%

Source: Andrews, R., ‘Don’t Buy Your Retirement Home Without Me!’, Wrightbooks, 2012, page 94.

Alternatively, higher fees may apply for the first few years of a resident’s occupancy (see Table 3).

Table 3: Example of deferred management fee – alternative formulation of fee

	Year 1	Year 2	Year 3	Year 4	Year 5	-	Year 10
Annual	8%	5%	1.5%	1.5%	1.5%	-	2.5%
Cumulative	8%	13%	14.5%	16%	17.5%	-	25%

Source: Andrews, R., ‘Don’t Buy Your Retirement Home Without Me!’, Wrightbooks, 2012, page 94.

¹⁶ Some of these fees may continue after a resident has left the village, though the Retirement Villages Act places limits on how long some of these fees can be charged.

¹⁷ Choice, ‘Retirement villages’, February 2011. www.choice.com.au, accessed 7 March 2012.

¹⁸ Eardley T, Tannous K, Thompson D and Mourad T, ‘The Provision of Commonwealth Rent Assistance to Residents of Non-Standard Forms of Accommodation for Older People’, SPRC Report 11/10, prepared for the Department of Families, Housing, Community Services and Indigenous Affairs, Social Policy Research Centre, University of New South Wales, November 2010, page 22.

¹⁹ Andrews R, ‘Don’t Buy Your Retirement Home Without Me!’, Wrightbooks, 2012, page 94.

Other fees that may be payable upon a resident’s permanent departure from a village, depending on the contract, include refurbishment or reinstatement charges, capital replacement fees, legal fees and administration fees. Depending on a resident’s contract, they may or may not receive a share of the capital gain (or be required to bear part or all of a capital loss) from the sale or re-lease of their unit.

Some retirement villages, typically those in the not-for-profit sector, provide accommodation on a subsidised basis to older people who are vulnerable and/or disadvantaged. They typically require some kind of ingoing contribution that is less than market rates and typically non-refundable. Ongoing fees may or may not be subsidised and there may or may not be fees payable when the residents of such accommodation leave the village.

The composition, structure and pricing of Victoria’s retirement village sector is summarised in Table 4.

Table 4: Snapshot of Victoria's retirement village industry

Snapshot of Victoria’s Retirement Village Industry	
Industry structure	<ul style="list-style-type: none"> ▪ Private sector – owns about 45 to 50 per cent of villages but 70 per cent of all units. (Private sector villages are typically larger than not-for-profit retirement villages). ▪ Not-for-profit sector – owns about 50 to 55 per cent of all villages, but only 30 per cent of units.
Accommodation style/options	<ul style="list-style-type: none"> ▪ Independent living units – 98 per cent of all units. ▪ Serviced apartments or assisted living – two per cent of all units.
Number of villages	Approximately 400
Estimated residents	Approximately 37,700
Typical resident profile	<ul style="list-style-type: none"> ▪ Age – late 70s-early 80s. ▪ Sex – majority female.
Tenure	Loan-licence (or loan-lease), strata title, company title, unit trust, periodic tenancy.
Typical services and facilities	<ul style="list-style-type: none"> ▪ Property maintenance, emergency call system, common room. ▪ Serviced apartments – cleaning, laundry, meals. ▪ May include – consulting suites, library, pool, gym, café etc.
Dominant financial model	<ul style="list-style-type: none"> ▪ Commercially run villages – exit-fee-based. ▪ Not-for-profit villages – subsidised by organisation’s other activities.
Fees payable by resident	<ul style="list-style-type: none"> ▪ Ingoing contribution or purchase price. ▪ Maintenance or service fees may include owners corporation fees - \$280-\$1,000 per month. ▪ Exit fees – typically 25-30 per cent of ingoing contribution or purchase price. ▪ Optional services.

1.5 Victorian and interstate regulatory frameworks

Compared to the more prescriptive retirement village legislation in other states and territories such as New South Wales, Western Australia and Queensland, the Victorian Retirement Villages Act is considered to be 'light touch', creating a broad framework to regulate the relationships between residents and operators.

1.5.1 Victorian disclosure and contract requirements

The current Victorian disclosure and contract requirements are set out in the Retirement Villages Act, the Retirement Villages (Records and Notices) Regulations and the Retirement Villages (Contractual Arrangements) Regulations, and comprise elements covering document and information disclosure, and contract terms.

Information and document disclosure²⁰

Certain information and document disclosure requirements apply at the pre-contractual stage in Victoria. There is no requirement for disclosure at the earlier intermediate stage of a prospective resident's consideration of a retirement village.

To assist informed decision-making, certain documents defined as 'residence documents' under the Retirement Villages Act must be disclosed to a prospective resident before they enter into a contract.

At least 21 days before a proposed resident enters into a residence contract they must be given a copy of that contract. A residence contract gives a resident the right to reside in the village, including any right to hostel or hospital accommodation.

At least 21 days before a proposed resident enters into a management contract they must be given:

- a copy of the management contract, which is the contract under which the village operator provides stated services to the resident;
- a disclosure statement;
- a checklist of matters that residents should investigate before signing a retirement village contract;
- any village by-laws and rules;
- a copy of any document under which a resident agrees to observe the by-laws, or promises to pay an ingoing contribution or a recurring charge for the provision of goods or services by an operator; and
- a copy of any document giving a person a right to purchase a residence right from a resident.

The prescribed information that must be included in a disclosure statement is limited to:

- particulars of any mortgage, charge or other encumbrance on the retirement village land that takes priority over residents' rights;
- particulars of any agreement relating to the priority of residence rights over earlier encumbrances;

²⁰ Sections 3, 18, 19, 21 and 20(3) of Retirement Villages Act and regulations 9, 10 and 11 of the Retirement Villages (Records & Notices) Regulations.

- the date of lodgement of the retirement village notice with the Registrar of Titles; and
- the date of notification of the retirement village charge to the Registrar of Titles.

If asked by a resident or proposed resident, a retirement village operator or their agent must provide information concerning a village that the person reasonably requires and the operator or agent is able to give. This requirement operates both before and after a contract is signed.

Additionally, a retirement village operator or their agent must make available to a resident or proposed resident for inspection and copying, all residence documents that apply to the resident and that are in the possession of, or under the control of, the operator or their agent.

The information and document disclosure requirements have not been substantially amended since the Retirement Villages Act commenced operation in 1987. The Second Reading speech for the Retirement Villages Act notes that disclosure is aimed at ensuring that prospective residents are made aware in advance of the implications of entering a retirement village. This complements the other aims of the Act to:

- ensure that the rights of residents are unambiguous and enforceable;
- ensure that the actions of operators do not infringe the rights of residents; and
- avoid undesirable marketing practices by the promoters of retirement villages²¹.

When the Retirement Villages Act was amended in 2005, among other matters, the checklist for prospective residents was improved and transferred to the Retirement Villages (Records and Notices) Regulations, the disclosure requirements that apply to residents and management contracts were clarified and a requirement for villages to have internal dispute resolution procedures was introduced.

Retirement village operators must have procedures in place to resolve disputes between residents and between residents and operators. Residents are to be informed of the procedures and an operator is required to maintain records of matters raised for resolution and report to the residents' annual general meeting on any changes to address any deficiencies in the operation of the village demonstrated by complaints or disputes. The requirements encourage the development of best practice dispute resolution by retirement villages by facilitating matters being raised and settled, as a first resort, at the village where the parties have the most control over the outcomes, and thereby facilitating the minimisation of costs.

Contract requirements²²

The terms of residence contracts are regulated in a number of ways including to:

- prohibit terms that require the arbitration of disputes;
- control delays in full or part refund of an ingoing contribution where a resident leaves a retirement village or dies;

²¹ Second Reading Speech, Retirement Villages Bill 1986, Legislative Council, 7 May 1986, Hansard page 1118.

²² Sections 42A, 26(2)(c) and 38I of the Retirement Villages Act and regulations 7 and 8 of the Retirement Villages (Contractual Arrangements) Regulations.

- deem terms that set out the calculation of exit entitlements based on the next resident's ingoing contribution, when the entitlement is due before the contribution has been paid; and
- allow for an outgoing non-owner resident to decide whether to appoint an external agent to sell their unit.

These requirements were introduced in 2005-6 following a review of the Retirement Villages Act in 2002-04, which recommended that more regularity be introduced into contracts. The underlying concern was the lack of legal and financial advisory professionals with expertise in retirement village contracts, and the high cost of such advice where it was available. Therefore, the controls on contract terms aimed to address issues relating to an imbalance in information and power between operators and prospective residents by ensuring that residents had improved information to make informed decisions²³.

The provisions prohibiting contract terms that require disputes to be arbitrated were introduced to 'remove any doubt that the powers of the Director of Consumer Affairs Victoria and the Victorian Civil and Administrative Tribunal, under the *Fair Trading Act 1999*²⁴ to resolve contractual disputes, apply in the retirement village context. In turn, this ensures that a forum for resolving disputes that are unable to be resolved at the village level, is accessible and independent'²⁵.

Consumer Affairs Victoria's conciliation service is free, and the Victorian Civil and Administrative Tribunal provides a low-cost, accessible, efficient and independent dispute resolution service. In arbitration, costs are typically borne by the parties involved in the dispute.

Prescribing controls on delays in the refund of an ingoing contribution ensures that exiting loan-licence residents have access within six months to their exit entitlement to finance their future needs. The refund provisions also cover making an advance on the refund, in full or in part, to meet the costs of aged care accommodation, and, as an alternative to the six month refund rule, to defer payment of the refund to the subsequent sale of the unit provided that prescribed terms are included in the contract giving the resident control of the selling of the unit.

The prescribed terms setting out how to calculate exit entitlements aim to ensure that a fair and independent estimate of the next ingoing contribution is made.

Apart from the above matters and the unfair contract provisions of the Australian Consumer Law, no further legislative controls apply to retirement village contracts.

1.5.2 Interstate disclosure and contract requirements

Victoria, Queensland, New South Wales, South Australia and Western Australia account for an estimated 96 per cent of all Australian retirement villages. Tasmania, the

²³ Second Reading Speech, Retirement Villages (Amendment) Bill 2005, Legislative Assembly, 9 December 2004, Hansard page 2216-7.

²⁴ The *Fair Trading Act 1999* has been replaced by the *Australian Consumer Law and Fair Trading Act 2012*.

²⁵ Second Reading Speech, Retirement Villages (Amendment) Bill 2005, Legislative Assembly, 9 December 2004, page 2217.

Australian Capital Territory and the Northern Territory have a comparatively small number of retirement villages, as can be seen in Table 5.

Table 5: Number of retirement villages in Australian states and territories

State and Territory	No. of Retirement Villages
New South Wales	602
Queensland	266
Victoria	348
South Australia	395
Western Australia	192
Tasmania	38
Australian Capital Territory	28
Northern Territory	1

Source: McMullen 2010

All jurisdictions have legislation that specifically applies to retirement villages (see Table A-1 in Appendix A).

Compared to Victoria, the disclosure requirements and controls on contract terms are more comprehensive in other states and territories.

Information and document disclosure

Table 6 indicates the states and territories that have intermediate and pre-contract information disclosure requirements, and document inspection provisions for prospective residents. Tables A-2 and A-3 in Appendix A provide further details of these requirements.

Table 6: Information disclosure

State and Territory	Intermediate Disclosure		Pre-contractual Disclosure	
	Information	Document Inspection	Information	Contract Terms
New South Wales	✓	✓+	✓	✓
Queensland			✓	✓
Victoria			✓	✓
South Australia			✓	✓
Western Australia			✓	✓
Tasmania			✓	✓
Australian Capital Territory	✓	✓+	✓	✓
Northern Territory			✓	✓

+ Documents must be available for inspection at all reasonable times (intermediate and pre-contract stages)

Intermediate stage

New South Wales and the Australian Capital Territory have provision for a 'general inquiry document' at the intermediate stage of investigating a retirement village. The New South Wales Act requires a retirement village operator to provide an inquiry document within 14 days of becoming aware that a person is a prospective resident, while the requirement under the Act in the Australian Capital Territory is within 14 days of a prospective resident requesting a copy or expressing an interest in the retirement village.

General enquiry documents are intended to give a basic explanation of the residential premises, services and facilities available at the time when prospective residents are comparing villages. Neither New South Wales nor the Australian Capital Territory have finalised their general inquiry documents. However, in New South Wales it is to be prescribed by regulations, and a draft has been released for consultation with a proposed commencement date in September 2013.

Only New South Wales and the Australian Capital Territory have provision for the inspection of specified documents, at the request of a prospective resident. Both require an operator to have specified documents available for inspection at all reasonable times (including the intermediate and pre-contractual stages) at a village or other place of business by a prospective resident or person acting on their behalf. Examples of prescribed documents that can be inspected include a plan of the village, the village rules, any proposed annual budget and the audited accounts for a village.

Pre-contractual stage

All states and territories require pre-contractual disclosure of information and/or documents.

Queensland, New South Wales, the Australian Capital Territory and Western Australia require the preparation of an information or disclosure statement for proposed residents. An information or disclosure statement provides more complete and specific details about a particular unit in a retirement village, including the fees and charges that will be payable by a resident.

In Queensland and Western Australia a disclosure statement must be given to a proposed resident before they enter into a village contract. In contrast, in New South Wales and the Australian Capital Territory a disclosure statement is provided in response to a request or an expression of interest in a particular unit in a village by a prospective resident, and must also be attached to a village contract at the pre-contractual stage.

Legislation in other states and territories lists the information and/or documents that must be provided to a proposed resident before they enter into a retirement village contract.

Information disclosure in other states and territories is generally more extensive than Victoria requiring, in some instances, that information about accommodation, services, recurrent charges, and safety and security be provided to proposed residents. In Western Australia and the Northern Territory details of fees, commissions, charges and refunds must be provided to enable proposed residents to determine the final return due after one, two, five and 10 years and thereby compare the financial packages offered by

different retirement villages. A separate residents' rights notice is required in Western Australia and Tasmania, and a checklist is prescribed in the Northern Territory, Western Australia and Tasmania to assist residents to undertake due diligence. In the Northern Territory village operators are also required to provide proposed residents with written answers to prescribed questions about a resident's rights and obligations during and on leaving a retirement village, in particular the fees and charges.

Contract requirements

Table A-4 in Appendix A details the contract requirements in the other states and territories. Three approaches to regulating terms and contracts have been taken:

- prescribing the matters that must be included in contracts. This is the approach in Queensland, South Australia, Western Australia and the Northern Territory. A number of matters are generally specified, such as, cooling-off arrangements, ingoing contributions, exit fees and entitlements, service and operation charges, maintenance fund payments, village insurance and dispute resolution. Amendments to the Western Australian Retirement Villages Act passed in November 2012 provide for regulations to prescribe matters that must be included in, and excluded from, residence contracts²⁶;
- prescribing standard contract layouts and terms. Tasmania has a prescribed layout and terms for a residence contract; and
- prescribing standard form contracts. Legislation in New South Wales and the Australian Capital Territory provides authority to prescribe standard form contracts, and also the matters that must be included in or excluded from a retirement village contract.

To date, the approach taken to standard form contracts in New South Wales and the Australian Capital Territory is not to prescribe a contract but rather to prescribe the matters that must be included in contracts and the headings for those matters, and the matters that must be excluded from contracts. Contract standardisation requirements along these lines were introduced in the Australian Capital Territory in March this year, and New South Wales has consulted on a standardised contract structure proposal that would replace the currently prescribed contract matters.

1.6 Consumer Affairs Victoria retirement village program

Consumer Affairs Victoria provides information and advice services, and dispute resolution and conciliation services for retirement village residents and operators. It also maintains a register of retirement villages and enforces and ensures compliance with the Retirement Villages Act and regulations. Funding is also provided to the Housing for the Aged Action Group to enable it to provide information and support to vulnerable and disadvantaged residents of retirement villages.

²⁶ The contract requirements in Western Australia are currently under the Fair Trading (Retirement Village Interim) Regulations 2013.

1.6.1 Information and advice

Consumer Affairs Victoria provides information and general advice on retirement villages through its telephone helpline, website, publications, shop fronts and presentations.

For prospective and existing residents, Consumer Affairs Victoria publishes the 'Guide to choosing and living in a retirement village', the audio 'Guide to retirement village living' and delivers community presentations.

For retirement village operators two guides are provided:

- the internal dispute resolution guidelines for retirement village operators; and
- the good practice guide to address key issues.

The purpose of these guides is to assist operators to effectively resolve disputes, and thereby promote good relations in villages. The internal dispute resolution guide was first published in 2006, when it became mandatory for retirement village operators to have an internal dispute resolution procedure. It summarises the legal obligations that apply to operators. The good practice guide was published in May 2012 and provides retirement village operators with guidance on how to address commonly arising issues, such as marketing procedures for a unit and ongoing charges after a resident leaves or dies. The recommended protocols in the good practice guide are voluntary.

1.6.2 Conciliation

Consumer Affairs Victoria provides free conciliation services to retirement village residents and their representatives where they have a dispute with a retirement village operator. Disputes between residents are not conciliated by Consumer Affairs Victoria.

2 What is the problem to be remedied by the proposed regulations?

Key points:

- Prospective retirement village residents do not have sufficient access to the information required to make decisions about retirement village living, including to compare retirement villages.
- People who become retirement village residents do not have sufficient access to information about their rights and obligations and those of the operators.
- This results in a risk of consumer detriment in the retirement village industry, and of disputes between operators and residents, both of which could be reduced through the proposed regulations.

The lack of sufficient access to information about retirement village living arises due to:

- market dimensions, that is –
 1. market characteristics of the retirement village industry and characteristics of the product and/or service that is offered; and
 2. immature secondary advice markets for retirement village living; and
- personal dimensions, that is, the individual attributes and circumstances of prospective and proposed retirement village residents.

These market and personal dimensions, which are discussed in more detail below, mean prospective and proposed retirement village residents may be vulnerable consumers.

A Discussion Paper²⁷ published by Consumer Affairs Victoria in 2004 analysed consumer vulnerability and disadvantage in the context of the characteristics of markets which impact on decision-making. In particular, the paper examined factors affecting the availability of information. The Discussion Paper considered that the interaction between the characteristics of the market for a particular product, the product's qualities or the nature of the transaction, and the individual's attributes and circumstances could adversely affect consumer decision-making. A combination of these factors is considered to be the cause of vulnerability, resulting in inadequate information, poor access to information or ineffective use of information.

Vulnerable consumers are at high risk of experiencing consumer detriment. Consumer detriment in the retirement village context means that there may be:

- older people not living in retirement villages who would be better off living in retirement villages;
- retirement village residents who would be better off living in a different retirement village; and
- retirement village residents who would be better off not living in a retirement village at all.

²⁷ Consumer Affairs Victoria, 'Discussion Paper: What do we mean by 'vulnerable' and 'disadvantaged' consumers?', March 2004, page 2.

Consumer detriment at the individual level can have adverse consequences for society as a whole with limited resources not being allocated to their optimum use.

2.1 Market dimensions of retirement village living

This section outlines the market dimensions of retirement village living that contribute to making prospective and proposed retirement village residents vulnerable consumers.

2.1.1 Intrinsic characteristics of retirement village living

There are a number of characteristics intrinsic to the retirement village industry and to retirement village living that make it difficult for a consumer to make an informed decision.

Unique, complex and rare product-service

Consumers who enter a retirement village are buying a combination of property rights and services. Buying or leasing an ordinary residential property involves property and associated property rights but not the provision of ongoing services. Buying holiday accommodation can often involve a combination of property rights and services, but they are typically consumed for only a specific, comparatively short period of time. The unique nature of retirement village living can make it difficult for consumers to assess its suitability for their needs.

Retirement village living is also a 'rare' product from a population perspective basis. The percentage of older people living in retirement villages in Australia is about five per cent. This means that there are relatively low levels of knowledge and understanding about retirement villages across the Australian or Victorian population as a whole. Research contracted by the Retirement Village Association found that Baby Boomers not living in retirement villages had a low level of understanding of the advantages of retirement village living²⁸.

One-off purchase for the long term

Retirement village living is typically purchased only once by any given consumer. This means most consumers will not have had the opportunity to build knowledge and experience of purchasing retirement village living and of the product and service itself. This is unlike some other significant but infrequent purchases that are made across the life cycle such as buying a residential property or car. Previous buying and consumption experience is one source of information that typically helps consumers make decisions in the marketplace, but will not be available to many consumers considering retirement village living.

Retirement village transactions are also for the long term – the industry assumes an average length of stay in a retirement village of around 10 years²⁹. The long-term nature of the decision means that some consumers may not have sufficient regard for departure

²⁸ Thornton G, 'Retirement living, Industry trends and prospects', January 2011, Perth, undertaken jointly with the Retirement Village Association – Melbourne, page 12.

²⁹ Andrews R, 'Don't Buy Your Retirement Home Without Me!', Wrightbooks, 2012, page 93.

arrangements, for example, if they assume that they will spend the remainder of their lives in the retirement village³⁰.

Experiential product-service

Retirement village living is largely an 'experiential' product. An experiential product is one where the capacity to satisfy the consumer's needs can only be assessed after his or her purchase and consumption. For example, a resident submission to the 2011 Options Paper noted that it took them 18 months to understand the ways of village life, and that it was very different to living in their own house.

The tangible aspects of retirement village living are widely available outside retirement villages, namely, residential accommodation and communal facilities (many local governments provide facilities similar to those provided in retirement villages such as libraries, pools, exercise facilities etc). Therefore, it may be that the intangible aspects of retirement village living are crucial – for example, the feeling of greater safety or community, of being in a community of peers, the social interactions with other residents and staff and the associated feelings, emotions and sensations that residents experience living in a retirement village.

This argument is supported by instances where the price of a retirement village unit in a particular suburb exceeds the price of similar residential accommodation in the same suburb. Residents are willing to pay a premium, for example, for the feeling of greater safety, community, or being with like-minded peers, that retirement villages can offer. However, this can be difficult to accurately assess prior to purchase and can, therefore, inhibit the ability of the consumer to make an informed decision.

Complex pricing structure and its implications

There is evidence that the pricing models for retirement villages are not well understood. A 2011 nation-wide survey of 10,000 retirement village residents found that nine out of 10 residents thought that the deferred management fee model was suitable and that their contract was well explained. However, when the same residents were asked if their contract required them to pay a deferred management fee if they left their village, 24 per cent did not know (19 per cent said 'no' and 57 per cent said 'yes')³¹. The departure fee structure can be complex and confusing for many elderly people who are considering retirement village living³². Often, prospective retirement village residents 'don't know what they are getting into'³³. It is particularly important for prospective retirement village residents to understand the pricing structure of retirement village living, as 'more than in other types of accommodation, the personal and financial costs of a change of mind can be substantial'³⁴.

³⁰ The Allen Consulting Group, 'Retirement Villages (Contractual Arrangements) Regulations 2006 and Estate Agents (Retirement Villages) 2006', Regulatory Impact Statement, June 2006, page 8.

³¹ McCrindle Research, 'The McCrindle Baynes Villages Census Report 2011: Australia's benchmark industry report for the retirement village sector', presented to the Retirement Village Association National Conference, 23 November 2011.

³² McMullen P & Day L, 'Decoding the Departure Fee', Jones Lang LaSalle, Sydney, July 2007, page 1.

³³ Brendan Burwood, Managing Director of ipac Financial Care, a subsidiary of the ipac financial services firm, Patten S, 'All villages are not equal', Australian Financial Review, 3 March 2012.

³⁴ Phillips R, 'Older Residents and the Law: Accommodation, Care and Legal Rights in Victoria', (2nd Edition), Victoria Law Foundation 2008, page 114.

The pricing structure of retirement village living means that it can be particularly difficult to rectify a bad decision. In particular, the departure fees ‘can impose a financial burden on residents that effectively traps them in the village, since the refund they would receive if they were to vacate the village may not be sufficient to enable them to acquire an alternative dwelling of a comparable standard’³⁵. Consequently, residents who are not happy with retirement village living may find that they have to continue living there. It is difficult for consumers to make an informed decision about retirement village living if they have difficulty understanding the overall costs.

2.1.2 Information asymmetry in the retirement village living market

For consumers to make an optimal purchase they require information about:

- the capacity of products and services to satisfy their individual needs and desires;
- the terms and conditions of the purchase (across suppliers); and
- the prices of relevant products (across suppliers)³⁶.

In an ideal world, consumers would have all this information, that is they would have ‘perfect information’. In reality, for many purchases, consumers have only ‘imperfect information’.

In the case of retirement villages, some of the information which would assist consumers to make an optimal decision is held by retirement village operators. Typically, retirement village operators have more information about retirement village living in general and their own retirement village than consumers do. Where there are differences in the information held by buyers and sellers in a market, this imbalance is sometimes referred to as ‘information asymmetry’.

Information asymmetry is not necessarily a problem in itself. If consumers can obtain the requisite information readily and at minimal cost, the information asymmetry will not significantly impede their ability to make an optimal choice. However, information asymmetry will impede consumers from making optimal purchases where it is difficult to obtain the requisite information, and/or difficult to assess it.

The key information required by consumers that is held by operators is about the services and facilities offered, the total or overall price and the terms and conditions.

Consumers unfamiliar with retirement village living may not ask about ongoing fees and particularly exit fees.

The details of the services and facilities that are on offer and of all fees and charges a resident will be liable for in the course of retirement village living are typically contained in the retirement village contract. It is also in the contract that the terms and conditions of the purchase will be detailed – the other key information that consumers require to

³⁵ Eardley T, Tannous K, Thompson, D and Mourad, T, ‘The Provision of Commonwealth Rent Assistance to Residents of Non-Standard Forms of Accommodation for Older People, SPRC Report 11/10, prepared for the Department of Families, Housing, Community Services and Indigenous Affairs, Social Policy Research Centre, University of New South Wales, November 2010, page 22.

³⁶ Consumer Affairs Victoria, ‘Discussion Paper: What do we mean by ‘vulnerable’ and ‘disadvantaged’ consumers?’, March 2004, page 7.

make an informed decision. However, anecdotal evidence suggests that it is difficult for consumers to obtain these contracts, other than at the pre-contractual stage³⁷.

Nevertheless, even if prospective residents were able to obtain copies of the relevant retirement village contract well before they decide to enter a retirement village, this would not necessarily assist them. The reason for this is that it is difficult to distil the relevant information from these contracts and then to assess it.

Successive reviews and inquiries have reported that retirement village contracts are highly complex and can be confusing to older persons, for example:

- Consumer Affairs Victoria: 'Review of the Retirement Villages Act 1986 – Proposed Legislative Changes', 2004;
- House of Representatives: 'Inquiry into Older People and the Law', 2007;
- New South Wales Office of Fair Trading 'Statutory Review of Retirement Villages Legislation', 2010;
- Productivity Commission: 'Caring for Older Australians Inquiry', 2011; and
- Consumer Affairs Victoria: 'Retirement villages – Contract and information disclosure options', 2011.

The 2011 Options Paper noted that Consumer Affairs Victoria receives complaints about the complexity and length of retirement village contracts. These complaints indicate that it is difficult for prospective residents to identify the information they need to assess the suitability of a village, to compare villages and to know their rights and obligations after becoming a resident³⁸. Additionally, retirement village contracts are typically on a 'take it or leave it' basis; in other words, apart from price, prospective residents are not able to negotiate for substantive changes to contracts.

The difficulty in distilling information from retirement village contracts means that prospective residents may not be able to gain an accurate indication of the approximate cost of living in a particular retirement village, or compare it with other prospective retirement villages.

The difficulty of making an informed decision due to this information asymmetry can lead to consumer detriment.

Once in a retirement village, residents may find it difficult to understand their rights and obligations due to the complex nature of the contracts. This may impede resolution of disputes.

2.1.3 Lack of secondary advice markets

Even if prospective retirement village residents are able to obtain copies of contracts, they will likely face a further challenge in finding a professional advisory service with expertise in retirement villages. Secondary advice markets for retirement village living

³⁷ Under section 19 of the Retirement Villages Act residents are required to be given certain documents, including relevant contracts, at least 21 days before entering into a contract.

³⁸ Consumer Affairs Victoria, 'Retirement villages – Contract and information disclosure options paper', October 2011, page 15.

are less well developed than those for the other major purchases consumers undertake in life, such as buying a house or buying shares.

Previous reports have noted the importance of obtaining expert advice on retirement village contracts and the lack of suitably experienced advisory services for prospective retirement village residents³⁹. Estimates by the Law Institute of Victoria suggest that this continues to be the case with only six per cent of its more than 2,000 member firms having retirement village expertise.

While legal practitioners can advise on the legal aspects of retirement village contracts, they may not be suitably qualified to provide prospective residents with financial advice. However, advice from the Financial Planning Association of Australia is that it is difficult to find financial planners who specialise in retirement village advice because the very legal nature of retirement village contracts means that they tend not to be involved.

Where specialised retirement village advisory services are available, it appears that advisors are more experienced in providing advice to retirement village operators rather than to prospective residents. One observer noted that: 'there was no-one in the retirement village sector giving impartial and independent advice or assistance ... no-one to give retirement home buyers sound commercial and property advice about their retirement village unit purchase'⁴⁰.

While non-specialist legal practitioners, accountants and buyers' advocates may be engaged by prospective residents, it is likely that their focus will be on completing the procedural aspects of the sale rather than on providing advice. This is because the complexity of retirement village contracts and pricing structures require time to investigate, and also increase the risk of professional advisors providing inaccurate or incomplete advice. In turn this may increase advisors' professional indemnity insurance costs. Any resulting increase in the costs of providing advice may be passed on to prospective residents, who may not be willing or able to meet these costs.

Anecdotal advice from experienced non-specialist legal practitioners indicates that while many of the terms contained in contracts, including lease documents, appear superficially to be reasonable, the practical experience of these terms is otherwise. Similarly, retirement village residents have advised of their dissatisfaction with the legal advice they have received, to the extent that it did not sufficiently alert them to the risks.

³⁹ Including the House of Representatives 'Inquiry into Older People and the Law', 2007; Phillips, R, 'Older Residents and the Law: Accommodation, Care and Legal Rights in Victoria' (2nd Edition), Victoria Law Foundation 2008; and The Allen Consulting Group, 'Retirement Villages (Contractual Arrangements) Regulations 2006 and Estate Agents (Retirement Villages) 2006', Regulatory Impact Statement, 2006.

⁴⁰ Andrews R, 'Don't Buy Your Retirement Home Without Me!', Wrightbooks, 2012., page xii -xiii.

2.2 Personal capacities and circumstances of consumers considering retirement village living and of retirement village residents

2.2.1 Vulnerabilities associated with ageing

Older consumers are not necessarily more vulnerable consumers. However, the incidence of factors giving rise to vulnerability among older consumers tends to be higher than for the general population as older age can bring frailty, ill health, bereavement, and social isolation⁴¹. In addition, according to a recent literature review by the American Federation of Ageing Research⁴², the effects of ageing on cognitive performance begin to be noticeable in persons aged in their 70s and beyond.

A commonly-used system of categorising intelligence is into 'fluid' and 'crystallised' intelligence. Fluid intelligence refers to the ability to think and reason. It includes the speed with which information can be analysed, and also includes attention and memory capacity. According to the American Federation of Ageing Research literature review cited above, many studies have shown that fluid intelligence is more likely to decline with age than crystallised intelligence. Crystallised intelligence refers to the tasks that use well-practised skills or familiar information, which are generally not affected by age.

According to the literature review, many researchers attribute the decline in fluid intelligence to deficits that occur in attention, speed of processing, and memory. The assessment of retirement village options would be a task of this kind, rather than a task involving familiar information and well-practised skills and may, therefore, be impaired in some cases by the effects of ageing on cognitive performance.

2.2.2 Vulnerabilities associated with retirement-village decision-making process (circumstances)

Research contracted by the Retirement Village Association indicates that more than half of all residents surveyed thought about moving into a retirement village for 12 months or less before doing so. The same research revealed that the decision-making process regarding retirement village living is characterised by urgency at the time when prospective residents are assessing a village and making their final decision.

Urgency and stress arise from the commonly occurring 'push' factors for the decision to move into a retirement village, which are outlined in Section 1.3 of this Regulatory Impact Statement, and include declining health and the death of a spouse. There is a strong basis to believe that the quality of decision-making may be affected by the urgency and stress arising from the common push factors, in particular conjugal bereavement (see Appendix B).

⁴¹ The Allen Consulting Group, 'Retirement Villages (Contractual Arrangements) Regulations 2006 and Estate Agents (Retirement Villages) 2006', Regulatory Impact Statement, June 2006, page 8.

⁴² American Federation of Ageing Research: Neurobiology of Aging Information Center.

2.2.3 Vulnerabilities associated with income status

Many prospective retirement village residents live on pensions or other fixed income streams. The Retirement Village Association submission to the 2011 Productivity Commission Inquiry indicated that upwards of 80 per cent of residents living in retirement villages in some locations draw part or full pensions. This may limit their willingness or capacity to purchase advice from secondary markets, such as from solicitors, accountants and financial planners.

In summary, as noted in the second reading speech for the Retirement Villages Amendment (Information Disclosure) Act, a decision to sell a home and to enter a retirement village is a major financial decision and one that is difficult to undo, particularly in a commercial village. Therefore, to ensure that prospective residents make the right decision they need to:

- understand what is involved in retirement village living;
- understand and compare offers and contracts; and
- understand the financial commitment.

In these circumstances the vulnerabilities associated with age, retirement village decision-making and income status provide strong social and equity grounds for government intervention to protect prospective residents from the adverse consequences of information asymmetry when considering villages and entering into retirement village contracts.

2.3 Evidence of consumer detriment in retirement village living

2.3.1 Data on disputes between retirement village residents and operators

Data on retirement village disputes between residents and operators is available from a range of sources including: Consumer Affairs Victoria; resident, industry and seniors groups; and the Dispute Settlement Centre of Victoria.

Consumer Affairs Victoria

Consumer Affairs Victoria provides general information and advice on retirement village matters, including how to resolve disputes, and also provides dispute resolution services for disputes between residents and operators. Both services are free. The number of enquiries received and matters conciliated in recent years is set out in Table 7.

