



## **Proposed National Planning Standards**

**Submission to  
Ministry for the Environment**

**Retirement Villages Association of New Zealand**

**August 2018**

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## EXECUTIVE SUMMARY

- 1 This submission is made by the Retirement Villages Association of New Zealand Incorporated (*RVA*) in relation to the draft first set of National Planning Standards (*Standards*) and accompanying documentation.
- 2 The RVA supports the aim of increasing consistency in RMA planning documents so that plans are easier to make and use. However, it is concerned that the draft definitions of residential activity, residential unit and retirement village premises do not adequately recognise the characteristics of retirement villages. This submission also addresses a range of associated matters.
- 3 The first set of Standards has a very limited scope for content. The RVA considers the second set of Standards should include a bespoke framework for retirement villages. Such a framework would assist to address the critical shortage of retirement accommodation. There is a real and pressing need to provide for more housing and care that appropriately meets the needs of elderly people – one of the most vulnerable sectors of the community. Including such a framework in the second set of Standards would also support the implementation of the National Policy Statement on Urban Development Capacity 2016 (*NPSUDC*).
- 4 The amendments to the Standards sought by the RVA are set out in **Appendix 1**.

## INTRODUCTION

### RVA

- 5 The RVA is a voluntary industry organisation that represents the interests of the owners, developers and managers of registered retirement villages<sup>1</sup> throughout New Zealand.
- 6 The RVA has 360 member villages throughout New Zealand, with approximately 30,000 units that are home to approximately 40,000 older New Zealanders, roughly equivalent to the population of Timaru. This figure is 96% of the registered retirement village units in New Zealand.
- 7 The RVA's members include all five publicly-listed companies (Ryman, Metlifecare, Summerset, Arvida and Oceania), other corporate groups such as Bupa Healthcare, Arena, independent operators, and not-for-profit operators such as community trusts, religious and welfare organisations.
- 8 The contact details for the RVA in relation to this submission are:

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<sup>1</sup> Retirement villages include aged care facilities where they form part of a comprehensive care retirement village.

### **Retirement villages**

9 'Retirement village' is an umbrella term given to all types of retirement living. There are two main types of retirement villages - 'comprehensive care villages' and 'lifestyle villages':

9.1 Comprehensive care retirement villages provide a full range of living and care options to residents from independent living, through to serviced care, rest home, hospital and dementia level care.

9.2 Lifestyle retirement villages focus mostly on independent living units with a small amount of serviced care on a largely temporary basis.

10 Approximately 73% of registered retirement villages have some level of aged residential care within the village.

11 'Retirement village' is defined in section 6 of the Retirement Villages Act 2003 (*RV Act*) as:

... the part of any property, building, or other premises that contains 2 or more residential units that provide, or are intended to provide, residential accommodation together with services or facilities, or both, predominantly for persons in their retirement, or persons in their retirement and their spouses or partners, or both, and for which the residents pay, or agree to pay, a capital sum as consideration and regardless of [various factors relating to the type of right of occupation, consideration, etc]...

### **Retirement village residents**

12 Retirement village residents, particularly those in comprehensive care retirement villages, are much more vulnerable than other parts of the population.

13 Residents choose to move into retirement villages as they provide purpose built, comfortable and secure dwellings, with a range of tailored on-site recreational amenities and care services. Their vulnerability is addressed in part through the RV Act.

### **RV Act**

14 The retirement village industry is regulated by the RV Act, associated regulations, and codes of practice.

15 The RV Act was enacted to protect the interests of retirement village residents and intending residents, including their financial and occupancy interests. The RV Act is also intended to provide an environment of security and protection of rights for retirement village residents.<sup>2</sup>

16 One method contained in the RV Act to protect the financial and occupancy interests of residents, is a requirement for a memorial to be registered on the relevant certificates of title. The memorial means that the holder of a security interest cannot dispose of a retirement village, disclaim any occupation right agreement, or evict any resident unless all residents of the retirement village have received independent legal advice and at least 90% of those residents have consented in writing.

