



**DISCLOSURE STATEMENT FOR THE PURPOSES  
OF THE RETIREMENT VILLAGES ACT 2003**

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**NAME OF INTENDING RESIDENT** (Resident)

**DISCLOSURE STATEMENT RECEIVED BY:**

**SIGN PLEASE** \_\_\_\_\_

**CODE OF PRACTICE 2013 RECEIVED BY:**

**SIGN PLEASE** \_\_\_\_\_

COMPANIES OFFICE  
06 AUG 2021  
RECEIVED

FERGUSSON HOUSE RESCARE LIMITED		
	Authorised:	Reviewed:

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**DATE****1. Statement of Information for intending residents**

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**1.1 Important information for intending residents**

Decisions about retirement villages are very important. They have long-term personal and financial consequences.

You should read this disclosure statement carefully.

This disclosure statement draws your attention to some of the important matters you should consider before deciding to enter a retirement village.

Ask questions.

You must obtain advice from a lawyer independent of the operation of Fergusson House Restcare Limited (Village) before you sign an occupation right agreement (i.e. a document that confers on any person the right to occupy a residential unit within the retirement village and specifies any terms or conditions to which that right is subject).

It is common for there to be misunderstandings by residents and their families about:

- 1.1.1 the kind of legal interest that the resident has in the retirement village;
- 1.1.2 what happens if the resident or their family wants to exit an occupation right agreement;
- 1.1.3 the fees and charges that apply to entering, moving between residential units within, and leaving the retirement village; and
- 1.1.4 the ongoing fees and charges.

It is important that you and your family understand what is involved in entering into an occupation right agreement to join a retirement village.

Although in most cases you will have 15 working days to cancel an occupation right agreement after signing it, you should consider the issues carefully before you sign any application form or agreement.

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## 2. Directory

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- 2.1 **Name of the Retirement Village:** Fergusson House Restcare Limited
- 2.2 **Date of registration of Retirement Village:** [DATE]
- 2.3 **Address of the Retirement Village:**
- 2.3.1 **Street address:** 1 Carlton Street, Rotorua
- 2.3.2 **Registered office:** 678 Taikorea Road, R D 3, Glen Oroua
- 2.3.3 **Address for service:** 1 Carlton Street, Rotorua
- 2.4 **Operator's details:**
- 2.4.1 **Name:** Fergusson House Restcare Limited
- 2.4.2 **Street address:** 1 Carlton Street, Rotorua
- 2.4.3 **Registered office:** 678 Taikorea Road, R D 3, Glen Oroua
- 2.4.4 **Postal address:** 1 Carlton Street, Rotorua
- 2.4.5 **Telephone:** 07 348 9053
- 2.4.6 **Facsimile:** 07 348 6860
- 2.4.7 **Directors:** Stanley Alexander  
Anthony Long  
Philippa Long  
Gail Temperton
- 2.5 **Village Manager's details:**
- 2.5.1 **Name:** Jane Tiu
- 2.5.2 **Experience:** 5 years' experience as a Registered Nurse in NZ and Manager at Fergusson Home since early 2021
- 2.5.3 **Address:** 1 Carlton Street, Rotorua
- 2.5.4 **Facsimile:** 07 3486860
- 2.5.5 **Mobile phone:** 07 348 9053
- 2.5.6 **E-mail Address:** [jane@fergussonhome.co.nz](mailto:jane@fergussonhome.co.nz)
- 2.5.7 **Contact times:** Monday to Friday 9:00 am – 5:00 pm

## 2.6 Key management and staff:

### 2.6.1 Purchasing & Maintenance Manager:

- (a) *Name:* Earl Larsen
- (b) *Phone:* 021 593 322 / 07 348 9053
- (c) *Fax:* 07 348 6860
- (d) *e-mail:* [deb@fergussonhome.co.nz](mailto:deb@fergussonhome.co.nz)
- (e) *Experience:* Over 5 years as the maintenance manager at Fergusson Home
- (f) *Contact times:* Tuesday to Thursday 8:00 am – 4:00 pm

### 2.6.2 Finance Team Leader:

- (a) *Name:* Wendy London
- (b) *Phone:* 021 526 170 / 07 348 9053
- (c) *Fax:* 07 348 6860
- (d) *e-mail:* [wendy@fergussonhome.co.nz](mailto:wendy@fergussonhome.co.nz)
- (e) *Experience:* 40 years accounting experience
- (f) *Contact times:* Monday to Friday 9:00am to 5:00pm