Table 7: Retirement village enquiries and disputes handled by Consumer Affairs Victoria

Year	No. of Enquiries for Information & Advice	No. of Complaints
2007-08	681	69
2008-09	736	119
2009-10	594	101
2010-11	426	474
2011-12	511	110
Total	2,948	873

Note: Consumer Affairs Victoria does not handle resident-to-resident disputes

Of the 110 complaints raised by retirement village residents with Consumer Affairs Victoria in 2011-12, 88 matters were conciliated by Consumer Affairs Victoria compared to 72 in 2010-11. Of the 88 complaints conciliated by Consumer Affairs Victoria in 2011-12, 56 matters were successfully resolved. Since 2007-08, Consumer Affairs Victoria has received 873 complaints and conciliated 392 retirement village disputes.

The main reasons for retirement village residents complaining to Consumer Affairs Victoria during 2011-12 were:

- maintenance and repair issues;
- the level of entry, ongoing and exit fees;
- poor customer service;
- disputes about village procedure;
- the conduct of village operators – alleged misleading and deceptive conduct, unconscionable conduct and failure to account;
- misunderstandings about rights and responsibilities; and
- unfair contract terms.

While Consumer Affairs Victoria receives complaints from residents with a one-off issue who are otherwise satisfied with their village and retirement village living, complaints are also received from residents who are generally dissatisfied with their accommodation arrangements and whose enjoyment of retirement village living is impaired. Complaints received from dissatisfied residents and submissions from resident associations strongly indicate evidence of residents who would likely not have chosen the village where they reside if they had better understood their ongoing commitments and who feel trapped in that village. They also indicate evidence of residents who may have chosen another form of accommodation if they had understood the legal and financial obligations of retirement village living. A submission from a resident to the Consumer Affairs Victoria 2011 Options Paper noted that their decision to move into a retirement village was and remains the worst and biggest mistake of their life and that they were unable to leave, given their age and financial position.

The following case studies are examples of situations raised with Consumer Affairs Victoria where residents would not have chosen to live in a particular village or chosen retirement village living if they had been better informed.

In 2006, Ms X signed a loan-lease agreement and paid \$189,000 for a unit in a village. Recently separated from her husband and in her early 70s she was attracted to what she thought were the resort-style facilities of the village. However, she quickly discovered that the life style did not live up to her expectations. She wanted to leave but for several unhappy years felt trapped because of the high exit fees she would incur to terminate her contract and delayed repayment of her exit entitlement. Ms X eventually moved out of the village in 2011.

Mr Y was aware before signing his contract that he was responsible for maintenance of the interior of his unit. He was not aware that he was also liable to contribute to the cost of maintaining the exterior of all units, such as painting, the maintenance of the common property and any capital replacements. This additional liability imposed a financial burden on Mr Y that restricted his enjoyment of his village.

Ms Z purchased a unit in a subsidiary village that was a 15-minute drive from the main village. Along with other residents of the subsidiary village, she did not realise that her contract required her to contribute to the cost of the facilities at the main village. Ms Z and other residents told Consumer Affairs Victoria that they would not have moved into the village if they had realised the extra cost that this entailed.

Housing for the Aged Action Group

Housing for the Aged Action Group is funded by Consumer Affairs Victoria to provide information and support services on retirement living accommodation, which includes retirement villages, to vulnerable and disadvantaged consumers. Its services are provided to residents who are encountering general difficulties or who are in conflict with each other and to those in dispute with an operator. The services provided by Housing for the Aged Action Group since this funding commenced in July 2009 are outlined in Table 8.

Table 8: Housing for the Aged Action Group services relating to residential accommodation*

Year	Information & Advice	Cases
2009-10	141	131
2010-11	70	183
2011-12	203	61
Total	414	375

* Includes retirement villages, residential parks, rental villages and caravan parks for older residents.

These services are delivered to existing retirement village residents seeking information or advice or who are in dispute. Where information or advice only is provided, this is usually done immediately by phone, email or in person, or within 14 days. Other, more complex case-work involves in excess of one month's assistance to the resident. Officers handle multiple matters concurrently.

The most common issues raised by residents seeking assistance from the Housing for the Aged Action Group are fee increases, repairs and maintenance issues, residents' committee issues and information on residents' rights. For residents in commercial retirement villages, the payment of exit entitlements is the main concern. Other matters include contract obligations, management issues and disputes with other residents.

For 2012-13, Housing for the Aged Action Group will receive \$268,326 from Consumer Affairs Victoria to fund two full-time workers to provide support services to older, vulnerable Victorians. In recent years, 25 to 50 per cent of all cases it has handled have concerned retirement villages, while the type of information and advice it has provided on retirement village matters has varied significantly from year to year.

Residents of Retirement Villages Victoria

Residents of Retirement Villages Victoria is a not-for-profit, representative group for retirement village residents. It is predominantly run by volunteers who are themselves retirement village residents. As at September 2012, Residents of Retirement Villages Victoria had approximately 6,000 members and over 60 Resident Liaison Officers. Resident Liaison Officers distribute newsletters, recruit and follow-up memberships, network with residents and feed back issues to the committee of Residents of Retirement Villages Victoria; and assist in resolving low-level complaints between residents and operators or other residents. The resolution of disputes can involve Committee members and/or Resident Liaison Officers meeting with residents in person, attending meetings with the resident and writing letters on the resident's behalf. Detailed information on the number of residents assisted by Residents of Retirement Villages Victoria is not available.

Seniors Information Victoria

Seniors Information Victoria, which is part of the Council on the Aging, provides free information on a wide range of issues to older Victorians, including information on retirement villages. The number of enquiries concerning retirement villages received by Seniors Information Victoria since 2008 is summarised in Table 9.

Table 9: Seniors Information Victoria – on of general information and advice

Nature of Enquiry	2008	2009	2010	2011	2012
Retirement villages	429	382	435	391	334
Not-for-profit independent living units*	531	473	563	496	378
Retirement villages - financial arrangements	105	94	141	213	129
Retirement villages - residents rights/complaints	92	90	84	139	107
Complaint about retirement village/not-for profit independent living units*	10	4	7	15	0
Total	1,167	1,043	1,230	1,254	948

Note: The numbers do not represent 'unique' contacts as calls are recorded on the basis of the nature of the enquiries made. In other words, if a single caller raises three different issues, these three issues would be recorded as separate enquiries.

* Not-for-profit independent living units may come under the Retirement Villages Act or the *Residential Tenancies Act 1997*.

Dispute Settlement Centre of Victoria

The Dispute Settlement Centre of Victoria is a free dispute settlement service provided by the Victorian Government. Its case management system does not record retirement village disputes in a way that would allow information about such disputes to be easily extracted. However, searching for disputes that mention 'retirement village' reveals a number of records in the system of disputes of this kind (see Table 10).

Table 10: Retirement village matters handled by the Dispute Settlement Centre of Victoria

Dispute Type	2007-08	2008-09	2009-10	2010-11	2011-12	Total
Management of a village	4	2	3	3	4	16
Resident v resident dispute	1	0	3	5	2	11
Trees, shrubs, creepers etc	3	0	0	3	4	10
Fence bordering village	1	0	1	3	2	7
Dispute with private neighbour to a village	3	0	0	1	1	5
Other general maintenance	0	0	1	0	2	3
Family dispute	0	0	1	0	0	1
Total	12	2	9	15	15	53

Retirement Living Council of the Property Council of Australia and Leading Age Services Australia - Victoria

Associations of operators also provide information and advice to assist to resolve disputes but only limited statistical information is available about this.

In its 'Platform' magazine of November 2011, the Retirement Village Association (now the Retirement Living Council of the Property Council of Australia) stated that it takes in excess of 3,000 resident enquiries a year nationally and assists with over 250 resident issues. It also notes a 98 per cent resolution or success rate, saving the industry, government and residents many millions of dollars and time in tribunal cases.

Leading Age Services Australia - Victoria is an industry body of which a number of not-for-profit retirement villages are members. It advises that it only receives a handful of enquiries from retirement village residents who are in dispute with their operator, and that these are referred to an appropriate body such as Consumer Affairs Victoria.

2.3.2 Reasons why data on retirement village disputes may under-represent the true extent of consumer detriment

The complaint levels detailed above do not appear to provide strong evidence for any significant or systemic consumer detriment in the retirement village industry, given there are an estimated 37,700 Victorians living in retirement villages. However, there are a number of reasons why these figures may not reveal the true extent of disputes.

Many operator-resident disputes are likely to be handled at the retirement village level through the internal dispute resolution process, which is mandatory under the Retirement Villages Act.

There is anecdotal evidence that some residents may be reluctant to complain, fearing repercussions, or may be too embarrassed or ashamed to complain, feeling they have made a mistake in moving into a retirement village.

There may also be parallels with the aged care sector particularly where a resident is receiving community care services from the retirement village operator or provider affiliated with the retirement village operator. Where residents have some dependence on community care services to carry out their daily activities, they may feel vulnerable and be reluctant to complain about the accommodation or service, fearing reprisal, including that they may be asked to leave. It is estimated that 25 per cent of retirement village residents receive some form of community care.

Also, persons other than the resident and operator may be affected by a dispute. This is because complaints in a retirement village context may have 'spill over' effects where one dissatisfied resident can adversely affect the quality of life of other residents in a village or cause distress to other persons, such as (non-resident) family members.

A further possible explanation of the relatively low number of complaints recorded is that some retirement village residents may not make complaints generally. Social-demographers have characterised the current generation aged in their late seventies and above, as being frugal, stoical and disinclined to complain.

The Consumer Affairs Victoria 'Consumer Confidence and Market Experience Study 2010-11' provides a means of estimating the true level of enquiry and complaints about retirement village matters. The study examined consumer detriment in 31 market sectors and found that around 33 per cent of consumers who experience a problem with a good or service took no action. The study also found that of those consumers who did take action, only seven per cent contacted Consumer Affairs Victoria for information and advice, and only four per cent lodged a complaint with Consumer Affairs Victoria. Based on these findings and the number of enquires and complaints received by Consumer Affairs Victoria about retirement village matters, the true level of enquiry about retirement villages may be up to 11,000 matters a year, and there may be up to 4,000 retirement village matters requiring dispute resolution each year.

2.4 Will the market provide a satisfactory outcome?

Measures to further address information asymmetry such as through the proposed regulations and forms would be unnecessary if there was a reasonable prospect that market forces would lead to clearer information becoming available over time. However, this appears to be unlikely.

The modern retirement village industry began to emerge in the late 1970s. Therefore, it has been in existence for over 30 years. This should have been a sufficient time for market forces to have operated in this way, if they were going to have this effect at all. Instead, prospective retirement village residents do not have sufficient information about the nature of the product, particularly its pricing structure, prior to entry. The

economic literature recognises that there are conditions where market forces will not lead to sufficiently clear information becoming available.

Given the importance of ensuring that prospective residents understand departure fees, Consumer Affairs Victoria examined major retirement village operator websites in June 2012 and February 2013 to assess the level of voluntary information disclosure. The websites examined included Senior Living Online, one of a network of three website carrying paid advertising for retirement villages, and 16 retirement village operator websites. The results illustrate the limited information currently available to prospective residents. The Senior Living Online website provided detailed information in the form of a 'Departure Fee Guide' and, as it is assumed that this is the information that would be held by retirement village operators, it provides a benchmark for information disclosure in this area. However, of the retirement village operator websites examined, only seven included varying levels of information about departure fees. The remaining websites had no relevant information.

An academic study reported in January 2012 supports the Consumer Affairs Victoria finding about the inefficiencies of the market. The study found that while 'the calculation of exit entitlements is one of the primary sources of disputes within the retirement villages sector,'⁴³ information about deferred management fees 'is frequently not made available beyond the statutory requirement for disclosure in the public information document pertaining to the scheme'⁴⁴. Of 82 retirement village operator websites examined in Victoria as part of the study, 70 websites had no information about deferred management fees⁴⁵. The study concluded that, 'there is no 'typical' product when it comes to SCILUs [self-contained independent living units] within retirement villages', and that '[p]rofessional experience shows that this exacerbates issues for prospective residents as they are unskilled at understanding and analysing existing product offerings in order to make comparisons'⁴⁶.

2.5 The extent to which the current regulatory and policy framework addresses the issues

The Retirement Villages Act was introduced at a time when there were only around 50 retirement villages operating in Victoria on a commercial basis. The industry was in its infancy and it was not known if it would survive, and, if so, in what form. Little was known about why people moved to retirement villages and how they made that decision. Since then, the industry has expanded significantly and research has been undertaken into retirement village living. Research has revealed the reasons why people move into retirement villages, and provided a greater understanding of the decision-making process residents go through to move into a retirement village.

⁴³ Craddock L, & Blake A, 'The Impact of Tenure Type on the Desire for Retirement Village Living', paper submitted to the 18th Annual Conference of the Pacific Rim Real Estate Society, Adelaide, 15-18 January 2012, page 11.

⁴⁴ Craddock L & Blake A, page 9.

⁴⁵ Craddock L & Blake A, page 11.

⁴⁶ Craddock L & Blake A, page 11.

The stages that retirees tend to go through when considering retirement village living are:

- the enquiry stage – retirees have a general interest in retirement village living;
- the intermediate stage – prospective residents are interested in one or a small number of villages; and
- the pre-contractual stage – proposed residents are interested in a particular unit in a particular village and are about to enter into a contract. In particular, at the pre-contractual stage, retirees are ‘emotionally committed’ to a particular unit and village and are likely to have paid a deposit.

This view of the decision-making process was supported by submissions to the 2011 Options Paper. This is not to say that every prospective resident will follow this model - there will be exceptions. This is the process that the majority of prospective residents follow in deciding to move into a retirement village.

Despite the growth of the retirement village industry and the diversity and complexity of retirement village models, the disclosure requirements under the Retirement Villages Act have remained largely unchanged since they were first introduced. The current disclosure requirements apply only at the pre-contractual stage; and there is limited regulation of retirement village contracts.

Currently, at the enquiry and intermediate stages, Consumer Affairs Victoria provides general information and advice about retirement village living on its website and where it is requested by a retiree. At the pre-contractual stage, the Retirement Villages Act requires operators to provide certain documents including a simple disclosure statement to a proposed resident at least 21 days before they enter into a contract.

Despite the provision of this information, information asymmetry remains between prospective residents and operators. This is largely due to the nature and timing of the information provision.

At the enquiry stage, retirees who are exploring retirement village living are not interested in detailed information such as pricing whereas at the intermediate and pre-contractual stage, they are interested in the details to assist them to make the right decision on the right unit for them.

At the intermediate stage, prospective residents are interested in the fees and prices, facilities and services, and other information about a particular village to assist them to compare villages. This information is difficult to obtain, and where available, also difficult to comprehend. Consumer Affairs Victoria does not have access to such information; it is only available from village operators. The resulting information asymmetry would be reduced if prospective residents had access to a summary of the relevant information about a particular village. This information would be most useful to prospective residents if it were available in a clear, succinct and standardised format, thereby allowing easy comparison of the information from multiple villages.

Although retirement village operators are required to give proposed residents a suite of documents at the pre-contractual stage, the complexity of retirement village pricing structures and contracts, the lack of secondary advice markets and the vulnerability of proposed residents make it difficult for them to find key terms and understand their implications. While a large amount of technical information is required to make an

informed and balanced decision about a retirement village contract, the current disclosure statement is limited to information about charges over the title and the retirement village notice.

Information asymmetry at the pre-contractual stage could be reduced through:

- an improved disclosure statement containing key financial information; and/or
- a standardised structure for contracts.

As noted in Section 1.5, very few prescribed requirements apply to retirement village contracts in Victoria. A standardised contract structure would assist prospective and proposed residents to be confident that all relevant terms and conditions are included and the contract is complete, to more easily find information about their rights and obligations, and thus to compare different village contracts.

Requiring retirement village operators to have internal dispute resolution procedures provides limited disclosure to the extent that it facilitates the exchange of information between parties to a dispute. However, such disclosure occurs after a resident has entered into a contract and is voluntary.

The second reading speech for the Retirement Villages Amendment (Information Disclosure) Act noted the gaps in the current regulatory framework and the mechanism for addressing them:

‘The information disclosure that the act [Retirement Villages Act] currently requires village owners and managers to make to prospective residents is minimal and only required at the last stage, when a retiree is about to sign a contract to enter a retirement village. At that stage, prospective residents may be too emotionally committed to the village they have chosen to be able to make effective comparisons.

Resident and consumer groups have long complained of the inadequacy of the existing disclosure requirements under the act, and have insisted on the need, firstly, to ensure that any enhanced disclosure regime does not result in retirees and prospective residents being overwhelmed with information and, secondly to separate any enhanced disclosure regime between the information that is relevant at the stage when retirees are investigating and comparing villages, and that which is relevant at the stage when prospective residents are considering signing a contract.

At the earlier stage, retirees need accessible and comprehensive information to enable them to choose a retirement village that suits their needs and lifestyle. After they have selected their preferred village and are considering signing a contract, they need accessible and comprehensive information to enable them to understand the nature and extent of the actual financial commitment they are about to undertake⁴⁷.

⁴⁷ Second Reading Speech for the Retirement Villages Amendment (Information and Disclosure) Bill 2012, Legislative Assembly, 24 October 2012, Hansard page 4725.

3 Objectives of proposals and other options

Key points:

- The general aim of the proposals is to reduce consumer detriment and increase consumer benefit relating to retirement villages by reducing the information asymmetry between operators and prospective retirement village residents. Retirement village operators may also benefit from a reduction in the number and nature of disputes between operators and residents resulting from improved disclosure.
- The specific objectives of the proposals are to assist prospective and proposed residents to compare villages and to choose a retirement village that meets their personal and social needs, and to understand their rights and obligations and financial commitment before entering a retirement village.
- Available options to reduce information asymmetry include introducing 'intermediate' stage disclosure, improving pre-contractual disclosure and introducing measures to standardise the structure of contracts, such as standard layouts, a basic set of mandatory terms, and lists of banned terms and matters that must be addressed.
- Proposals to improve information disclosure and contracts arising from the 2011 Options Paper are treated as three separate options in this Regulatory Impact Statement, since each could be introduced as a 'stand alone' reform.
- Two other available options have been considered and assessed as being not viable. These options are self-regulation through an industry code of practice and the use of fully prescribed contracts.

3.1 The proposed requirements

It is proposed to make regulations and for the Director of Consumer Affairs Victoria to approve certain forms to:

- introduce disclosure at the intermediate stage by requiring retirement village operators to provide prospective residents with a factsheet and the opportunity to inspect certain village documents;
- improve pre-contractual information disclosure by prescribing additional information on costs for inclusion in the disclosure statement that an operator must provide to a proposed resident before they sign a village contract; and
- standardise the structure of village contracts.

Regulations for the enhanced disclosure statement and standardised contracts can be made under existing powers in the Retirement Villages Act.

The Retirement Villages Amendment (information Disclosure) Act, which received Royal Assent on 12 February 2013, provides for the introduction of a factsheet and the inspection of village documents. It creates authority for the making of regulations to specify the information that must be included in a factsheet and the documents that must be made available for inspection, and authority for the format of the factsheet and

enhanced disclosure statement to be as approved by the Director of Consumer Affairs Victoria.

The information proposed to be included in the factsheet and enhanced disclosure statement, and the village documents to be available for inspection are set out in the proposed Retirement Villages Amendment (Records and Notices) Regulations 2013. A copy of the proposed regulations is in Appendix C. Drafts of the forms of the proposed factsheet and the enhanced disclosure statement are included in Appendix D and E, respectively. The proposals for standardised contract structures are set out in the proposed Retirement Village Amendment (Contractual Arrangements) Regulations 2013. A copy of the proposed regulations is in Appendix F. Table 11 compares the current and proposed information disclosure and contract requirements.

Table 11: Current and proposed information disclosure and contract requirements

Current Requirements	Proposed Requirements
<i>Intermediate stage information disclosure</i>	
Nil	A retirement village operator must provide a factsheet to a prospective resident in the approved form. A retirement village operator must make the prescribed documents available for inspection by a prospective resident.
<i>Pre-contractual stage information disclosure</i>	
A retirement village operator must provide the 'residence documents' to a proposed resident, with a disclosure statement, at least 21 days before they enter into a contract.	A retirement village operator must provide an enhanced disclosure statement in the approved form to a proposed resident and continue to provide the residence documents (and provide a factsheet and document inspection if not previously provided). The matters in the checklist currently to be given to a proposed resident as one of the residence documents will be substantively incorporated into the enhanced disclosure statement.
A retirement village operator must provide information about the village that a proposed resident reasonably requires and that they are able to provide.	Same.
A retirement village operator must make available to a proposed resident, for inspection and copying, all residence documents in their possession.	Same.
<i>Contract requirements</i>	
Limited controls are placed on retirement village contracts regarding the arbitration of disputes and payment of refundable ingoing contributions.	Prescribe the matters that must be included in contracts; that may be included in contracts; and that must not be included in contracts. Prescribe a basic set of mandatory rights and obligations of operators and residents. Prescribe the layout of residence and management contracts including the order of matters.

3.2 The objectives

The proposed regulations aim to reduce consumer detriment and increase consumer benefit in relation to retirement villages. This would be achieved by reducing information asymmetry, which would lead to more informed consumers. Consumers who are more informed about retirement villages would make better decisions about their retirement living options and have fewer disputes with the operator if they become a retirement village resident.

The specific objectives of the proposals are to:

- assist prospective and proposed residents to compare villages and to choose a retirement village that meets their personal and social needs; and
- promote prospective and proposed residents' understanding of their rights and obligations, and of their financial commitment before entering a retirement village.

As a consequence:

- fewer retirees whose financial interests are not best served by moving into a retirement village would move into a village;
- fewer retirees who are not socially or personally suited to retirement village living would move into a village;
- retirees who move into a retirement village would have a better understanding of their rights and obligations; and
- retirees who are not living in a retirement village and whose financial, social and personal interests would be better met by living in a retirement village would move into a village.

It is expected that the outcomes of improved disclosure will be:

- a decrease in the number of disputes between operators and residents relative to the total population of retirement village residents; and
- a change in the nature of retirement village disputes, for example, fewer disputes about exit fees.

Any reduction in disputes would lead to savings for operators and residents in terms of the cost and time spent resolving disputes.

3.3 Option 1: Introduce disclosure at the intermediate stage

The intermediate stage of retirement village decision-making is defined as being after a retiree has determined that retirement village living might be an option for them, but before the pre-contractual stage. It is the point at which retirees might be considering several different retirement villages. This stage is important because, unlike at the pre-contractual stage, the prospective resident is not yet emotionally or financially committed to a particular village, for example through the sale of their home or payment of a deposit.

Option 1 proposes that, at the intermediate stage, a retirement village operator be required, upon request from a prospective resident or their representative, to provide free of charge within seven days:

- a prescribed factsheet containing key information about the village; and
- access to inspect prescribed documents.

Under this option, the factsheet would also be required to be included in any village marketing material given to a prospective resident, excluding mail-outs and letterbox drops.

A retirement village operator would not need to provide a factsheet or to provide for the inspection of the prescribed documents where a prospective resident had previously been provided with a factsheet or inspection and there had been no material change in the information or documents.

It is also proposed that where a prospective resident reaches the pre-contractual stage without having been provided with the factsheet or inspection, the village operator be required to provide it.

Ensuring that the factsheet and document inspection contain only targeted and critical information for a prospective resident will minimise the cost of the obligations for retirement village operators.

The factsheet must be in the form approved by the Director of Consumer Affairs Victoria. The form of the factsheet is critical to the comprehensibility of the important information it contains. Empowering the Director of Consumer Affairs Victoria to determine its form allows for flexibility in remodelling the form, in consultation with stakeholders, as and when required, so as to ensure that it is always optimal and that factsheets from different villages can easily be compared. The form, as approved from time to time, will be posted on the Consumer Affairs Victoria website and be electronically formatted to make it easy for operators to download and complete.

The objective of intermediate information disclosure is to assist prospective residents to decide if a particular retirement village is suitable for them, to compare it to other villages and to understand the financial commitments of retirement village living, thereby avoiding the financial and emotional consequences of committing to the wrong village. The consequent improved choices made by prospective residents may lead to increased competition in the retirement village market, as village operators would need to offer better services and fairer costs to attract better informed retirees.

The factsheet and document inspection requirements are set out in Section 4 of the Retirement Villages Amendment (Information Disclosure) Act and proposed regulations 8 and 9 and Part B of Schedule 2 of the Retirement Villages Amendment (Records and Notices) Regulations. The proposed regulations are included in Appendix C.

Two options for the type and range of information for inclusion in the factsheet are considered below. Option 1a describes the information proposed in the Retirement Villages Amendment (Records and Notices) Regulations. Option 1b describes a narrower range and type of information for disclosure.

Option 1a

The Retirement Villages Amendment (Information Disclosure) Act requires a factsheet to contain the particulars specified in the proposed Retirement Villages Amendment (Records and Notices) Regulations, and to be presented in a clear, concise and effective manner. It is proposed that the factsheet would cover the following matters:

- location;
- ownership;
- year construction of the village was completed;
- management;
- nature of ownership/tenure of units;
- number and size of units;
- garage, carport and car parking entitlements;
- planning and development permissions;
- facilities available at the village, their cost and any restrictions on their use;
- services provided to residents;
- existence of a co-located residential care facility;
- range of entry costs, ongoing charges and exit fees;
- financial management at the village
- financial management of the owners corporation, where applicable;
- apportionment of capital gains or losses;
- responsibility for reinstatement or renovation of units;
- responsibility for insurance;
- existence of security and emergency systems;
- restrictions on pets and resident and visitor parking;
- any industry accreditation;
- existence of a residents' committee; and
- any waiting list and fees.

The last section of the factsheet enables the operator to list those of the documents proposed to be prescribed for inspection on request that it has available.

The proposed documents are as follows:

- village site plan;
- plans of any units under construction;
- financial statements for the current year;
- the budget for the next financial year;
- examples of contracts that residents may have to enter into;
- any planning permission for further development of the village; and
- dispute resolution documents required under the Retirement Villages Act.

The proposed factsheet also has a covering page of advice about the need to read the document carefully, get independent advice etc. This page was included following submission from stakeholders, particularly resident bodies.

Appendix D contains a draft of the proposed factsheet, which is approximately six and a half double sided pages (i.e. before completion by the operator) when presented in large print size.

Option 1b

Under this option it is envisaged that the factsheet would provide a basic description of the residential premises, services and facilities within a retirement village, and would primarily require retirement village operators to tick the relevant boxes to indicate the particular features of their village. The information proposed to be disclosed by an operator would include:

- the name and contact details for the village;
- the name of the village operator, the number of villages they operate and how long they have operated in the retirement village sector;
- details of the contact person for information about the village;
- a summary of costs including entry price and recurrent charges;
- whether or not there is a departure fee;
- whether or not residents share in any capital gain;
- applicable village services or facilities;
- the type of unit tenure;
- whether single or multi-storey units;
- whether construction of the village has been completed and the number and description of the units planned for the village;
- any restrictions on pets and gardening by residents;
- whether there are organised social activities;
- details of the village operator's membership of any industry association; and
- whether the village has a residents' committee.

It is estimated that a factsheet containing the above information would be around two double sided pages (i.e. before completion by the operator) when presented in a large print size.

The Option 1a factsheet deals with similar information, namely the size and number of units; entry, ongoing and departure fees; and the facilities and services available. However, there are a number of key differences between the two documents.

The Option 1a factsheet includes the following additional information:

- details of the ownership of the retirement village;
- the year construction of the village commenced;
- the date the company or organisation became the manager of the village;
- the availability of an onsite village representative;
- garage, car port and parking facilities and restrictions;
- planning permissions;
- details of the costs and restrictions on the use of village facilities;

- details of village services – annual auditing, cleaning of communal areas and facilities including lawns and gardens, management of administrative services, and payment of rates and taxes for communal areas and facilities including gas, water and electricity;
- details of entry, ongoing and exit fees including refundable and non-refundable ingoing contributions, deposits and donations, the timing of repayments, and contributions to any long-term maintenance fund;
- estimated resale price ranges for units;
- owners corporations fees;
- financial management of the village and owners corporation, if applicable;
- reinstatement or renovation obligations;
- village security arrangements,
- village accreditation; and
- waiting list fees.

Much of this information was adopted from the pre-contractual disclosure statement proposed by the Retirement Living Council of the Property Council of Australia, then the Retirement Village Association, in its submission to the Consumer Affairs Victoria 2011 Options Paper. Submissions from resident bodies resulted in the inclusion of other information, such as the time when the departure entitlement is to be paid; the estimated resale value of units; details of the financial management of any owners corporation; and any waiting list fees.

The additional information in the proposed factsheet is considered essential at the intermediate stage of a prospective resident's consideration of a retirement village as it provides the details needed to effectively compare villages in terms of the cost of buying into, leaving at and exiting villages.

Interstate experience

New South Wales and the Australian Capital Territory have provision for an intermediate disclosure statement, although such a statement has not as yet been introduced. Intermediate information disclosure is supported in Western Australia. In its 2010 final report on the 'Statutory Review of Retirement Villages Legislation' the Western Australian Department of Commerce recommended two stage disclosure with a key terms summary at the enquiry stage and 'a full "disclosure package" to be supplied once genuine interest in a particular residence is shown'.

Inspection of village documents at the intermediate stage is provided for in the New South Wales Act and also in the Australian Capital Territory Act. In both cases the documents to be provided for inspection to prospective residents are more extensive than is proposed in Victoria, although neither Act requires that village dispute resolution documents be made available for inspection, as is the case in Victoria.

3.4 Option 2: Improve pre-contractual disclosure

Option 2 proposes that the current pre-contractual disclosure regime be improved by requiring that additional information on costs and entitlements be included in the disclosure statement that a retirement village operator must give to a proposed resident.

The objective of pre-contractual information disclosure is to assist proposed residents to understand the nature and extent of their commitment, particularly their financial commitment, before they sign a contract to enter a retirement village.

The Retirement Villages Act requires the disclosure statement to contain the information set out in the Retirement Villages (Records and Notices) Regulations. The Retirement Villages Amendment (Information Disclosure) Act requires the disclosure statement to be in the form approved by the Director of Consumer Affairs Victoria. The form of the disclosure statement is critical to the comprehensibility of this important information, and empowering the Director of Consumer Affairs Victoria to determine the form allows for flexibility in remodelling the form, in consultation with stakeholders, as and when required, to ensure that it is always optimal; and makes it easier for it to be adapted to an electronic format.

Two options are considered for the information to be included in the expanded disclosure statement. Under Option 2a it is proposed that the expanded disclosure statement include the information specified in regulation 9 of the proposed Retirement Villages Amendment (Records and Notices) Regulations. Option 2b describes a broader range of information for disclosure.

Option 2a

The draft of the disclosure statement, in the form proposed for approval by the Director of Consumer Affairs Victoria, is four double sided pages with large print. As with the factsheet it is proposed that the expanded disclosure statement be provided in an electronic format for ease of completion by retirement village operators.

The table below compares the current and proposed requirements for the expanded disclosure statement.

Table 12: Disclosure statement – current and proposed requirements

Current Requirements	Proposed Requirements
<p>A disclosure statement must include:</p> <ul style="list-style-type: none"> ▪ the date the retirement village notice was lodged with the Registrar of Titles; ▪ the date the retirement village charge was notified to the Registrar of Titles; ▪ particulars of any mortgages, charges or other encumbrances on the retirement village land that take priority over the rights of residents; and ▪ particulars of any agreement relating to the priority of residence rights over earlier encumbrances over the land. <p>Reference: Section 19(1) & (2) of the Retirement Villages Act.</p>	<p>Additional matters that a disclosure statement must include:</p> <ul style="list-style-type: none"> ▪ a statement setting out the purpose of the disclosure statement; ▪ a statement that the Act requires that the disclosure statement to be given; ▪ a statement of the importance of seeking advice from an independent financial and/or legal advisor; ▪ details of the costs payable by the resident on entry to a retirement village; ▪ details of the ongoing costs payable by the resident as at the date the resident enters the retirement village; ▪ details of the estimated liabilities of the resident on permanent departure from the retirement village; ▪ details of the estimated entitlements of the resident on permanent departure from the retirement village; and ▪ details of the estimated amounts payable by and to the resident if the resident permanently departs the retirement village after one, two, five and 10 years' residence, and any disclaimer regarding the assumptions or estimates that an operator may wish to include. <p>Reference: Regulation 9 of the proposed Retirement Village Amendment (Records and Notices) Regulations.</p>

The draft of the proposed disclosure statement is included in Appendix E and includes information under the following headings:

- notices;
- entry costs;
- ongoing costs;
- departure costs;
- departure entitlements; and
- estimated departure entitlements.

A significant element is the proposal to require the inclusion of estimates of the likely financial return to a resident upon leaving a village, similar to the estimates that are required in Western Australia and in the Northern Territory. The final page of the proposed disclosure statement has a table that sets out the components, amounts and

method of calculating the departure entitlements for one, two, five and 10 years' residence.

Option 2b

Under this option the disclosure statement would include the current requirements along with a broader range of information and be primarily a tick the box form. It is proposed that it include the following information:

- the number of vacant and reoccupied units during previous year;
- the stage of development of the village and whether all planning and occupancy consents have been obtained and complied with;
- details of the operator including whether the operator is also the owner, has a history of breaches of the retirement village legislation, is the subject of any current legal proceedings and has any outstanding legal orders;
- whether the village is in receivership;
- a summary statement setting out the amount of the ingoing contribution, the current rate of recurrent charges, the percentage share of capital gains payable on termination and the formula for calculating the departure fees;
- when the annual residents meeting is usually held;
- details of any surplus or deficit in the village's annual accounts for the last three financial years;
- whether the village has a capital works fund for capital maintenance;
- any proposed expenditure for capital maintenance;
- whether all payments due to outgoing residents have been paid in full or in part;
- whether residents have voted for certain financial requirements to be waived, for example auditing of annual accounts;
- whether any charges over the land have priority over residents' refund entitlements;
- the timing of recurrent charge increases, the method of calculation and the percentage or amount of any past increases;
- whether charges for village services and facilities are on a user paid or recurrent basis, require developer consent and are availability for non-resident use, and details of any plans to withdraw existing or to introduce new services or facilities;
- details of public liability and building insurance; and
- details of the village internal dispute resolution process.

Compared to the information proposed under Option 2a, Option 2b includes additional information in the following areas:

- receivership of the village;
- planned new services or facilities;
- planned reductions in services or facilities;
- non-resident use of services or facilities;
- resident waivers of financial requirements;
- current capital works proposals;

- recurrent charges increases;
- vacant and reoccupied units;
- compliance or non-compliance with legislative requirements or tribunal orders; and
- current tribunal proceedings involving the operator.