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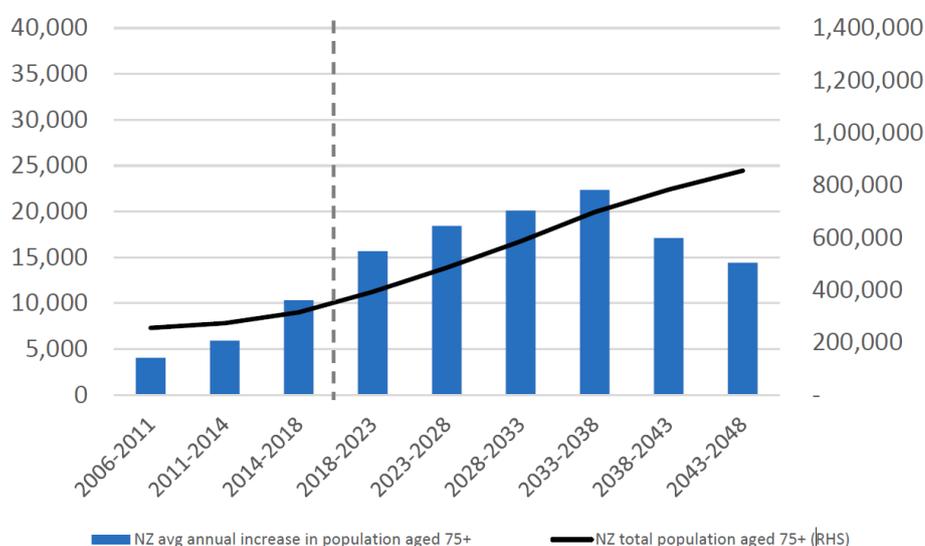
<sup>2</sup> Retirement Villages Act 2003, section 3.

- 17 The memorial requirement reflects the importance of ensuring retirement village residents have an absolute right to live in their units and access the village amenities, and are not forced to relocate at such a vulnerable stage of their life.

**Ageing population**

- 18 It is estimated that 295,000 people in New Zealand were aged over 75 in 2016. The number has been growing at the rate of 5,000 per annum for the past 15 years. Now, that growth rate has lifted to 11,000 per annum. With the advent of the baby boomers, that growth rate will lift again to 18,000 per annum. Within the next 20 years, the population aged 75+ will have more than doubled to over 538,000 nationally. By 2050, that number will be even higher. This growth is illustrated in the following graph:

**NZ 75+ Population growth**



- 19 These demographic changes are resulting in large increases in demand for retirement living options. Retirement villages already play a significant part in housing and caring for elderly people in New Zealand. Currently, 12.6% of the 75+ age group population live in retirement villages, a penetration rate that has risen from around 9.0% of the 75+ age population at the end of 2012.<sup>3</sup> The role of retirement villages in meeting future demand is predicted to substantially increase as a proportion of the population.

**Shortage of retirement villages**

- 20 The demand for retirement village accommodation is already outstripping supply, with many of New Zealand’s older residents living in unsuitable accommodation (such as a large house that is expensive, is difficult to maintain and heat properly and/or has barriers to mobility such as stairs).
- 21 The ageing population and longer life expectancy, coupled with a trend towards people wishing to live in retirement villages that provide purpose-built accommodation, means that demand is continuing to grow. It is anticipated that 10

<sup>3</sup> Jones Lang LaSalle, NZ Retirement Village Database White Paper, April 2018.

new large scale villages each year are going to be required across New Zealand, just to keep up with demand over the next 20 years.

### **Benefits of retirement villages**

- 22 The principal benefit of retirement villages is that they provide appropriate accommodation and care for one of the most vulnerable sectors of our community. They allow older people to continue living in their established community, while down-sizing to a more manageable property (i.e. without stairs or large gardens). Residents also have easy access to care and other support services. Retirement village living also provides security, companionship and peace of mind for residents.<sup>4</sup>
- 23 The retirement village sector also produces broader benefits, including:
- 23.1 Retirement villages help to ease demand on the residential housing market and assist with the housing supply shortage in New Zealand. That is because growth in retirement village units is faster than growth in the general housing stock, and the majority of new villages are located in major urban centres.
- 23.2 Retirement villages are a significant proportion of the new dwellings constructed each year, particularly in growth areas such as Auckland. A large scale village releases approximately 300 houses back onto the market to be more efficiently used by families desperate for homes. To illustrate, retirement units are occupied by an average of 1.3 people per unit, compared to an average of 2.6 people per standard dwelling.
- 23.3 The sector employs approximately 19,000 people to support day-to-day operations. Over the next 7-8 years, approximately 9,500 new jobs will be created from construction of new villages. Retirement village construction is also expected to employ approximately 5,700 FTEs each year.<sup>5</sup>
- 23.4 The sector contributes around \$1.1 billion to New Zealand's GDP from day-to-day operations.<sup>6</sup>
- 23.5 The contribution of retirement village construction is also substantial. For example, a large scale new village will cost in the order of \$100-\$200 million to construct.