### 2.6.3 Nurse Manager:

- (a) *Name:* Jane Tiu
- (b) *Phone:* 027 276 4164 / 07 348 9053
- (c) *Fax:* 07 348 6860
- (d) *e-mail:* [jane@fergussonhome.co.nz](mailto:jane@fergussonhome.co.nz)
- (e) *Experience:* 5 years as a Registered Nurse in New Zealand
- (f) *Contact times:* Monday to Friday, 9:00 am to 5:00 pm (excluding public holidays and annual leave periods).

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**2.6.4 Unit Nurse:**

- (a) **Name:** Jane Tiu
- (b) **Phone:** 027 276 4164 / 07 348 9053
- (c) **Fax:** 07 348 6860
- (d) **e-mail:** [jane@fergussonhome.co.nz](mailto:jane@fergussonhome.co.nz)
- (e) **Experience:** 5 years as a Registered Nurse in New Zealand
- (f) **Contact times:** Monday to Friday, 9:00 am to 5:00 pm (excluding public holidays and annual leave periods).

**2.6.5 Fergusson Rest Home Staff.**

- (a) **Phone:** 07 348 9053
- (b) **Fax:** 07 348 6860
- (c) **e-mail:** [deb@fergussonhome.co.nz](mailto:deb@fergussonhome.co.nz)
- (d) **Contact times:** At all times.

**2.6.6 Statutory Supervisor's Details:**

**2.6.7 Name:** Covenant Trustee Services Limited

**2.6.8 Street address:** Level 6  
191 Queen Street  
Auckland

**2.6.9 Registered Office:** Level 6  
191 Queen Street  
Auckland

**2.6.10 Postal address:** P O Box 4243  
Shortland Street  
Auckland 1140

**2.6.11 Telephone:** 09 302 0638

**2.6.12 Facsimile:** 09 302 1037

**2.6.13 E-mail Address:** [team@covenant.co.nz](mailto:team@covenant.co.nz)

**2.6.14 Contact person:** Gareth Heyns

### 3. Ownership, Management and Supervision

#### 3.1 Ownership structure and occupancy rights

3.1.1 **Legal nature of Operator:** Fergusson House Restcare Limited (**Operator**) is a private limited liability company which was incorporated on 24 February 2021 under the provisions of the Companies Act 1993 with company number 8162611. The share capital consists of 100 fully paid ordinary shares in the company owned by Gail Temperton, as to 30%, Stanley Alexander, as to 30%, and each of Anthony Long and Philippa Long as to 20% each.

3.1.2 **Legal nature of Landlord:** Fergusson House & Village Limited (**Landlord**) is a private limited liability company which was incorporated on 24 February 2021 under the provisions of the Companies Act 1993 with company number 8162502. The share capital consists of 100 fully paid ordinary shares in the company owned by Gail Temperton, as to 30%, Stanley Alexander, as to 30%, and each of Anthony Long and Philippa Long as to 20% each.

3.1.3 **Directors of the Operator:**

3.1.4 **The Operator's interest in the Village:**

3.1.5 The Landlord is the owner of the land and buildings comprising the Village, being comprised and described in Certificates of Title SA4B/189, SA1782/44 and SA1782/42 (South Auckland Registry) (**Village land**).

3.1.6 **Nature and extent of security interests affecting the Operator's interest in the Village:**

(a) The Statutory Supervisor holds a memorandum of encumbrance registered against the Village land.

3.1.7 **Nature of residents' tenure interest in the Village:** Each resident must enter into an Occupation Right Agreement with the Operator. An Occupation Right Agreement grants to the named Resident the right to occupy a unit at the Village and the right, in common with other residents of the Village, to use the community facilities and common areas of the Village and to receive the general services provided by the Operator on the terms and condition set out in that document. Each Resident's rights rest in contract only. The residents do not have any interest in the land on which their unit or the Village is situated. A separate certificate of title is not issued for each unit. Each Resident's interest is not secured. However, the Statutory Supervisor's security described at paragraph 3.1.6 is held by the Statutory Supervisor for the benefit of all residents of the Village.