It is envisaged that a disclosure statement comprising the above information would be approximately five double sided pages (i.e. before completion by the operator) when presented in a large print size.

Many of these additional matters were considered but not supported for pre-contractual disclosure in Victoria because:

- they were not, on balance, considered to materially assist proposed residents to understand their financial and legal commitments before signing a contract; and/or
- the cost to the operator was considered to outweigh the benefit to the proposed resident; and/or
- the benefit to the proposed resident of a shorter form by their exclusion outweighed the benefit of their inclusion.

There was also a concern that including additional information and further increasing the length of the expanded disclosure statement may add complexity that reduces the benefits of pre-contractual disclosure. The Queensland 'public information document', which has been criticised for being too long and overwhelming for proposed residents, was considered as part of a parliamentary review of the Queensland Retirement Villages Act. The final report of the review was released in November 2012 and recommended that the public information document be revised, among other matters, to simplify the document, improve the layout of information and reduce its length and complexity.

A feature of the expanded disclosure statement described in Option 2a, which is considered to significantly enhance the effectiveness of pre-contractual disclosure for proposed residents, and is absent from the Option 2b disclosure statement, is the summary of estimated departure entitlements. This information is presented in a tabular form thereby ensuring that proposed residents and their families and/or beneficiaries are alerted to how their investment is likely to diminish over time.

Departure fees are an area of complaint to Consumer Affairs Victoria. The following case study illustrates the importance of alerting proposed residents to departure fees.

Mr X, who is 84, and his wife are moving out of their retirement village. Their ingoing contribution when they purchased their unit four years ago was \$360,000. They have been advised that the refurbishment cost for their unit is \$40,000 including the installation of new granite bench tops in the kitchen. They are under the belief that they only need to pay for the reinstatement of the kitchen, i.e. to put it in its original condition, fair wear and tear excepted, and consider that their kitchen is in immaculate condition and that any repairs that are needed would not cost more than \$100. However, their contract, which they did not understand, allows the operator to refurbish, i.e. update, the unit to make it more attractive to sell.

The nature of the factsheet and expanded disclosure statement proposed in Option 1a and Option 2a follows the stated rationale in Victoria that the intermediate stage factsheet should contain information to assist prospective residents to choose a retirement village that suits their needs and lifestyle, and that the pre-contract disclosure statement should contain information to assist a proposed resident to better understand the nature and extent of their financial commitment.

Interstate requirements

The information or disclosure statements in Queensland, New South Wales (a revised disclosure statement is currently under consideration), the Australian Capital Territory and Western Australia are generally more extensive than is proposed in Victoria.

Useability of proposed factsheet and expanded disclosure statement

Drafts of the proposed factsheet and enhanced disclosure statement under Options 1a and 2a were tested by a consultant with focus groups of retirees aged 65 to 79 who might consider moving from their family homes, and adult children who can influence parents' decision to move into a retirement village. The drafts scored well on a scale of one to seven, where one is rated as 'very difficult' and seven as 'very easy'.

The factsheet scored 5.5 for ease of understanding and 6.1 for readability. The enhanced disclosure statement scored 5.6 for ease of understanding and 5.4 for readability. The consultant's report commented that 'both forms performed well and it is worth noting that the intention behind the forms was very well received by both groups. There was a strong sentiment that such forms would help towards protecting seniors and their families when making the decision to move into a retirement village. Overall the forms had good comprehension levels The layout was considered very good for both forms, with small improvements to section design and emphasis as noted in the report'.

Several improvements were made to the forms arising from the consultant's report and from subsequent targeted consultation with industry and resident stakeholders.

3.5 Option 3: Introduce contract standardisation requirements

Option 3 proposes that regulations be made to provide that certain matters must be addressed and certain terms must be included in residence contracts and management contracts for retirement villages. The option would also require that certain matters are not to be included in these contracts. Finally, the option would require the layouts of these contracts to be prescribed, so that there would be greater consistency in the headings used and in the organisation, order and structure of the contracts.

The objectives of this option are to ensure that retirement village contracts are in writing and are comprehensive; to facilitate comparison of different villages' contracts by proposed residents and their advisors particularly at the intermediate stage so that, together with a comparison of the factsheets, the 'best deal' is selected; and, after the person enters a village, to facilitate the identification of rights and obligations.

The option, for clarity, may be classified into four components:

1. to prescribe matters that must not be included in residence contracts and management contracts;

2. to prescribe matters that must be addressed in residence contracts and management contracts;
3. to prescribe a basic set of obligations and rights for residence contracts and management contracts; and
4. to prescribe the layout of residence contracts (for loan-licence residents only) and management contracts.

Two forms of this option are examined: Option 3a, which includes all of the above four components; and Option 3b, which includes components 1 to 3 only.

Excluded contract terms

The matters that are not to be included in residence contracts and management contracts are listed in regulation 6 of the proposed Retirement Villages Amendment (Contractual Arrangements) Regulations, which are included in Appendix F. These matters cover:

- a requirement for a resident to have a will and advise management of its location;
- a requirement for a resident to take out insurance;
- a requirement for a resident to pay an operator's correspondence and information provision costs;
- restrictions on a resident's absence from a village;
- a requirement for a resident to pay liquidated damages;
- limits on the operators liability for default or breach of duty;
- a resident's responsibility for the cost of enforcing the contract;
- 'entire agreement' terms;
- restrictions on membership of resident committees;
- recovery of administrative and operating costs beyond the term of residency;
- a requirement for a resident to contribute more than half of the cost of a valuation of their property or residency rights; and
- power to relocate residents without consent.

The rationale for the exclusions is that each term is considered to be unfair in the context of any retirement village contract; that residents should not have to be put to the expense of proving so under the Australian Consumer Law; and that legislating for their prohibition prevents unnecessary disputation.

Most of the excluded terms were adopted from existing exclusions in New South Wales. The Regulatory Impact Statement for the New South Wales Retirement Villages Regulations 2009 noted that: 'Excluding certain matters assists in preventing disputes over practices which have long been considered to be unfair and costly to residents or infringe on their privacy and freedom of choice'.

The last three excluded terms listed above were adopted from submissions from resident bodies.

Matters to be included in contracts

The matters to be included in residence contracts and management contracts are listed in regulation 7 of the proposed Retirement Villages Amendment (Contractual Arrangements) Regulations.

Matters to be addressed in both residence and management contracts are:

- the date of contract and the commencement date (if different);
- the owner's and manager's name and address and address for service of notices, as relevant;
- the resident's name and address;
- the address of the residential premises; and
- the term of the contract.

Matters to be addressed in the residence contract only are:

- the resident's garage, storeroom and parking entitlements (other than as accessories to any strata title of the resident);
- the date of occupation of the premises or the date of the resident's right to occupy the premises (as the case may be);
- the fixtures, fittings and furnishings provided by the owner;
- the resident's ability to alter and add to their residential premises;
- the resident's ability to transfer to other residential premises or other types of accommodation;
- If construction of the residential premises is incomplete, the resident's ability to determine the design, construction and furnishing of the premises;
- any restrictions on the resident's use of the residential premises;
- any restrictions on pets, visitors and car parking;
- any restrictions on the persons to whom the resident can transfer the residential premises;
- any rights of access of the owner to the resident's premises;
- any right of the owner to relocate the resident to other premises in an emergency and without the resident's consent;
- any legal costs of the owner payable by the resident;
- any costs and charges payable by the resident to the owner to gain entry to the village including any ingoing contribution and whether interest is payable to the resident;
- all costs and charges payable by the resident to the owner during his or her residency in the village and the period after the resident has ceased to be a resident that any such costs or charges continue to be payable;
- all costs and charges payable by the resident to the owner on leaving the village including any departure fee;
- the method of calculating any refund of the ingoing contribution that the owner is liable to make to the resident, including how capital gains or losses are shared and any applicable fees, charges and financial penalties, and the time when the refund is payable to the resident;

- the insurance policies in relation to the retirement village (excluding any policies in relation to any owners corporation in the village) that the owner takes out;
- who is responsible for maintaining the residential premises, including replacement and maintenance of fixtures, fittings and furnishings;
- what refurbishment or reinstatement of the resident's premises will be required and who is liable for the cost;
- how the contract may be terminated, including any minimum advance notice;
- the resident's right to refuse to agree to amendments to or termination of the contract; and
- the by-laws relating to the village (unless this matter is included in the management contract).

Matters to be addressed in the management contract only are:

- the details of the services to be provided to the resident by the manager including any service that the manager or its agents represented to the resident, before entering into the contract, would be provided or made available, and the date it would be made available;
- any rights of access of the manager to the resident's premises;
- any legal costs of the manager payable by the resident;
- all costs and charges payable to the manager by the resident during their residency in the village, including maintenance charges, and the period after the residency has ceased that any such costs or charges continue to be payable by the resident;
- the matters for which maintenance charges may be used;
- how maintenance charges can be adjusted;
- the repair and maintenance procedure, including the responsibilities of the manager and the resident;
- how special levies can be imposed;
- the method of calculating any refund of the ingoing contribution that the manager is liable to make to the resident, including how capital gains or losses are shared and any applicable fees, charges and financial penalties, and the time when the refund is payable to the resident;
- the insurance policies in relation to the retirement village (excluding any policies in relation to any owners corporation in the village) that the manager takes out;
- how the contract may be terminated, including any minimum advance notice;
- the resident's right to refuse to agree to amendments to or termination of the contract;
- the by-laws relating to the village (unless this matter is included in the residence contract);
- the dispute resolution procedures developed under the Retirement Villages Act; and
- the process for consulting with residents on proposals to change services provided by the manager that will result in a material change in the services provided.

The matters that may be addressed in residence and management contracts are set out in regulation 8 of the proposed Retirement Villages Amendment (Contractual Arrangements) Regulations. These matters include a warning that a resident should take out house contents insurance.

Prescribed terms

The terms proposed to be prescribed for residence contracts and management contracts are listed in Schedule 5 of the proposed Retirement Villages Amendment (Contractual Arrangements) Regulations. For residence contracts and management contracts, the prescribed terms include:

- primacy of the Retirement Villages Act;
- the basic obligations of the owner or manager;
- the basic obligations of the resident;
- the basic rights of the resident;
- some general terms requiring the owner and the manager, as applicable, and resident to deal with each other in good faith; and
- the precedence of the prescribed terms of the Retirement Villages Act over any inconsistent contract terms or village by-laws.

Standard contract layouts

The proposed prescribed contract layouts including the form and order of matters in retirement village contracts are set out in Schedule 6 of the proposed Retirement Villages Amendment (Contractual Arrangements) Regulations. Standard layouts are proposed for four contracts as follows.

1. Residence contract –

- introductory matters – dates contract signed and commenced, name and address of owner and resident, address for service of notices, address of premises, term, and garage, storeroom, parking entitlements and fittings etc. provided by owner;
- cooling-off notice;
- operative words;
- prescribed terms; and
- prescribed matters – costs payable on entry, costs payable during residency, costs payable on departure, owner’s legal costs, costs of refurbishment or reinstatement, resident’s exit entitlements, maintenance, village insurance, any restrictions relating to the resident’s premises, termination and amendment of the contract and village by-laws.

2. Management contract –

- introductory matters - dates contract signed and commenced, name and address of manager and resident, address for service of notices, address of premises, term and services to be provided to the resident;
- operative words;
- prescribed terms; and

- prescribed matters – costs payable during the residency, manager’s legal costs, increases in maintenance charges, use of maintenance charges, the repair and maintenance procedure, consultation on changes to services, service levies, resident’s exit entitlements, village insurance, manager’s right of access to resident’s premises, termination and amendment of the contract, the village by-laws and dispute resolution.
3. ***Combined residence and management contract, where the owner and the manager are the same person –***
- introductory matters – dates contract signed and commenced, name and address of owner/manager and resident, address for service of notices, address of premises, term, garage, storeroom, parking entitlements, fittings etc. provided by owner and services to be provided by the resident;
 - cooling-off notice;
 - operative words;
 - prescribed terms; and
 - prescribed matters – costs payable on entry, costs payable during residency, costs payable on departure, costs of refurbishment or reinstatement, resident’s exit entitlements, increases in maintenance charges, special levies, use of maintenance charges, maintenance of resident’s premises, the repair and maintenance procedure, village insurance, consultation on changes to services, any restriction’s relating to the resident’s premises, manager’s right of access to resident’s premises, termination and amendment of the contract, the village by-laws and dispute resolution.
4. ***Combined residence and management contract, where the owner and the manager are not the same person*** This contract has a similar layout to the previous contract, except with respect to the prescribed matters, which are set out in the following order:
- matters concerning the owner – costs payable on entry, costs payable during residency, costs payable on departure, owner’s legal costs, costs of refurbishment and reinstatement, resident’s exit entitlements, maintenance, village insurance and any restrictions relating to the resident’s premises;
 - matters concerning the manager – costs payable during residency, manager’s legal costs, increases in maintenance charges, use of maintenance charges, the repair and maintenance procedure, consultation on changes to services, special levies, resident’s exit entitlement, village insurance, manager’s right of access to resident’s premises and dispute resolution; and
 - other matters – termination and amendment of the contract and the village by-laws.

Interstate experience

Legislation in Queensland, the Northern Territory, Tasmania, Western Australia and South Australia list the matters which must be included in a residence contract. The New South Wales and Australian Capital Territory Acts make provision for both the terms that must be included and those that must be excluded from contracts.

The standardised layout that is proposed in New South Wales comprises a contents page accompanied by sections covering:

- definitions;
- formal matters;
- simplified financial terms requiring insertion of dollar figures and percentages and the ticking of boxes, and incorporating the option of adopting (through tick boxes) standard terms for recurrent charge increases, capital gain or loss sharing, departure fee and exit entitlement calculation, and liability for charges after departure;
- restatements of various New South Wales statutory requirements and implied terms; and
- provision for annexures and additional terms.

3.6 The costs and benefits of mandatory information disclosure policies

Options 1 to 3 each propose a form of mandatory disclosure of retirement village information and documents. However, government intervention in the form of mandatory information disclosure is justified only where the wider public benefits exceed the costs.

The benefits of mandatory information disclosure are that it can reduce information asymmetry and impact people's choices, which can also have wider public benefits. This is particularly likely when information disclosure directly targets an identified problem.

However, government-mandated information disclosure schemes can also impose costs by being slower to adapt to changes than private sector disclosure schemes. They can also reduce freedom of choice and have equity implications. Where mandatory information disclosure schemes apply to essential products and services, lower socioeconomic groups may pay a disproportionately large share of the costs of that disclosure.

Furthermore, there are the costs to government to administer a mandatory scheme, which can be significant where the regulation persists after the original problem for which it was introduced has been resolved.

The 2012 Consumer Affairs Victoria Discussion Paper 'Mandatory disclosure of information: costs and benefits of mandatory information policies to influence consumer choice' identifies a number of matters which impact on the effectiveness of mandatory disclosure policies. While the 2012 Discussion Paper is primarily concerned with mandatory disclosure for product labelling it can be applied more generally to mandatory disclosure policies.

Table 13 applies the factors identified in the 2012 Discussion Paper to the mandatory information disclosure proposals for retirement villages.

Table 13: Factors affecting the effectiveness of mandatory disclosure policies

Factors	Retirement Village Disclosure Proposals
Does not directly address the actual problem	Prospective and proposed retirement village residents often have insufficient information and limited access to expert advisory professionals to make an informed decision to choose the right retirement village and to enter into a retirement village contract. The proposals directly address this problem by providing critical information in a clear, concise and consistent way so that it can be used to compare village and unit offerings.
Lack of specific consumer behaviour models	The proposals are built on the McCrindle Baynes model of decision-making that prospective and proposed retirement village residents go through in deciding to move into a retirement village. The model was based on a nation-wide survey of 10,000 existing retirement village residents and focus groups with retired persons (who were not retirement village residents). During consultation, stakeholders expressed support for the model. The proposals take this model into account and aim to provide information disclosure at the intermediate and pre-contractual stages of the behavioural model.
Government schemes are slower to change than private schemes	In contrast to the sometimes inflexibility of forms that are prescribed in regulations, the forms of the factsheet and expanded disclosure statement are to be approved by the Director of Consumer Affairs Victoria, thus enabling them to be expeditiously updated in response to changes in market practice and conduct. Despite over 30 years in existence, the private and community retirement village sectors have not introduced a general disclosure regime.
Reduced freedom of choice and action	All of the proposals improve the availability and quality of information for prospective and proposed residents. Improving the access to and comparability of information, potentially improves choice for prospective and proposed retirement village residents. The contract standardisation proposal aims to improve the readability and comparability of retirement village contracts without fundamentally changing the content.
Equity considerations	Mandatory information furthers equity and social objectives because it supports potentially vulnerable and disadvantaged consumers. While it is not correct to categorise all existing and future retirement village residents as vulnerable, vulnerability may be higher than in the general community given advancing age, the retirement village decision-making model and income status.
Regulatory persistence	Under the Subordinate Legislation Act 1994, regulations automatically sunset every 10 years and must be re-evaluated. This requirement applies to the proposed regulations.

3.7 Non-viable options

Two other options to reduce information asymmetry between retirement village operators and prospective and proposed residents have been considered. These are self-regulation by industry through a code of practice, and the use of fully prescribed contracts. These other options have been assessed as being non-viable for the reasons outlined below.

3.7.1 Self-regulation through an industry accreditation scheme or code of conduct

Under this option, peak industry bodies such as the Retirement Living Council of the Property Council of Australia and Leading Age Services Australia – Victoria would develop an enhanced disclosure regime and improved contracts through existing or new accreditation schemes or a new code of conduct.

To be effective, this option would require that several conditions be satisfied including that the industry bodies have sufficient industry coverage, regulatory expertise and resources to develop and effectively enforce an accreditation scheme or code.

However, the existing industry bodies have only partial coverage of the sector, and at least 40 per cent of the industry would not be engaged in self-regulation. Moreover, Leading Age Services Australia – Victoria does not currently have an accreditation scheme or applicable code.

The Retirement Living Council of the Property Council of Australia has an accreditation scheme; however, in April 2012 only 58 of their 130 members were accredited.

The accreditation scheme is a quality assurance scheme aimed at ensuring that village processes and procedures are effective and that village staff are trained, professional and ethical in their care of residents. The scheme requires compliance with 27 standards in the areas of resident services and lifestyle, organisational management, human resources and the physical resource environment.

The scheme is underpinned by village operators self-assessing their initial eligibility for accreditation and their ongoing compliance each year. Assessment of a village's eligibility for accreditation is supported by an independent on-site survey of residents. The scheme does not appear to have sanctions for non-compliance by village operators with the accreditation standards.

The first standard of the accreditation scheme requires retirement village operators to ensure that prospective and proposed residents are informed of the conditions of residence before entering into any contractual commitments by providing written information about the financial and contractual arrangements, usual services and activities, security measures and any additional services and care options and their costs. Operators can do this by providing prospective and proposed residents with a public information document and disclosure document, in addition to village marketing literature.

In its submission to the Consumer Affairs Victoria 2011 Options Paper, the Retirement Living Council of the Property Council of Australia proposed a disclosure statement for prospective residents at the pre-contractual stage. However, in terms of voluntary

disclosure the submission noted that without further regulation ‘there would remain a level of inconsistency in the level and detail of information provided which may hamper the effective decision-making process of a prospective resident’⁴⁸. With respect to voluntary industry codes, the submission noted that the benefits for prospective and proposed residents ‘would depend upon the extent of adoption of the voluntary code by village operators and the level of disclosure required under that code’⁴⁹.

3.7.2 Fully prescribed contracts

Under this option, the Government would introduce one or more mandatory contracts to be used by all retirement village operators in Victoria. The contracts would be prescribed contracts. An example of a contract of this kind is the prescribed standard contract for residential tenancy agreements. Under the *Residential Tenancies Act 1997*, if a tenancy agreement is in writing, it must be in the prescribed standard form.

Development of standard contracts for retirement villages was attempted by Consumer Affairs Victoria after a review undertaken in 2004 and found to be not feasible. The draft contracts that were prepared were as long and complex as existing contracts because of the need to cover the many retirement village ‘products’ on offer. Different villages provide a variety of goods and services, with a corresponding diversity of fees and charges. Consumer Affairs Victoria concluded that prescribed contracts would be too complicated and have the potential to stifle innovation and to reduce the diversity of the sector and the range of products available to prospective and proposed residents.

This option has also been examined in both Western Australia and New South Wales, with each jurisdiction reaching a similar conclusion.

The Western Australian Department of Commerce stated in its December 2010 review of that state’s Retirement Villages Act that:

‘The standardisation of contracts would not be practical given the broad array of arrangements existing within the industry. It is recognised that standardisation may also inadvertently inhibit competition and result in reduced innovation in the products and services offered.

Having a standard contract that covers all retirement villages in WA is unlikely to be achievable given the diversity of arrangements that exist. Contracts need to be sufficiently flexible to cover the requirements of specific villages and parties to the contract. One of the more considerable shortcomings associated with standard contracts is that it is difficult to amend such a contract. Operators would require some flexibility to adapt terms to meet the specific needs of parties to the contract. At the same time, making amendments to standard contracts is fraught with problems. Amendment of one provision may have undesirable ramifications for the entire contract’⁵⁰.

Industry has firmly opposed such contracts. Because the above two options are assessed to be non-viable, they are not further considered in this Regulatory Impact Statement.

⁴⁸ Retirement Village Association submission to the Consumer Affairs Victoria, ‘Retirement villages: Contract and information disclosure options’, October 2011, page.6.

⁴⁹ Retirement Village Association submission to the Consumer Affairs Victoria, ‘Retirement villages: Contract and information disclosure options’, October 2011, page.6.

⁵⁰ Department of Commerce Western Australia, ‘Statutory Review of Western Australian Retirement Villages Legislation’, Final Report, 2010, page 24.

4 Costs and benefits of the options

Key points:

- The groups that will be primarily affected by the proposed options are retirement village operators, prospective and proposed retirement village residents and existing residents.
- Prospective and proposed residents will be affected by the changes to the extent that they are successful in addressing information asymmetry. Existing residents are affected since the costs of compliance with the options would ultimately be borne by them, through increased fees and payments.
- The estimated total cost of introducing information disclosure at the 'intermediate' stage over a 10-year period (Option 1a) is \$1,705,972.
- The estimated total cost of improving information disclosure at the pre-contractual stage over a 10-year period (Option 2a) is \$1,712,053.
- The estimated total cost of introducing contract standardisation requirements over a 10-year period (Option 3a) is \$2,645,936 including standard contract layouts.
- This Regulatory Impact Statement does not attempt to quantify the benefits of the proposals.
- The cost of implementing the proposals would be greater for retirement villages that are smaller businesses.
- The proposals are not expected to have any negative competition impacts for the retirement village sector.

4.1 Introduction

Details of the estimates of the cost of each of the options are set out in Appendix G and Appendix H of this Regulatory Impact Statement. This section provides an overview of the detailed costings in the appendices.

4.1.1 Affected groups

The primary groups that will be affected by the proposed options are retirement village operators, prospective and proposed retirement village residents and existing residents.

Retirement village operators are directly affected, as they would have to implement any options that are adopted.

Prospective and proposed residents are directly affected by the changes to the extent that they are successful in addressing information asymmetry. Existing residents are indirectly affected since the costs of compliance with the proposed options would ultimately be borne by them, through increased fees and payments.

Where residents' families are involved in a resident's decision-making process, they would also benefit from any reduction in information asymmetry. The benefits would also include any reduction in disputes between former residents or their families and operators over exit entitlements. There may also be a less direct impact on the families

of retirement village residents, in so far as they have greater confidence in their ageing family member entering a retirement village, which would reduce their concerns about that family member.

Consumer Affairs Victoria would be affected by the options, in so far as it would be responsible for administering compliance with the proposed regulations. This would include tasks associated with making the proposed regulations, informing stakeholders about them, monitoring compliance with them and evaluating whether or not the regulations are effective. The options would have no other impact on government, other than some minor impact on local government. Three local councils have between one and three retirement villages which they auspice. These councils are the cities of Boroondara, Whitehorse and Monash.

4.1.2 Benefits of the options

As discussed in the previous section, the primary benefit anticipated from the proposals is reduced consumer detriment. There may also be an increase in consumer benefit. These benefits are expected to be achieved by reducing information asymmetry, which would lead to more informed consumers. Consumers who are more informed about retirement villages will make better decisions about their retirement living options and have fewer disputes with the operator if they become a retirement village resident.

This Regulatory Impact Statement does not attempt to estimate the value of the benefits in dollar terms, because of the difficulty of quantifying social and personal benefits of this kind.

4.1.4 Basis for estimates of costs

The retirement village industry is diverse. While a little more than half the villages are not-for-profit, the for-profit villages account for a greater number of residents as they are typically larger. Whether for-profit or not-for-profit, some villages are individual or stand-alone while some are part of a group of retirement villages.

It has been assumed for the purposes of producing the cost estimates that the costs incurred by retirement villages will depend on whether they are stand-alone or part of a larger group. It is assumed that retirement villages that are part of, or are affiliated with, a larger organisation of some sort will in most cases be able to access some internal legal or corporate resources. That is, it is assumed that the costs associated with the proposals will be able to be spread over retirement villages that are part of a group. It is likely that over half of all retirement villages on the Consumer Affairs Victoria Register are part of or are affiliated with a larger company or organisation. These include dedicated retirement village companies (for example, Aveo Live Well), retirement village and aged care companies (for example, Japara), property development companies (for example, Stockland, Becton), church-affiliated organisations (for example, Catholic Homes, UnitingCare Harrison) and not-for-profit organisations (for example, Abbeyfield, Dousta Galla). Over one-third of all villages are individual or stand-alone villages, and the remainder (just over 12 per cent) are companies or organisations with 2-4 retirement villages.

For the purposes of preparing the cost estimates, villages have been divided into two groups:

- Group Z villages are stand-alone villages and villages that are part of organisations that have no more than 2-4 villages and where it is assumed that the total number of employees is fewer than 20 full-time equivalent (FTE) staff; and
- Group Y villages comprising other retirement villages, which are part of a larger group.

4.2 Option 1: Introduce disclosure at the intermediate stage

The estimated cost of Option 1a is detailed in Section H1 of Appendix H. Option 1a comprises the following elements each of which is separately costed:

- the one-off first year costs of –
 - retirement village staff becoming familiar with the new requirements to provide prospective residents with a factsheet and the opportunity to inspect village document;
 - setting-up the factsheet and customising it with village specific information; and
- the ongoing costs of –
 - updating, printing and providing factsheets to prospective and proposed residents at the intermediate and pre-contract stages; and
 - allowing prospective and proposed residents to inspect village documents at the intermediate and pre-contractual stages.

The rates underpinning the costing of these elements are set out in Appendix G. Table 14 below provided a summary of the estimated cost of these elements along with the total cost of Option 1a.

Note that all calculations for this Regulatory Impact Statement have been undertaken in a spreadsheet and may be subject to rounding errors for presentation purposes. Therefore, figures in tables in this section and in Appendices H and G may not sum due to rounding.

Table 14: Estimated cost of proposals for information disclosure at intermediate stage

Proposal Element	Present Value Cost
Costs of staff becoming familiar with relevant requirements (first year costs only)	\$14,810
Costs of developing the inaugural factsheet (first year costs only)	\$84,838
Costs of providing the factsheet to prospective residents at the intermediate stage	\$1,344,522
Costs of allowing prospective residents to inspect prescribed documents at intermediate stage	\$75,092
Costs of providing the factsheet to proposed residents at the pre-contractual stage	\$185,992
Costs of allowing proposed residents to inspect prescribed documents at pre-contractual stage	\$719
Total Costs	\$1,705,972

The cost of Option 1b is not estimated in Appendix H. However, an estimate of the cost of Option 1b can be made relative to Option 1a based on the difference between the two options. The difference between Options 1a and 1b is the nature and length of the alternative factsheets. As described in Section 3.3, the factsheet proposed in Option 1a has more detailed information and is six and a half double sided pages compared to the factsheet proposed in Option 2b, which is estimated to be two double sided pages.

Therefore, the costs that are considered to be the same for Options 1a and 1b are the costs of staff becoming familiar with the new requirements, seeking legal advice and giving factsheets to prospective and proposed residents at the intermediate and pre-contractual stages. The costs that are considered to be different for Options 1a and 1b are the one-off first year cost of drawing up the inaugural factsheet for a village, and the ongoing costs of updating and printing factsheets in readiness for distribution at the intermediate and pre-contractual stages.

These costs of Option 1b are estimated to be around \$160,000 less than for Option 1a. For Option 1b, it is expected that retirement village staff will require less than one third of the time required for Option 1a to draw up a factsheet and update it for any changes. Additionally, it is expected that the printing costs will be less because of the shorter length of the proposed Option 1b factsheet. Option 1a is the preferred option.

4.3 Option 2: Improve pre-contractual disclosure

Retirement village operators will need to draw up an expanded disclosure statement. Much of the information required will already exist in the residence contract. Additionally, retirement village staff will be required to familiarise themselves with the new disclosure statement and there will be added labour and printing costs to provide the expanded disclosure statement to proposed residents.

Each of these elements and the total cost of the expanded disclosure statement proposed under Option 2a are detailed in Section H2 of Appendix H. Table 15 below provides a summary of these costs. A key cost of the Option 2a disclosure statement is the requirement to include estimates of the exit entitlements, which are generally not included in retirement village contracts at present and would need to be calculated. These estimates are considered to be an essential part of pre-contractual disclosure.

Table 15: Estimated cost of proposals for information disclosure at pre-contractual stage

Proposal Element	Present Value Cost
Staff becoming familiar with new requirements (first year costs only)	\$14,810
Cost of drawing up inaugural expanded disclosure statement (first year costs only)	\$62,520
Ongoing costs of providing expanded disclosure statement	\$1,631,368
Expanded disclosure statement – ongoing printing costs	\$3,356
Total	\$1,712,053

The cost of Option 2b is not estimated in Appendix H. While the Option 2b disclosure statement does not include exit entitlement estimates, it includes additional information that is expected to increase the length of the document by one double sided page compared to Option 2a.

For Option 2b it is expected that retirement village staff would need 25 per cent more time to draw up a disclosure statement and to update it when changes arise compared to Option 1a. Printing costs for Option 2b are also expected to increase by up to 25 per cent. Overall it is estimated that the cost of Option 2b would be around \$330,000 higher than for Option 2a. Option 2a is the preferred option.

4.4 Option 3: Introduce contract standardisation requirements

The impact on operators is that they will have to re-draft their contracts to comply with the proposed requirements. However, this will be a once-off expense, incurred only in the first year.

The estimated cost of Option 3a, which includes all of the contract proposals (matters to be included in and excluded from contracts, prescribed terms and prescribed contract layouts), is \$2,645,936, and for Option 3b, which excludes the prescribed contract layouts), is \$1,299,799. Option 3a is the preferred option.

4.5 Preferred Option

The preferred approach is to combine Option 1a, Option 2a and Option 3a. The estimated combined cost of these options is summarised in Table 16.

Table 16: Estimated cost of preferred approach

Option	Present Value Cost
Option 1a: Intermediate disclosure	\$1,705,972
Option 2a: Pre-contractual disclosure	\$1,712,053
Option 3a: Contract standardisation	\$2,645,936
Total	\$6,063,962

Table 17 breaks down the total cost for Group Y and Group Z villages.

Table 17: Estimated cost of preferred approach for Group Y and Group Z villages

Option	Group Y Villages (Larger group)	Group Z Villages (Stand alone)
Option 1a: Intermediate disclosure	\$791,905	\$914,067
Option 2a: Pre-contractual disclosure	\$881,456	\$830,597
Option 3a: Contract standardisation	\$913,514	\$1,732,422
Total	\$2,586,875	\$3,477,087

4.6 Multi-Criteria Analysis of all options

4.6.1 Approach

The 'Victorian Guide to Regulation' requires that a 'decision tool' be used to compare different options. Multi-Criteria Analysis is useful for quantitatively comparing alternative options.

Multi-Criteria Analysis involves:

- specifying a number of assessment criteria;
- assigning a 'weighting' to each criterion;
- assigning scores for each option in relation to each criterion; and
- calculating a weighted score for each option.

Multi-Criteria Analysis allows a decision to be made based on the weighted scores. All options are ranked against the same criteria, in order to clarify the relative advantages and disadvantages of each. The option assigned the highest weighted score is the 'preferred option'.

Although a degree of subjectivity is inherent in the Multi-Criteria Analysis approach, when applied appropriately, Multi-Criteria Analysis can provide a structured, systematic and transparent framework for comparing options. By identifying the basis on which options have been compared, it allows stakeholders and decision makers to see (and comment on) which factors were taken into account, the weight given to different aspects of a decision, and the logical path between the issues being addressed and the decision.

The criteria used in this Multi-Criteria Analysis reflect the objectives of the proposals set out in Section 3, the Government's Cost Recovery Guidelines, and other relevant government objectives. In terms of the weighting of criteria, the financial cost to the retirement village sector has been given a 50 per cent weighting, and as the remaining criteria are considered equally important, they have each been assigned a weighting of 25 per cent. The criteria are described in Table 18.

Table 18: Criteria for Multi-Criteria Analysis

Criterion	Description of criterion	Weighting	Total Weighting
Can choose the village that meets their personal and social needs	Prospective and proposed residents have sufficient information to compare villages and to choose a suitable village.	25%	50%
Understands their financial commitments and contractual rights and obligations	Prospective and proposed residents have sufficient financial information to understand their financial commitment and their rights and obligations.	25%	
Financial cost to the sector	The financial costs imposed on the retirement village sector as a result of regulation.	50%	50%
Total			100%

Each option is scored against each of these objectives on a scale of -5 to +5. On this scale '0' reflects the base case.

The base case is the existing legislative requirements as set out in Section 1.5. Table 11 in Section 3.1 compares the base case with the proposed regulatory changes. The base case is scored 0 against each criterion as it represents the status quo – the situation that will prevail in the absence of the proposed regulations and approved forms.

Each option is scored relative to the base case, where a positive score indicates that the option meets the objective to a greater degree, and a negative score to a lesser degree, than the base case. A score of -5 means the option does not achieve the relevant objective, whereas a score of +5 indicates that the option fully achieves that objective.

Once an option has been scored against each of the criteria an overall score can be calculated by multiplying the assigned scores for each criterion by the associated weighting and summing the result.