### **NPSUDC**

- 24 Retirement villages help to achieve the objectives and policies set out in the NPSUDC. The key objectives of the NPSUDC seek:
- 24.1 Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing;
- 24.2 Urban environments that have sufficient opportunities for the development of housing and business land to meet demand, and which provide choices that will meet the needs of people and communities and future generations

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<sup>4</sup> PWC 'Retirement village contribution to housing, employment, and GDP in New Zealand' (March 2018).

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

for a range of dwelling types and locations, working environments and places to locate businesses; and

- 24.3 Urban environments that, over time, develop and change in response to the changing needs of people and communities.
- 25 In addition, the NPSUDC directs that decision-makers making “planning decisions” that affect the way and the rate at which development capacity is provided have particular regard to:
  - 25.1 The need to provide choices that will meet the needs of people and communities for a range of dwelling types and locations; and
  - 25.2 The promotion of the efficient use of urban land and development infrastructure.
- 26 Providing for retirement villages will clearly make a contribution to the national housing need, and in particular the changing needs of people and communities identified in the NPSUDC, by providing diverse accommodation options for the fastest growing age-group in our society in a highly efficient manner.

#### **Resource management challenges**

- 27 There are a number of unique challenges in planning for and constructing the necessary number of new retirement villages. Some of those challenges arise from:
  - 27.1 The desire of residents to “age in place” within their existing communities means that retirement villages need to be located in existing residential areas. However, large sites within existing residential areas are in very short supply, particularly in the main urban centres. This issue affects the amount of certainty that retirement village operators have on the pipeline of units that will become available to meet demand.
  - 27.2 The range of accommodation, care and amenities that need to be provided on one site result in a different format compared to traditional housing developments. Local residents near where new retirement villages need to be located, often do not support medium or high density retirement accommodation due to ‘nimbyism’.
  - 27.3 In addition, retirement village operators often face opposition through public submissions that their villages are a commercial or hospital activity or are not appropriate in a certain residential setting.
  - 27.4 Excessive financial and development contribution requirements, due to being based on demand from typical residential households and not the actual infrastructure demand generated by retirement villages. Councils are not always independent in assessing a fair and reasonable demand on infrastructure given the revenue implications.
  - 27.5 Retirement village development is often poorly provided for in district plans and not well understood by council officers. For example, bulk and location requirements often seek to uphold the existing character of neighbourhoods to the detriment of specialised land uses such as retirement villages. Urban design principles are often directed at standard residential development, and do not take account of the unique operational requirements of retirement villages.

28 The Standards provide an opportunity to address these challenges.

## **SUBMISSION ON THE STANDARDS**

### **Residential units**

29 The RVA notes that the requirement for a residential unit to include cooking facilities would mean that independent apartments within a retirement village would be considered a residential unit, but aged care rooms within a retirement villages would not. Aged care rooms provide sleeping, bathing and toilet facilities, but residents are provided with meals from the kitchen (generally in shared dining rooms).

30 While the RVA does not oppose the definition, it is important that it does not affect whether a retirement village as a whole is considered a residential activity. For example, given comprehensive care retirement villages contain a similar proportion of aged care rooms and retirement units, only about half of the village will consist of "residential units". It is critical that retirement villages are clearly identified as residential activities, otherwise retirement village operators could face increased community opposition when they seek to establish a village in a residential neighbourhood – on the basis that they are not considered to be residential in nature.

31 The amendments to the definition of "residential activities" and "retirement village premises" set out below will address this issue.

### **Residential activities**

32 The term "residential activities" is used in the purpose statements for all of the residential zones.

33 The RVA generally supports the proposed definition of residential activity in the Standards, and in particular the use of the words "*primary purpose*" in that definition. Those words make it clear that residential activities may include some ancillary activities.

34 As noted above, retirement village operators often face opposition through public submissions that their villages are not appropriate in a residential setting due to the range of uses on site. It is therefore important for the Standards to send a clear signal to communities that retirement villages are part of the fabric of residential zones.