#### 3.2 The Resident's interest in the unit

3.2.1 **Rights of the Resident in relation to the unit.** The Resident has the right to:

- (a) Grant a security interest in the termination proceeds, which are paid by the Operator to the Resident following the termination of the Occupation Right Agreement. Such a security interest can only be granted with the Operator's prior written consent. This right is subject to the prior right of the Operator to set-off against such proceeds any amounts owed by the Resident to the Operator, in terms of the Occupation Right Agreement.
- (b) Have a member of the Resident's family (including a de facto partner) stay with the Resident in the unit. The Resident is entitled to have members of the Resident's family stay in the unit for short periods of time, but the same person cannot stay for more than five weeks in any one year without the consent of the Operator. The Operator will consent to a de facto, married or civil union

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partner of the Resident living in the unit where that person would otherwise meet the Operator's normal entry criteria and such person agrees to be bound by the Occupation Right Agreement, as the Operator considers appropriate.

- (c) Introduce a new resident to the Operator at any time who is willing to pay the market value for an Occupation Right Agreement in respect of the unit and who satisfies the Operator's normal entry criteria for the Village. The Operator will not pay a commission for any such introduction.

**3.2.2 *Rights that the Resident does not have in relation to the unit.*** The Resident is not entitled to:

- (a) Grant a mortgage or otherwise borrow against the Resident's interest in the unit. The Resident is able to grant a security interest against the termination proceeds, as described at paragraph 3.2.1(a).
- (b) Let or sub-licence the unit to another person.
- (c) Sell or market the unit. Following the termination of the Resident's Occupation Right Agreement, the Operator will market a new Occupation Right Agreement for the unit.
- (d) Have a person board with the Resident in the unit.
- (e) Have a person stay with the Resident in the unit as a companion or carer for the Resident other than as set out at paragraph 3.2.1(b) without the consent of the Operator.
- (f) Have a person stay in the unit to mind it for the Resident while the Resident is away, without the consent of the Operator.
- (g) Keep a pet in the unit. The Resident is not permitted to keep a pet without the prior written consent of the Operator, which may be withheld at the Operator's discretion and may be withdrawn at any time if in the Operator's opinion the pet becomes a nuisance. The right to keep a pet in the unit does not extend to a replacement pet.

**3.2.3 *Rules that apply to the Village:*** The Resident must comply with the rules of the Village. The Operator may amend the rules from time to time. The rules are adopted for the efficient management and operation of the Village. Each Resident and his, her or their guests are required to comply with the rules as a term of the Occupation Right Agreement.

**3.2.4 *Limits on the Resident living in and using the unit:*** The Resident is not entitled to:

- (a) Use or permit the unit to be used other than as a private residence.
- (b) Damage or misuse the unit, including doing anything or allowing anything to be done that may cause a blockage or interfere with utility services to or from the unit.
- (c) Make alterations or additions to the unit or fit any radio or television aerials, satellite dishes or other appurtenances to or about the unit, without the consent of the Operator. However, if the Resident has or develops disabilities the Resident may (at the Resident's cost) alter the unit to meet the Resident's needs. Following the vacation of the unit the Resident must reinstate the unit to the condition it was in prior to such works being undertaken, at the discretion of the Operator. To the extent that any alterations are made to the unit these become the property of the Operator upon being affixed to the unit.
- (d) Damage or misuse the Village or any of its community facilities and common areas.

- (e) Do anything or omit to do anything that causes a nuisance or annoyance to the other residents in the Village or voids or increases the insurance premium payable by the Operator for the Village.
- (f) Use any portion of the Village as a garden without the prior consent of the Operator.
- (g) Hang any washing other than on clothes lines provided for the purpose.
- (h) Inscribe, paint or display any sign, notice or advertisement at the unit without the prior consent of the Operator.
- (i) Park or stand any vehicle other than in designated parking areas.
- (j) Leave the unit vacant for more than seven days without first advising the Operator.
- (k) Deposit any waste or rubbish other than in approved receptacles.
- (l) Obstruct the use of the community facilities and common areas of the Village