The option with the highest overall score is preferred. The results of the analysis for retirement options are summarised in Table 19.

Table 19: Outcomes of Multi-Criteria Analysis

	Can choose the village that meets their personal and social needs		Understands their financial commitments and contractual rights and obligations		Financial cost to the sector		Overall Score	Overall Weighted Score	
	Score	Weight	Score	Weight	Score	Weight			
		25%		25%		50%		100%	
Base Case	0	0	0	0	0	0	0	0	
Stand alone	Option 1a	3	0.75	2	0.50	-0.85	-0.43	4.15	0.83
	Option 1b	2	0.50	1	0.25	-0.75	-0.38	2.25	0.38
	Option 2a	1	0.25	4	1.00	-0.85	-0.43	4.15	0.83
	Option 2b	1	0.25	2	0.50	-1.00	-0.50	2.00	0.25
	Option 3a	3	0.75	3	0.75	-1.30	-0.65	4.70	0.85
	Option 3b	2	0.50	2	0.50	-0.65	-0.33	3.35	0.68
Combination	Option 1a & 2a & 3a	5	1.25	5	1.25	-3.05	-1.53	6.95	0.98
	Option 1a & 2a & 3b	4	1.00	4	1.00	-2.35	-1.18	5.65	0.83

4.6.2 Applying the scores

Tables 20 to 27 outline the rationale for scoring the options against the assessment criteria.

Table 20: Scoring of Option 1a – Intermediate disclosure (factsheet and document inspection)

Criterion	Score	Description of criterion
Can choose the village that meets their personal and social needs	3	The factsheet provides, in a digestible form, the information that a prospective resident needs to assess if a village is appropriate, and the ability to inspect relevant documents provides more detailed information. The factsheet advises prospective residents of their right to inspect blank village contracts. However, without the implementation of Option 3 contracts will remain in their current various forms, which do not facilitate comparison.
Understands their financial commitments and contractual rights and obligations	2	The factsheet provides ranges of costs but does not provide the actual costs that will be paid for the village unit that may be chosen. It advises prospective residents of their right to inspect blank village contracts, which is an improvement on the base case because the contract terms will be disclosed at the earlier stage in the decision making process.

Table 21: Scoring of Option 1b – Intermediate disclosure (factsheet and document inspection)

Criterion	Score	Description of criterion
Can choose the village that meets their personal and social needs	2	The factsheet provides a summary of information at an earlier stage than is currently available but the information is limited compared to Option 1a. The factsheet advises prospective residents of their right to inspect blank village contracts. However, without the implementation of Option 3 contracts will remain in their current various forms, which do not facilitate comparison.
Understands their financial commitments and contractual rights	1	The fact sheet contains limited financial information compared to Option 1a, and in particular lacks information on whether ingoing contributions are refundable, the actual departure costs and the estimate

Table 22: Scoring of Option 2a – Improved pre-contractual disclosure

Criterion	Score	Description of criterion
Can choose the village that meets their personal and social needs	1	The disclosure statement focuses on assisting proposed residents to understand their financial commitments but is limited in its capacity to assist them to choose the village that meets their personal and social needs, which is the focus of the factsheet. In any case, it is considered that at the pre-contractual stage, proposed residents will already have decided on the village that meets their needs.
Understands their financial commitments and contractual rights and obligations	4	Improved pre-contractual disclosure, through a digestible summary of the costs of entering, living in and leaving a village, enables proposed residents to understand the financial commitment involved in signing a contract.

Table 23: Scoring of Option 2b – Improved pre-contractual disclosure

Criterion	Score	Description of criterion
Can choose the village that meets their personal and social needs	1	Despite the large amount of information that would theoretically assist proposed residents to choose the village that meets their personal and social needs, it is considered that at the pre-contractual stage, proposed residents will already have decided on the village that meets their needs.
Understands their financial commitments and contractual rights and obligations	2	The additional information included in the disclosure statement is not, on balance, considered to materially assist proposed residents to understand their financial and legal commitments before signing a contract. Additionally, there is not an easily digestible tabulation of estimated exit entitlements.

Table 24: Scoring of Option 3a – Contract standardisation (including standard layouts)

Criterion	Score	Description of criterion
Can choose the village that meets their personal and social needs	3	Contract standardisation facilitates informed decisions about retirement village living through more easily understood rights and obligations. The requirement to address the same contractual matters in the same layout facilitates comparison of different villages' contracts.
Understands their financial commitments and contractual rights and obligations	3	The requirement for contracts to address all financial commitments in the same layout facilitates understanding of these commitments. The requirement for contracts to address all relevant rights and obligations in the same layout facilitates understanding of rights and obligations.

Table 25: Scoring of Option 3b – Contract standardisation (excluding standard layouts)

Criterion	Score	Description of criterion
Can choose the village that meets their personal and social needs	2	The requirement for contracts to address all relevant rights and obligations improves decision-making capacity compared to the base case. But without standard layouts, it remains difficult for a proposed resident to choose a suitable village.
Understands their financial commitments and contractual rights and obligations	2	The requirement for contracts to address all financial commitments improves decision-making capacity compared to the base case. The requirement for contracts to address all relevant rights and obligations means proposed residents’ capability to understand their contractual rights and obligations is slightly improved against the base case. But without standard layouts, it remains difficult to comprehensively understand the financial commitment involved and contractual rights and obligations.

Table 26: Scoring of combined Options 1a, 2a and 3a – Preferred Option

Criterion	Score	Description of criterion
Can choose the village that meets their personal and social needs	5	The factsheet provides, in a digestible form, the information that a prospective resident needs to assess if a village is appropriate and the ability to inspect relevant documents provides more detailed information. The requirement to address the same contractual matters in the same layout facilitates comparison of different villages’ contracts.
Understands their financial commitments and contractual rights and obligations	5	Improved pre-contractual disclosure, through a digestible summary of the costs of entering, living in and leaving a village, enables proposed residents to understand the financial commitment involved in signing a contract. The requirement for contracts to address all relevant rights and obligations in the same layout facilitates understanding of rights and obligations.

Table 27: Scoring of combined Options 1a, 2a and 3b – Not recommended

Criterion	Score	Description of criterion
Can choose the village that meets their personal and social needs	4	The factsheet provides, in a digestible form, the information that a prospective resident needs to assess if a village is appropriate and the ability to inspect relevant documents provides more detailed information. The requirement for contracts to address all relevant rights and obligations does not improve overall comparability of contracts.
Understands their financial commitments and contractual rights and obligations	4	Improved pre-contractual disclosure, through a digestible summary of the costs of entering, living in and leaving a village, enables proposed residents to understand the financial commitment involved in signing a contract. The requirement for contracts to address all relevant rights and obligations means prospective residents’ capability to understand their contractual rights and obligations is slightly improved against the base case. But without standard layouts it remains very difficult to comprehensively understand contractual rights and obligations.

4.6.3 Scoring the financial costs

For the criterion ‘financial cost to sector’ the lowest score of ‘-5’ would be awarded where the net present value of the option over 10 years is estimated to be a cost of \$10 million. The scale progresses in \$2 million increments with a score of ‘-4’ for an estimated cost of \$8 million up to a score of ‘+5’ awarded where the benefit of an option is \$10 million.

This Multi-Criteria Analysis of the recommended options, Options 1a, 2a and 3a, is the most expensive option with the highest negative score of -3.05 for the financial costs to the retirement village sector.

This assessment notes that total costs of combining Options 1a, 2a and 3a amounts to \$6,063,962 over 10 years. The first year compliance costs for retirement villages, including the upfront and ongoing costs, are estimated to be \$7,841 per village, and if passed on to residents would be \$84 per resident.

It is assumed that costs imposed on retirement village operators would be passed on to residents consistent with normal business cost recovery practices.

All of the options for addressing information asymmetry affecting prospective and proposed retirement village residents received positive scores which suggest all are an improvement on the base case.

Combining Options 1a, 2a and 3a result in an overall score of 6.95 and a weighted score of 0.98, and is the preferred option.

4.7 Impact on small business

The Australian Bureau of Statistics defines a small business as one employing fewer than 20 full-time equivalent staff.

To calculate the projected costs of implementing the proposed regulations, Victorian retirement villages were divided into two categories: Group Y and Group Z. As noted in Section 4.1, Group Y villages are villages which are part of, or affiliated with, a larger organisation of some description while Group Z retirement villages are stand-alone villages or part of a group of up to four villages. Further detail of the categorisation of villages is provided in Appendix H.

Group Y villages are unlikely to meet the definition of a small business because they are a part of a larger company, not for profit organisation, local government or community health service; for example, Stockland, Becton, Uniting Care, Wesley Mission and Boroondara Council.

Group Z retirement villages are likely to meet the definition of a small business. This view is based on consultation with the Retirement Living Council of the Property Council of Australia, which found that the average number of retirement village units per one full-time equivalent staff member was 24.5 units. This means that to exceed the threshold of 20 full-time equivalent staff, a retirement village would need to have in excess of 490 units. The majority of Group Z retirement villages have fewer than 75 units. Only one Group Z retirement village was found to have greater than 490 units and enquiries revealed it had fewer than 20 full-time equivalent staff. Therefore, all Group Z villages are considered to be small businesses under the Australian Bureau of Statistics definition.

As the proposals need to be implemented on a per village basis and tailored to each village, the costs were calculated on a per village basis (see Appendix H). On a per village basis, the costs for implementing each of Options 1a, 2a, 3a are greater for retirement villages that are small businesses (Group Z) than for retirement villages that are not small business (Group Y).

Group Z villages are estimated to have higher implementation costs because they do not have access to the in-house expertise, administrative support and the economies of scale available to Group Y villages.

As noted in Section 4.5, the cost of implementing Options 1a, 2a and 3a for Group Z villages is estimated to be \$3,477,087, including upfront and ongoing costs over 10 years, and for Group Y villages \$2,586,875 over 10 years.

In terms of the first year costs, for Group Z villages the upfront cost is estimated to be \$1,835,232 or \$9,867 per village, and the ongoing compliance cost \$154,323 or \$829 per village. For Group Y villages these costs are estimated to be \$987,682 or \$4,257 per village for the upfront costs, and \$150,047 or \$647 per village for the ongoing costs.

This is due to the economies of scale of the large organisations of which Group Y villages are a part. For example, Group Y villages will have access to corporate resources such as legal support, administration and sales staff in implementing the proposals. In contrast, for Group Z villages, many tasks associated with implementing the proposals will have to be conducted by the retirement village manager, rather than lower-salaried administration or sales staff, and legal services will have to be purchased externally.

Furthermore, Group Z villages will not have the option to cross-subsidise implementation costs from other revenue streams, unlike Group Y villages.

With respect to Options 1a and 2a, Consumer Affairs Victoria will provide templates of the factsheet and expanded disclosure statement on its website. This will assist all retirement villages to comply with these regulations.

The contract standardisation proposals, Options 3a and 3b, are the most expensive for retirement villages to implement. However, they are one-off costs.

4.8 Impact on competition

The National Competition Policy Agreement sets out specific requirements with regard to all new legislation adopted by jurisdictions that are party to the agreements. Clause 5(1) of the Competition Principles Agreement sets out the basic principle that must be applied to both existing legislation, under the legislative review process, and to proposed legislation.

The guiding principle is that legislation (including Acts, enactments, Ordinances or Regulations) should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the regulation can only be achieved by restricting competition.

Clause 5(5) imposes a specific obligation on parties to the agreement with regard to newly proposed legislation:

‘Each party will require proposals for new legislation that restricts competition to be accompanied by evidence that the restriction is consistent with the principle set out in sub-clause (1) [the guiding principle]’.

Therefore, all Regulatory Impact Statements must provide evidence that the proposed regulations are consistent with these National Competition Policy obligations.

4.8.1 Definition of market

The primary market affected by the proposed regulations is the retirement villages sector.

4.8.2 Test for restriction on competition

Under the Guidelines for the application of the Competition Test to New Legislative Proposals, legislative schemes are deemed to contain restrictions on competition if they:

- allow only one company or person to supply a good or service;
- require producers to sell to a single company or person;
- limit the number of industry or individual producers; or
- limit the number of persons engaged in an occupation.

4.8.3 Assessment

Introducing intermediate disclosure (Option 1a), improving pre-contractual disclosure (Option 2a) and standardising contract structures (Option 3a) would not have any negative impacts on competition for the retirement villages sector.

All retirement village operators would be required to comply with the same requirements and, apart from the higher cost of implementation for Group Z retirement villages, the proposals would not advantage particular groups of retirement village over other groups. Additionally, given the relatively small upfront and ongoing costs to retirement village operators to implement the proposals, the proposals are not expected to limit the number of villages operating in the market.

Retirees have a number of accommodation options apart from remaining in their own home. These include moving to a residential care facility, a residential park or a retirement village. However, residential care facilities and residential parks are not in competition with retirement villages. This is because the definition of retirement village in Section 3 of the Retirement Villages Act excludes the provision of residential care facilities, and residential parks are not normally characterised by ingoing contributions and deferred management fees.

It is likely that the proposals may encourage competition between retirement village operators. Increasing the information available to prospective and proposed retirement village residents will enable them to more easily compare different retirement villages and make a more informed decision about retirement village living. Better informed prospective and proposed residents may encourage innovation among retirement village operators in the offers they make to attract new residents. Competition among retirement village operators is particularly important because once a person has moved into a retirement village their ability to change their accommodation is limited by the high switching costs. This is because the overall cost to a resident of moving from one retirement village to another or to alternative accommodation is high considering the exit fees, the significant time and effort involved in moving, and the emotional and social upheaval.

5 Implementation, monitoring and evaluation

Key points:

- Compliance with the proposed regulations could be assessed through an auditing process.

5.1 Implementation outline

It is proposed that the regulations be made by September 2013 and commence six months after being made, i.e. at the latest by March 2014. This would allow sufficient time for retirement village operators to prepare the information and forms for the intermediate and pre-contractual stages, and to make the requisite changes to their contracts.

5.2 Compliance monitoring

Compliance with the proposed regulations could be assessed through an auditing process. This is summarised in Table 28, which outlines the criteria that could be used to assess compliance with each of the policy proposals.

Table 28: Audit criteria for proposed regulations

Proposal	Compliance criterion
Disclosure at intermediate stage	<ul style="list-style-type: none"> Operator provides factsheet upon request from prospective retirement village resident and with any marketing material given to prospective retirement village residents. Factsheet contains all elements required by regulations. Upon request from prospective retirement village resident, operator allows him/her to inspect prescribed documents.
Improved pre-contractual disclosure	<ul style="list-style-type: none"> Proposed resident is given the expanded disclosure statement along with the other existing prescribed documents at least 21 days before signing contracts. Additional information is in accordance with the regulations.
Contract standardisation measures	<ul style="list-style-type: none"> Contracts contain the mandatory terms. Contracts address the matters that are required to be addressed. Contracts do not contain any prohibited terms. Contracts are in the prescribed layouts.

The benefits of any proposed regulations would be reduced to the extent that there was not compliance with the proposed requirements. In regulatory impact statements in which a cost-benefit comparison has been undertaken, the estimated benefits are discounted by the expected rate of non-compliance. While this Regulatory Impact Statement does not attempt to provide a cost-benefit analysis, it nevertheless includes some consideration of whether or not the expected benefits are likely to be reduced

because of full compliance with the requirements not being achieved. This could arise from a number of causes, including lack of awareness of the requirements as well as oversight and inadvertence. It is considered unlikely that any operators in this sector would intentionally breach the proposed statutory requirements.

It is anticipated that a very high level of compliance would occur in major for-profit village chains and for-profit villages that are part of larger for-profit entity. The major commercial villages constitute about 45 per cent of all villages from an ownership basis.

It is anticipated that a somewhat lower level of compliance may occur for major not-for-profit retirement village chains and retirement villages that are part of a larger not-for-profit organisation (about 23 per cent of all villages on an ownership basis). Most of these organisations also run aged care facilities and there may be significant regulatory changes happening over the period that are a result of the Commonwealth Government's response to the Productivity Commission's Inquiry into Aged Care. The not-for-profit sector would also be seeking to comply with changes arising from the establishment of the Australian Not-for-profits and Charities Commission – which are likely to compete for staff time and attention. Also prospective and proposed residents of not-for-profit retirement villages run on a subsidised basis are likely to have few alternative housing options and, therefore, be less likely to request prescribed information and documents. It is nevertheless estimated that there would be a high level of compliance with the requirements.

It is anticipated that the level of compliance may be lower again among single villages (roughly 32 per cent of all villages on an ownership basis) due to resource constraints and the fact that such villages are less likely to be engaged with a peak industry body that would alert them to regulatory changes.

Consumer Affairs Victoria may undertake investigations in response to allegations by consumers of breaches of the proposed regulations. This would be done under existing legislation (specifically the Retirement Villages Act and the *Australian Consumer Law and Fair Trading Act 2012*).

5.3 Evaluation

The potential benefits of the proposed regulations and document disclosures include:

- people who are not currently living in retirement villages and who would be better off living in a retirement village doing so;
- fewer people moving into a retirement village who would be better off not doing so; and
- people who move into retirement villages having a better understanding of their rights and obligations both prior to moving in and once a resident.

If implemented, the benefits of the proposed regulations could be assessed on the basis of whether or not they were associated with:

- a decrease in the number of retirement village disputes relative to the total population of retirement village residents;
- a change in the nature of retirement village disputes, for example, fewer disputes about exit fees; and

- increased satisfaction with retirement village living by residents, due to having chosen an appropriate and affordable village and having a better understanding of their rights and obligations both before and after becoming a resident.

6 Consultation

Key point:

- Retirement village industry bodies and resident groups and representatives have been extensively consulted during the development of the proposals and options examined in the Regulatory Impact Statement.
- The proposed regulations; proposed factsheet and disclosure statement; and this Regulatory Impact Statement will be released for a 60-day public consultation period.

6.1 Consultation on the policy development of proposals

Consumer Affairs Victoria has consulted with retirement village stakeholders through the policy development process for the proposals examined in this Regulatory Impact Statement.

In October 2011, the 'Retirement villages: contract and information disclosure options' paper was released to the public for consultation. Close to 80 submissions were received on the Options Paper and were posted on the Consumer Affairs Victoria website, except where confidentiality had been requested by the submitter.

In February 2012, Consumer Affairs Victoria held a targeted consultation workshop with industry and resident representatives. The consultation noted the proposals where there was agreement or consensus and focused on the proposals where there was no consensus in the submissions. These issues were:

- disclosure at the intermediate stage;
- inclusion of estimates of exit entitlements in the expanded pre-contractual disclosure statement; and
- standard contract layouts.

The papers for the workshop were posted on Consumer Affairs Victoria's website.

In April 2012, Consumer Affairs Victoria published on its website a paper setting out, among other proposed recommendations to the Government for regulations to implement its retirement village commitments, a recommendation for revised two-stage disclosure, together with recommendations for the content of the factsheet and the documents to be made available for inspection.

Consumer Affairs Victoria also sent this document to stakeholders, including industry bodies.

In July 2012, Consumer Affairs Victoria conducted a workshop for retirement village lawyers (private practitioners and in-house counsel) to test the feasibility of the proposed standard contract layouts. It separately consulted with these lawyers on the estimated costs of implementing new contracts with the standard layouts.

In September 2012, Consumer Affairs Victoria reposted its paper, with revisions to some of its recommendations arising from a submission from the Retirement Living Council of the Property Council of Australia, including to the items proposed for inclusion in the

factsheet and the documents proposed for inspection. The revised paper was also sent to stakeholders.

The Retirement Villages Amendment (Information Disclosure) Act, which provides for intermediate stage disclosure and the authority for the proposed regulations implementing such disclosure, received Royal Assent on 13 February 2013.

6.2 Consultation on the proposed regulatory measures

The proposed regulations; factsheet and disclosure statement, along with this Regulatory Impact Statement, will be released for public consultation for a sixty-day period.

While the *Subordinate Legislation Act 1994* requires a minimum 28-day public consultation period, where feasible the 'Victoria Guide to Regulation' recommends best practice to be a 60-day public consultation period. As the proposed regulations are to be made, at the latest, by September 2013, there is sufficient time for a 60-day consultation period.

In line with previous consultation arrangements during the policy development process, the proposed regulations, documents and Regulatory Impact Statement will be published on the Consumer Affairs Victoria website, and circulated to industry bodies, resident groups and other interested stakeholders for comment. These include:

- Law Institute of Victoria;
- Retirement Living Council of Property Council of Australia;
- Leading Age Services Australia – Victoria;
- Residents of Retirement Villages Victoria;
- Housing for the Aged Action Group;
- Council on the Ageing;
- Consumer Action Law Centre;
- Aveo LiveWell;
- Australian Unity;
- Becton;
- Stockland;
- Lend Lease;
- PrimeLife;
- Retirement Communities Australia;
- Madgwicks Lawyers;
- Gauld & Co Lawyers;
- Minter Ellison Lawyers;
- Russell Kennedy Lawyers;
- Gadens Lawyers;
- Herbert Geer Lawyers; and
- Jansen Walsh & Grace Lawyers.

Additionally, a letter will be sent to the operator of each retirement village registered with Consumer Affairs Victoria advising of the availability for consultation of this Regulatory Impact Statement and the proposed regulations on the Consumer Affairs Victoria website.

Appendix A: Interstate retirement village legislation

Table A-1: List of interstate legislation

Jurisdiction	Legislation
Australian Capital Territory	<ul style="list-style-type: none"> ▪ Retirement Villages Act 2012 ▪ Retirement Villages Regulations 2013
New South Wales	<ul style="list-style-type: none"> ▪ Retirement Villages Act 1999 ▪ Retirement Villages Regulations 2009
Northern Territory	<ul style="list-style-type: none"> ▪ Retirement Villages Act 1995 ▪ Retirement Villages Regulations ▪ Retirement Villages Code of Practice
Queensland	<ul style="list-style-type: none"> ▪ Retirement Villages Act 1999 ▪ Retirement Villages Regulations 2010
South Australia	<ul style="list-style-type: none"> ▪ Retirement Villages Act 1987 ▪ Retirement Villages Regulations 2006
Tasmania	<ul style="list-style-type: none"> ▪ Retirement Villages Act 2004 ▪ Retirement Villages Regulations 2005
Victoria	<ul style="list-style-type: none"> ▪ Retirement Villages Act 1986 ▪ Retirement Villages (Records and Notices) Regulations 2005 ▪ Retirement Villages (Contractual Arrangements) Regulations 2006
Western Australia	<ul style="list-style-type: none"> ▪ Retirement Villages Act 1992 ▪ Retirement Villages Regulations 1992 ▪ Fair Trading (Retirement Villages Interim Code) Regulations 2013

Table A-2: Summary of information disclosure requirements

Jurisdiction	Disclosure at the intermediate and pre-contract stages
Australian Capital Territory	<p>The operation of a retirement village must give a general inquiry document to a prospective retirement village resident within 14 days of a request or an expression of interest in the village. A general inquiry document must include a brief explanation of the residential premises, services and facilities of the retirement village.</p> <p>The operator of a retirement village must give a disclosure statement to a prospective retirement village resident within 14 days of a request or an expression of interest in a particular unit in a village.</p> <p>The disclosure statement must:</p> <ul style="list-style-type: none"> ▪ provide particular of the residential premises in the village, including fees and charges payable in relation to the premises; ▪ the proximity of the village to services, for example, hospitals,

Jurisdiction	Disclosure at the intermediate and pre-contract stages
	<p>shopping centres and public transport;</p> <ul style="list-style-type: none"> ▪ information about whether the operator operates a residential aged care facility; ▪ details about the ownership of the village, including whether a resident can own residential premises in the village; ▪ information about the management of the village; ▪ whether the village has a residents’ committee and, if so, information about the committee; ▪ information about the financial management of the village, including details about the village’s income and expenditure; ▪ information about the village’s safety, including information about its security and emergency systems; ▪ the extent to which the operator has complied with legislation applying to the village, ▪ the village contracts the prospective resident will need to enter into to become a resident; ▪ the village rules; ▪ the facilities available to residents; ▪ the services provided by the operator; ▪ the costs associated with entering into a residence contract with the operator; ▪ information about any waiting list for the village and any waiting list fee payable; and ▪ a statement to the effect that, to the best of the operator’s knowledge, the information in the disclosure statement is true. <p>A disclosure statement must be signed and dated by an operator. An operator must not enter into a retirement village contract less than 14 days after giving a prospective a disclosure statement.</p> <p>The general inquiry document and the disclosure statement may be in an approved form.</p>
New South Wales	<p>An operator must give a prospective resident a general inquiry document within 14 days of becoming aware that the person is a prospective resident. The document is required to give a basic explanation of the residential premises, services and facilities available in the village and be in the prescribed form and contain the prescribed information.</p> <p>Within 14 days of receiving a request or expression of interest in a particular premises from a prospective resident, the operator must provide a disclosure statement.</p> <p>A statement must provide information about:</p> <ul style="list-style-type: none"> ▪ the village location, size, and services; ▪ existence (or not) of residential care facilities; ▪ village ownership and management; ▪ financial management; ▪ security and safety; ▪ residential input; ▪ compliance with legislation;

Jurisdiction	Disclosure at the intermediate and pre-contract stages
	<ul style="list-style-type: none"> ▪ vacancies; ▪ contracts which a resident will have to enter into; ▪ entry costs; ▪ recurrent charges; ▪ strata contributions where applicable; ▪ financial issues relating to leaving the village (departure fees payable, refundable ingoing contribution); and ▪ how capital gains or losses are handled; whether there is a residents committee; and a condition report. <p>A copy of the disclosure statement must be attached to the first village contract that the prospective resident enters into with the operator. The operator must not enter into a village contract with a person earlier than 14 days after the operator has given the person a disclosure statement.</p> <p>At or before the time of giving the disclosure statement, the operator must provide a prospective resident with:</p> <ul style="list-style-type: none"> ▪ general information about the retirement village industry; and ▪ general information about living in a strata scheme (if relevant).
Northern Territory	<p>The Management of a retirement village must make the following information available, in writing, to a prospective resident of the retirement village before the prospective resident enters into any contract relating to the village:</p> <ul style="list-style-type: none"> ▪ a list of all costs payable by the prospective resident to enter the village; ▪ a list of all recurrent charges, fees or management fees payable by a resident and a clear statement of the method to be used to calculate any variation. In respect of the fees, the management of a village must state exactly what services the fees cover including personal care or unit title management under delegation from a body corporate; ▪ a clear outline of the method used to calculate the aggregate levies and whether different formulae apply to different services, items or entitlements (e.g. statutory charges, insurances, personal care costs, on site management etc.); ▪ a clear statement of the nature and fee structure of all personal care services. Any care agreements negotiated after occupancy of a retirement village should also specify what care services are covered and by what fees. ▪ a list of any additional or optional services provided and their cost; ▪ where a village offers a range of accommodation (e.g. self-care and hostel units), details of the costs associated with moving to and living in the alternative accommodation; ▪ a detailed budget, including any provision for future maintenance for the village, for the current financial year if the village is already operating or the projected budget if it is under construction and, if any such budget extends to things other than the village, then adequate details must be provided; ▪ a copy of written answers to the prescribed questions; ▪ a copy of a prescribed checklist;

Jurisdiction	Disclosure at the intermediate and pre-contract stages
	<ul style="list-style-type: none"> ▪ a copy of the village rules (including any by-laws of the body corporate under the Unit Titles Act or Unit Title Schemes Act); and ▪ a clear explanation of the refund entitlement, if any, to a resident, if the resident or management terminates the resident's contract. It must include any fees or commissions charged by management on termination of a contract and detail the method used to make such determinations. This is also to enable a prospective resident to determine the final return due after say one, two, five and 10 years, thereby allowing a meaningful comparison between the financial packages offered by different retirement villages.
Queensland	<p>A prospective resident must be given a public information document in the approved form before entering into a residence contract. It must:</p> <ul style="list-style-type: none"> ▪ have attached a copy of the registration certificate for the retirement village scheme and relate to only one retirement village; ▪ state the day it was given to the Chief Executive; ▪ state any age limits that apply to the retirement village scheme; and ▪ make provision for the following information: <ul style="list-style-type: none"> ▪ accommodation types; ▪ information about payments the scheme operator must make to residents (i.e. exit entitlement) mandatory funds (i.e. capital replacement and maintenance reserve funds); ▪ village facilities; ▪ village land; ▪ residents' rights and obligations; ▪ the re-sale process (including exit entitlement and continuing liability for contributions); and ▪ the dispute resolution process.
South Australia	<p>Before entering a residence contract, the administering authority of a retirement village must give a prospective resident:</p> <ul style="list-style-type: none"> ▪ a copy of the residence contract; ▪ any financial statements presented at the last annual general meeting of residents, including a written statement of any subsequent changes in the affairs of the village and the administering authority that may significantly influence the prospective resident's decision to enter the village; ▪ a premises condition report, including details about who will be responsible for replacing or repairing an item, when replacement or repair is to be done, and how replacement or repair is to be funded; ▪ the residence rules; ▪ the re-marketing policy of the administering authority; ▪ the administering authority's code of conduct; ▪ the administering authority's dispute resolution policies and procedures; and ▪ any other prescribed document (no other documents are currently prescribed). <p>Residents cannot be charged for the provision of this information.</p>

Jurisdiction	Disclosure at the intermediate and pre-contract stages
Western Australia	<p>At least five working days before a prospective resident enters into a residence contract, the owner must give the prospective resident:</p> <ul style="list-style-type: none"> ▪ a copy of every contract (and costs associated with those contracts) they will be required to enter into; ▪ a notice that informs you about your rights, including the necessity for residence contracts to be in writing and that a cooling-off period applies; ▪ an information statement completed and signed by the owner, which gives information about the village including: <ul style="list-style-type: none"> ▪ the premium and refund entitlements, including the final return after one, two, five and 10 years; ▪ recurrent charges; ▪ budget information; ▪ capital maintenance and improvements; ▪ facilities and services; ▪ insurance; ▪ village management; ▪ resident consultation; ▪ use of premises; ▪ construction; ▪ reinstatement and refurbishment; ▪ restrictions on the sale of premises; ▪ termination; ▪ and other matters; and ▪ a Notice of Rights setting out the information the prospective resident is entitled to receive, including information about the cooling-off period; ▪ a copy of the residence rules of the village, which may include limitations on visitors, pets, use of common areas and amenities, parking or gardening; ▪ a copy of any applicable code; ▪ financial information about the village, depending on whether the village is operating or under construction; ▪ information about the costs and process of terminating the provision of services; ▪ a checklist; and ▪ a copy of the by-laws of the relevant strata company and an authority to inspect any record or document held by the strata company, if the village is strata titled. <p>The information statement cannot contain information that is inconsistent with a representation made by the owner to the resident.</p>
Tasmania	<p>Before a person enters into a residence contract, the operator must give to that person:</p> <ul style="list-style-type: none"> ▪ a copy of the proposed residence contract in a form ready for execution; ▪ a notice of the person's rights under the Act; ▪ a copy of the village rules;

Jurisdiction	Disclosure at the intermediate and pre-contract stages
	<ul style="list-style-type: none"> ▪ a checklist setting out general information, legal Implications, financial matters, building and construction details, health and welfare and activities and amenities; ▪ a copy of the accounts and estimates presented at the last annual general meeting of residents and tenants, including a written statement of any subsequent change in the affairs of the retirement village and the operator that may significantly affect the person's decision to occupy residential premises in the retirement village; and ▪ any other prescribed documents (no other documents are currently prescribed).

Table A-3: Summary of document inspection requirements

Jurisdiction	Inspection of documents by prospective residents
<p>Australian Capital Territory</p>	<p>The operator of a retirement village must make available at the village or a place of business in the Australian Capital Territory, for inspection at all reasonable times by a prospective resident, copies of the following:</p> <ul style="list-style-type: none"> ▪ a site plan for the village; ▪ plans showing the location, floor plan and significant dimensions of residential premises available in the village; ▪ the proposed annual budgets (if any) and the approved annual budgets for each of the last three financial year, or the current financial year and the next financial year (if budgets in relation to that year are available); ▪ the accounts for the village, audited if required under the Act (annual accounts) for the last three financial years (excluding during the first four months of a financial year, the immediately preceding financial year if the accounts for that year are not available); ▪ examples of all village contracts that an incoming resident may be required to enter into; ▪ the trust deed for any trust fund into which money paid by the residents is deposited; ▪ the village rules; ▪ the terms of the development approval, if any, for the village if construction of the village is not complete; or it is a condition of the development approval that a particular service or facility be provided for the life of the village; ▪ if there is a capital works fund established for the village, statements of the balance in the fund as at the end of each of the last three financial years of the village and the most recent quarter; ▪ if the operator is required to provide the residents with quarterly accounts, the most recent quarterly accounts of the income and expenditure of the village; ▪ decisions or order made court or tribunal made within the last five years; ▪ waiting list policy; ▪ if subject to a company title scheme, its constitution or its replaceable rules, as applicable;

Jurisdiction	Inspection of documents by prospective residents
	<ul style="list-style-type: none"> ▪ if the subject to a community title scheme, the management statement, the management agreement for any relevant community association, neighbourhood association or precinct association and the minutes of any recent annual general meeting; ▪ if subject to a units plan, the owners corporation rules for the plan, the management agreement (if any) for the owners corporation, and the minutes of the most recent annual general meeting of the owners corporation; and ▪ other document specified in the disclosure statement. <p>Documents may be posted or otherwise given to the person. A village operator is prohibited from charging for the provision of a document. The operator must post or otherwise give a copy of the document to the prospective resident within seven days after the prospective resident asks for it.</p>
New South Wales	<p>The operator of a retirement village must have available at the village or at a place of business in New South Wales for inspection at all reasonable times by a prospective resident or a person acting on behalf of a prospective resident, copies of the following:</p> <ul style="list-style-type: none"> ▪ a site plan for the village; ▪ plans showing the location, floor plan and significant dimensions of residential premises available in the village; ▪ the proposed annual budgets (if any) and the approved annual budgets for each of the last three financial years of the village, the current financial year, and the next financial year; ▪ the accounts for the village, audited for the last three financial years (excluding during the first four months of a financial year, the immediately preceding financial year if the accounts for that year are not available); ▪ examples of all village contracts that an incoming resident may be required to enter into; ▪ the trust deed for any trust fund into which money paid by the residents is deposited; ▪ the village rules; ▪ the terms of the development consent, if any, for the village, but only if construction of the village is not complete, or it is a condition of the development consent that a particular service or facility be provided for the life of the village; ▪ if there is a capital works fund established for the village, statements of the balance in the fund as at the end of each of the last three financial years of the village, and the most recent quarter; ▪ if the operator is required to provide the residents with quarterly accounts, the most recent quarterly accounts of the income and expenditure of the village; ▪ any decisions of a court or tribunal for the preceding five years; ▪ the policy which guides the operation of any existing waiting list and accompanying fee; ▪ if the retirement village is subject to a company title scheme, the company's constitution and replaceable rules;

Jurisdiction	Inspection of documents by prospective residents
	<ul style="list-style-type: none"> ▪ if the retirement village is subject to a community land scheme, the management statement, any management agreement and minutes of the most recent annual general meeting; and ▪ if the retirement village is subject to a strata scheme, the by-laws any management agreement and minutes of the most recent Annual General Meeting. <p>All of the above documents must be given to a prospective resident who requests it. The operator must give or send the document no later than seven days after receiving the request.</p>
Northern Territory	No Relevant provisions.
Queensland	No relevant provisions.
South Australia	No relevant provisions.
Tasmania	No Relevant provisions.
Western Australia	No relevant provisions.

