

Parliamentary Inquiry into the Retirement and Housing Sector Pinnacle Living Pty Ltd

Details of this submission

Author: Geoffrey Reeve, Managing Director of Pinnacle Living Pty Ltd
Telephone [REDACTED]
Address [REDACTED]
Postal Address PO Box 720, Balwyn, Victoria, 3103

Pinnacle Living is an owner, operator and developer of retirement villages.

We are a Member of the Property Council of Australia, and have a representative on the Retirement Living Committee.

As such, Pinnacle Living endorses the submission of the Property Council of Australia to the Inquiry.

Introduction

Pinnacle Living was formed in Melbourne in 2004 to develop, own and operate retirement village. Our first involvement in the industry was through the acquisition of an existing village in Lilydale. We have subsequently grown our family owned, Melbourne based business to now concern three villages:

1. Tudor Village Lilydale;
2. Yarrbat Place, Balwyn; and
3. Bellarine Springs, Drysdale.

These three villages accommodate approximately 420 retirees happily living in 320 Independent Living Units (ILU's).

We are one of a select few operators growing our business, with a pipeline of approximately further 220 ILU's to be created over the next three to four years.

Across the villages, approximately 20 staff members are employed aside from usual contractors, service providers, suppliers, designers and professional consultants.

Pinnacle Living is a commercial business operated to make a profit, but with a clear understanding and focus that caring for residents and their best interests helps make our villages more sought after and desirable and hence a better business with fewer pressures and superior outcomes for all stakeholders.

Improvement and Reform

The Committee is charged with the responsibility to identify opportunities for improvement and reform of legislation and regulations the retirement housing sector.

There is a great deal of opportunities.

1. Fragmented Legislative Requirements

The starting point would be to consider the vast and fragmented legislative background the industry and its customers must observe. This includes the following key State instruments:

1. Retirement Village Act
2. Owners Corporation Act
3. Tenancies Act
4. Consumer Affairs Act
5. Planning and Environment Act
6. Building Act
7. Disability and Discrimination Act
8. Local Government Act
9. Essential Services Act
10. Water Act
11. Estate Agents Act
12. Duties Act

One key opportunity for improvement is the harmonisation of all legislation so that a focus can be had on the industry as a whole. A lot of problems stem from the complex legislative background which compounds the challenges in providing our retiree community with clearly understood products and services to meet their needs.

Many times, legislative requirements are inconsistent amongst themselves, as illustrated by the recent review Consumer Affairs conducted into the combined requirements of the Owners Corporation Act and Retirement Village Act. This is the tip of the iceberg.

At a policy level, government needs to decide if this sector is beneficial to society and helps our standard of living and quality of life with economic benefit, or one to suffocate by disparate, complex laws that are at times seem impossible to comply with. Further, the cost of compliance adds materially to the overheads of the business and acts as a barrier to new entrants.

This enquiry is a welcome and overdue opportunity to form the start of a shift in policy attitude towards a posture where Government enables the industry become more efficient to provide better outcomes for our residents and all other stakeholders.

We strongly commend the Property Council of Australia advocating for a Minister for Retirement Living to assist overcome these insidious challenges. In our opinion, having the sole portfolio responsibility for this significant effort is the *only* way to ensure co-ordination and balanced consideration with measureable outcomes for all stakeholder interests, ranging from the businesses, the residents and their families, the State, suppliers and affected businesses.

2. Attitude of Statutory Authorities towards Retirement Villages

When creating a retirement village, an equal share in time is spent attaining statutory approvals on reasonable terms as there is in the endeavour itself. In fact, it feels as though we are constantly under attack from their desire to extract the maximum possible economic rent.

A. Statutory Authorities seem to enthusiastically tax retirement villages to the fullest extent possible, even despite express provisions in law that provide otherwise:

- i. Water Authority “New Customer Contributions” – these are charged inequitably. The amount paid for a new connection to a Water Authority Asset is the same as for a residential house, whereas demonstrably there is a lower demand on the existing facilities and infrastructure in the case of a retirement village. Our villages have an occupancy rate of 1.3 people per dwelling, whereas the average population occupancy of all housing in Australia is 2.6 people per dwelling¹. This is a 200% premium being paid to Authorities by retirees.
- ii. Power Authority Tariffs as applicable to embedded electricity networks, and lack of interest of Essential Services Commission to keep these organisations under control and pass on reasonable network tariffs
- iii. Local Councils as applicable to rates

In the Shire of Yarra Ranges, we have constantly lobbied for the application of a discretionary / concessionary rate, even prior to the creation of a discretionary rate by the former government.

Despite clear rational arguments made by Pinnacle Living on behalf of residents, as well as submissions by Residents, Council administrators steadfastly refuse to countenance the implementation of a discretionary rate, thwarting every effort of ratepayers and Councillors alike.

Conversely, Council are quite willing to reap windfall rate revenue increases when new properties are created.

The system as intended to be applied is not working. Council has been unwilling to take a pro-active step, and now must be directed by State Government to apply a discretionary rate.

This would fairly reflect the fact that residents meet a large proportion of the local government costs directly through living in a retirement village.

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<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1301.0~2012~Main%20Features~Housing%20Utilisation~128>

iv. Local Councils re. Contributions to Public Open Space.