35 The RVA considers the proposed definition of residential activity should capture all retirement villages – as they are clearly places used by people for living accommodation. However, the RVA is concerned that the interpretation of this definition could be influenced by the definition of residential unit (as discussed above).

36 The RVA therefore requests the following amendments to the Standards:

36.1 Amend the definition of residential activity by either adding the phrase "*(including retirement villages)*" at the end of the definition; or

36.2 Amend the definition of retirement village premises to clarify that retirement villages are a residential activity.

### **Retirement village premises**

37 The RVA opposes the proposed definition of "retirement village premises" in the Standards.

- 38 Although this definition is included in section 226A of the RMA, it is rarely used in RMA planning documents and is not fit for that purpose. The RVA considers this definition is overly broad and does not properly reflect the nature of current retirement villages. The consequences of the proposed definition could be extensive and unintended. It is important that the activities captured by the definition are sufficiently confined, to allow and encourage local authorities to include provisions in plans to enable the development of retirement villages.
- 39 This definition also uses the terminology, "*retirement village premises*" rather than "*retirement village*". The RVA considers that approach may have the perverse effect of encouraging local authorities to ignore the definition in the Standards, and use their own definition of "*retirement village*". That would fail to achieve the aim of reducing unnecessary variation between plans.
- 40 The RVA considers that a definition of retirement village needs to incorporate the following elements:
- 40.1 The two elements already included in the proposed definition:
- (a) Accommodation predominantly for persons in their retirement and their spouses or partners; and
  - (b) A complex of two or more units.
- 40.2 Two additional elements:
- (a) A registered retirement village under the RV Act or a rest home under the Health and Disability Services (Safety) Act 2001; and
  - (b) Other services or amenities offered on site, such as nursing, medical care, welfare, recreation and leisure, and other accessory non-residential activities.
- 41 All four elements are critical features of retirement villages. The statutory references are particularly important as those statutes provide important safeguards for residents. Practically speaking, including the statutory references in the definition also ensures that only reputable operators of retirement villages who provide a high standard of care and amenity for residents are included.
- 42 Some developers market their developments as retirement villages, but they are not in fact covered by the RV Act. It is appropriate that developments that are not subject to the RV Act statutory requirements are treated differently by RMA planning documents. Such developments are more likely to be akin to a typical residential development (eg higher average occupancy, standard residential building typologies, lack of statutory protections for residents, and ability to change use over time).
- 43 The RVA considers the definitions of retirement village in the Auckland Unitary Plan (AUP) and the Christchurch Replacement District Plan (CRDP) provide a starting point for a more fit for purpose definition in the Standards, as they have recently been through extensive public processes. There are however some differences between those definitions.
- 44 The RVA therefore requests the following definition of retirement village be included in the Standards:

**Retirement village** means any land, building or site that:

- a. Provides accommodation predominantly for persons in their retirement, or persons in their retirement and their spouses or partners; and
- b. Contains two or more units; and
- c. Satisfies either of the following:
  - i. it is registered as a retirement village under the Retirement Villages Act 2003 or will be so registered prior to it being occupied by any resident; or
  - ii. it is a rest home within the meaning of s58(4) of the Health and Disability Services (Safety) Act 2001; and
- d. may include any or all of the following facilities or services for residents on the site:
  - i. a care home within a retirement village;
  - ii. a hospital within a retirement village;
  - iii. nursing, medical care, welfare facilities and/or services;
  - iv. recreation and leisure facilities and/or services; or
  - v. Other accessory non-residential activities.

Retirement villages are a residential activity.

45 Supplementary definitions required are:

**Care home within a retirement village** means a facility providing rest home care within the meaning of the Health and Disability Services (Safety) Act 2001, or a home for the residential care of older persons and/or any land or buildings used for the care of older persons within a retirement village.

**Hospital within a retirement village** means any facility providing hospital care within the meaning of the Health and Disability Services (Safety) Act 2001 within a retirement village.

### **Other submission points**

#### ***Time to implement the standards***

46 The RVA supports the proposal for some local authorities to have additional time to implement the first set of Standards where they have recently undertaken a full planning process. The AUP and CRDP are particular examples, where the RVA and its members invested significantly in the relevant planning processes.

47 With such amendments, the RVA considers the first set of Standards will recognise the investment made by local authorities and submitters in relation to recent plan reviews, while still meeting the national consistency objective of the Standards.