Table A-4: Summary of contractual requirements

Jurisdiction	Contractual matters
Australian Capital Territory	<p>Information to be included in village contract:</p> <ul style="list-style-type: none"> ▪ the name of the retirement village to which the contract relates; ▪ the address in the village of the resident’s residential premises; ▪ the full names of the parties to the contract; ▪ the signatures of the parties to the contract; ▪ the name and address of an operator of the village who is not a party to the contract; ▪ the name and address of the resident’s agent (if any) appointed under the Act ▪ the date the disclosure statement and the information under the Act was given to the owner or a person acting on their behalf, ▪ the date the contract is made; ▪ if the operator is the other party to the contract – <ul style="list-style-type: none"> ▪ the name and address of the operator’s agent (if any); ▪ the date the copy of the contract was given to the resident (or a person acting on the resident’s behalf); ▪ the amount of any ingoing contribution payable by the resident and the date by when it must be paid; ▪ the amount of recurrent charges payable by the resident as at the date the contract is drafted,; ▪ date from which those charges become payable; and

Jurisdiction	Contractual matters
	<ul style="list-style-type: none"> ▪ the date agreed as the date the resident is entitled to occupy the premises (subject to completion of construction, and not precluding an earlier date if an earlier date is later agreed between the operator and the resident); ▪ a provision reflecting the Act; and ▪ if a residence contract entitles the resident to the use of a garage, parking space or storeroom, details of the garage parking space or storeroom. <p>Headings and additional matter to be included in village contracts:</p> <ul style="list-style-type: none"> ▪ cooling-off period; ▪ retirement village legislation; ▪ ingoing contribution; ▪ recurrent charges; ▪ services and facilities; ▪ fixtures, fittings and furnishings; ▪ repairs and maintenance; ▪ alterations and additions; ▪ operator’s access to premises; ▪ village rules; ▪ dispute resolution; ▪ changes in operator; ▪ ending the contract; ▪ transfers; ▪ departure fees; ▪ capital gain or loss; ▪ refund of payment to resident; ▪ changes to this contract; and ▪ annexures. <p>Matters to be excluded from village contracts:</p> <ul style="list-style-type: none"> ▪ dispute resolution; ▪ wills; ▪ insurance; ▪ legal, accounting and other expenses; ▪ absences; ▪ penalty terms; ▪ exclusions; ▪ recurrent charges; ▪ disclaimers; and ▪ entire agreement clauses.
New South Wales	<p>The residence contract must include:</p> <ul style="list-style-type: none"> ▪ the name of the village and the resident’s address; ▪ signatures of all the parties; ▪ information about the parties to the contract; ▪ the date on which a copy of the contract was given to the resident; and ▪ details of any garage, parking space or storeroom (if relevant).

Jurisdiction	Contractual matters
	<p>The contract must include certain information under the following headings:</p> <ul style="list-style-type: none"> ▪ cooling-off period; ▪ retirement village legislation; ▪ ingoing contribution; ▪ recurrent charges; ▪ services and facilities; ▪ fixtures, fittings and furnishings; ▪ repairs and maintenance; ▪ alternations and conditions; ▪ operator’s access to premises; ▪ village rules; ▪ dispute resolution; ▪ changes in operator; ▪ termination of contract; ▪ transfers; ▪ departure fees; ▪ capital gain or loss; ▪ refund of payment to resident; and ▪ changes to the contract. <p>The contract must have the following documents annexed: a copy of the disclosure statement; a copy of the current village rules; and a copy of the condition report (if relevant).</p> <p>Certain matters are to be excluded from village contracts in the following areas: dispute resolution; wills; insurance; legal; accounting and other expenses; absences: penalty terms; exclusions; recurrent charges; disclaimers; and entire agreement clauses.</p>
Northern Territory	<p>Management must ensure that the residence contract contains a full disclosure of the legal basis of occupancy and the type and length of tenure secured in return for the payment for entry.</p> <p>The residence contract documents must:</p> <ul style="list-style-type: none"> ▪ include or be accompanied by plans that show the location, floor plan and significant internal dimensions of the accommodation. They must also include plans showing the location, floor areas and other features or any separate carport, garage, storage areas or other area allocated to the resident; ▪ contain all details necessary to provide a resident with an understanding of what his or her recurrent charges will be, the method of determining a charge, when they must be paid and what will be provided in exchange, for these charges. Recurrent charges for the current financial year of any such contract and the basis for their future determination must be set out in the contract; ▪ draw the residents attention to the existence of this Code and the Act. It must refer to the rights of residents to have disputes heard by the retirement village's disputes committee and the limited rights to go to

Jurisdiction	Contractual matters
	<p>the relevant court. The contract must also refer to the provisions of the Code relating to the involvement of residents in management;</p> <ul style="list-style-type: none"> ▪ contain a statement of the management's rights to terminate the contract and a statement that the termination has no effect unless it is confirmed by the relevant court; ▪ fully disclose all of the terms, conditions and other arrangements which will apply in relation to a resident's occupation of the village; and ▪ detail all services and facilities that are to be provided by the management. <p>In the situation where a resident will not own a retirement unit, contracts must state whether the Registrar-General has noted on the Register that the land comprising the retirement village is to be used for that purpose</p>
Queensland	<p>The public information document for each resident is taken to form part of the resident's contract. If any part of the public information document is inconsistent with the contract, the provision that is more beneficial to the resident prevails.</p> <p>The contract must include details about:</p> <ul style="list-style-type: none"> ▪ the right to rescind the contract before the cooling-off period ends; ▪ if the cooling-off period starts on the day the residence contract is signed, the date the cooling-off period ends; ▪ if the cooling-off period starts on the day a later event happens or another contract is entered into, the later event or other contract; ▪ the ingoing contribution payable under the Act; ▪ the exit fee payable under the contract; ▪ the resident's exit entitlement; ▪ the service charges; ▪ the amounts payable, and when the amounts are payable by the resident for the maintenance reserve fund for the retirement village; ▪ the insurance for the retirement village, and the insurance for which the resident is responsible; ▪ all conditions precedent to the resident's right to rescind; ▪ the resident's right to resell the right to live in an accommodation unit; ▪ the resident's entitlement to audited and unaudited financial statements of the village; ▪ the dispute resolution process under the Act; ▪ the statutory charge, if relevant, to the accommodation unit; ▪ the resident and operator's rights to terminate the contract; ▪ the name of the scheme and of the scheme's operator and the scheme operator's address for service of documents; ▪ the name and address of the trustee who holds the ingoing amount during the cooling-off period; ▪ how the resident may rescind the residence contract under the Act by giving written notice to the scheme operator; ▪ the services to be supplied to the resident, including services funded by the general services charge, services funded by the personal services charge, and any services available free-of-charge; and

Jurisdiction	Contractual matters
	<ul style="list-style-type: none"> ▪ if the trustee must hold the ingoing contribution until a day when the condition precedent is fulfilled.
<p>South Australia</p>	<p>The residence contract must include:</p> <ul style="list-style-type: none"> ▪ a statement on the resident’s right to cool-off; ▪ details about the residence; ▪ the right to occupation of the residence; ▪ recurrent charges; ▪ additional services and facilities and their costs; ▪ the right to terminate occupation and receive a refund of the premium paid; ▪ the dispute resolution processes; ▪ a statement in bold black type that the prospective resident should seek independent legal advice and has a 15 business days cooling-off period; ▪ definitions of words and phrases used in the contract; ▪ details of any exemptions from the Act; ▪ the names and addresses of the parties, and any limitations on who may become a party; ▪ the date of the contract; ▪ the name and location of the village; ▪ details of the certificates of title; ▪ the form of tenure that will apply and the terms and conditions; ▪ details about features, facilities and services; ▪ plans of the residence and village; ▪ financial information, including the terms of and conditions of the premium and recurrent charges; ▪ terms and conditions of the premium and how to calculate the refund, including any deductions that may be taken from the refund; ▪ details about the settling-in period; ▪ information about any development of the village that is being undertaken or is planned; ▪ information about the trustee; ▪ dispute resolution procedures; ▪ the actions needed to terminate the contract; and ▪ a statement to seek legal advice about rights and duties under the contract. <p>As far as possible, the contract must be plainly expressed in gender neutral language, in at least size-12 font, and be set out clearly with appropriate headings and numbered clauses.</p>
<p>Tasmania</p>	<p>Prescribed layout and terms for resident contract.</p> <ul style="list-style-type: none"> ▪ name of parties; ▪ name and address of the retirement village; ▪ description of accommodation; ▪ type of occupation; ▪ ingoing contribution; ▪ fees and charges; ▪ facilities and services;

Jurisdiction	Contractual matters
	<ul style="list-style-type: none"> ▪ liability for personal services; ▪ communal facilities; ▪ termination of residence rights; ▪ other accommodation; ▪ disputes; ▪ trustees; and ▪ requirement for independent advice.
Western Australia	<p>A residence contract and any service contract must:</p> <ul style="list-style-type: none"> ▪ be printed in clear, concise and plain language; ▪ be in at least size-12 font; ▪ include a prescribed statement in size-16 font that the purchaser has been given a copy of the contract and had the opportunity to take independent legal advice on the contract; ▪ a prescribed statement about the cooling-off period; ▪ set out the title and tenure; ▪ describe the residential premises, its specific address, the fixtures, fittings and furnishings in the premises; ▪ describe the facilities allocated to the resident; ▪ include a map of the communal property of the village; ▪ describe the amenities, services and costs thereof to be provided to the resident; ▪ include the premium payable and the refund entitlement, including the method of calculating the refund and any costs that may be deducted from the refund; ▪ include the method of calculating the exit entitlement; ▪ include the village operating costs; ▪ include the reserve fund established for the village; ▪ include the circumstances under which the resident can transfer or relocate; ▪ include termination of the residence contract and fees payable on termination; ▪ draw attention to the Code of Fair Practice for Retirement Villages and the Act; and ▪ include the dispute resolution process.

Appendix B: Impact of conjugal bereavement on decision-making

In 1967, Thomas Holmes and Richard Rahe published the Social Readjustment Rating Scale (SRRS)⁵¹, known more commonly as the Holmes and Rahe Stress Scale.

Their scale is a list of 43 stressful life events that can contribute to illness. In their scale, the number of 'Life Change Units' that apply to events in the past year of an individual's life are added and the final score is taken to give a rough estimate of how stress affects health.

The scale assigns a very high weighting to the event 'death of spouse', which is ranked first on the scale. In their scale, someone who experiences the death of their spouse is expected to suffer about as much stress as someone who is dismissed from their job and imprisoned or injured in the same time period. Support for the impact of conjugal bereavement has been provided by extensive literature reviews on the effects of bereavement on morbidity and mortality, the effects of which have been widely studied⁵². There is also evidence indicating that widowed individuals show impaired psychological and social functioning, including depression.

While the intended purpose of the Holmes and Rahe Stress Scale is the prediction of near-future health impacts from an individual's preceding life changes, the life events on the scale can also be used as a predictor of impairment of cognitive performance⁵³.

Literature reviews of stress and human performance research have concluded that stress has negative effects on:

- perceptual-motor performance;
- attention control;
- memory; and
- reasoning, judgment and decision-making⁵⁴.

Women more often outlive their partners. Gender roles and social norms about the economic dependence of women are changing rapidly, but elderly couples are more likely than other couples to have lived their lives according to more traditional mores. Many women who are prospective residents of a retirement village following the death of their husband may, therefore, also be at a disadvantage if they are inexperienced or inexpert in financial matters. Such persons may be in the dually disadvantaged position of suffering stress because of the death of spouse and having a lack of financial expertise.

⁵¹ Holmes TH, Rahe RH, 'The Social Readjustment Rating Scale', *Journal of Psychosomatic Research* 11 (2): pages 213–8.

⁵² Schwarzer R &, Schulz U, Freie Universität Berlin. 'The Role of Stressful Life Events', 2001, page 17 to 18.

⁵³ Cognition refers to mental processes used for perceiving, remembering, and thinking.

⁵⁴ Including Kavanagh J, 'Stress and performance: A review of the literature and its applicability to the military', RAND Corporation, Technical Report 192. (Santa Monica, CA), 2005; and Staal M, 'Stress, cognition, and human performance: A literature review and conceptual framework'. Ames Research Centre, NASA/ TM—2004—212824. (Moffett Field, CA), 2004.

Appendix C: Proposed Retirement Villages Amendment (Records and Notices) Regulations 2013

Retirement Villages Amendment (Records and Notices) Regulations 2013

S.R. No. XXX/2013

1 Objective

The objective of these Regulations is to amend the Retirement Villages (Records and Notices) Regulations 2005 to—

- (a) prescribe the information that must be contained in the factsheet referred to in section 18A of the Act; and
- (b) prescribe the documents that must be made available for inspection under section 18B(1) of the Act; and
- (c) prescribe other matters that must be included in a disclosure statement; and
- (d) revoke the provisions relating to residence documents.

2 Authorising provision

These Regulations are made under section 43 of the **Retirement Villages Act 1986**.

3 Commencement provision

These Regulations come into operation on [*insert date of commencement*].

4 Principal Regulations

In these Regulations, the Retirement Villages (Records and Notices) Regulations 2005 are called the Principal Regulations.

5 Amendment of objectives of Principal Regulations

- (1) In section 1(d) of the Principal Regulations **omit** "and forms".
- (2) For section 1(e) of the Principal Regulations **substitute**—
 - "(e) to prescribe the documents relating to a retirement village that a retired person, or a person acting on behalf of a retired person, may request to inspect; and
 - (f) to prescribe other matters that must be included in a disclosure statement."

6 Regulation 9 substituted

For regulation 9 of the Principal Regulations **substitute**—

"9 Other matters for inclusion in disclosure statement

For the purpose of paragraph (e) of the definition of *disclosure statement* in section 3(1) of the Act, the following are the other matters that must be included in a disclosure statement—

- (a) a short statement setting out the purpose of the disclosure statement;

- (b) a statement that the disclosure statement is required to be given under the Act;
- (c) a statement of the importance of seeking advice from an independent financial or legal adviser;
- (d) details of the costs payable by the resident on entry to the retirement village;
- (e) details of the ongoing costs payable by the resident as at the date the resident enters the retirement village;
- (f) details of the liabilities of the resident on permanent departure from the retirement village;
- (g) details of the entitlements of the resident on permanent departure from the retirement village; and
- (h) details of the estimated departure entitlements payable to the resident if the resident permanently departed the retirement village after 1, 2, 5 and 10 years residence."

7 Regulation 10 substituted

For regulation 10 of the Principal Regulations **substitute—**

"10 Factsheet

For the purposes of section 18A(5)(b) of the Act, the information that must be contained in a factsheet is set out in Part B of Schedule 2."

8 Regulation 11 substituted

For regulation 11 of the Principal Regulations **substitute—**

"11 Documents to be made available for inspection

For the purposes of section 18B(1) of the Act, the documents relating to a retirement village that a retired person, or a person acting on behalf of a retired person, may request to inspect are the following—

- (a) the site plan of the retirement village;
- (b) plans of any premises under construction within the retirement village;
- (c) planning permissions for further development of the retirement village;
- (d) statements required to be prepared under section 34 of the Act for the current and the next financial year of the retirement village;
- (e) if the retirement village has a capital works, capital replacement or maintenance fund—statements of the balances at the end of the previous three financial years of the village;
- (f) examples of contracts that prospective residents may be required to enter into;
- (g) the dispute resolution documents required under sections 38E and 38F of the Act."

9 **Part B of Schedule 2 substituted**

For Part B of Schedule 2 to the Principal Regulations **substitute—**

"PART B

Regulation 10

Information required for factsheet

1. The name of the retirement village.
2. A statement setting out the following matters:
 - (a) when the factsheet must be provided;
 - (b) the desirability of obtaining independent advice about the contracts that will have to be entered into;
 - (c) the desirability of understanding the financial commitment involved in entering, living in and leaving the retirement village;
 - (d) the desirability of considering what questions should be asked of the retirement village manager before a contract is entered into; and
 - (e) the desirability of considering whether retirement village living is appropriate.
3. The address of retirement village.
4. The name and address of the owner of the land on which the retirement village and its facilities are located.
5. The year construction started on the retirement village.
6. The name, ABN, address and telephone number of the current manager and the date of commencement.
7. Whether there is an onsite representative of the manager available for residents and, if so, the days and times available.
8. The nature of resident tenure in the retirement village.
9. The number and size of residential premises in the retirement village.
10. Details of garage and car parking spaces in the retirement village.
11. Whether planning permission has been granted for further development of the retirement village.
12. The facilities available at the retirement village, their cost and any restrictions on their availability.
13. Whether the retirement village has an onsite or attached residential or aged care facility and if so, a statement setting out that entry is dependent on an aged care assessment in accordance with the Aged Care Act 1997 (Cth) and that the owner or manager cannot keep places aside for residents.
14. The services provided by the owner or manager to residents from the recurrent charges paid by residents.

15. Any optional services that are provided or made available to residents on a user-pays basis.
16. Whether the resident is required to pay a refundable amount to enter the retirement village and, if so, the amount or range and when it, or any other exit entitlement, is to be refunded or paid.
17. Whether a departure fee is deducted from the refundable amount or exit entitlement and, if so, how the fee is calculated.
18. Details of other amounts payable by the resident on permanent departure from the retirement village.
19. Whether the resident is required to pay a non-refundable amount to enter the retirement village and, if so, the amount.
20. The estimated resale price ranges for all classes of units in the retirement village (on a reinstated or renovated basis) as at the date stated.
21. The current rates of ongoing charges for all classes of units in the retirement village and how often they must be paid.
22. For owner residents, the current amount or range of owners corporation fees and how often they must be paid.
23. Whether the resident shares in any capital gain or loss on the resale of their unit and, if so, how the share is calculated.
24. Whether and to what extent the resident is responsible for renovation or reinstatement of their unit on departure.
25. The insurance that the owner or manager and the resident are responsible for arranging.
26. The financial year of the retirement village.
27. The surplus or deficit for the retirement village at the end of the last financial year or for the last quarter if that is the only available figure.
28. Whether the retirement village has a fund for long-term maintenance or capital replacement and, if so, the balance at the end of the last financial year.
29. The financial year for any owners corporation in the retirement village.
30. The surplus or deficit of the owners corporation at the end of the last financial year or for the last quarter if that is the only available figure.
31. Whether the owners corporation has a plan for long-term maintenance or capital replacement.

32. Whether the owners corporation has a long-term maintenance fund and, if so, the balance at the end of the last financial year or for the last quarter if that is the only available figure.
33. Details of any security system or emergency system for the retirement village.
34. Whether residents can keep pets, including any restrictions.
35. Details of any restrictions on residents' and visitors' car parking.
36. Whether the retirement village is accredited by a recognised industry organisation.
37. Whether the retirement village has a residents committee established under the Act.
38. Whether the retirement village has a waiting list and, if so, whether there is any fee and, if so, whether it is refundable on entry.
39. A reference to retirement village information on the website of Consumer Affairs Victoria.
40. A statement of the documents that can be inspected free of charge under section 18B of the Act and regulation 11 of these Regulations.
41. A statement of the correctness of the information in the factsheet as at the date provided.

_____".

11 Part C of Schedule 2 revoked

Part C of Schedule 2 to the Principal Regulations is **revoked**.

Appendix D: Proposed factsheet

INSERT VILLAGE LOGO HERE

Retirement Village Factsheet

Under the **Retirement Villages Act 1986**, all retirement villages operating in Victoria must provide this factsheet to a retiree (or person acting on their behalf) within seven days of a request, and to include it in any marketing material provided to a retiree (or person acting on their behalf).

Make sure you read and understand each section of this document before you sign a contract to live in this village.

Consumer Affairs Victoria suggests that before you decide whether to live in a retirement village, you should:

- Seek independent advice about the retirement village contract – there are different types of contract and they can be complex
- Find out the financial commitments involved – in particular, you should understand and consider entry costs, ongoing charges and financial liabilities after you leave the village (covered in sections 9 and 10 of this document)
- Consider what questions to ask the village manager before signing a contract
- Consider whether retirement village living provides the lifestyle that is right for you.

For further details on retirement village living and to download this form visit Consumer Affairs Victoria at consumer.vic.gov.au/retirementvillages

1. LOCATION	
1.1 Address of retirement village	
2. OWNERSHIP	
2.1 The land on which the retirement village and its facilities are located is owned by	[name of company/organisation] [address]
2.2 Year construction started	
3. MANAGEMENT	
3.1 The company or organisation that manages the retirement village is	
ABN	
Address	
Telephone number	
Date company or organisation became manager	
3.2 Is there an onsite representative of the manager available for residents?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, that person is available from am to pm on the following days	<input type="checkbox"/> Mon <input type="checkbox"/> Tue <input type="checkbox"/> Wed <input type="checkbox"/> Thu <input type="checkbox"/> Fri <input type="checkbox"/> Sat <input type="checkbox"/> Sun

For further details on retirement village living and to download this form visit Consumer Affairs Victoria at consumer.vic.gov.au/retirementvillages

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4. NATURE OF OWNERSHIP/TENURE													
Resident ownership or tenure of the units in the village is	<input type="checkbox"/> strata title (owner resident) <input type="checkbox"/> lease (non-owner resident) <input type="checkbox"/> licence (non-owner resident) <input type="checkbox"/> share in company title entity (non-owner resident) <input type="checkbox"/> unit in unit trust (non-owner resident) <input type="checkbox"/> other (<i>specify</i>):												
5. NUMBER AND SIZE OF RESIDENTIAL OPTIONS													
5.1 The village is made up of	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"></td> <td style="text-align: right;">x bedsitters</td> </tr> <tr> <td></td> <td style="text-align: right;">x 1 bedroom units</td> </tr> <tr> <td></td> <td style="text-align: right;">x 2 bedroom units</td> </tr> <tr> <td></td> <td style="text-align: right;">x 3 bedroom units</td> </tr> <tr> <td></td> <td style="text-align: right;">x other (<i>specify</i>)</td> </tr> <tr> <td></td> <td style="text-align: right;">Total</td> </tr> </table>		x bedsitters		x 1 bedroom units		x 2 bedroom units		x 3 bedroom units		x other (<i>specify</i>)		Total
	x bedsitters												
	x 1 bedroom units												
	x 2 bedroom units												
	x 3 bedroom units												
	x other (<i>specify</i>)												
	Total												
5.2 What garages, carports or carparks does the village provide?	<input type="checkbox"/> Each unit has its own garage/carport <input type="checkbox"/> Each unit has its own car park <input type="checkbox"/> General car parking is available in the village for residents and visitors <input type="checkbox"/> other (<i>specify</i>) <input type="checkbox"/> No garage/carport or car parking is provided												

6. PLANNING AND DEVELOPMENT

Has planning permission been granted for further development of the village? Yes No

If yes, see the notice at the end of this information sheet regarding inspection of the permission document

7. FACILITIES ONSITE AT THE VILLAGE

7.1 The following facilities are available to residents (*delete inapplicable facilities*)

Note: If the cost for any facility is separate from the service charge or there are any restrictions on access, a list is attached with the details.

Activities/games room	Arts and crafts room	Auditorium
BBQ area outdoors	Billiards room	Bowling green [indoor/outdoor]
Chapel	Communal laundries	Community room/centre
Dining room	Gym	Hairdressing/beauty room
Library	Medical consultation room	Restaurant
Shop	Separate lounge in community centre	Spa [indoor/outdoor] [heated/not heated]
Swimming pool [indoor/outdoor] [heated/not heated]	Tennis court	Village bus
Visitor parking	Workshop	Other (<i>specify</i>)

7.2 Does the village have an onsite or attached residential or aged care facility? Yes No

Note: The retirement village owner or manager cannot keep places free for residents.

<p>To enter a residential or aged care facility, you must be assessed as eligible through an aged care assessment in accordance with the Commonwealth <i>Aged Care Act 1997</i>.</p>	
<p>8. SERVICES</p>	
<p>8.1 The owner or manager provides the following services to all village residents (funded from the recurrent service charge paid by residents)</p>	<p><input type="checkbox"/> annual auditing of village accounts</p> <p><input type="checkbox"/> cleaning and maintenance of communal areas and facilities</p> <p><input type="checkbox"/> maintenance and care of communal lawns and gardens</p> <p><input type="checkbox"/> management and administration services</p> <p><input type="checkbox"/> payment of all rates, taxes and charges for the communal areas and village facilities including for gas, water and electricity</p> <p><input type="checkbox"/> other (<i>specify</i>)</p>
<p>8.2 Are optional services provided or made available to residents on a user-pays basis?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, the list of current services is attached.</p>
<p>9. ENTRY COSTS</p>	
<p>9.1 To enter the village, must the resident pay:</p>	
<ul style="list-style-type: none"> • a refundable ingoing contribution or deposit? 	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<ul style="list-style-type: none"> • a non-refundable ingoing contribution, deposit or donation? 	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>9.2 If yes to a refundable ingoing contribution or deposit:</p>	
<ul style="list-style-type: none"> • the amount is 	<p>\$</p>

<p>Or (as applicable)</p> <ul style="list-style-type: none"> the range is 	<p>\$ to \$</p>
<p>9.3 If yes to a refundable ingoing contribution or deposit, when is this refunded?</p>	<p><input type="checkbox"/> on permanent departure from the village</p> <p><input type="checkbox"/> within 14 days of permanent departure</p> <p><input type="checkbox"/> on the next resident taking possession of the unit</p> <p><input type="checkbox"/> within 14 days of the next resident taking possession of the unit</p> <p><input type="checkbox"/> within six months of permanent departure</p> <p><input type="checkbox"/> on receipt of the next ingoing contribution or purchase price</p> <p><input type="checkbox"/> within 14 days of receipt of the next ingoing contribution or purchase price</p> <p><input type="checkbox"/> other (specify)</p>
<p>9.4 If yes to a refundable ingoing contribution or deposit, is a fee deductible upon permanent departure from the village?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>If yes, that departure fee is calculated using the following formula:</p>	
<p>9.5 If yes to a non-refundable ingoing contribution, deposit or donation, the amount is</p>	<p><input type="checkbox"/> \$</p> <p><input type="checkbox"/> % of the refundable ingoing contribution or deposit</p>

<p>9.6 These costs must be paid by the resident on permanent departure from the village or are deducted from the refundable ingoing contribution or deposit:</p>	<p><input type="checkbox"/> a contribution to the long term maintenance fund of:</p> <p><input type="checkbox"/> [number]% of your ingoing contribution (lease/licence residents)</p> <p><input type="checkbox"/> [number]% of the in-going contribution paid by the next resident (lease/licence residents)</p> <p><input type="checkbox"/> [number]% of the purchase price you paid (strata title residents)</p> <p><input type="checkbox"/> [number]% of the purchase price paid by the next resident (strata title residents)</p> <p><input type="checkbox"/> other amount (<i>specify</i>):</p> <p><input type="checkbox"/> refurbishment, reinstatement or renovation of your unit</p> <p><input type="checkbox"/> sale costs</p> <p><input type="checkbox"/> other costs (<i>specify</i>)</p>	
<p>9.7 The estimated sale price ranges for all classes of units in the village (on a refurbished, reinstated or renovated basis and regardless of whether or not vacant) as at (<i>insert date</i>) are (<i>delete inapplicable units</i>):</p>	<p>bedsitter</p>	<p>\$ to \$</p>
	<p>1 bedroom unit:</p>	<p>\$ to \$</p>
	<p>2 bedroom unit:</p>	<p>\$ to \$</p>
	<p>3 bedroom unit:</p>	<p>\$ to \$</p>
	<p>Other (<i>specify</i>)</p>	<p>\$ to \$</p>
<p>10. ONGOING CHARGES</p>		
<p>10.1 The current rates of ongoing charges for new residents are as follows</p>		

Type of unit <i>(specify if amount differs depending on size of unit)</i>	Service Charge	Long term maintenance fund charge <i>(if this is a periodic charge separate from the service charge)</i>
Self-contained unit	\$ per week/fortnight/month	\$ per week/fortnight/month
Serviced unit	\$ per week/fortnight/month	\$ per week/fortnight/month
Other (specify)	\$ per week/fortnight/month	\$ per week/fortnight/month
<p>10.2 For residents who own their (strata title) unit: If the owners corporation fee is not included in the service charge: <input type="checkbox"/> the current owners corporation fee is \$ per week/fortnight/month OR <i>(as applicable)</i> <input type="checkbox"/> the current range of owners corporation fees is \$ to \$ per week/fortnight/month</p>		
<p>11. FINANCIAL MANAGEMENT OF THE VILLAGE</p>		
<p>11.1 The financial year of the village is from:</p>	<p>to</p>	

<p>11.2 The village surplus/deficit was, at the end of the:</p> <p><input type="checkbox"/> last financial year</p> <p>OR</p> <p><input type="checkbox"/> last quarter <i>(if this is the only available figure)</i></p> <p>OR</p> <p><input type="checkbox"/> not applicable as the village is not yet operating</p>	<p>\$ surplus/deficit</p>
<p>11.3 Does the village have a long-term maintenance fund?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>If yes, the surplus/deficit was, at the end of the:</p> <p><input type="checkbox"/> last financial year</p> <p>OR</p> <p><input type="checkbox"/> last quarter <i>(if this is the only available figure)</i></p> <p>OR</p> <p><input type="checkbox"/> not applicable as the village is not yet operating</p>	<p>\$ surplus/deficit</p>
<p>12. FINANCIAL MANAGEMENT OF THE OWNERS CORPORATION <i>(delete if inapplicable)</i></p>	
<p>Note: Residents who own their (strata title) unit are members of the owners corporation.</p>	
<p>12.1 The financial year of the owners corporation is from:</p>	<p>to</p>

<p>12.2 The surplus/deficit was, at the end of the:</p> <p><input type="checkbox"/> last financial year</p> <p>OR</p> <p><input type="checkbox"/> last quarter <i>(if this is the only available figure)</i></p> <p>OR</p> <p><input type="checkbox"/> not applicable as the village is not yet operating</p>	<p>\$ surplus/deficit</p>
<p>12.3 Does the owners corporation have a long-term maintenance plan?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>12.4 Does the owners corporation have a long term maintenance fund?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>If yes, the surplus/deficit was, at the end of the:</p> <p><input type="checkbox"/> last financial year</p> <p>OR</p> <p><input type="checkbox"/> last quarter <i>(if this is the only available figure)</i></p> <p>OR</p> <p><input type="checkbox"/> not applicable as the village is not yet operating</p>	<p>\$ surplus/deficit</p>
<p>13. CAPITAL GAINS OR LOSSES</p>	
<p>If the unit is sold, does the resident share in any capital gain or loss on the resale of their unit?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

If yes, the share in any capital gain or loss is calculated using the following formula:	
14. REINSTATEMENT OR RENOVATION OF THE UNIT	
Is the resident responsible for reinstatement, refurbishment or renovation of the unit on permanent departure?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, the resident must pay for:	
15. INSURANCE	
15.1 Is the owner or manager responsible for arranging any insurance cover for the village?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, those insurances are:	
15.2 Is the resident responsible for arranging any insurance cover?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, those insurances are:	
16. SECURITY	
Does the village have a security system?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, insert details of the system	
If yes, the system is monitored between am and pm days per week	

For further details on retirement village living and to download this form visit Consumer Affairs Victoria at consumer.vic.gov.au/retirementvillages

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17. EMERGENCY SYSTEM	
Does the village have an emergency help system?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, insert details of the system	
If yes, the system is monitored between	am and pm days per week
18. RESIDENT RESTRICTIONS	
18.1 Are residents allowed to keep pets?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, insert any restrictions or conditions	
18.2 Are there restrictions on residents' car parking at the village?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, insert details	
18.3 Are there any restrictions on visitors' car parking?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, insert details	
19. ACCREDITATION	
Is the village accredited by:	
The Retirement Living Council of the Property Council of Australia?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Leading Age Services Australia?	<input type="checkbox"/> Yes <input type="checkbox"/> No

20. RESIDENT INPUT	
If there is no owners corporation in the village, does the village have a residents committee established under the Retirement Villages Act 1986? <i>Note: if the village has an owners corporation, the owners corporation operates as the residents committee</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
21. WAITING LIST	
Does the village have a waiting list for entry?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, is there a fee?	<input type="checkbox"/> No fee <input type="checkbox"/> Fee of \$
Is this fee refundable on entry to the village?	<input type="checkbox"/> Yes <input type="checkbox"/> No

The following documents are in the possession or control of the owner or manager and by law can be inspected free of charge within 7 days of a request:

- village site plan
- plans of any units under construction
- financial statements for the current financial year
- the budget for the next financial year
- examples of contracts that residents may have to enter into
- planning permission for any further development of the village
- village dispute resolution documents.

Declaration: The information in this factsheet is correct as at *(insert date)*

For further details on retirement village living and to download this form visit Consumer Affairs Victoria at consumer.vic.gov.au/retirementvillages

Appendix E: Proposed disclosure statement

INSERT VILLAGE LOGO HERE

Disclosure Statement

This form provides you, as a prospective retirement village resident, with details about:

- costs which will apply before you move in, while you are living in the retirement village and after you leave
- details of the notice and charge that is required to be placed on the title to the retirement village land under the **Retirement Villages Act 1986**
- details of securities that take priority over the residents' financial rights.

The form is required to be given under the **Retirement Villages Act 1986**.