### 3.2.5 **Sale or marketing of the unit:**

- (a) The Operator will control the sale and marketing of a new Occupation Right Agreement for the unit following termination of the Resident's Occupation Right Agreement and vacation of the unit by the Resident. However, the Resident is entitled to introduce a new resident to the Operator at any time who is willing to pay the market value for an Occupation Right Agreement in respect of the unit and who satisfies the Operator's normal entry criteria for the Village. The Operator will not pay a commission for any such introduction.
- (b) The Operator will market an Occupation Right Agreement for the unit in accordance with the terms of the Occupation Right Agreement. The marketing procedures will comply with the requirements of the Code of Practice.
- (c) The Operator will market an Occupation Right Agreement for the unit at the market value for the same, as determined by the Operator.
- (d) The rights of the Resident, if there is a delay in the sale of a new Occupation Right Agreement for the unit, are:
  - (i) to be consulted by the Operator about the marketing plan for the same;
  - (ii) to be informed on a monthly basis about progress with marketing, including the steps taken to market a new Occupation Right Agreement for the unit and any progress achieved in finding a new resident.
- (e) The Operator agrees to buy the Resident's interest in the unit if a new resident has not been found and the purchase price paid in full for an Occupation Right Agreement in respect of the unit within six months after the departing Resident has vacated the unit. The Occupation Right Agreement outlines a different process where the unit or the Village has been damaged or destroyed and it has been determined by the Operator that it will not be rebuilt.
- (f) The Resident is required to pay the Operator an amount equal to 4% of the Purchase Price, plus GST (if any), as a contribution to the administration, sale and marketing costs of a new Occupation Right Agreement for the unit. This payment will be made at the time the termination payment is paid by the Operator to the Resident. This fee will not apply where the unit or the Village has been damaged or destroyed and it has been determined by the Operator that it will not be rebuilt.

### 3.2.6 **Circumstances in which the Resident is entitled to a refund of the capital sum paid and how it is calculated:**

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- (a) Following termination of the Occupation Right Agreement a termination payment, being an amount equal to the Purchase Price originally paid by the departing Resident, shall be paid by the Operator to the Resident (or the Resident's personal representatives).
- (b) Unless the circumstances at paragraphs (c) to (e) below apply, the termination payment will usually be paid by the Operator to the Resident within five working days after:
- (i) the Operator holds a validly executed and certified Occupation Right Agreement with a new resident in respect of the unit;
  - (ii) the expiry of the new resident's cooling off rights; and
  - (iii) the Operator receiving payment of the purchase price specified in the new resident's Occupation Right Agreement.
- (c) Where the Occupation Right Agreement is terminated by the Operator then the Operator must pay the termination payment to the Resident within five days after the date on which the termination notice took effect.
- (d) Where the Occupation Right Agreement is terminated following the damage or destruction of the unit or Village and it has been determined that the unit or Village will not be rebuilt, then the Operator must pay the termination payment to the Resident:
- (i) no later than ten Working Days after the date on which the Operator or the Statutory Supervisor receives payment in full under any insurance policy covering the unit; or
  - (ii) (if there are no, or insufficient, insurance proceeds) no later than five Working Days after the date on which the Operator terminates the Occupation Right Agreement.
- (e) Where a new Resident has not been found and the purchase price paid in full for an Occupation Right Agreement in respect of the Unit within six months after the departing Resident vacated the Unit, and provided paragraphs (c) and (d) above do not apply, the Operator shall purchase back the Occupation Right Agreement. The amount to be paid by the Operator to the Resident or the Resident's personal representatives, as the case may be, shall be determined in accordance with the relevant clause in the Occupation Right Agreement.
- (f) Where the Resident has died, the executors or administrators of the Resident's estate must provide proof of the grant of probate or letters of administration to the Operator before the termination payment will be made.
- (g) At the time the Resident receives the termination proceeds or insurance proceeds the Resident must pay the Facilities Payment, which has accrued during the term of the Occupation Right Agreement, and all such other amounts as shall be owing by the Resident to the Operator in terms of the Occupation Right Agreement.
- (h) The Operator, when making any payments due to the Resident, is entitled to set-off against such payments any payments due from the Resident to the Operator.