48 Having said that, if the second set of Standards contains a bespoke planning framework for retirement villages, that should be implemented as soon as possible. Such a framework would have less consequential effect on planning documents than the first set of Standards, would be similar to the AUP and CRDP frameworks, and would provide a comprehensive regime for national consistency.

#### ***Definition of structure***

49 The definition of structure in the Standards<sup>7</sup> differs from the definition contained in the RMA<sup>8</sup>. The change from "*which is fixed to land*" to "*which is fixed to **or located***"

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<sup>7</sup> Means any building, equipment, device or other facility made by people and which is fixed to or located on land; and includes any raft, but excludes motorised vehicles that can be moved under their own power.

<sup>8</sup> Means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft.

**on land**” may have significant consequences by capturing temporary structures (such as scaffolding and container units). Those temporary structures will in turn be captured by rules that are intended to manage the effects of permanent structures.

50 The section 32 report recognises this issue but says it “*can be covered off through permitted activity rules if required... The disadvantage is that the rules will be longer but this is not considered to be a significant issue in electronic plans*”.<sup>9</sup> However, the definitions contained in the Standards are mandatory directions, meaning the definition of structure will be included in planning documents without using the Schedule 1 process. The amendments to plan rules to respond to the definition of structure will however require a Schedule 1 process.

51 The RVA considers the definition of structure should only apply as the associated rule amendments have been made to plans.

### **NES Soil**

52 The RVA supports the direction that district plans must not replicate the requirements of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (*NES Soil*). There is no need for such duplication and it can result in confusion.

### **Historic heritage**

53 The RVA support the requirement for a district plan to contain a schedule that lists historic areas and sites, including a description of why or what in each area or site requires management and/or protection. That requirement should result in more certainty for plan users as to the values of historic areas and sites that are to be protected.

### **Noise and vibration**

54 The RVA supports the requirement for district plan rules to be consistent with the New Zealand Standards for acoustics and the German Standard for construction vibration. Councils throughout New Zealand currently adopt different approaches to this matter, which is unhelpful and can lead to debate and the need for expensive specialist inputs.

55 The Standards refer to specific New Zealand/German Standards and do not encompass any updates. Just as the consultation document notes that RMA plans may become out of date, it may be necessary for new National Planning Standards to be produced each time the New Zealand/German Standards are updated. While that approach is appropriate, it will require ongoing monitoring by the Ministry for the Environment.

## **SECOND SET OF STANDARDS – A RETIREMENT VILLAGE FRAMEWORK**

56 The RVA also notes the very limited scope of the first set of Standards. It notes the Ministry’s intention that the second set of Standards will include more substantive matters.

57 The RVA submits that a bespoke planning framework for retirement villages, endorsed by the industry, should be included in that second set. Based on experience in Auckland and Christchurch, the necessary planning regime for retirement villages is well-understood and the provisions well tested. The National

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<sup>9</sup> Evaluation Report Proposed National Planning Standards – Definitions, pages 125-126.

Planning Standards provide a real opportunity for national consistency to be achieved for an industry where there is a critical accommodation shortage and vulnerable people involved.

- 58 A bespoke planning framework for retirement villages is considered to be necessary and justified for the following reasons:
- 58.1 The ageing population and the under-supply of appropriate care and accommodation is a key resource management issue;
  - 58.2 There is substantial demand for retirement villages, and the undersupply has reached crisis level;
  - 58.3 Providing for retirement villages is an important component of addressing the housing shortage more broadly as they free up large numbers of existing houses (as residents move into the villages from traditional homes);
  - 58.4 Retirement villages are different to other residential developments. They are comprehensive, offer a range of housing options and on-site recreation and leisure amenities, and are generally large format and medium-high density;
  - 58.5 Retirees have different needs and motivations than the general public. Retirement village residents wish to "age in place" (ie in their existing communities) and are often not highly mobile;
  - 58.6 Retirement villages are regulated under the Retirement Villages Act 2003, which contains a wide array of requirements focused on protecting the rights of residents;
  - 58.7 Retirement village operators generally own and actively manage their sites, and therefore have long-term interests;
  - 58.8 The types of environmental effects that can occur from retirement villages are well understood and tested;
  - 58.9 The framework would support the implementation of the NPSUDC; and
  - 58.10 Planning provisions for retirement villages have unnecessary variation. This local variation is not driven by any particular local issues. Local variation means that plan making and interpretation is unnecessarily costly and time-consuming for local authorities and the retirement village industry.
- 59 The recently completed AUP and CRDP provide a good starting point for a bespoke framework for retirement villages that would apply across New Zealand.
- 60 The RVA has considered the AUP, CRDP, and other plans, and experience of operators under those documents, and has prepared an objective, policy and rule framework for retirement villages. It considers the framework enables retirement villages in all zones where residential activities are anticipated, while appropriately managing their effects. It is appropriate to apply across New Zealand. The RVA wishes to discuss this framework with Ministry for the Environment officials further. It can also provide further information as needed.
- 61 Another matter that the RVA considers could usefully be addressed in future sets of Standards is consistency in the structure of resource consents. The structure of consents varies significantly across the country, with no justification for those