It is important that you understand this information and its implications for you as a resident. Seek independent legal advice if you are unsure about any of its details.

Name of Retirement Village:

Address of Retirement Village:

I/We of being the owner/owners of the land upon which a retirement village is located certify that—

Notices etc

The retirement village notice required by Part 2 of the Retirement Villages Act 1986 was given to the Registrar of Titles on the of 20 .

The particulars of any mortgage, charge or other encumbrances which take priority over the rights of residents under that Act are:

The particulars of any agreement entered into relating to the priority of residence rights over earlier encumbrances over the land are:

The notification of the charge created by Part 5 of the **Retirement Villages Act 1986** was given to the Registrar of Titles on the of 20 .

For further details on retirement village living and to download this form visit Consumer Affairs Victoria at consumer.vic.gov.au/retirementvillages ^{1 of 8}

Entry costs

To become a resident, you must pay the following GST-inclusive amounts (*tick whichever is applicable*):

- (lease/licence residents) an in-going contribution or deposit of \$
- (strata title residents) the purchase price of your unit of \$ (including any deposit of \$)
- stamp duty of \$
- costs of preparing your residence contract of \$
- costs of preparing your management contract of \$
- costs of preparing any other contract (*specify*) of \$
- weeks' advance payment of maintenance charges of \$
- costs to use a garage or carport of \$
- other costs (*specify*) of \$

The total amount payable on entry is: \$ (GST inclusive)

Ongoing costs

To live in the village, you must pay the following charges or costs (*tick whichever is applicable*)

1. Maintenance charges

The current maintenance charges are:

- service charge of \$ per

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separate long term maintenance fund charge of \$ per

other maintenance charge (*specify*) of \$ per

2. Other charges and costs

The current rates of other charges are:

personal services fees (*insert details or reference to annexure*)

separate owners corporation fee of \$ per (*specify period*)

The following costs are not included in the service charge:

house insurance

contents insurance

council rates

water rates

utilities

Departure costs

When you leave the village, the following costs apply (*tick whichever is applicable*):

1. Departure fee

you will not be required to pay any departure fee

you will be required to pay a departure fee calculated on the following basis:

 % per annum - for a maximum number of years of residence - of:

your in-going contribution or deposit (lease/licence residents)

the in-going contribution or deposit paid by the next resident (lease/licence residents)

- the purchase price you paid (strata title residents)
- the purchase price paid by the next resident (strata title residents)
- other basis (*specify*)

2. Refurbishment/reinstatement/renovation costs

- you will not be required to pay for:
 - the refurbishment/reinstatement of your unit (ie to restore it to its condition at the commencement of your residence)
 - the renovation of your unit (ie to bring it up to date)
- you will be required to pay for the:
 - refurbishment/reinstatement of your unit (ie to restore it to its original condition)
 - renovation of your unit (ie to bring it up to date)

3. Long term maintenance fund

- you will not be required to make a separate contribution to the long term maintenance fund
- you will be required to make a separate contribution to the long term maintenance fund on the following basis:
 - % of:
 - your ingoing contribution or deposit (lease/licence residents)
 - the in-going contribution or deposit paid by the next resident (lease/licence residents)
 - the purchase price you paid (strata title residents)
 - the purchase price paid by the next resident (strata title residents)
 - other basis (*specify*)

4. Sale costs

- you will not be required to pay me/us any costs of selling your unit

For further details on retirement village living and to download this form visit Consumer Affairs Victoria at consumer.vic.gov.au/retirementvillages

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you will be required to pay to me/us the following costs of selling your unit:

% of the marketing and advertising costs

% of the legal costs

sale commission of % of the sale price

other (*specify*)

5. Other departure costs

you will be required to pay the following other costs (*specify with amounts*)

6. Ongoing costs

you will not be required to pay ongoing costs after you leave the village

you will be required to pay the following ongoing costs after you leave the village:

service charge

until the earlier of the sale of your unit or six months after you leave (lease/licence residents)

until (*insert any earlier time for lease/licence residents*)

until (strata title residents)

separate long term maintenance fund charge

until the earlier of the sale of your unit or six months after you leave (non strata title residents)

until (*insert any earlier time for lease/licence residents*)

until (strata title residents)

other maintenance charges (as specified under "Ongoing costs")

until the earlier of the sale of your unit or six months after you leave (lease/licence residents)

until (*insert any earlier time for lease/licence residents*)

until (strata title residents)

personal services fees

until 28 days after you leave

until (*insert any earlier time*)

separate owners corporation fee (strata title residents)

until the resale of your unit

until (*insert any earlier time*)

Departure entitlement

When you leave the village, the following applies (*tick whichever is applicable*):

1. Lease/licence residents

you will not be entitled to any refund of your in-going contribution or deposit

you will be entitled to a refund of your in-going contribution or deposit of:

\$

%

your ingoing contribution minus the above Departure costs

you will be entitled to an refund based on the next in-going contribution or deposit of:

%

the next ingoing contribution minus the above Departure costs

Any refund or entitlement will be paid:

within 14 days of:

For further details on retirement village living and to download this form visit Consumer Affairs Victoria at consumer.vic.gov.au/retirementvillages

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- when you leave
- the sale of your unit
- within the earliest of: 14 days from the receipt of the next in-going contribution or purchase price for your unit; 14 days of the next resident taking possession of your unit; or 6 months after you leave
- (insert other date or time)*

2. All residents

- you will not be entitled to share in any capital gain on your unit (ie, if the incoming resident pays a higher in-going contribution/deposit/purchase price than you paid)
- you will be entitled to share in any capital gain on your unit in the following proportion:
 - %, which will be paid *(insert date or time)*
 - (insert details of any different calculation)*, which will be paid *(insert date or time)*
- you will not be required to share in any capital loss on your unit (ie, if the incoming resident pays a lower in-going contribution/deposit/purchase price than you paid)
- you will be required to share in any capital loss on your unit, in the following proportion:
 - %, which must be paid *(insert date or time)*
 - (insert details of any different calculation)*, which must be paid *(insert date or time)*

The following table sets out estimates of your departure entitlement after 1, 2, 5 and 10 years residence.

ESTIMATED DEPARTURE ENTITLEMENTS

Base amount *(delete whichever is inapplicable)*

- (strata title) the purchase price of your unit \$
- (strata title) the estimated sale price of your unit (assuming [number]% capital growth in the value of your unit*) \$
- (lease/licence) your in-going contribution or deposit \$
- (lease/licence) the estimated next in-going contribution or deposit (assuming [number]% capital growth in the value of your unit*) \$

Additions and deductions (each column to be completed using estimates for a typical unit of the type purchased)

If you leave after 1 year's residence	If you leave after 2 years' residence	If you leave after 5 years' residence	If you leave after 10 years' residence
<p>plus estimated capital gain share (assuming [number]% capital growth in the value of the unit*) \$</p> <p>minus estimated departure fee (assuming [number]% capital growth in the value of the unit*) \$</p> <p>minus estimated refurbishment or renovation costs (based on current average) \$</p> <p>minus estimated long term maintenance fund contribution (assuming sale price of \$ *) \$</p> <p>minus estimated sale costs (based on current average) \$</p> <p>minus other costs \$</p>	<p>plus estimated capital gain share (assuming [number]% capital growth in the value of the unit*) \$</p> <p>minus estimated departure fee (assuming [number]% capital growth in the value of the unit*) \$</p> <p>minus estimated refurbishment or renovation costs (based on current average) \$</p> <p>minus estimated long term maintenance fund contribution (assuming sale price of \$ *) \$</p> <p>minus estimated sale costs (based on current average) \$</p> <p>minus other costs \$</p>	<p>plus estimated capital gain share (assuming [number]% capital growth in the value of the unit*) \$</p> <p>minus estimated departure fee (assuming [number]% capital growth in the value of the unit*) \$</p> <p>minus estimated refurbishment or renovation costs (based on current average) \$</p> <p>minus estimated long term maintenance fund contribution (assuming sale price of \$ *) \$</p> <p>minus estimated sale costs (based on current average) \$</p> <p>minus other costs \$</p>	<p>plus estimated capital gain share (assuming [number]% capital growth in the value of the unit*) \$</p> <p>minus estimated departure fee (assuming [number]% capital growth in the value of the unit*) \$</p> <p>minus estimated refurbishment or renovation costs (based on current average) \$</p> <p>minus estimated long term maintenance fund contribution (assuming sale price of \$ *) \$</p> <p>minus estimated sale costs (based on current average) \$</p> <p>minus other costs \$</p>
<p>Total estimated entitlement \$</p> <p>Note: ongoing costs may apply (see point 6 on p.)</p>	<p>Total estimated entitlement \$</p> <p>Note: ongoing costs may apply (see point 6 on p.)</p>	<p>Total estimated entitlement \$</p> <p>Note: ongoing costs may apply (see point 6 on p.)</p>	<p>Total estimated entitlement \$</p> <p>Note: ongoing costs may apply (see point 6 on p.)</p>

**This is the owner's or manager's assumption or estimate. [Insert any desired disclaimer regarding the assumption or estimate]*

Appendix F: Proposed Retirement Villages Amendment (Contractual Arrangements) Regulations 2013

Retirement Villages Amendment (Contractual Arrangements) Regulations 2013

S.R. No. XXX/2013

1 Objectives

The objectives of these Regulations are to amend the **Retirement Villages (Contractual Arrangements) Regulations 2006** to—

- (a) prescribe matters that must and must not be included in residence contracts and management contracts; and
- (b) prescribe certain terms for residence contracts and management contracts; and
- (c) prescribe the layout of certain residence contracts and management contracts.

2 Authorising provision

These Regulations are made under section 43 of the **Retirement Villages Act 1986**.

3 Commencement provision

These Regulations come into operation on [*insert date of commencement*].

4 Principal Regulations

In these Regulations, the **Retirement Villages (Contractual Arrangements) Regulations 2006** are called the Principal Regulations.

5 Amendment of objectives of Principal Regulations

After section 1(d) of the Principal Regulations **insert—**

- "(e) to prescribe matters that must and must not be included in residence contracts and management contracts; and
- (f) to prescribe terms for residence contracts and management contracts; and
- (g) prescribe the layout of residence contracts and management contracts."

6. Extended meaning of "owner"

In regulation 4 of the Principal Regulations, insert the following definition—

"**owner** includes a person who alone or with others is the owner of an estate other than an estate in fee simple;"

7 New regulations 8B to 8G

After regulation 8A of the Principal Regulations, insert—

"**8B Matters that must not be included in residence and management contracts**

The following matters must not be included in a residence contract or a management contract:

- (a) a requirement for a resident to have a will or to advise the owner or manager of its location;
- (b) a requirement for a resident to take out any insurance policy other than a liability policy for any motorised wheelchair operated by the resident;
- (c) a requirement for a resident to pay the owner's or manager's costs for corresponding with the resident or for preparing or providing information required to be given to the resident;
- (d) a restriction on a resident's absence from the village other than a restriction that would result in the resident's premises no longer being the resident's principal place of residence - where the amount of the resident's refundable in-going contribution depends on the duration of the resident's residence in the village and on the assumption that the premises are the resident's principal place of residence;
- (e) a requirement for a resident to pay liquidated damages for breach of a contract or of a by-law relating to the village;
- (f) an exclusion of or limitation on the owner's or manager's liability for default or breach of duty;
- (g) a right to recover administration and operating costs from a resident other than those incurred while the resident resided in the village and other than costs associated with the re-sale or re-leasing of the resident's premises;
- (h) a requirement for a resident to pay more than half the costs of any valuation of the resident's premises or residence right that is required or permitted, except where the resident has acted unreasonably;
- (i) a requirement for a resident to pay costs of enforcing the contract;
- (j) a right of an owner or manager to relocate a resident to other premises without the resident's consent, except for an emergency (including where the resident's premises are destroyed or severely damaged or where a resident's safety, health or property is endangered);
- (k) a restriction on the operation or membership of the residents committee; and
- (l) a provision to the effect that the written contract represents the entire agreement between the parties.

8C Matters that must be included in residence and management contracts

- (1) A residence contract must:
 - (a) specify:

- (i) the date of the contract and, if the commencement date is different, the date the contract commences;
 - (ii) the owner's name, address and address for service;
 - (iii) the resident's name and address;
 - (iv) the address of the residential premises;
 - (v) the duration of the contract;
 - (vi) the resident's garage, storeroom and parking entitlements (other than as accessories to any strata title of the resident);
 - (vii) the date of occupation of the premises or the date of the resident's right to occupy the premises (as the case may be);
 - (viii) the fixtures, fittings and furnishings provided by the owner with the residential premises; and
- (b) address the following matters:
- (i) the resident's ability to alter and add to their residential premises;
 - (ii) the resident's ability to transfer to other residential premises or other types of accommodation;
 - (iii) if the residential premises are incomplete, the resident's ability to determine the design, construction and furnishing of the premises;
 - (iv) any restrictions on the resident's use of the residential premises;
 - (v) any restrictions on pets, visitors and car parking;
 - (vi) any restrictions on the persons to whom the resident can transfer the residential premises;
 - (vii) any rights of access of the owner to the resident's premises;
 - (viii) any right of the owner to relocate the resident to other premises in an emergency and without the resident's consent;
 - (ix) any legal costs of the owner payable by the resident;
 - (x) all costs and charges payable by the resident to the owner to gain entry to the village including any ongoing contribution and whether interest thereon is payable to the resident;
 - (xi) all costs and charges payable by the resident to the owner during his or her residency in the village and the period after the resident has ceased to be a resident that any such cost or charge continues to be payable;

- (xii) all costs and charges payable by the resident to the owner on leaving the village including any departure fee;
- (xiii) the method of calculating any refund of the ingoing contribution that the owner is liable to make to the resident, including how capital gains or losses are shared and any applicable fees, charges and financial penalties;
- (xiv) the time when the refund referred to in sub-paragraph (xiii) is payable to the resident;
- (xv) the insurance policies in relation to the retirement village (excluding any policies in relation to any owners corporation in the village) that the owner takes out;
- (xvi) who is responsible for maintaining the residential premises, including replacement and maintenance of fixtures, fittings and furnishings;
- (xvii) what refurbishment or reinstatement of the resident's premises will be required and who is liable for the cost thereof;
- (xviii) how the contract may be terminated, including any minimum advance notice;
- (xix) the resident's right to refuse to agree to amendments to or termination of the contract; and
- (xx) the by-laws relating to the village (unless this matter is included in the management contract).

(2) A management contract must:

(a) specify:

- (i) the date of the contract and, if the commencement date is different, the date the contract commences;
- (ii) the manager's name, address and address for service;
- (iii) the resident's name and address;
- (iv) the address of the residential premises;
- (v) the duration of the contract;
- (vi) the services to be provided to the resident by the manager including any service that the manager or its agents represented to the resident, before entering into the contract, would be provided or made available and the date it would be made available; and

(b) address the following matters:

- (i) any rights of access of the manager to the resident's premises;
- (ii) any legal costs of the manager payable by the resident;

- (iii) all costs and charges payable by the resident to the manager during his or her residency in the village, including maintenance charges, and the period after the resident has ceased to be a resident that any such cost or charge continues to be payable;
- (iv) the matters for which maintenance charges may be used;
- (v) how maintenance charges can be adjusted;
- (vi) the repair and maintenance procedure, including the responsibilities of the manager and the resident;
- (vii) how special levies can be imposed;
- (viii) the method of calculating any refund of the ingoing contribution that the manager is liable to make to the resident, including how capital gains or losses are shared and any applicable fees, charges and financial penalties;
- (ix) the time when the refund referred to in sub-paragraph (viii) is payable to the resident;
- (x) the insurance policies in relation to the retirement village (excluding any policies in relation to any owners corporation in the village) that the manager takes out;
- (xi) how the contract may be terminated, including any minimum advance notice;
- (xii) the resident's right to refuse to agree to amendments to or termination of the contract;
- (xiii) the by-laws relating to the village (unless this matter is included in the residence contract);
- (xiv) the dispute resolution procedures developed under sections 38E and 38F of the Act; and
- (xv) the process for consultation with the resident or with the residents of the village on the proposed exercise of any right to change services provided by the manager that will result in a material change in the services provided.

8D Matters that may be included in residence or management contracts

Without limiting the matters that may be included in a residence contract or a management contract, they may include a warning that a resident should take out a house contents insurance policy.

8E Prescribed terms for residence and management contracts

- (1) Subject to this regulation, a residence contract must contain the terms set out in Part A of Schedule 5.
- (2) Subject to this regulation, a residence contract is taken to include the terms set out in Part A of Schedule 5.

- (3) Subject to subregulation (5), a management contract must contain the terms set out in Part B of Schedule 5.
- (4) Subject to this regulation, a management contract is taken to include the terms set out in Part B of Schedule 5.
- (5) Where, by this regulation, the same term would be required to be contained in and taken to be included in a residence contract and a management contract and where, as a matter of law or contract, the term is applicable only to one of those contracts, the term need not be contained in nor is it to be taken to be included in the other contract.
- (6) This regulation does not derogate from any term implied by law into a residence contract or management contract.

8F Layout of residence and management contracts

- (1) Subject to this regulation, a residence contract must be in the form set out in Part A of Schedule 6, including as to the order of matters.
- (2) Subject to this regulation, a management contract must be in the form set out in Part B of Schedule 6, including as to the order of matters.
- (3) Subject to this regulation, a combined residence contract and management contract where the owner and manager are the same person must be in the form set out in Part C of Schedule 6, including as to the order of matters.
- (4) Subject to this regulation, a combined residence contract and management contract, where the owner and manager are not the same person, must be in the form set out in Part D of Schedule 6, including as to the order of matters.
- (5) Subregulations (1), (3) and (4) do not apply where a residence right is contained in or constituted by a contract for the sale of land, a unit in a unit trust or a share in a corporation.
- (6) If, in a form of contract under this regulation, the same right or obligation is ascribed to the owner and manager but, as a matter of law or contract, only one has that right or obligation in relation to the resident, it may be omitted from the rights or obligations ascribed to the other.
- (7) It is sufficient compliance with the requirement of this regulation to insert relevant rights, obligations and other matters under the headings in the section of the relevant contract headed, "Matters required by the **Retirement Villages Act 1986** or regulations to be addressed", if the text of the relevant rights, obligations and other material is inserted under the relevant heading and any variable matters are set out in a schedule or attachment to the contract.

8G Contracting Out

- (1) A provision in a contract or document concerning a retirement village which purports to exclude, modify or restrict the operation of regulations 8B, 8C, 8E or 8F is void.
- (2) If a contract or document includes a provision which is void under subregulation (1), that subregulation does not affect the validity or enforceability of other provisions of the contract or document, in so far as they are severable from the void provisions. "

8 New Schedules 5 and 6

After Schedule 4, insert —

"SCHEDULE 5

PART A

Regulation 8E(1)

PRESCRIBED TERMS FOR RESIDENCE CONTRACTS

Primacy of the Retirement Villages Act 1986 and regulations

This contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

Basic obligations of the owner

The owner must

- (a) give exclusive and vacant possession of the resident's premises and in a clean and tidy condition
- (b) use best endeavours to ensure that the owner's tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village;
- (c) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (d) give receipts for payments made by the resident and keep a record of such payments.

Basic obligations of the resident

The resident must:

- (a) use best endeavours to ensure that the resident's invitees or other persons lawfully on the resident's premises comply with the by-laws relating to the village;
- (b) respect the rights of other residents and persons in the village;
- (c) not interfere with other residents' reasonable peace, comfort and privacy;
- (d) respect the rights of the owner, its employees and agents to work free from harassment and intimidation;
- (e) not adversely affect the occupational health and safety of people working in the village; and

- (f) if the owner exercises a right to relocate the resident to other premises with the consent of the resident, not withhold consent unreasonably.

Basic rights of the resident

The resident has the right:

- (a) to any payment that the owner is liable to make consequent on the resident leaving the village or dying, unaffected by termination of the residence contract, whether for breach of contract or otherwise; and
- (b) to remove any fixture that the resident has added to the resident's premises (for which there is no agreement to leave in place) at any time before permanently vacating the premises, subject to making good any damage caused by the removal.
- (c) if the resident's only obligation in relation to the condition of the resident's premises is to remedy damage and if the resident does not share in any capital gain, not to be liable for fair wear and tear to the resident's premises.

General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this contract or any inconsistent by-laws relating to the village.
- (b) The owner and the resident must deal with each other in good faith.

PART B

Regulation 8E(2)

PRESCRIBED TERMS FOR MANAGEMENT CONTRACTS

Primacy of the **Retirement Villages Act 1986** and regulations

This contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

Basic obligations of the manager

The manager must

- (a) use best endeavours to ensure that the manager's tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village;
- (b) if the manager is required to carry out repairs or replacements to the common facilities and other areas under its control that are funded from maintenance charges, promptly carry out repairs or replacements necessary for the safety or security of residents;
- (c) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and

- (d) give receipts for payments made by the resident and keep a record of such payments.

Basic obligations of the resident

The resident must:

- (a) use best endeavours to ensure the resident's invitees or other persons lawfully on the resident's premises comply with the by-laws relating to the village;
- (b) respect the rights of other residents and persons in the village;
- (c) not interfere with other residents' reasonable peace, comfort and privacy;
- (d) respect the rights of the manager, its employees and agents to work free from harassment and intimidation; and
- (e) not adversely affect the occupational health and safety of people working in the village.

Basic rights of the resident

The resident has the right to any payment that the manager is liable to make consequent on the resident leaving the village or dying, unaffected by termination of the management contract, whether for breach of contract or otherwise.

General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this contract or any inconsistent by-laws relating to the village.
- (b) The manager and the resident must deal with each other in good faith.

SCHEDULE 6

PART A

Regulation 8F(1)

[Trading name of village]

Residence contract

Date contract signed:

Name and address of village owner:

Address for service of notices:

Name and address of resident:

Address of resident's premises:

Date of resident's occupation of resident's premises/date of resident's right to occupy premises (*delete whichever is inapplicable*):

Date contract commences (if different from above):

Term of contract/date contract expires (*delete whichever is inapplicable*):

Garage, storeroom and parking entitlements:

Fixtures, fittings and furnishings provided by the village owner with the resident's premises are as follows:

[on front page of contract]

Cooling-off right

Under section 24 of the **Retirement Villages Act 1986**, you may cancel this contract at any time before the expiry of 3 clear business days after you have signed this contract, by:

- giving a notice of cancellation to *(name or abbreviation of owner)* or our agent; or
- sending the notice to *(name or abbreviation of owner)* at the above-mentioned address for service of notices or to the address of our agent.

If you cancel, *(name or abbreviation of owner)* may retain \$100 or 0.2% of the ingoing contribution, whichever is greater.

Operative words

[insert any desired statement of the nature or operation of the contract, for instance, the grant of the interest in the premises]

Prescribed terms under regulation 8E of the Retirement Villages (Contractual Arrangements) Regulations 2006

Primacy of the **Retirement Villages Act 1986** and regulations

This contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

Basic obligations of the owner

(name or abbreviation of owner) must:

- (a) give exclusive and vacant possession of the resident's premises and in a clean and tidy condition
- (b) use best endeavours to ensure that the owner's tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village;
- (c) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (d) give receipts for payments made by the resident and keep a record of such payments.

Basic obligations of the resident

The resident must:

- (a) use best endeavours to ensure that the resident's invitees or other persons lawfully on the resident's premises comply with the by-laws relating to the village;
- (b) respect the rights of other residents and persons in the village;
- (c) not interfere with other residents' reasonable peace, comfort and privacy;
- (d) respect the rights of (*name or abbreviation of owner*), its employees and agents to work free from harassment and intimidation;
- (e) not adversely affect the occupational health and safety of people working in the village; and
- (f) if (*name or abbreviation of owner*) exercises a right to relocate the resident to other premises with the consent of the resident, not withhold consent unreasonably.

Basic rights of the resident

The resident has the right:

- (a) to any payment that (*name or abbreviation of owner*) is liable to make consequent on the resident leaving the village or dying, unaffected by termination of the residence contract, whether for breach of contract or otherwise; and
- (b) to remove any fixture that the resident has added to the resident's premises (for which there is no agreement to leave in place) at any time before permanently vacating the premises, subject to making good any damage caused by the removal.
- (c) [*if the resident's only obligation in relation to the condition of the resident's premises is to remedy damage and if the resident does not share in any capital gain*] not to be liable for fair wear and tear to the resident's premises.

General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this contract or any inconsistent by-laws relating to the village.
- (b) (*name or abbreviation of owner*) and the resident must deal with each other in good faith.

Matters required by regulation 8C of the Retirement Villages (Contractual Arrangements) Regulations 2006 to be addressed

Costs payable on entry [*refer to regulation 8C(1)(b)(x)*]

Costs payable during residency [*refer to regulation 8C(1)(b)(xi)*]

Costs payable on departure [*refer to regulation 8C(1)(b)(xii)*]

Owner's legal costs [*refer to regulation 8C(1)(b)(ix)*]

Costs of refurbishment or reinstatement [*refer to regulation 8C(1)(b)(xvii)*]

Resident's exit entitlement [*refer to regulations 8C(1)(b)(xiii) and (xiv)*]

Maintenance of the resident's premises [*refer to regulation 8C(1)(b)(xvi)*]

Village insurance [*refer to regulation 8C(1)(b)(xv)*]

Any restrictions relating to the resident's premises [refer to regulations 8C(1)(b)(i)-(viii)]

Termination and amendment of the contract [refer to regulations 8C(1)(b)(xviii)&(xix)]

The village by laws [refer to regulation 8C(1)(b)(xx) – unless set out in the management contract]

Other terms – which must not include any term prohibited by the Retirement Villages Act 1986 or regulations

PART B

Regulation 8F(2)

[Trading name of village]

Management contract

Date contract signed:

Name and address of village manager:

Address for service of notices:

Name and address of resident:

Address of resident's premises:

Date contract commences:

Term of contract/date contract expires (*delete whichever is inapplicable*):

The services to be provided to the resident – including any service that (*name or abbreviation of manager*) or its agents represented to the resident, before entering into the contract, would be provided or made available, and the date it would be made available – are as follows:

Operative words

[insert any desired statement of the nature or operation of the contract]

Prescribed terms under regulation 8E of the Retirement Villages (Contractual Arrangements) Regulations 2006

Primacy of the Retirement Villages Act 1986 and regulations

This contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

Basic obligations of the manager

(*name or abbreviation of manager*) must

- (a) use best endeavours to ensure that the manager's tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village;
- (b) if the manager is required to carry out repairs or replacements to the common facilities and other areas under its control that are funded from maintenance charges, promptly carry out repairs or replacements necessary for the safety or security of residents;
- (c) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (d) give receipts for payments made by the resident and keep a record of such payments.

Basic obligations of the resident

The resident must:

- (a) use best endeavours to ensure that the resident's invitees or other persons lawfully on the resident's premises comply with the by-laws relating to the village;
- (b) respect the rights of other residents and persons in the village;
- (c) not interfere with other residents' reasonable peace, comfort and privacy;
- (d) respect the rights of (*name or abbreviation of manager*), its employees and agents to work free from harassment and intimidation; and
- (e) not adversely affect the occupational health and safety of people working in the village.

Basic rights of the resident

The resident has the right to any payment that (*name or abbreviation of manager*) is liable to make consequent on the resident leaving the village or dying, unaffected by termination of the management contract, whether for breach of contract or otherwise.

General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this contract or any inconsistent by-laws relating to the village.
- (b) (*name or abbreviation of manager*) and the resident must deal with each other in good faith.

Matters required by regulation 8C of the Retirement Villages (Contractual Arrangements) Regulations 2006 to be addressed

Costs payable during residency [refer to regulation 8C(2)(b)(iii)]

Manager's legal costs [refer to regulation 8C(2)(b)(ix)]

Increases in maintenance charges [refer to regulation 8C(2)(b)(v)]

Use of maintenance charges [refer to regulation 8C(2)(b)(iv)]

The repair and maintenance procedure [refer to regulation 8C(2)(b)(vi)]

Consultation on changes to services [refer to regulation 8C(2)(b)(xv)]

Special levies [refer regulation 8C(2)(b)(vii)]

Resident's exit entitlement [refer to regulations 8C(2)(b)(viii) and (ix)]

Village insurance [refer to regulation 8C(2)(b)(x)]

Manager's right of access to the resident's premises [refer to regulation 8C(2)(b)(i)]

Termination and amendment of the contract [refer to regulations 8C(2)(b)(xi)&(xii)]

The village by-laws [refer to regulation 8C(2)(b)(xiii) – unless set out in the residence contract]

Dispute resolution [refer to regulation 8C(2)(b)(xiv)]

Other terms – which must not include any term prohibited by the Retirement Villages Act 1986 or regulations

PART C

Regulation 8F(3)

[Trading name of village]

Residence and management contract

Date contract signed:

Name and address of the person who is the village owner and manager:

Address for service of notices:

Name and address of resident:

Address of resident's premises:

Date of resident's occupation of resident's premises/date of resident's right to occupy premises (*delete whichever is inapplicable*):

Date contract commences (if different from above):

Term of contract/date contract expires (*delete whichever is inapplicable*):

Garage, storeroom and parking entitlements:

Fixtures, fittings and furnishings provided by the village owner and manager with the resident's premises are as follows:

The services to be provided to the resident – including any service that (*name or abbreviation of owner/manager*) or its agents represented to the resident, before entering into the contract, would be provided or made available, and the date it would be made available – are as follows:

[on front page of contract]

Cooling-off right

Under section 24 of the **Retirement Villages Act 1986**, you may cancel this contract at any time before the expiry of 3 clear business days after you have signed this contract, by:

- giving a notice of cancellation to *(name or abbreviation of owner/manager)* or our agent; or
- sending the notice to *(name or abbreviation of owner/manager)* at the above-mentioned address for service of notices or to the address of our agent.

If you cancel, *(name or abbreviation of owner/manager)* may retain \$100 or 0.2% of the ingoing contribution, whichever is greater.

Operative words

[insert any desired statement of the nature or operation of the contract, for instance, in relation to the residence contract, the grant of the interest in the premises]

Prescribed terms under regulation 8E of the Retirement Villages (Contractual Arrangements) Regulations 2006

Primacy of the Retirement Villages Act 1986 and regulations

This contract must comply with the Retirement Villages Act 1986, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

Basic obligations of the owner and manager

(name or abbreviation of the owner/manager) must

- (a) give exclusive and vacant possession of the resident's premises and in a clean and tidy condition
- (b) use best endeavours to ensure that its tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village;
- (c) if the manager is required to carry out repairs or replacements to the common facilities and other areas under its control that are funded from maintenance charges, promptly carry out repairs or replacements necessary for the safety or security of residents;
- (d) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (e) give receipts for payments made by the resident and keep a record of such payments.

Basic obligations of the resident

The resident must:

- (a) use best endeavours to ensure that the resident's invitees or other persons lawfully on the resident's premises comply with the by-laws relating to the village;
- (b) respect the rights of other residents and persons in the village;
- (c) not interfere with other residents' reasonable peace, comfort and privacy;
- (d) respect the rights of *(name or abbreviation of owner/manager)*, its employees and agents to work free from harassment and intimidation;
- (e) not adversely affect the occupational health and safety of people working in the village; and
- (f) if *(name or abbreviation of owner/manager)* exercises a right to relocate the resident to other premises with the consent of the resident, not withhold consent unreasonably.

Basic rights of the resident

The resident has the right:

- (a) to any payment that *(name or abbreviation of owner/manager)* is liable to make consequent on the resident leaving the village or dying, unaffected by termination of the residence contract or the management contract, whether for breach of contract or otherwise; and
- (b) to remove any fixture that the resident has added to the resident's premises (for which there is no agreement to leave in place) at any time before permanently vacating the premises, subject to making good any damage caused by the removal.
- (c) *[if the resident's only obligation in relation to the condition of the resident's premises is to remedy damage and if the resident does not share in any capital gain]* not to be liable for fair wear and tear to the resident's premises.

General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this contract or any inconsistent by-laws relating to the village.
- (b) *(name or abbreviation of owner/manager)* and the resident must deal with each other in good faith.

Matters required by regulation 8C of the Retirement Villages (Contractual Arrangements) Regulations 2006 to be addressed

Costs payable on entry *[refer to regulation 8C(1)(b)(x)]*

Costs payable during residency *[refer to regulations 8C(1)(b)(xi) and 8C(2)(b)(iii)]*

Costs payable on departure *[refer to regulation 8C(1)(b)(xii)]*

Legal costs *[refer to regulations 8C(1)(b)(ix) and 8C(2)(b)(ix)]*

Costs of refurbishment or reinstatement *[refer to regulation 8C(1)(b)(xvii)]*

Resident's exit entitlement *[refer to regulations 8C(1)(b)(xiii) and (xiv) and 8C(2)(b)(viii) and (ix)]*

- Increases in maintenance charges [refer to regulation 8C(2)(b)(v)]
- Special levies [refer regulation 8C(2)(b)(vii)]
- Use of maintenance charges [refer to regulation 8C(2)(b)(iv)]
- Maintenance of the resident's premises [refer to regulation 8C(1)(b)(xvi)]
- The repair and maintenance procedure [refer to regulation 8C(2)(b)(vi)]
- Village insurance [refer to regulations 8C(1)(b)(xv) and 8C(2)(b)(x)]
- Consultation on changes to services [refer to regulation 8C(2)(b)(xv)]
- Any restrictions relating to the resident's premises [refer to regulations 8C(1)(b)(i)-(viii)]
- Manager's right of access to resident's premises [refer to regulation 8C(2)(b)(i)]
- Termination and amendment of the contract [refer to regulations 8C(1)(b)(xviii)&(xix) and 8C(2)(b)(xi)&(xii)]
- The village by-laws [refer to regulations 8C(1)(b)(xx) and 8C(2)(b)(xiii)]
- Dispute resolution [refer to regulation 8C(2)(b)(xiv)]

Other terms – which must not include any term prohibited by the Retirement Villages Act 1986 or regulations

PART C

Regulation 8F(4)

[Trading name of village]

Residence and management contract

Date contract signed:

Name and address of village owner:

Address for service of notices:

Name and address of village manager:

Address for service of notices:

Name and address of resident:

Address of resident's premises:

Date of resident's occupation of resident's premises/date of resident's right to occupy premises (*delete whichever is inapplicable*):

Date contract commences (if different from above):

Term of contract/date contract expires (*delete whichever is inapplicable*):

Garage, storeroom and parking entitlements:

Fixtures, fittings and furnishings provided by the village owner with the resident's premises are as follows:

The services to be provided to the resident by *(name or abbreviation of manager)* – including any service that *(names or abbreviations of owner and manager)* or their agents represented to the resident, before entering into the contract, would be provided or made available, and the date it would be made available – are as follows:

[on front page of contract]

Cooling-off right

Under section 24 of the **Retirement Villages Act 1986**, you may cancel this contract at any time before the expiry of 3 clear business days after you have signed this contract, by:

- giving a notice of cancellation to *(name or abbreviation of owner)* or our agent; or
- sending the notice to *(name or abbreviation of owner)* at the above-mentioned address for service of notices or to the address of our agent.

