

Review of timeframes for payment of resident exit entitlements and freehold unit mandatory purchase

Review Panel

Terms of Reference

Background

The Queensland *Housing Strategy 2017-2027* aims to ensure confidence in housing markets, ensure consumers are protected and reform and modernise the housing legislative framework.

Under the *Housing Strategy 2017-2020 Action Plan*, amendments to the *Retirement Villages Act 1999* (RV Act) were made by the *Housing Legislation (Building Better Futures) Amendment Act 2017* (HLA Act) to increase transparency in the relationships between operators and residents, and provide greater security and confidence to residents, balanced with industry viability.

These amendments included measures to provide security and confidence to retirement village residents in cases of delayed resale of their retirement village unit, by requiring operators to pay residents their exit entitlement 18 months after the resident leaves, unless doing so would cause the operator undue hardship. The *Health and Other Legislation Amendment Act 2019* subsequently amended the RV Act to apply this policy to retirement villages with units held by former residents under freehold title.

The amendments provide that the Queensland Civil and Administrative Tribunal (QCAT) may fix a later day by which the operator must make the exit entitlement payment to the former resident, or buy their freehold unit, if satisfied the operator is unlikely to resell the unit, is likely to suffer undue financial hardship and the order would not be unfair to the former resident.

Payments to former residents commenced on 10 May 2019 (payment of former residents' exit entitlement for units held under lease and licence tenure), and on 23 May 2019 (operator purchase of units held by former residents under freehold tenure).

Purpose and role

Section 225 of the RV Act (inserted by the HLA Act and commencing on Assent on 10 November 2017) provides that a review of the 18-month timeframe for payment of resident exit entitlements must start 2 years after the relevant section commenced.

The purpose of the review is to determine the impact of the 18-month timeframe for payment of exit entitlements on residents, former residents, families of residents or former residents and scheme operators.

In considering this impact, the review panel should examine how providing confidence to retirement village residents and their families that they will receive their payment and industry viability can be maintained:

- where the residents of the village own and operate the village
- where the village is owned by a small, local operator without access to the support available to large, national operators
- where the village may face a range of operational challenges.

The review should also consider whether the capacity for village operators to seek an order from QCAT where the village is likely to suffer undue financial hardship in circumstances where the order would not be unfair to the former resident provides for a fair balance between consumer protection and industry viability.

Findings and recommendations

The review panel will provide a report with findings and recommendations to the Minister by 30 November 2020. The review panel will operate until 30 November 2020, subject to review.

Consultation

The review panel will develop a communication and engagement strategy to ensure consultation and engagement with:

- retirement village residents
- former residents
- families of residents or former residents and
- scheme operators and their representative groups.

This consultation should seek input from these groups drawn from a cross-section of retirement villages including:

- large and small villages
- regional and urban villages
- villages with freehold, leasehold and/or licence tenure
- independent and resident-operated villages.

This consultation and engagement should ensure views are sought from peak groups including but not limited to:

- Association of Residents of Queensland Retirement Villages
- COTA
- Leading Age Services Australia
- National Seniors
- Property Council of Australia
- Queensland Law Society
- Queensland Retirement Villages and Parks Advisory Service.