

## PREAMBLE

1. We have reviewed the Land Use Definitions table in the Planning and Design Code (**PDC**) for the purposes of looking at this for the provision of housing and accommodation for seniors and disabled people in our community.
2. We have looked at this from the perspective of lawyers with specific expertise in the area of retirement living, aged care and community and disability housing. We have not looked at this from the perspective of a planning lawyer and how these definitions work within the proposed framework of the PDC.
3. In our view, accommodation for this cohort in South Australian is comprised as follows:
  - 3.1 Normal accommodation provided by the marketplace such as townhouses, apartments, units and so on held under either Torrens Title or Community Titles for new product. For established accommodation, this could also be held in Strata Title, Company Title and 99 year leases.
  - 3.2 Retirement housing under the *Retirement Villages Act*. Tenure under that Act is typically by way of a lifetime licence or lease in return for the payment of either rental or an ingoing contribution.
  - 3.3 Retirement housing under the *Supported Residential Facilities Act*. Tenure under that Act is by way of a lifetime licence or lease.
  - 3.4 Retirement housing under the *Residential Parks Act*. Tenure under that Act is by way of a licence which can vary from a period of years to lifetime.
  - 3.5 Retirement housing under the *Residential Tenancies Act*. Tenure under that Act is by way of a lease or a tenancy agreement restricted in years and generally short-term. However, there has been a recent trend to grant lifetime licences or leases under this Act for retirement housing.
  - 3.6 Boarding house housing under the *Residential Tenancies Act*. Tenure under that Act is by way of short-term lease or a tenancy agreement.
  - 3.7 Aged care housing under the *Aged Care Act*. Tenure under that Act is by way of a lifetime licence.
  - 3.8 Disabled housing under the *National Disability Insurance Scheme Act*. Tenure under that Act is usually by way of a lease or licence which can be for years or lifetime but can sometimes be owned by a disabled person or a special disability trust.
  - 3.9 Granny flat accommodation provided by the marketplace. Tenure is by way of a multitude of arrangements (often within families) essentially granting lifetime leases or licences.
  - 3.10 Hospital accommodation where the primary function is the provision of care but at the same time accommodation is provided.
4. In many cases there is a provision of care or assistance by either the provider of the accommodation or by a third-party. Depending on the level of care, it may also impact upon which piece of legislation applies.

5. There is a growing trend to provide housing which within the same physical structure may also provide care and support to a resident ranging from assistance with household tasks, to the provision of medication, to having a live-in carer to cope with the age or the disability or both of the resident.
6. Against this complexity of providing accommodation with or without components of care, the PDC should substantially focus on definitions which are broad-based and not based on the legislative scheme underpinning the provision of the accommodation unless there is good reason to do so.
7. The provision of housing and accommodation for our ageing population is very diverse in the marketplace and this trend will continue in order to accommodate the needs of the baby boomer generation.

### COMMENTS ON THE DEFINITIONS

Based on that preamble our comments about the definitions and impact upon the **PDC** are as follows:

1. The definition of *ancillary accommodation* is satisfactory. It would certainly cover what is commonly known as granny flat accommodation, but importantly it is not restricted to age or disability.
2. The definition of *caravan and tourist park* is satisfactory and quite properly excludes a *residential park* as those two types of park have their own zones under the PDC.
3. The definition of a *residential park* is satisfactory as it is a park which is restricted under the regulatory scheme under the *Residential Parks Act*. This is acceptable because the PDC has established a separate zone for residential parks and therefore only parks under that legislation should be subject to those zone requirements.
4. The definition of *supported accommodation* which is 'premises in which residential accommodation is provided to persons requiring/together with regular medical and or/personal care assistance' should be drafted consistent with the plain English requirement of the code to be '*premises in which residential accommodation is provided by a person to persons requiring or receiving regular medical or personal care assistance or both*'.
5. The current definition of *supported accommodation* would arguably include accommodation owned by a person but where the person is receiving a home care package for things such as daily showering and administration of medication. It might also include accommodation where a disabled or elderly person is living with the owner of the accommodation and who is receiving regular medical or personal care assistance or both in that accommodation.
6. The definition of *supported accommodation* is broad enough to then encompass residential aged care facilities under the *Aged Care Act*, disabled housing under the *National Disability Insurance Scheme*, retirement housing which incorporates home care provided privately or under the *Aged Care Act* and supported residential facilities under the *Supported Residential Facilities Act*.
7. Therefore, the potential breadth of the definition of *supported accommodation* may need some further consideration where the principal land use is something else such as retirement housing, a nursing home or a disabled person's home and the provision of support is an ancillary but nevertheless important purpose.

8. We agree that the definition should exclude a hospital. We note that the word 'hospital' is not defined in the land use definitions even though it regularly appears throughout the PDC as a specific land use. We also note that the PDC refers to a 'nursing home' and to 'housing for aged persons' at various stages without defining those words. Given our comments above, those words should be amended in the PDC to reflect the land use definitions.
9. The definition of *retirement facility* should be replaced with the words *retirement housing*. The words *retirement facility* are not used by the sector and may cause confusion. In addition, the PDC uses the words *retirement housing*, *retirement facility* and *retirement village* inconsistently when we think the PDC should only use the words *retirement housing*.
10. Retirement Housing should not be defined as meaning a *facility operating under the regulatory framework of the Retirement Villages Act 2016* which limits it to accommodation which is being administered under the *Retirement Villages Act*. To do so would prevent the development of retirement housing for a particular age group (subject to clearing other legislative hurdles) and which would not be administered under that Act.
11. We suggest that the definition of *retirement housing* should be *accommodation which is lawfully restricted for the predominant accommodation of persons who have attained the age of 55 years*. In that way it is not restricted to persons who have already retired from full-time work as it would be if it was just under the *Retirement Villages Act*. This would reflect the increasing necessity to continue working to earn an income whilst wishing to live in accommodation more suited to advancing age.
12. That definition would also allow a development to allow a minority of people under 55 years of age to live in the development to reflect a growing trend to have a diverse community and also allow people to live on-site to provide some services such as home maintenance, laundry and meals.
13. The definition of *retirement housing* needs to exclude *residential parks*.
14. It should include *ancillary accommodation* as there may be circumstances where a development which fits the definition of *retirement housing* may also wish to incorporate *ancillary accommodation*.
15. This approach will still allow normal property developments such as units and apartments to be developed for either sale or lease under existing land use definitions such as *residential flat building*, *row dwelling*, *group dwelling* and so on. If the developer wishes to sell or lease those developments to people that possibly would be accommodated under one of the other more specific types of accommodation for this cohort, it is a matter for the design and the marketing of those types of accommodation rather than an issue for the PDC to separately address.

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