If you cancel, *(name or abbreviation of owner)* may retain \$100 or 0.2% of the ingoing contribution, whichever is greater.

Operative words

[insert any desired statement of the nature or operation of the contract, for instance, in relation to the residence contract, the grant of the interest in the premises]

Prescribed terms under regulation 8E of the Retirement Villages (Contractual Arrangements) Regulations 2006

Primacy of the Retirement Villages Act 1986 and regulations

This contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

Basic obligations of the owner

(name or abbreviation of owner) must

- (a) give exclusive and vacant possession of the resident's premises and in a clean and tidy condition;
- (b) use best endeavours to ensure that the owner's tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village;
- (c) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (d) give receipts for payments made by the resident and keep a record of such payments.

Basic obligations of the manager

(name or abbreviation of manager) must

- (a) use best endeavours to ensure that the manager's tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village;
- (b) if the manager is required to carry out repairs or replacements to the common facilities and other areas under its control that are funded from maintenance charges, promptly carry out repairs or replacements necessary for the safety or security of residents;
- (c) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (d) give receipts for payments made by the resident or keep a record of such payments.

Basic obligations of the resident

The resident must:

- (a) use best endeavours to ensure that the resident's invitees or other persons lawfully on the resident's premises comply with the by-laws relating to the village;
- (b) respect the rights of other residents and persons in the village;
- (c) not interfere with other residents' reasonable peace, comfort and privacy;
- (d) respect the rights of (names or abbreviations of owner and manager), their employees and agents to work free from harassment and intimidation;
- (e) not adversely affect the occupational health and safety of people working in the village; and
- (f) if (name or abbreviation of owner and/or manager – as applicable) exercises a right to relocate the resident to other premises with the consent of the resident, not withhold consent unreasonably.

Basic rights of the resident

The resident has the right to:

- (a) any payment that (names or abbreviations of owner and manager) are liable to make consequent on the resident leaving the village or dying, unaffected by termination of the residence contract or the management contract, whether for breach of contract or otherwise; and
- (b) remove any fixture that the resident has added to the resident's premises (for which there is no agreement to leave in place) at any time before permanently vacating the premises, subject to making good any damage caused by the removal.
- (c) [if the resident's only obligation in relation to the condition of the resident's premises is to remedy damage and if the resident does not share in any capital gain] not to be liable for fair wear and tear to the resident's premises.

General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any

inconsistent terms of this contract or any inconsistent by-laws relating to the village.

(b) (*names or abbreviations of owner and manager*) and the resident must deal with each other in good faith.

Matters required by regulation 8C of the Retirement Villages (Contractual Arrangements) Regulations 2006 to be addressed

The owner

Costs payable on entry [*refer to regulation 8C(1)(b)(x)*]

Costs payable during residency [*refer to regulation 8C(1)(b)(xi)*]

Costs payable on departure [*refer to regulation 8C(1)(b)(xii)*]

Owner's legal costs [*refer to regulation 8C(1)(b)(ix)*]

Costs of refurbishment or reinstatement [*refer to regulation 8C(1)(b)(xvii)*]

Resident's exit entitlement [*refer to regulations 8C(1)(b)(xiii) and (xiv)*]

Maintenance of the resident's premises [*refer to regulation 8C(1)(b)(xvi)*]

Village insurance [*refer to regulation 8C(1)(b)(xv)*]

Any restrictions relating to the resident's premises [*refer to regulations 8C(1)(b)(i)-(viii)*]

The manager

Costs payable during residency [*refer to regulation 8C(2)(b)(iii)*]

Manager's legal costs [*refer to regulation 8C(2)(b)(ix)*]

Increases in maintenance charges [*refer to regulation 8C(2)(b)(v)*]

Use of maintenance charges [*refer to regulation 8C(2)(b)(iv)*]

The repair and maintenance procedure [*refer to regulation 8C(2)(b)(vi)*]

Consultation on changes to services [*refer to regulation 8C(2)(b)(xv)*]

Special levies [*refer regulation 8C(2)(b)(vii)*]

Resident's exit entitlement [*refer to regulations 8C(2)(b)(viii) and (ix)*]

Village insurance [*refer to regulation 8C(2)(b)(x)*]

Manager's right of access to resident's premises [*refer to regulation 8C(2)(b)(i)*]

Dispute resolution [*refer to regulation 8C(2)(b)(xiv)*]

Other

Termination and amendment of the contract [*refer to regulations 8C(1)(b)(xviii)&(xix) and 8C(2)(b)(xi)&(xii)*]

The village by-laws [*refer to regulations 8C(1)(b)(xx) and 8C(2)(b)(xiii)*]

Other terms – which must not include any term prohibited by the Retirement Villages Act 1986 or regulations"

Appendix G: Basis of cost estimates

Present value

The present value of costs is calculated using the following formula:

$$\sum (c_t / (1 + r)^t)$$

Where:

- c_t = cost in year t ; and
- r = the discount rate.

Therefore:

- the following formula is used to calculate the present value of costs incurred only in the first year = $\sum (c_1 / (1 + r)^1)$; and
- the following formula is used to calculate the present value of ongoing costs (i.e. costs incurred in years 1-10) = $\sum (c_1 / (1 + r)^1 \dots c_{10} / (1 + r)^{10})$.

The discount rate used is 3.5 per cent.

G1 Hourly rates for on-site retirement village operators, legal professionals, administration staff and sales staff

The following general formula from the Department of Treasury and Finance Victorian Guide to Regulation Edition 2.1 August 2011 was used to determine the hourly rates for particular job categories.

$$HR_x = AE_x / (AW_x \times AH_x) \times ON_x \times OH_x$$

Where –

- AE_x = Trend average annual earnings (full-time, adult, total earnings) in Victoria for job x ;
- AW_x = Number of weeks worked per annum for job x ;
- AH_x = Average weekly hours for full-time workers in job x ;
- ON_x = On-cost multiplier for job x ; and
- OH_x = Overhead cost multiplier for job x .

G1.1 On-site retirement village manager

The Retirement Village Association (now the Retirement Living Council of the Property Council of Australia) advised that the annual salary for an on-site manager may range from \$70,000 to up to \$110,000 for very large villages. The average of these two figures, \$90,000, has been used to calculate the hourly rate for an on-site retirement village manager.

- $HR_x = (\$90,000 / (44 \times 41)) \times 1.165 \times 1.5$; and
- $HR_x = (\$90,000 / 1804) \times 1.7475 = \87.18 .

G1.2 Administration staff/para-legal

- $AWE^{55} = \$1,111.60$ for 38.9 hours/week;⁵⁶
- $AE_x = \$1,111.60 \times 52 = \$57,803.20$;
- $HR_x = (\$57,803.20 / (44 \times 38.9)) \times 1.165 \times 1.5$; and
- $HR_x = (\$57,803.20 / 1711.6) \times 1.7475 = \59.02 .

Since Australian Bureau of Statistics (ABS) wages figures are from May 2010, the ABS Labour Price Index for Victoria is used to index to 2012.

The cumulative quarterly increase in the Labour Price Index for Victoria from September 2010 quarter to March 2012 quarter is 6.5 per cent⁵⁷.

Therefore, $(59.02 + 59.02 \times 0.065)$ gives an hourly rate of \$62.86 (as at March 2012).

G1.3 Retirement village sales staff

The ABS AWE for ‘Property operators and real estate services’ was considered to be the closest match.

- $AWE = \$908.20$ for 38.40 hours/week⁵⁸;
- $AE_x = \$908.20 \times 52 = \$47,226.40$;
- $HR_x = (\$47,226.40 / (44 \times 38.40)) \times 1.165 \times 1.5$; and
- $HR_x = (\$47,226.40 / 1689.6) \times 1.7475 = \48.84 .

Since ABS wages figures are from May 2010, the ABS Labour Price Index for Victoria to index to 2012 is used.

The cumulative quarterly increase in the Labour Price Index for Victoria from September 2010 quarter to March 2012 quarter is 6.5 per cent⁵⁹.

Therefore, $(48.84 + 48.84 \times 0.065)$ gives an hourly rate of \$52.01 as at March 2012.

Table G-1: Summary of hourly rates for retirement village-related job types

Job type	Hourly Rate
On-site retirement village manager	\$87.18
Administration/para-legal	\$62.86
Retirement village sales staff	\$52.01

⁵⁵ AWE refers to average weekly earnings.

⁵⁶ www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6306.0May%202010?OpenDocument accessed on 15 May 2012 (“Administration Services” (row 72). Consumer Affairs Victoria also consulted the Retirement Villages Association regarding approximate salary rates for administration staff. Their response was consistent with this ABS figure.

⁵⁷ [www.ausstats.abs.gov.au/ausstats/meisubs.nsf/0/8435DFA63CCD0256CA2579FF0011B69D/\\$File/63450_mar%202012.pdf](http://www.ausstats.abs.gov.au/ausstats/meisubs.nsf/0/8435DFA63CCD0256CA2579FF0011B69D/$File/63450_mar%202012.pdf).

⁵⁸ www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6306.0May%202010?OpenDocument

⁵⁹ [www.ausstats.abs.gov.au/ausstats/meisubs.nsf/0/8435DFA63CCD0256CA2579FF0011B69D/\\$File/63450_mar%202012.pdf](http://www.ausstats.abs.gov.au/ausstats/meisubs.nsf/0/8435DFA63CCD0256CA2579FF0011B69D/$File/63450_mar%202012.pdf).

G1.4 Hourly rates for legal professionals

Given that some retirement villages have access to in-house legal professionals and some retirement villages use specialised legal firms for their legal needs, hourly rates have been obtained or calculated for each of these scenarios.

External legal advice

Consumer Affairs Victoria consulted with several legal firms with retirement village expertise that have offices in Melbourne. Their average charges for different levels of expertise are presented in Table G-2.

Table G-2: Average cost per hour for retirement village legal expertise - Melbourne legal firms

Level	Hourly Rate
Principal/Partner	\$600 an hour
Senior Associate	\$527 an hour
Junior Solicitor	\$300 an hour
Law Clerk	\$242 an hour

Source: consultation with legal firms with retirement village expertise that have offices in Melbourne

In house legal professionals

Salary surveys from Hays, Hudsons, Mahlab and Michael Page were used to compile legal salaries.

Table G-3: In house legal salaries for Deputy General Counsel and General Counsel

Salary Survey	Deputy General Counsel / Legal Counsel Salary \$'000 p.a.	General Counsel Salary \$'000 p.a.
Mahlab	200	325
Hays	110 (4 years PAE)	160
Hudsons	200	190-300 (mid-point 245)
Michael Page	135 (property / construction, 3-5 years' experience)	245 (mid-cap, 2-5 years' experience)
Average	161	244

Note: where a range was provided, the midpoint was taken.
Source: Michael Page 2012, Hays 2012, Hudsons 2012, Mahlab 2012.

Hourly rate for Deputy General Counsel / Legal Counsel

- $HR_x = (\$161,000 / (44 \times 41)) \times 1.165 \times 1.5$; and
- $HR_x = (\$161,000 / 1804) \times 1.7475 = \155.96 .

Hourly rate for General Counsel

- $HR_x = (\$244,000 / (44 \times 41)) \times 1.165 \times 1.5$; and
- $HR_x = (\$244,000 / 1804) \times 1.7475 = \236.36 .

Table G-4: Summary of hourly rates for General Counsel

Job type	Hourly Rate
Deputy General Counsel/Legal Counsel	\$155.96
General Counsel	\$236.36

G2 Non-labour costs

G2.1 Printing

Retirement villages in Group Y will own or have access to high capacity multi-function devices (MFDs), whereas Group Z villages will own lower capacity MFDs suitable for a small business, (see Section G3 for a description of Group Y and Group Z villages).

The average lifetime price per page of the top five multi-function devices recommended for a large organisation and a small business respectively were calculated using prices quoted at www.printer.com. As it is a United States of America website (a similar calibre Australian site could not be located) prices were converted to Australian dollars using the 2011-2012 annualised exchange rate published by the Australian Taxation Office (see Table G-5⁶⁰). The average per page cost of printing was then calculated using a weighted average approach, with weight reflecting the composition of the industry according to the percentage of units in Group Y and Group Z villages respectively.

Table G-5: Printing costs

Retirement village group	Multi-function device used	Price per page printing - average of top 5 MFDs recommended	
		USD	AUD
Group Y villages (60% of total units)	MFD suitable for large organisation (average 2,500 pages/week)	0.005	0.053
Group Z villages (40% of total units)	MFD suitable for small business (average 500 pages/week)	0.0144	0.0153
Average (weighted)		0.00876	0.0093

Sources: Australian Taxation Office website 2012, Officeworks website 2012.

⁶⁰ www.ato.gov.au/taxprofessionals/content.aspx?menuid=0&doc=/content/22855.htm&page=4&H4 where AUD = USD1.0632 is average rate for year ended 30 June 2012.

Paper

The five best selling cartons of paper and their respective prices from Officeworks Online in June 2012 are detailed in Table G-6⁶¹. (One carton contains five reams of paper, and each ream contains 500 sheets). The average of these prices gives a per page cost of paper of \$0.0093.

Table G-6: Per carton price top five bestselling products at Officeworks Online

Brand	Price/Carton	Price per page
Reflex Ultra White A4 Copy	\$25.45	\$0.01018
Fuji Xerox Professional A4 Copy	\$19.00	\$0.0076
Double A4 Premium A4 Copy	\$25.45	\$0.01018
Reflex 100% Recycled	\$25.45	\$0.01018
Olympic Premium A4 Copy	\$22.80	\$0.00912
Average	\$23.63	\$0.009452

Total cost of printing (inclusive of paper costs)

Therefore, the total cost of printing one double-sided page is \$0.028 (the sum of the per page cost of paper and the per unit cost of printing multiplied by two (to account for double sided printing)).

G2.2 Postage

The Australia Post website was used to determine postage⁶². Posting of the prescribed documents (for more detail see Section 3.3) is considered to be in the large category and weigh up to 125g. Such an item costs \$1.20 to send.

G3 Breakdown of retirement villages into sub-groups

Victorian retirement villages have been divided into two categories to enable the costs of the proposals to be estimated. These are:

- Group Y retirement villages – These villages are part of or affiliated with a larger organisation that will allow them to access some internal legal or corporate resources. This can be any sort of organisation – commercial, not-for-profit, property development, housing, aged care etc.; and
- Group Z retirement villages – These villages are stand-alone or part of a group of up to four villages. Retirement villages that are part of a group of up to four villages are considered to be most similar to stand-alone villages. A group of four villages is not likely to generate the economies of scale as would retirement villages in Group Y.

⁶¹ www.officeworks.com.au accessed on 25 June 2012.

⁶² <http://auspost.com.au/business/full-rate-mail.html> accessed 3 August 2012.

Within Group Z villages, there are 140 stand-alone retirement villages, and 38 villages, which are part of smaller groups of villages of up to four villages. Within the 38 villages, there are two groups with four villages, four groups with three villages and nine groups with two villages. In other words, there are fifteen ‘groups’ within these 38 villages. In some cases, in calculating costs, it is more appropriate to consider these 38 villages as nine stand-alone villages (149 Group Z villages in 2012). Where this is the case, it is made explicit.

Table G-7: Retirement villages grouped on basis of access to corporate resources services arising from economies of scale of large organisations

Category	No. of Retirement Villages	Per cent of total Retirement Villages	No. of units	Per cent of total units
Group Y	222 (NFP:121) (FP:101)	55.5%	14,566	60%
Group Z	178 (stand alone : 138) (part of a group of up to 4 villages: 38)	44.5%	9,726	40%
Total	82	100%	24,2976	100%

Source of number of retirement village and villages units: Consumer Affairs Victoria
Retirement Villages Register 2012

G4 Estimated number of retirement village units in Victoria 2013-2022

Table G-8 shows the estimated number of retirement village units for the period 2013-2022. It assumes a growth rate of five per cent per year⁶³. This assumption is based on Andrews’ statement that between 1979 and 2004, there was an annual increase in retirement village units of around five per cent (2012 citing Colliers International). The Consumer Affairs Victoria Retirement Villages Register shows that in 2012 there were approximately 24,297 retirement village units in Victoria.

G5 Estimated number of retirement village units sold per year 2013-2022

It is assumed that on average 11 per cent of retirement village units will be sold per year between 2013-2022. This is the mid-point between:

- the turnover rate of eight per cent used in 2006 by the Allen Consulting Group in its Regulatory Impact Statement on Retirement Villages Contractual Arrangements.

⁶³ Andrews, R., ‘Don’t Buy Your Retirement Home Without Me!’, Wrightbooks, 2012, page 8.

This turnover rate was based on an average resident tenure of 12 years, however, this is now thought to have come down to 10 years; and

- the estimated number of retirement village units sold in 2010 which is 14 per cent. This estimate was based on data from the Valuer-General’s Office on sales of strata title retirement village units⁶⁴. The retirement village industry reports that since 2010 unit sales have slowed.

See Table G-8 shows the estimated number of retirement village units that will be sold per year for 2012-2013 using these assumptions.

The approximate number of units in 2012 in 24,297⁶⁵. Table G-8 also details how many of the units sold will be in Group Y villages and in Group Z villages respectively, assuming that the current market shares (in retirement village unit terms) continues.

Table G-8: Estimated number of retirement village units and units that will be sold

Year	Est. no. of RV units	Est. no. of RV units that will be sold	Group Y RV units sold	Group Z RV units sold
2012	24,297	NA	NA	NA
2013	25,512	2,807	1,684	1,123
2014	26,787	2,947	1,768	1,179
2015	28,127	3,094	1,856	1,238
2016	29,533	3,248	1,949	1,299
2017	31,010	3,411	2,047	1,364
2018	32,560	3,582	2,149	1,433
2019	34,188	3,760	2,256	1,504
2020	35,898	3,949	2,369	1,580
2021	37,693	4,146	2,488	1,658
2022	39,577	4,353	2,612	1,741
Total		35,297	21,178	14,119

G6 Growth in number of retirement villages in Victoria

To calculate the costs of the proposals, it is necessary to know how many new retirement villages are likely to be established for the predicted increase in retirement villages units. This has been calculated using the following assumptions that:

- 90 per cent of new units are in new villages and 10 per cent of new units are in existing villages. This assumption is based on data presented by Jones Lang

⁶⁴ The Valuer General’s office does not record retirement village unit transactions that are not strata-title.

⁶⁵ Under the Retirement Villages Act and the Retirement Villages (Records and Notices) Regulations, retirement villages are required to provide the number of units at the village in terms of a range (0-<10, 11-25, 26-50 etc). This total number of units has been calculated using the mid-point of each range.

LaSalle at the 2010 National Retirement Villages conference which indicated that of the retirement village units then in the development pipeline, 10 per cent were in existing villages and 90 per cent would be in new villages; and

- the average size of a retirement village is 61 units, as calculated using data from the Consumer Affairs Victoria Retirement Villages Register (2012).

The estimated number of new retirement villages per year and estimated number that will be in each of Group Y and Group Z for 2013-22 are detailed in Table G-9. These estimates assume that the proportion of retirement villages in Group Y and Group Z will remain the same as present (that is, Group Y at 55.5 per cent and Group Z at 44.5 per cent ownership of retirement villages, respectively).

Table G-9: Increase in number of retirement villages 2013-2022

Year	Est. no. of new village units ¹	No. of new units in existing villages (10%)	No. of new units in new villages (90%)	No. of new villages (average 61 units per village)	No. of new villages - Group Y (55.5%)	No. of new villages - Group Z (44.5%)	Total No. of villages
2012	-	-	-	-	(222)	(178)	400
2013	1,215	121	1,093	18	10 (232)	8 (186)	418
2014	1,276	128	1,148	19	10 (242)	8 (194)	437
2015	1,339	134	1,205	20	11 (253)	9 (203)	457
2016	1,406	141	1,266	21	12 (265)	9 (212)	477
2017	1,477	148	1,329	22	12 (277)	10 (222)	499
2018	1,550	155	1,395	23	13 (290)	10 (232)	522
2019	1,628	163	1,465	24	13 (303)	11 (243)	546
2020	1,709	171	1,538	25	14 (317)	11 (254)	571
2021	1,795	179	1,615	26	15 (331)	12 (266)	598
2022	1,885	188	1,696	28	15 (347)	12 (278)	625
Totals				225	125 (347)	100 (278)	5,150

G7 Number of Group Y not-for-profit and for-profit retirement villages in 2013

To calculate the costs of relevant staff becoming familiar with the new requirements of Option 1a and Option 2a, the number of not-for-profit and for-profit villages in Group Y in 2013 needs to be calculated.

The number of not-for-profit and for-profit Group Y villages in 2012 is detailed in Table G-7. The relative percentages of not-for-profit and for-profit Group Y villages in 2012 is used to project the respective number in 2013, using the projected total number of Group Y villages calculated in Table G-9.

Table G-10: Projected number of Group Y not-for-profit and for-profit retirement villages in 2013

For profit or not for profit village	Group Y Villages 2012	Per cent of Group Y Villages	Group Y Villages 2013
Not for profit	121	54.5%	121 + 6 = 127
For Profit	101	45.5%	101 + 4 = 105
Total	222	100%	232

G8 Number of Group Z stand alone and small groups of villages in 2013

To calculate the costs of relevant staff becoming familiar with the new requirements of Option 1a and Option 2a, the number of stand-alone and the number of groups of four or less villages within Group Z in 2013 needs to be calculated.

In 2013, the projected total number of Group Z villages is 186 or eight additional Group Z villages, as calculated in Table G-10. To determine how many of these will be stand-alone and how many will be part of a group of four or less villages, the distribution of these villages in 2012 was used (79 per cent and 21 per cent, respectively). This gives six new stand alone villages and two new villages which are parts of groups of up to four villages. Given that in 2012, the majority of the small group villages consist of two villages⁶⁶, it is assumed that these two new villages will consist of one group. This will mean that in 2013, the number of small groups of villages will rise to 16.

Table G-11 Projected number of Group Z stand-alone and small-group villages in 2013

For profit or not for profit village	Group Z Villages 2012	Per cent of Group Z Villages	Group Z Villages 2013
Stand alone	140	79%	140 + 6 = 146
Groups of 4 or less villages	38 (15 groups)	21%	38 + 2 = 40 (16 groups)
Total	178	100%	186

G9 Number of enquiries from prospective retirement village residents required to effect retirement village unit sale

The Retirement Village Association's submission to the 2011 Options Paper indicated that the conversion rate for an enquiry to a sale is on average approximately 6.4, that is, 100 enquiries to achieve an average of 6.4 sales. This equates to 15.625 enquiries for a sale of retirement village unit. This figure can be used to calculate the number of enquiries that

⁶⁶ There are two groups with four retirement villages, four groups with three villages and nine groups with two villages.

will be fielded (see Table G-12) for a given number of sales (Table G-8). The enquiries to Group Y and to Group Z villages, respectively has also been calculated.

G10 Number of prospective retirement village residents who make enquiries who will receive marketing material from the village

Option 1a proposes that prospective retirement village residents who are given marketing material by a retirement village operator are also to be given the factsheet, if they have not previously received it. Therefore, the number of prospective residents who will receive marketing material needs to be estimated. It is assumed that the vast majority of prospective residents will be given marketing material by retirement village operators – 85 per cent (see Table G-12). The number of prospective residents who are likely to be given marketing material has also been calculated for retirement villages in Group Y and Group Z respectively (Table G-12).

Table G-12: Estimated number of enquiries by prospective residents and number of prospective residents who will receive marketing material

Year	Est. no. of enquiries received from prospective residents	Est. enquiries – Group Y villages	Est. enquiries – Group Z villages	Est. no. prospective residents making enquiries who will receive marketing material	Est. no. prospective residents making enquiries who will receive marketing material – Group Y villages	Est. no. prospective residents making enquiries who will receive marketing material – Group Z villages
2013	43,848	26,309	17,539	37,271	22,363	14,908
2014	46,041	27,625	18,416	39,135	23,481	15,654
2015	48,343	29,006	19,337	41,092	24,655	16,437
2016	50,760	30,456	20,304	43,146	25,888	17,258
2017	53,298	31,979	21,319	45,303	27,182	18,121
2018	55,963	33,578	22,385	47,569	28,541	19,027
2019	58,761	35,257	23,504	49,947	29,968	19,979
2020	61,699	37,020	24,680	52,444	31,467	20,978
2021	64,784	38,871	25,914	55,067	33,040	22,027
2022	68,023	40,814	27,209	57,820	34,621	23,128
Total	551,522	330,913	220,609	468,793	281,276	187,517

G11 Number of prospective retirement village residents receiving factsheet who will request to inspect the prescribed documents

Under Option 1a, prospective residents would be entitled to inspect the prescribed documents. Prospective residents are alerted to this opportunity via the factsheet. It is assumed that only a minority of prospective residents who receive the factsheet will request to inspect the prescribed documents. This is based on the fact that, as detailed above, it takes 15.625 enquiries to a retirement village to generate the sale of one unit. In other words, only six per cent of people making enquiries proceed to make a purchase; therefore, only a small number of those making enquiries are likely to want further detailed information to assist their decision.

It is assumed that only one per cent of prospective residents receiving the factsheet will request to inspect some or all of the prescribed documents. This is on the basis of Consumer Affairs Victoria's experience with similar requirements under other regulatory regimes. For example, the requirements under the Co-operatives Regulations 2008 for registers to be open for inspection and the general requirements under the *Subordinate Legislation Act 1994* for copies of each statutory rule and under the *Interpretation of Legislation Act 1984* a copy of any incorporated documents to be available for inspection, where no inspection requests have actually occurred⁶⁷. Table G-13 details the estimated number of prospective retirement village residents who will request a factsheet (in total, and also for Group Y and Group Z villages).

Note: It is possible that prospective residents who do not receive a copy of the factsheet are also able to inspect the prescribed documents. However, it is considered highly unlikely that there will be any requests to inspect the documents from these prospective residents.

⁶⁷ Among the regulatory regimes administered by Consumer Affairs Victoria, the Co-operatives Regulations 2008 provided the closest corresponding scenario to this option provided under regulatory regime, that is, that prescribed documents be available to possible residents for inspection upon their request. There are no equivalent requirements under the *Residential Tenancies Act 1997* or the *Estate Agents Act 1980* or Regulations.

Table G-13: Prospective residents who will request to inspect the prescribed documents

Year	Est. no of prospective residents who having received factsheet will request to inspect documents	Group Y villages Est. no of prospective residents who having received factsheet will request to inspect documents	Group Z villages Est. no of prospective residents who having received factsheet will request to inspect documents
2013	373	224	149
2014	391	235	157
2015	411	247	164
2016	431	259	173
2017	453	272	181
2018	476	285	190
2019	499	300	200
2020	524	315	210
2021	551	330	220
2022	578	347	231
Total	4,687	2,813	1,875

G12 Estimated number of retirement village residents in Victoria 2013-2022

Table G-14 shows the estimated number of retirement village residents 2013-2022. This is calculated using:

- 5 per cent annual growth rate in number of retirement village units (as per above); and
- a ratio of residents to retirement village units of 1.55, derived from the current number of retirement village residents (37,700) divided by the current number of retirement village units (24,297).

Table G-14: Estimated number of retirement village residents 2012-22

Year	No. of village units (5 per cent growth p.a.)	Residents (1.55 residents per unit)
2012	24,297	37,700
2013	25,512	39,543
2014	26,787	41,521
2015	28,127	43,597
2016	29,533	45,776
2017	31,010	48,066
2018	32,560	50,465
2019	34,188	52,992
2020	35,898	55,642
2021	37,693	58,424
2022	39,577	61,345

G13 Tenure type of Victorian retirement villages in 2013

The tenure type of Victorian retirement villages in 2013 is required to calculate the estimated costs relating to the proposed contract standardisation requirements (Options 3a and 3b).

The figures in Table G-15 were calculated by first determining the distribution of the tenure of retirement villages in 2012. Due to the small number of unit trust and company title tenured villages, this could be determined with accuracy from the Consumer Affairs Victoria Retirement Villages Register (2012), including whether they were Group Y or Group Z villages. Due to some limitations in the Consumer Affairs Victoria Retirement Villages Register, it was difficult to determine the distribution of the tenure of retirement villages of loan-lease, mixed villages, and strata title. Therefore, indicative trends from the Register and consultation with stakeholders were used to determine the number of villages with loan-lease, mixed and strata title tenure systems villages. The Retirement Village Association and legal firms with retirement village expertise agreed that the majority of villages in Victoria are loan-lease (or loan-licence) tenure. Furthermore, new villages will adopt the loan-lease model and existing villages with strata title units are moving towards an entirely loan-lease village.

Having established the distribution of tenure in retirement villages in 2012, the projected number of villages in 2013 as calculated in Table G-12 was used. It was assumed all new villages would adopt a loan-lease tenure, as indicated through Consumer Affairs Victoria's consultation with retirement village stakeholders. The distribution of Group Y and Group Z villages in 2012 (55.5 per cent and 44.5 per cent, respectively, see Table G-7) was used to calculate the projected distribution of the 18 new villages between Group Y and Group Z villages.

Table G-15: Tenure type of Victorian retirement villages 2013

Tenure Type	No. of retirement villages 2012	No. of retirement villages 2013	Group Y retirement villages 2013 (55.5%)	Group Z retirement villages 2013 (44.5%)
Loan-lease / loan-licence	300	318	176	142
Mixed villages (combination of strata title and loan-lease villages)	42	42	23	19
Strata title	55	55	31	24
Unit trust	1	1	1	1
Company title	2	2	1	1
Total	400	418	231	187

Source: Consumer Affairs Victoria Retirement Villages Register and consultation with retirement village stakeholders.

Appendix H: Costing of options

Key for hourly rates of different job types

HR _x	Hourly rate job type X;
A	Retirement village administration staff / para-legal;
DGC	Deputy General Counsel;
GC	General Counsel;
P	Partner/Principal in legal firm;
RVM	Retirement village on-site manager; and
S	Retirement village sales staff.

Retirement village types

Group Y villages	Villages that are part of, or affiliated with, a larger organisation that gives them to access some internal legal or corporate resources. This can be any sort of organisation – commercial, not-for-profit, property development, housing, aged care etc.; and
Group Z villages	Villages that are stand-alone or part of a group of up to four villages. Retirement villages that are part of a group of up to four villages are considered to be most similar to stand-alone villages. A group of four villages is not likely to generate the economies of scale of Group Y retirement villages.

Present value formulae

Cost present value year one	$\sum (c_t / (1 + r)^t)$;
Cost present value years 1-10	$\sum (c_1 / (1 + r)^1 .. c_{10} / (1 + r)^{10})$;
C _t	Cost in year t ; and
R	Discount rate (discount rate used is 3.5 per cent).

Stages of retirement village decision-making

Intermediate stage	Stage at which prospective residents are interested in one or a small number of retirement villages.
Pre-contractual stage	Stage at which proposed residents are interested in a particular unit in a particular village and about to enter a contract. They are emotionally committed and are likely to have paid a deposit.
Prospective retirement village resident	Retirees who are at the intermediate stage of the decision-making process to enter a retirement village. (See Section 2.5, and also 'proposed retirement village resident').
Proposed retirement village resident	Retirees who are at the pre-contractual stage of the decision to enter a retirement village. They have been provided with the 'residence documents' required under the Retirement Villages Act by the operator and have likely paid a deposit.

H1 Option 1a: introduce disclosure at the intermediate stage

Option 1a would require retirement village operators to:

- provide the factsheet to prospective retirement village residents within seven days of a request;
- include the factsheet with the marketing material they provide to a prospective retirement village resident, if they were not previously given a copy⁶⁸;
- allow prospective retirement village residents, upon request, to inspect prescribed documents within seven days of that request;
- provide the factsheet to proposed residents at the pre-contractual stage along with the other required documents⁶⁹ if they were not previously given a copy; and
- provide proposed residents at the pre-contractual stage with the opportunity to inspect the prescribed documents, if they have not previously been given an opportunity to inspect those documents.

The cost to retirement village operators of becoming familiar with these requirements and the costs of meeting each of the requirements are calculated individually below. At the conclusion of this section these costs are added together to give the total estimated cost to retirement village operators of meeting the requirements of Option 1a.

⁶⁸ Defined as material intended to promote the village as a place to live (not being part of any general provision or dissemination of marketing material, for example, a general mail-out or letter box drop).

⁶⁹ See section 19 of the Retirement Villages Act.

H1.1 Cost of relevant staff becoming familiar with the new requirements (first year cost only)

The cost of the relevant staff becoming familiar with the requirements of Option 1a will vary according to whether a retirement village is a Group Y village (part of a group of villages or larger organisation) or a Group Z (a stand alone village). The reason is that Group Y retirement villages will be able to take advantage of economies of scale whereas Group Z retirement villages will not, with the exception of Group Z villages that are part of small groups, see below.

For Group Y retirement villages, one staff member is expected to be able to work across multiple villages or sites; therefore, less than one staff member per village will need to be familiar with the requirements of Option 1a. The staff member that will need to be familiar with the Option 1a requirements, is likely to differ between not-for-profit and for-profit villages. In a for-profit village, it is likely that a salesperson will provide a prospective retirement village resident with the factsheet, whereas in a not-for-profit retirement village, it is likely to be the retirement village manager. To determine the number of Group Y village staff that will need to be familiar with the requirements of Option 1a, the number of retirement villages Group Y was halved.

For Group Z retirement villages that are part of a group of four or less villages, one staff member person per village will need to be familiar with the requirements of Option 1a. This will most likely be the retirement village manager. Therefore, rather than the number of villages that are part of small groups in 2013 (40), the number of groups of such villages in 2013 (16) (see Table G-11) was used in calculating costs.