### 3.3 Management Arrangements

#### 3.3.1 *Manager and Key Staff.*

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- (a) The directors of the Operator undertake the management of the Village. Their names, experience, contact details and times of availability are described in the Directory.
- (b) The names, experience, contact details and times of availability of a number of other key management staff employed by the Operator are also described in the Directory.
- (c) The key management staff and general staff can be contacted through the Village office or by telephone, facsimile or email as set out in the Directory.
- (d) The times during which the key management staff and general staff will be available at the Village are set out in the Directory. They can only be contacted during these times.
- (e) A 24-hour emergency call system is operated at the Village and will be responded to at all times.
- (f) The core duties of the Purchasing and Maintenance Manager are to ensure all of the required repairs and maintenance work to the buildings and grounds within the Village are carried out promptly and efficiently and all purchasing is managed efficiently and effectively.
- (g) The core duties of the Nurse Manager are to assist the Operator and other key managers with all compliance and contracting matters. To administer the day-to-day affairs of the Village, to manage all staff and to arrange the provision of services.
- (h) The core duties of the Finance Team Leader are to be a personal assistant to the directors of the Operator and to keep all financial matters relating to the Occupation Right Agreements and all day-to-day accounts of the Village on behalf of the Operator.
- (i) The core duties of the Unit Nurse are to facilitate the day to day activities of the residents, including visits and arranging medical or nursing help in the case of illness, arranging meals if required, assisting with obtaining maintenance or cleaning if required, delivering mail on a regular basis and like obligations.
- (j) The key management staff and general staff are employees of the Operator. There are no ownership links or management agreement between those parties and the Operator.

3.3.2 **Residents Committee:** The Village does not currently have a Residents' Committee.

### 3.4 Statutory Supervisor:

3.4.1 **Obligation to appoint:** Under the Retirement Villages Act 2003 the operator of a retirement village must appoint a statutory supervisor for the Village unless the Registrar of Retirement Villages exempts the operator from the requirement.

3.4.2 **Core duties:** The core duties of a Statutory Supervisor are to:

- (a) provide a stakeholder facility for intending residents and residents who pay deposits or progress payments in respect of Occupation Right Agreements or uncompleted residential units or facilities at the Retirement Village; and
- (b) monitor the financial position of the Village; and
- (c) report annually to the Registrar and residents on the performance of its duties and exercise of its powers; and

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(d) perform any other duties that are imposed by the Act or any other Act, any Regulations made under the Act and any document of appointment.

3.4.3 **Statutory Supervisor's details:** The name and contact details for the Statutory Supervisor of the Village are set out in the Directory.

3.4.4 **Exemption:** There is no exemption from the requirement to appoint a Statutory Supervisor.

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**4. State of Retirement Village, Services, Charges and Accounts**

**4.1 State of Village**

**4.1.1 Details of buildings**

<i>Building</i>	<i>Year</i>	<i>Age</i>	<i>Construction Material</i>	<i>Condition</i>	<i>Maintenance</i>
Rest Home	1981 - 1995	18-35 years	Concrete, brick, roof tiles and aluminium windows	Very good	Continuously
Hospital	1981 - 1995	18-35 years	Concrete, brick, roof tiles and aluminium windows	Very good	Continuously
Village	1981 - 1995	18-35 years	Concrete, brick, roof tiles and aluminium windows	Very good	Continuously

**4.1.2 Details of other improvements**

<i>Improvement</i>	<i>Nature of Improvement</i>	<i>Condition</i>	<i>Maintenance</i>
Paths	Access around Village and paths to each unit	Very Good	Continuously
Driveways	Driveways to service Village	Very Good	Continuously
Roads	Access around Village	Very Good	Continuously
Grounds	9 acres of landscaped grounds, including garden areas and lawns	Very Good	Continuously
Lighting	Outdoor areas and paths are well lit	Very Good	Continuously
Heating	Electric or thermal heating in most units and common areas	Very Good	Continuously
Security features	Security lighting	Very Good	Continuously
Sprinklers, smoke alarms	All units and common areas have systems that meet Building Act requirements	Very Good	Continuously
Emergency call system	All units have an emergency call system which will be answered 24 hours by the Tunstall Call Centre.	Very Good	Continuously

**4.1.3 Stage of completion and new units planned:** The Village has been completed. No further development is planned as at the date of this disclosure statement.

**4.1.4 Effect on existing residents of planned new units:** Not applicable.

**4.1.5 Number of units occupied, unoccupied and still to be completed:** Refer to the Schedule.

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4.1.6 **Details of unit disposals in last 12 months:** Refer to the Schedule.