differences. A standard structure would assist retirement village operators who construct and operate villages across the country.

## **DEVELOPMENT CONTRIBUTIONS**

- 62 Although not part of the first set of the Standards, it is noted that development contributions are closely linked to RMA processes, and have a major impact on development feasibility and housing production. The RMA and Local Government Act 2002 (LGA) regimes can overlap in terms of terminology used. Further, the impact of a development on community facilities and infrastructure is typically assessed and determined at the resource consent stage (eg the need for new local parks, roads or stormwater infrastructure). These items are often framed as RMA mitigation, but are also directly relevant to the demand placed on Council services for development contributions purposes.
- 63 However, the LGA and RMA regimes are unhelpfully disconnected. This mean that RV operators are often faced with councils leveraging community facilities through the RMA process, without credit being given at the development contributions payment stage. This gives rise to unfair and inequitable outcomes, disputes, and uncertainty.
- 64 The RVA considers the Government needs to consider the Standards and new planning regimes in parallel with related development contributions charging regimes. This will ensure fewer unintended consequences and more certainty for all parties.
- 65 The RVA would like to discuss these interface issues with you further.

## **CONCLUSION**

- 66 RVA appreciates the opportunity to submit on the Standards. It looks forward to engaging constructively with the Ministry for the Environment to ensure the first set of Standards are fit for purpose, and with a view to the second set of Standards. The RVA would appreciate an opportunity to meet with officials to discuss this submission.

## APPENDIX 1 – AMENDMENTS SOUGHT BY THE RVA

Additions are underlined, and deletions are ~~struck through~~

### CM-1: Draft Definitions standard

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Term	Definition
residential activity	means the use of land and buildings by people for the primary purpose of living accommodation ( <u>including retirement villages</u> )
retirement village premises	<p><del>has the meaning as in section 226A of the RMA (as set out in the box below)</del></p> <p><del>means premises (including any land and associated buildings) within a complex of premises for occupation as residences predominantly by persons who are retired and any spouses or partners of such persons</del></p> <p><b>Retirement village</b> means any land, building or site that:</p> <ol style="list-style-type: none"> <li>a. <u>Provides accommodation predominantly for persons in their retirement, or persons in their retirement and their spouses or partners; and</u></li> <li>b. <u>Contains two or more units; and</u></li> <li>c. <u>Satisfies either of the following:</u> <ol style="list-style-type: none"> <li>i. <u>it is registered as a retirement village under the Retirement Villages Act 2003 or will be so registered prior to it being occupied by any resident; or</u></li> <li>ii. <u>it is a rest home within the meaning of s58(4) of the Health and Disability Services (Safety) Act 2001; and</u></li> </ol> </li> <li>d. <u>may include any or all of the following facilities or services for residents on the site:</u> <ol style="list-style-type: none"> <li>i. <u>a care home within a retirement village;</u></li> <li>ii. <u>a hospital within a retirement village;</u></li> <li>iii. <u>nursing, medical care, welfare facilities and/or services;</u></li> <li>iv. <u>recreation and leisure facilities and/or services; or</u></li> <li>v. <u>Other accessory non-residential activities.</u></li> </ol> </li> </ol> <p><u>Retirement villages are a residential activity.</u></p>
<b>Care home within a retirement village</b>	<u>means a facility providing rest home care within the meaning of the Health and Disability Services (Safety) Act 2001, or a home for the residential care of older persons and/or any land or buildings used for the care of <del>older</del> persons within a retirement village.</u>
<b>Hospital within a retirement village</b>	<u>means any facility providing hospital care within the meaning of the Health and Disability Services (Safety) Act 2001 within a retirement village.</u>