When subdividing land, council enthusiastically levy for Public Open Space with flimsy arguments. Council's show scant accountability to apply the proceeds to the needs of the retirement community, rather spend those monies on unrelated projects. It is nonsensical for Retirement Villages to pay such a levy as the whole point of Retirement Villages is to provide the "Public Open Space" in a customised and targeted fashion for our own community ourselves.

v. The proper and consistent treatment of duty on the transfer of leasehold retirement villages has created great uncertainty at the funding level.

In a relatively recent transaction concerning one of our villages, the State Revenue Office reversed its improper position on transfer of a share in a leasehold retirement villages with regard to Stamp Duty. Duty was initially levied in the amount of approximately \$270,000 which compares to the eventual amount of approximately \$25,000. We had to sustain an objection for approximately two and a half years with all its associated costs under the constant threat of penalty interest. In our opinion it was an entirely inappropriate way for a tax authority to behave that caused untold stress and anxiety.

The ability to imagine different interpretation of duties legislation is the underlying problem and an impediment to providing certainty in the industry.

- vi. Application of GST is different depending on underlying structure of village. This creates unfair anomalies, albeit not within the remit of this enquiry.
- vii. Ability of retirees to access rental assistance in some villages (eg. MHE's) as distinct to bricks and mortar villages – again, underlying structures disadvantage some residents and there is an inconsistent policy approach
- viii. Land Tax concessions are triggered by the ability to obtain a building permit, however land is encumbered for the use as a retirement village well before the attainment of a Building Permit, which does not qualify for an exemption. The attainment of a building permit is an arbitrary and whilst appreciated, doesn't avoid the application of tax on residential land ultimately to be used as retirement premises, thereby adding to the ultimate cost of housing.

B. Legislative Frameworks that reflect Retirement Village Operations

i. The Planning System.

Even though a Retirement Village has its own classification and assessment criteria in planning schemes, councils nonetheless endeavour to apply planning controls as created for conventional residential developments (ie. Clause 52 requirements). Short of using their own training and skills in the

matter of statutory planning, planning officers do not have a robust framework to assess applications against.

For example, how wide should roadways be? Should a private or public waste collection service be provided? What is suitable and achievable from an overlooking perspective? What private open space is suitable, also having regard to available private space provided elsewhere in a village? What car parking ratios are suitable?

The consequence of the absence of a framework is that applications take longer, cost considerably more and have a lot of uncertainty when compared to other forms of development.

ii. Real Estate Agents

Retirement Village homes practically change hands through interested parties making enquiries at the reception of the Village about any vacancies. The considerations of making a decision to enter a retirement village have little to do with issues around the Estate Agents Act, rather are more focussed on more meaningful life matters.

However, a manager of a village is legally not allowed to represent a Vendor and sell a property. Furthermore, a manager of a retirement village practically can never become able to resell property unless he or she resigns their position and becomes employed under a qualified agent for a minimum period of one year, in addition to obtaining academic qualifications.

Large organisations that can afford to carry the cost of specialised personal may be able to afford to have former agents fulfil this role, however, smaller villages with one or two man administrative teams, invariably with a nursing or similar background, have no chance of complying with the Estate Agents Act provisions. Even a qualified lawyer acting in the role of manager of a village is unable to comply with the Estate Agents Act. There is no reason for this to be the case other than preserving the anti-competitive arrangements in favour of Estate Agents.

On the other hand, it is rare to see a conventional real estate agent sell a retirement village unit. There is a minor regulation under the Estate Agents Act that forces them to include a disclosure statement, however this is inadequate as invariably the agent will not have the intimate knowledge of the intangible offerings and products a retirement village provides (or does not provide) and therefore is ill-equipped to represent Vendors in most transactions. Further, they will be unprepared to spend the time and effort to understand let alone advise a Purchaser on the details of residence agreements, therefore, they effectively turn their back on the sector.

C. Experience of Retirement Village Operators and Residents

By far the majority of Retirement Villages exist to operate as successful business, providing services to residents who voluntarily elect to patronise their

products.

We are operating successful villages, from our perspective and importantly from the perspective of our residents. This can be ascertained quantitatively, such as when we participated in the industry wide McCrindle Baynes Village Census in 2014. In that survey, 99% of our residents indicated we were effectively (or better) managing our villages.

An exemplary reputation is critical. It controls the commercial success of the village. Any operator who is not aware of this will not long be in the industry.

Other quantities measures about the experience and views of our residents, as elicited by this independent survey which reinforce our attitudes are as follows:

<i>Overall happiness and life satisfaction:</i>	51% Increased, 43% Stayed about the same
<i>Would you make the decision to move again?</i>	96% Yes
<i>How did the move into a village affect</i>	
- <i>Feeling of confidence & security?</i>	97% Positive / Neutral
- <i>Mental Wellbeing?</i>	95% Positive / Neutral
<i>Do you have a medical disability?</i>	56% Yes

Undoubtedly we are placed in a trusted position, needing to deal with people as become increasingly vulnerable as they age. This trust is well placed in the Retirement Village Industry, and Statutory Authorities would do well to promote the industry, encouraging more seniors to obtain the security, social interaction, support and protection of the inherent design and arrangements that retirement villages have to offer.

Thank you for the ability to submit to the Committee. We trust that the Committee carefully assess the issues to arrive at recommendations that create the setting for a vibrant and dynamic sector that services our retiree generations well.

Geoffrey Reeve
Pinnacle Living Pty Ltd

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