4.1.7 **Average time to dispose of occupied units (in days):** Refer to the Schedule.

4.1.8 **Average time to dispose of unoccupied units (in days):** Refer to the Schedule.

4.2 **Services and facilities at the Village:**

4.2.1 **General Services:**

<i>Service</i>	<i>Nature</i>	<i>Extent</i>	<i>Frequency</i>
Gardening	Common gardens surround the entire Village	Gardens are maintained by gardeners  Residents may assist with their own gardens if they wish to	Ongoing basis  Resident's discretion
Lawn mowing	Lawns surround the Village	Lawns are mowed regularly	Weekly during the growth period and then up to once every three weeks as the growth requires
Repairs and maintenance	As and when required to all buildings	All necessary repairs to Village and exterior of Units are undertaken when required	Repair person on site as and when required
Shops and other services for provision of goods	Stamps, greeting cards, photocopying and facsimile services	Items sold at the Village office, subject to stock availability, photocopying and facsimile available subject to use	9.00 am to 4.00 pm week days
Transport Services	Village courtesy vehicle	Trips and outings as required	At the Operator's discretion
Recreation and entertainment services	Determined by Activities Programme staff	Determined by Activities Programme staff	Week days and limited periods in week ends
Security Services	Co-ordinated by the Village manager	Security guards, security patrols, camera system, virtual monitoring and alarm systems	All times
Chaplaincy Services	Multi-denominational	A Chaplain attends the Village regularly	Regular visits or upon request

*The following services are available to residents as Personal Services or Additional Services (as the case may be) (price upon request to Operator):*

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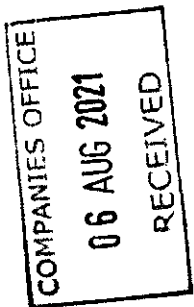
**Services:**

<i>Service</i>	<i>Nature</i>	<i>Extent</i>	<i>Frequency</i>
Nursing Care	Full range of care levels available	As determined by Needs assessment Co-ordination Service	On-call 24 hours a day and otherwise as required and agreed
Nursing Escort	As required for appointment at hospital	As requested and subject to availability	As requested, week days
Podiatrist	Consultation with Podiatrist	Consultation	As requested, week days
Wound Care	As determined by nurse or medical practitioner	All wounds	As determined by nurse or medical practitioner
Meals	All three main meals available, together with morning and afternoon tea. Special dietary needs provided. Guest meals also provided.	In dining room or breakfast in unit	As agreed
Physiotherapy	Physiotherapist and Massage Therapy	Either in unit or at Rest Home	As requested, week days
Hairdressing	Full range hair care services	As requested	By appointment
Laundry	On-site laundry service	All laundry services including personal clothing	As requested, week days
Activities Programme	Determined by Activities staff	In unit or at Rest Home	Week days and limited periods in week ends
Interpreter services	English as second language	As requested and subject to availability	As requested
Cleaning services	Interior cleaning of the unit	As requested	As requested, week days
Off-site entertainment	As determined from time to time	Events	As offered by Operator

**Facilities:**

<i>Facility</i>	<i>Description</i>	<i>Availability</i>
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Dining facility	Available upon request.	Group bookings to be made via that Village manager
Lounge or television rooms	All lounges within Fergusson Home may be used as desired.	Group bookings to be made via the Nurse Manager, otherwise at all times.
Laundry	Not available for use by residents.	Clothes may be laundered upon request
Gymnasium	Small gymnasium holding weights and exercise machines.	During working hours by appointment
Health Clinic	Not available.	Not Available
Swimming pool	Indoor pool and change rooms.	During working hours upon request
Petanque court	May be played on lawn at Village.	Boules available
Spa Bath	Available at Rest Home.	During working hours by appointment
Bowling green	Indoor bowling green available.	At all times. Regular tournaments
Tennis court	Not available.	
Library	Small selection of books to cater for all types of reading. Mobile library.	At all times Fortnightly
Kitchen facility	Not available for use by residents.	
Croquet lawn	Standard outdoor lawn playing area.	At all times
Snooker and billiards room	Contains billiard/snooker tables and associated chairs.	At all times



4.2.2 **Services and facilities to be provided:** The Operator has no plans to provide any additional services or facilities.