Consumer Affairs Victoria considers it will take the relevant staff member 30 minutes to become familiar with the requirements as they are not complex. Furthermore, Consumer Affairs Victoria will write to all retirement villages on the Consumer Affairs Victoria Register to notify them of the new requirements and guidance material will be available on the Consumer Affairs Victoria website. There may also be additional free sources of advice from corporate advisory services and/or industry bodies⁷⁰.

Table H-1: Cost calculations – first year cost for relevant staff to become familiar with new requirements (Option 1a)

Group	Cost Formula (c1)	Nominal Value Cost	Present Value Cost
Group Y – not for profit	$(\text{No. of Group Y not for profit villages} / 2)_1 \times \text{HR}_{\text{RVM}} \times \text{hours}$	\$5,536	\$5,349
Group Y – for profit	$(\text{No. of Group Y for profit villages} / 2)_1 \times \text{HR}_S \times \text{time required}$	\$2,731	\$2,638
Group Z	$(\text{No. of Group Z villages})_1 \times \text{HR}_{\text{RVM}} \times \text{hours}$	\$7,062	\$6,823
Total		\$15,328	\$14,810

⁷⁰ Since the release of the 'Retirement villages: Good practice to address key issues' guide in May 2012, two legal firms have conducted free seminars on the guide. Some legal firms issue free newsletters on changes to law or regulations.

H1.2 Costs of providing factsheets at the intermediate stage

Under the proposal to provide a factsheet at the intermediate stage, operators will incur some costs only in the first year, namely drawing up the factsheet, and some costs on an ongoing basis, for example, the cost of printing and providing the factsheet.

The costs that would be incurred by operators in the first year only are the costs associated with developing the inaugural factsheet which will consist of:

- drawing up the factsheet (note that a template will be provided on the Consumer Affairs Victoria website);
- collecting the required information to put into the factsheet (these particulars would be readily available to a normally efficient business);
- entering the required information into the factsheet; and
- checking of the factsheet by a legal professional.

First year cost - drawing up inaugural factsheet

It is considered that the tasks required to develop the inaugural factsheet will be completed by different staff members depending on whether the retirement village is a Group Y or a Group Z retirement village. The distinction is based on the assumption noted above that retirement villages in Group Y will have access to some internal legal or corporate resources, which is unlikely to be the case for Group Z retirement villages.

Table H-2 details the job category that will undertake each of the tasks associated with developing the inaugural factsheet and how long completing the task is likely to take. As a template for the factsheet will be provided on the Consumer Affairs Victoria website, there will be no cost to retirement villages in drawing up a template. Consumer Affairs Victoria consulted with the Retirement Village Association on the time required for a retirement village to complete the disclosure statement that it proposed in its submission to the 2011 Options Paper, as it is similar to the factsheet. Based on consultation with its members, the Retirement Villages Association estimated that it would take up to three hours for a retirement village to complete their proposed disclosure statement depending on for example, the size of a village and whether or not it was part of a larger organisation/company. Consumer Affairs Victoria has taken the mid-point of this range (1.5 hours) as the amount of time it would take a retirement village to complete the factsheet.

Consumer Affairs Victoria also consulted with legal firms with retirement villages' expertise on whether or not legal assistance would be required in completing the Retirement Village Association's proposed disclosure statement. The responses were mixed. Some legal firms considered that legal assistance would be required to detail the exit fee formula. Other legal firms considered that it could be handled entirely at the operational level. Therefore, Consumer Affairs Victoria has assumed legal assistance of 15 minutes per village. This is intended to reflect that some villages will complete the factsheet entirely at the operational level, while others may seek legal input, which is likely to take more than 15 minutes.

It is also assumed that if a retirement village or retirement village organisation considers that factsheets need input from a legal professional, then this will be provided by the most senior legal professional, that is, General Counsel or Partner/Principal. This assumes

that factsheets will be distributed to the public and, therefore, need to be checked at the most senior level.

Table H-2: Development of inaugural factsheet – job category which will complete each task and how long each task will take

Task	Who will perform task?		Hours to complete task
	Group Y	Group Z	
Collect and insert data into factsheet	A	RVM	1.5
Assistance from legal professional	GC	P	0.25

Table H-3: Cost calculations – first year cost of developing inaugural factsheet

Task	Cost Formula (c ₁)	Nominal Value Cost	Present Value Cost
Collect and insert data into factsheet	$(\text{No. of Group Y villages})_1 \times HR_A \times \text{hours}$	\$21,875	\$21,136
	$(\text{No. of Group Z villages})_1 \times HR_{RVM} \times \text{hours}$	\$24,323	\$23,501
Obtain assistance from legal professional	$(\text{No. of Group Y villages})_1 \times HR_{GC} \times \text{hours}$	\$13,709	\$13,245
	$(\text{No. Group Z villages})_1 \times HR_P \times \text{hours}$	\$27,900	\$26,957
Total		\$87,807	\$84,838

Ongoing costs

The ongoing costs associated with giving factsheets to prospective residents who request it and to those to whom marketing material is given are:

- updating the factsheet;
- printing the factsheet; and
- providing the factsheet to prospective residents.

Table H-4 details these tasks, the staff members who would undertake each task in Group Y and Group Z villages respectively, and the estimated time it would take the staff member complete the task. It is estimated that it will only take 15 minutes to update a factsheet because some information will remain unchanged and the information that will need to change will be readily available to a normally efficient business.

As noted above, some villages will seek legal assistance when they update factsheets while others will not. While the extent to which villages will require assistance is uncertain, for the purposes of the Regulatory Impact Statement it is assumed that overall 10 minutes of that assistance will be required for each village per year.

it is assumed that factsheets will be provided to prospective residents that request it at the intermediate stage in person in the majority of cases. This is because the majority of

retirement village residents move to a village within 10-15 km of their previous home⁷¹. Furthermore, operator submissions to the 2011 Options Paper reported that retirement villages staff spend significant amounts of time, up to 20 hours, with prospective residents before they enter into a contract, and that most of this time is spent onsite at the village.

It is also assumed that it will only take a retirement village staff member two minutes to hand the factsheet to the prospective resident. There is no requirement for the operator to provide any verbal explanation to the prospective resident. However, given the nature of human interaction, it is likely that a retirement village staff member will say a few words to inform the prospective resident that they are being provided with the factsheet as requested.

Based on the information that is required to be included in the factsheet, it is considered that on average, it will need to be updated quarterly.

It is considered that, as retirement villages already hold substantial stocks of information materials for prospective residents, and as the factsheets are not voluminous, they will be able to be stored without requiring the provision of new storage facilities at retirement villages. Accordingly, an estimate of the storage costs of factsheets is not included in this Regulatory Impact Statement.

Table H-4: Completion of factsheet – who will perform tasks and how long will they take?

Task	Who will perform task?		Hours
	Group Y	Group Z	
Updating factsheet	RVM	RVM	0.25
Obtaining assistance from legal professional	GC	P	0.17 (10 min)
Providing factsheet to prospective residents	S	RVM	0.033 (2 min)

⁷¹ Andrews, R., 'Don't Buy Your Retirement Home Without Me!', Wrightbooks, 2012, page 31.

Table H-5: Cost calculations – ongoing costs of provision of factsheet at intermediate stage

Task	Cost Formula (c _n)	Nominal Value Cost	Present Value Cost
Updating factsheet	(No. of villages) x HR _{RVM} x 1 (per year) x hours	\$112,183	\$95,347
Obtaining assistance from legal professional	(No. of villages) ₁ x HR _{GC} x hours (Group Y)	\$114,786	\$97,559
	(No. of villages) ₁ x HR _p x hours (Group Z)	\$233,632	\$198,569
Providing factsheet to prospective residents	(No. of residents given marketing material Group Y villages) _n x HR _S x hours	\$482,762	\$409,842
	(No. of residents given marketing material Group Z villages) _n x HR _{RVM} x hours	\$539,476	\$457,989
Printing costs	(Enquiries from prospective residents) _n x no. of pages of factsheet x cost per page of printing	\$100,337	\$85,215
Total		\$1,583,216	\$1,334,522

Table H-6: Total costs of provision of factsheet at intermediate stage to prospective residents who request it and to prospective residents to whom marketing material is given

First year only costs Present Value (2013) (Table H-1 and Table H-3)	\$102,617
Ongoing costs Present Value (2013-2022) (Table H-5)	\$1,298,636
Total	\$1,401,253

H1.3 Costs of inspection of documents by prospective residents (at intermediate stage)

Retirement village operators would be required to make available to prospective residents the proposed prescribed documents for inspection within seven days of a request. Implicit in this provision will be the right for prospective residents to take copies of these documents. All of these documents would already exist in a normally efficient business. Therefore, costs will only be for making them available to prospective residents, and not developing these documents from scratch.

Based on experience with retirement village contracts and submissions to the 2011 Options Paper, it is estimated that, if a prospective resident requests all of the prescribed documents, it will be approximately 250 pages (double-sided).

Retirement villages could comply with such a request in a number of ways by:

- providing a location for the documents to be inspected;
- providing a location for the documents to be inspected and facilities for viewers to take copies;

- providing copies of the requested documents, with or without charge, in person or by posting; or
- emailing electronic copies of the requested documents.

In practice, it is anticipated that few if any prospective retirement village residents will seek to inspect the documents or inspect and take copies. It has been assumed that one per cent of those receiving the factsheet will want to inspect the prescribed documents (see Table G-13). Also, as this would take place before a sale has been made, it is anticipated that most if not all retirement villages would (despite no requirement to do so) provide prospective residents with copies free of charge or email the documents.

As noted above, for Group Y villages it is assumed that the task will be completed by an administration or para-legal staff member and for Group Z villages, the task will be completed by the retirement village manager. The prospective resident may request that the documents be provided in a particular way, for example, by email, hard copy via post, or hard copies in person. An operator may fulfil a request in one of these three ways (email, post, in person). In the absence of any analogous regime on which to base assumptions about how prospective residents and operators will behave in this scenario, it has been assumed that:

- 33 per cent of requests will be met by sending the prescribed documents by email;
- 33 per cent of requests will be met by sending hard copies of the prescribed documents; and
- 33 per cent of requests will be met by giving the documents directly to the prospective residents.

Giving the documents directly to the prospective residents is estimated to take two minutes⁷² plus 7.5 minutes to print the documents. It is assumed that it will take 10 minutes to email the prescribed documents to a prospective retirement village resident and 15 minutes to print and post hard copies of the prescribed documents to a prospective retirement village resident. Posting the documents will take longer than simply printing, as posting also requires addressing an envelope, determining postage, affixing postage and posting the documents.

Table H-7: Job category which will email or print and post prescribed documents and time this will take

Task	Who will perform task?		Hours
	Group Y	Group Z	
Emailing prescribed documents	A	RVM	0.17(10 mins)
Printing hard copies of prescribed documents and posting them			0.25(15 mins)
Printing hard copy of prescribed & dispensing to possible resident in person			0.125 + 0.033 = 0.1583 (9.5 mins)

⁷² This is consistent with the assumption above that it will take two minutes for the retirement village staff member to give a factsheet to a prospective resident in person.

Table H-8: Cost calculations – providing copies of prescribed documents to prospective residents who request them at intermediate stage

Village Group	Cost Formula (c_n)	Nominal Value Cost	Present Value Cost
Labour costs – emailing prescribed documents			
Group Y villages	(No. prospective residents who request the prescribed documents) _n x 0.33 x HR _A x hours	\$9,919	\$8,421
Group Z villages	(No. prospective residents who request the prescribed documents) _n x 0.33 x HR _{RVM} x hours	\$9,171	\$7,786
Labour costs – printing & posting copies of prescribed documents			
Group Y villages	(No. prospective residents who request the prescribed documents) _n x 0.33 x HR _A x hours	\$14,587	\$12,384
Group Z villages	(No. prospective residents who request the prescribed documents) _n x 0.33 x HR _{RVM} x hours	\$13,487	\$11,450
Labour costs – printing copies of prescribed documents and giving them in person			
Group Y villages	(No. prospective residents who request the prescribed documents) _n x 0.33 x HR _A x hours	\$9,236	\$7,841
Group Z villages	(No. prospective residents who request the prescribed documents) _n x 0.33 x HR _{RVM} x hours	\$8,540	\$7,250
Printing costs			
Group Y & Z villages	(No. prospective residents who request to inspect the prescribed documents Group Y) _n x 0.66 + (No. prospective residents who ask to inspect the prescribed documents 2013-23 Group Z) _n x 0.66] x no. pages x printing cost per page	\$21,658	\$18,387
Postage costs			
Group Y & Z villages	(No. prospective residents who ask to inspect the prescribed documents Group Y) _n x 0.33 + (No. prospective residents who ask to inspect the prescribed documents Group Z) _n x 0.33 x postage per item	\$1,854	\$1,574
Total		\$88,452	\$75,092

H1.4 Costs of provision of factsheet to proposed residents at pre-contractual stage

It is anticipated that although operators will be required to provide the factsheet to only those proposed residents who have not previously received one, in practice, they will simply provide it to all proposed residents⁷³.

As the costs for establishing and updating the factsheet have already been calculated, the additional costs at this stage will only be printing and staff costs to provide the factsheet. It is considered that it will take five minutes to print the factsheet. No additional costs have been calculated with respect to providing the factsheet, as it will be provided with the other currently required pre-contractual disclosure documents⁷⁴. As noted above, for Group Y villages this task will be carried out by an administrative employee, and for Group Z villages the task is likely to be completed by the retirement village manager.

Table H-9: Cost calculations – provision of factsheet at pre-contractual stage

Cost component	Cost Formula (cn)	Nominal Value Cost	Present Value Cost
Group Y villages – labour costs	(No. of village units sold Group Y) _n x HR _A x hours	\$110,496	\$93,806
Group Z villages – labour costs	(No. of village units sold Group Z) _n x HR _{RVM} x hours	\$102,164	\$86,732
Printing costs (Group Y & Z)	(No. of village units sold) _n x no. of pages of factsheet x per page printing cost	\$6,424	\$5,454
Total		\$219,084	\$185,992

H1.5 Costs of inspection of documents by proposed residents at the pre-contractual stage

With respect to being able to inspect the prescribed documents, it is anticipated that only one per cent of prospective residents will ask to inspect the documents. Because proposed residents at the pre-contractual stage are more committed to entering a particular retirement village than prospective residents at the intermediate stage, it may be expected that a higher number of proposed residents would request to inspect the prescribed documents at the pre-contractual stage than at the intermediate stage. However, as detailed in Section 2.5, proposed residents at the pre-contractual stage tend to be emotionally committed and less interested in paperwork than at the intermediate

⁷³ It is considered that simply providing it to all prospective residents would be more cost-effective than maintaining records of all prospective residents to whom they have dispensed the factsheet, particularly given the majority will not proceed to entering the retirement village.

⁷⁴ See section 19 of the Retirement Villages Act.

stage. Nonetheless, it is considered that a small number of proposed residents will be interested in examining the prescribed documents.

The same assumptions above are used to calculate these costs. They are that 33 per cent of the requests will be met by sending the copies via email, 33 per cent by posting hard copies of the documents and 33 per cent by giving the documents directly to the prospective resident.

Table H-10: Cost calculations – inspection of documents by proposed residents at the pre-contractual stage

Village Group	Cost Formula (c_1)	Nominal Value Cost	Present Value Cost
Labour costs – emailing prescribed documents			
Group Y villages	(No. proposed residents who ask to inspect the prescribed documents at pre-contractual stage) $n \times 0.33 \times HR_A \times$ hours	\$99	\$84
Group Z villages	(No. proposed residents who ask to inspect the prescribed documents at pre-contractual stage) $n \times 0.33 \times HR_{RVM} \times$ hours	\$92	\$78
Labour costs – printing & posting copies of prescribed documents			
Group Y villages	(No. proposed residents who ask to inspect the prescribed documents at pre-contractual stage) $n \times 0.33 \times HR_A \times$ hours	\$146	\$124
Group Z villages	(No. proposed residents who ask to inspect the prescribed documents at pre-contractual stage) $n \times 0.33 \times HR_{RVM} \times$ hours	\$135	\$114
Labour costs – printing copies of prescribed documents that will be dispersed to prospective residents in person			
Group Y villages	(No. proposed residents who ask to inspect the prescribed documents at pre-contractual stage) $n \times 0.33 \times HR_A \times$ hours	\$73	\$62
Group Z villages	(No. proposed residents who ask to inspect the prescribed documents at pre-contractual stage) $n \times 0.33 \times HR_{RVM} \times$ hours	\$67	\$57
Printing costs			
Group Y & Z villages	(No. proposed residents who ask to inspect the prescribed documents at pre-contractual stage Group Y $\times 0.66$) $_n$ + (no. proposed residents who request to inspect prescribed documents at pre-contractual Group Z $\times 0.66$) $_n$ \times no. pages \times printing cost per page	\$217	\$184
Postage costs			
Group Y & Z villages	(No. proposed residents who ask to inspect the prescribed documents at pre-contractual stage Group Y $\times 0.33$) $_n$ + (no. proposed residents who ask to inspect the prescribed documents at pre-contractual Group Z $\times 0.33$) $_n$ \times postage per item	\$17	\$14
Total		\$846	\$719

H1.6 Total costs of Option 1a

Table H-11: Total costs Option 1a – 2013-2022

Proposal Element	Present Value Cost
Costs of staff becoming familiar with relevant requirements (first year cost only Table H-1)	\$14,810
Costs of development of inaugural factsheet (Table H-3)	\$84,838
Costs of provision of factsheet to prospective residents at the intermediate stage (Table H-5)	\$1,344,522
Costs of allowing prospective residents to inspect prescribed documents at intermediate stage (Table H-8)	\$75,092
Costs of provision of factsheet to proposed residents at the pre-contractual stage (Table H-9)	\$185,992
Costs of allowing proposed residents to inspect prescribed documents at pre-contractual stage (Table H-10)	\$719
Total Costs	\$1,705,972

H2 Option 2a: Improve pre-contractual disclosure

Option 2a would require retirement village operators to provide proposed residents with an expanded disclosure statement at the pre-contractual stage.

The cost to retirement village operators of becoming familiar with these requirements and of completing each of the above documents is calculated individually below. At the conclusion of the section these costs are added together to give the total estimated cost to retirement village operators of meeting the requirements of Option 2a.

The costs of providing the expanded pre-contractual disclosure statement to proposed retirement village residents consist of the costs associated with:

- staff becoming familiar with the new requirements (first year only cost);
- drawing up the expanded disclosure statement template (first year only cost);
- additional labour costs in completing the additional elements of the expanded disclosure statement for each individual retirement village unit sale; and
- additional printing costs as the expanded disclosure statement is longer than the one currently required by regulations.

Unlike the intermediate stage factsheet proposed in Option 1a, there are no additional costs associated with retirement village operators providing the expanded pre-contractual disclosure statement. This is because of the existing requirement to provide the currently prescribed disclosure statement.

H2.1 Cost of relevant staff becoming familiar with new requirements (first year cost only)

The approach taken here is analogous to the approach taken for Option 1a. For Option 2a, it is considered that it will take staff members 30 minutes to become familiar with the requirements. Although the requirements are less complex than those in Option 1a, the contents of the expanded disclosure statement are more complex than the contents of the factsheet.

Table H-12: Cost calculations – first year cost of relevant staff becoming familiar with new requirements (Option 2a)

Group	Cost Formula (c1)	Nominal Value Cost	Present Value Cost
Group Y – not for profit	$(\text{No. of Group Y not for profit villages} / 2)_1 \times \text{HR}_{\text{RVM}} \times \text{hours}$	\$5,536	\$5,349
Group Y – for profit	$(\text{No. of Group Y for profit villages} / 2)_1 \times \text{HR}_5 \times \text{time required}$	\$2,731	\$2,638
Group Z	$(\text{No. of Group Z villages})_1 \times \text{HR}_{\text{RVM}} \times \text{hours}$	\$7,062	\$6,823
Total		\$15,328	\$14,810

H2.2 First year cost - drawing up inaugural expanded disclosure statement template etc

As with the factsheet, a template for the expanded disclosure statement will be provided on the Consumer Affairs Victoria website. However, unlike the factsheet, it is considered that many retirement village operators will need to spend some time further developing the template. This is because the expanded disclosure statement requires estimates of the exit entitlements at one, two, five and 10 years to be provided⁷⁵. A normally efficient business would build a formula into the template so that the estimate is calculated automatically once the values are inserted (rather than a staff member having to manually calculate the estimates on each occasion). Consumer Affairs Victoria will not be providing this calculation in the template expanded disclosure statement, as exit entitlement calculations vary across retirement villages.

To calculate the estimated exit entitlements, operators will be required, where applicable, to nominate a rate of capital growth⁷⁶. A capital growth rate is required to calculate the estimated re-sale/re-lease price of the unit for one, two, five and 10 years. Given that capital growth is integral to the profitability of a retirement village business, the capital growth of any particular retirement village would be well-known to its operators. Therefore, it is assumed that requiring retirement village operators to

⁷⁵ For some retirement villages there is no exit entitlement payable (therefore the exit entitlement at one, two, five and 10 years will be simply zero). These are typically not-for-profit villages (see Section 1).

⁷⁶ Not all retirement village contracts provide for the resident to share in the capital gain (or loss) of their retirement village unit upon its re-sale/re-lease.

nominate a capital growth figure for use in the expanded disclosure statement would not impose any costs on them.

Operators can then populate the template with the information that will remain the same across all contracts. There is only a small amount of such information.

Consumer Affairs Victoria considers that inputting the retirement village’s exit entitlement formula/e, capital growth rate and the information that is standard across all units will take 45 minutes.

Based on consultation with stakeholders, it is considered that some retirement villages will seek legal assistance with this task whereas others will complete it entirely at the operational level⁷⁷. Therefore, 15 minutes legal assistance per village has been assumed.

Table H-13 details the job category that will undertake each task associated with developing the expanded disclosure statement, and the time it will take for each task.

Table H-13: Development of expanded disclosure statement – job category which will complete each task and how long each task will take

Task	Who will perform task?		Hours to complete task
	Group Y	Group Z	
Drawing up expanded pre-contractual disclosure statement	A	RVM	0.75
Assistance from legal professional	GC	P	0.25

Table H-14: Cost calculations – first year cost of developing expanded disclosure statement

Task	Cost Formula (c_1)	Nominal Value Cost	Present Value Cost
Drawing up expanded disclosure statement template	(No. of Group Y villages) ₁ x HR _A x hours	\$10,938	\$10,568
	(No. of Group Z villages) ₁ x HR _{RVM} x hours	\$12,162	\$11,750
Legal assistance	(No. of villages Group Y) ₁ x HR _{GC} x hours	\$13,709	\$13,245?
	(No. of villages Group Z) ₁ x HR _P x hours	\$27,900	\$26,957
Total		\$64,708	\$62,520

⁷⁷ The rationale is similar to the costing of the development of the inaugural factsheet for Option 1.

H2.3 Ongoing cost – completing additional elements of expanded pre-contractual disclosure statement

As with the currently required disclosure statement, each expanded pre-contractual disclosure statement is specific to an individual proposed resident, unit and contract. Hence, each statement will continue to need to be completed individually. Due to the additional elements in the expanded disclosure statement, it will take additional time for it to be completed.

The majority of the information required for the expanded disclosure statement will already exist in the proposed resident’s contract/s. Given this, and on the basis of the Retirement Village Association’s estimates of time it would take to complete their proposed disclosure statement (see Option 1a costings), it is estimated that it will take 45 minutes to complete the expanded disclosure statement. This estimate includes all elements in the proposed expanded disclosure statement, including the calculation of the estimated exit entitlements.

The expanded disclosure statement will be completed by the retirement village manager for Group Y villages and by an administration staff member for Group Z villages, consistent with costing estimates for the other options.

It is considered that additional legal assistance will not be required at this stage. This is based on consultation with legal firms who have expertise in retirement villages that advise that although they will assist with drawing up the template contract, completion of the specific details for an individual transaction is done at the operational level.

Table H-15: Completing expanded disclosure statement for anticipated sale/lease of unit – who will perform tasks and how long they will take

Task	Who will perform task?		Hours to complete task
	Group Y	Group Z	
Compilation and inputting of data into expanded disclosure statement	A	RVM	0.75

Table H-16: Cost calculations – completing expanded disclosure statement for sale or lease of unit

Task	Cost Formula (c_n)	Nominal Value Cost	Present Value Cost
Completing expanded disclosure statement – Group Y villages	$(\text{Village units sold Group Y})_n \times HR_A \times \text{time}$	\$998,457	\$847,642
Completing expanded disclosure statement – Group Z villages	$(\text{Village units sold Group Z})_n \times HR_{RVM} \times \text{time}$	\$923,168	\$783,725
Total		\$1,921,625	\$1,631,368

H2.4 Ongoing cost – additional printing costs associated with expanded pre-contractual disclosure statement

The current pre-contractual disclosure statement comprises one, one-sided page. It is estimated that the proposed expanded pre-contractual disclosure statement will add three, double-sided pages. One of these pages can be printed on the back of the existing disclosure statement.

Table H-17: Cost calculation – additional printing costs of expanded disclosure statement

Cost component	Cost Formula (c_1)	Nominal Value Cost	Present Value Cost
Printing costs of expanded pre-contractual disclosure statement	(No. of village units to be sold) _n x (per unit printing cost for one piece of paper with double sided printing) + (per unit paper cost x3)	\$3,953	\$3,356

H2.5 Total costs of Option 2a

Table H-18: Total costs of provision of expanded pre-contractual disclosure statement

Proposal Element	Present Value Cost
First year costs (2013) (Table H-12) and (Table H-14)	\$77,330
Ongoing costs (2013-2022) (Table H-16)	\$1,631,368
Total	\$1,708,698

Table H-19: Total costs Option 2a – 2013-2022

Proposal Element	Present Value Cost
Staff becoming familiar with new requirements (first year only cost (2013)) (Table H-12)	\$14,810
Cost of drawing up inaugural expanded disclosure statement (first year only cost (2013)) (Table H-14)	\$62,520
Ongoing costs (2013-2022) (Table H-16)	\$1,631,368
Expanded pre-contractual disclosure statement – printing costs (Table H-17)	\$3,356
Total	\$1,712,053

H3 Option 3: Introduce contract standardisation requirements

Under Option 3a, retirement village operators will be required to re-draft the contracts they offer to proposed retirement village residents to:

- address matters that are required to be addressed (where necessary – some contracts may already cover these issues);
- exclude any matters that are not permitted to be included (where necessary – some contracts may not contain such terms);
- include the prescribed terms; and
- comply with the standard layouts.

Option 3b consists of the above elements, less the standard contract layouts.

As existing contracts will only need to be amended once to comply with these requirements, this is a one-off cost. Amending existing contracts to comply with the proposed requirements is work that will need to be completed by legal professionals.

It is considered that the contract standardisation work will need to be done on a per village basis, even where villages are within the same over-arching organisation, due to the unique arrangements of each village⁷⁸. The legal firms consulted also considered that work to comply with the proposed contract standardisation requirements would need to be done on a per village basis.

H3.1 Option 3a

Consumer Affairs Victoria consulted with legal firms with retirement village expertise to obtain an estimate of the time it would take to amend existing contracts for a loan-lease village to comply with the Option 3a contract standardisation requirements. The average time estimated was 19.7 hours (for both for profit and not-for-profit villages).

This figure is used for Group Z villages that do not have access to internal legal resources. For Group Y villages, who have access to internal legal resources, it is assumed that it will take slightly less time as the legal professionals working on these contracts are likely to be more familiar with them (than is the case of legal firms providing services to Group Z villages).

The 19.7 hour estimate for loan-lease villages is also used as a basis for estimates for other types of tenure. For example, mixed villages are villages with some strata title and some loan-lease villages. For strata title, there is only one agreement that needs to be amended to meet the proposals. Therefore, the estimated time is the sum of the time to amend the loan-lease agreements (19.7 hours) and the time to amend the one contract relating to strata title units (as this is the management contract only, it is estimated to take half of the 19.7 hours).

Table H-20 provides the contract standardisation requirements applicable for each type of tenure and the estimated time it will take for this to be completed for Group Y and Group Z villages.

⁷⁸ This view is based on interaction with retirement villages and consultation with legal firms with retirement village expertise.

After consultation with legal firms with retirement village expertise, it is considered that the proposals will not add materially to the time taken to draft an entirely new contract, that is, for new villages developed between 2013 and 2022.

Table H-20: Tenure type, contract standardisation requirements and estimated time to amend contracts to comply with Option 3a

Tenure Type	Applicable contract standardisation requirements	Time to complete (hours)	
		Group Y	Group Z
Loan-lease	<ul style="list-style-type: none"> ▪ Residence contract standardisation requirements ▪ Management contract standardisation requirements 	17.7	19.7 (\$9,745)
Mixed villages (combination of strata title and loan-lease villages)	<ul style="list-style-type: none"> ▪ Residence contract standardisation requirements for loan lease ▪ Management contract standardisation requirements for loan-lease units ▪ Management contract standardisation requirements for strata-title units 	26.55	29.55 (\$14,617)
Strata title	<ul style="list-style-type: none"> ▪ Management contract standardisation requirements only 	8.85	9.85 (\$4,872)
Unit trust		8.85	9.85 (\$4,872)
Company title		8.85	9.85 (\$4,872)

Consumer Affairs Victoria consulted with legal firms with retirement village expertise on the level of experience required of legal professionals amending existing retirement village contracts to comply with Option 3a. The majority view was that most or all of the work would need to be completed by a Partner/Principal. However, although legal firms differed as to the combination of legal professionals they would engage to amend loan-lease contracts (for example, greater use of junior solicitors), the estimated total costs were broadly similar.

The average charge per retirement village to amend loan-lease retirement village contracts to meet the Option 3a requirements was found to be \$9,745 (present value). This figure was used as a basis to estimate costs for other tenure types in Group Z. For example, where the time to amend the contracts was 9.85 hours (half of 19.7), the cost was assumed to be \$4,872.

With respect to in house legal professionals at Group Y villages, it is assumed that the contract amendments will be completed by General Counsel. This is based on consultation with legal firms where the majority view was the most or all of the contract amendment would need to be completed at the Partner/Principal level.

Table H-21: Costs of re-drafting retirement village contracts for Option 3a

Village tenure type	Cost Formula (c_1)	Nominal Value Cost	Present Value Cost
Amending retirement village contracts – loan-lease villages	(No. of Group Y villages) ₁ x HR _{GC} x hours	\$736,309	\$711,409
	(No. of Group Z villages) ₁ x average cost	\$1,383,790	\$1,336,995
Amending retirement village contracts – mixed villages	(No. of Group Y mixed tenure villages) ₁ x HR _{GC} x hours	\$144,333	\$139,452
	(No. of Group Z mixed tenure villages) ₁ x average cost	\$277,723	\$268,331
Amending retirement village contracts – strata title	(No. of Group Y villages) ₁ x HR _{GC} x hours	\$64,845	\$62,653
	(No. of Group Z villages) ₁ x average cost	\$116,928	\$122,974
Amending retirement village contracts – unit trust (1 village)	(No. of Group Z villages) ₁ x average cost*	\$4,872	\$4,707
Amending retirement village contracts – company title (2 villages)	(No. of Group Z villages) ₁ x average cost**	\$9,744	\$9,414
Total		\$2,738,544	\$2,645,936

*There are no Group Y unit trust tenured villages.
**There are no Group Y company title-tenured retirement villages.

H3.2 Option 3b

The process for Option 3a was used to calculate the costs for Option 3b. Consumer Affairs Victoria consulted with legal firms with retirement village expertise to obtain an estimate of the time it would take to amend existing contracts for a loan-lease village to comply with the Option 3b contract standardisation requirements, and then used this as basis for other tenure types. Consultation with the legal firms found that on average it would take an estimated 10 hours per village to complete the Option 3b contract standardisation requirements. This was estimated to cost on average \$4,989.

Table H-22: Tenure type and estimated time to amend contracts for Option 3b

Tenure Type	Time to complete (hours)	
	Group Y	Group Z
Loan-lease	8	10 (\$4,989)
Mixed villages (combination of strata title and loan-lease villages)	12	15 (\$7,483)
Strata title	4	5 (\$2,494)
Unit trust	4	5 (\$2,494)
Company title	4	5 (\$2,494)

Table H-23: Costs of re-drafting retirement village contracts for Option 3b

Village tenure type	Cost Formula (c ₁)	Nominal Value Cost	Present Value Cost
Amending retirement village contracts – loan-lease villages	(No. of Group Y villages) ₁ x HR _{GC} x hours	\$332,795	\$321,541
	(No. of Group Z villages) ₁ x average cost	\$708,438	\$684,481
Amending retirement village contracts – mixed villages	(No. of Group Y mixed tenure villages) ₁ x HR _{GC} x hours	\$65,235	\$63,029
	(No. of Group Z mixed tenure villages) ₁ x average cost	\$142,177	\$137,369
Amending retirement village contracts – strata title	(No. of Group Y villages) ₁ x HR _{GC} x hours	\$29,309	\$28,318
	(No. of Group Z villages) ₁ x average cost	\$59,856	\$57,832
Amending retirement village contracts – unit trust (1 village)	(No. of Group Z villages) ₁ x average cost*	\$2,494	\$2,410
Amending retirement village contracts – company title (2 villages)	(No. of Group Z villages) ₁ x average cost**	\$4,988	\$4,819
Total		\$1,345,292	\$1,299,799

* There are no Group Y unit trust tenured villages on the Consumer Affairs Victoria Retirement Villages Register.
 ** There are no Group Y company title-tenured retirement villages on the Consumer Affairs Victoria Retirement Villages Register.

H4 Combined options

Table H-24: Combined costs of Options 1a, 2a and 3a (Preferred option)

Option	Present Value Cost
Option 1a: Introduction of intermediate disclosure (factsheet) (Table H-11)	\$1,705,972
Option 2a: Improved pre-contractual disclosure (Table H-19)	\$1,712,053
Option 3a: Contract standardisation requirements (including standard layout) (Table H-21)	\$2,645,936
Total	\$6,063,962

Table H-25: Combined costs of Options 1a, 2a and 3b

Option	Present Value Cost
Option 1a: Introduction of intermediate disclosure (factsheet) (Table H-11)	\$1,705,972
Option 2a: Improved pre-contractual disclosure (Table H-19)	\$1,712,053
Option 3b: Contract standardisation requirements (excluding standard layout) (Table H-23)	\$1,299,799
Total	\$4,717,824

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