### 4.3 Charges

4.3.1 **Charges for services and facilities:** Each Resident is required to pay the following charges on the terms set out in their Occupation Right Agreement:

- (a) **Village Outgoings Charge:** The Village Outgoings Charge is a weekly fee payable by the Resident to the Operator, being the Resident's proportionate contribution to the costs, charges, expenses, fees and other outgoings incurred by the Operator in maintaining, managing, supervising and operating the Village,

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the community facilities and common areas. Without limiting the generality of the foregoing it includes:

- (i) all taxes (except income tax or capital taxes in respect of the Operator's income or profits) in respect of the Retirement Village;
- (ii) all rates, levies, charges, assessments and fees payable to any government, territorial or local authority in respect of the Retirement Village or the Land and not directly recovered from the residents of the Retirement Village directly;
- (iii) the cost of compliance with any statutes, regulation, bylaw or other lawful obligation in respect of the Retirement Village;
- (iv) the charges for the supply of water, gas, electricity, fuel, telephone and tolls, cable/satellite television charges and internet charges and other utilities or services to the Retirement Village, including Common Areas and the Retirement Village generally (but excluding the same to the extent they are supplied direct to a Unit);
- (v) where utilities of the type described at paragraph (d) are provided by the Operator to a particular unit or class of residential units, then for that unit or class of residential units only, the charges for that utility or those utilities;
- (vi) insurance premiums relating to all buildings and facilities of the Retirement Village, including the Common Areas, all of the Operators chattels, equipment, fixtures, fittings, stores and motor vehicles (but excluding the personal belongings and vehicles of the residents) and any associated valuation fees;
- (vii) payment of all remuneration, salaries, wages, fees, superannuation and pension payments and Accident Compensation levies and management, supervision, printing and stationery, advertising, general administration, laundry services, and such other charges, fees and expenses as may from time to time be incurred by the Operator in running and maintaining the Retirement Village;
- (viii) a reasonable annual management fee in respect of the management services the Operator provides at the Retirement Village, such fee being subject to review each year after consultation with the Statutory Supervisor to reflect the then current market terms and conditions;
- (ix) the costs of cleaning the Retirement Village generally, including the Common Areas and all areas used by the Operator (but excluding the interior of each Unit, being the responsibility of each occupying resident);
- (x) the costs of all gardening and landscaping at the Retirement Village (but excluding any work which is the responsibility of a Resident);
- (xi) the costs of arranging the Activities Programme and recreational activities;
- (xii) the costs of arranging chaplaincy and other religious services;
- (xiii) the costs of purchasing, operating, maintaining and repairing any minibus vehicle(s) and any other vehicle or machine required for the day to day functioning of the village;
- (xiv) the costs of painting, repairing, maintaining and servicing all buildings, the exterior of the residential units, the Common Areas and the

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Retirement Village generally (but excluding any painting, repair, maintenance and service costs payable by a Resident pursuant to the provisions of the Resident's occupation right agreement);

- (xv) the costs of keeping secure the Retirement Village, including the costs of security guards, regular security patrols, on-call security patrols, camera systems, virtual monitoring and alarm systems;
- (xvi) the cost of replacing minor capital items at the Retirement Village;
- (xvii) the cost of purchasing and replacing communal items, including (without limitation), communal televisions, communal stereos, entertainment systems, games, sporting equipment, bowling green, library books, snooker and pool tables, gymnasium and other communal equipment;
- (xviii) a reasonable sum in each Financial Year, as determined by the Operator in its sole discretion, as a contribution to a maintenance fund to cover the cost of Retirement Village repairs, maintenance, renovations and replacements (including items of a capital nature) of a substantial but infrequent or irregular nature;
- (xix) payment of all charges for services supplied to the Retirement Village for the general purposes or benefit of the residents of the Retirement Village;
- (xx) payment of all moneys payable under the Deed of Supervision including the appropriate fees and expenses of the Statutory Supervisor;
- (xxi) all accounting, audit, valuation and legal costs incurred in the administration of the Village; and
- (xxii) the cost of all other office management charges including printing and stationery, advertising, general administration information technology and all such other charges, fees and expenses.

The Village Outgoings Charge is payable by the Resident in consideration of the Operator agreeing to pay all the operating expenses of the Village (described above).

The Village Outgoings Charge is calculated on a cost recovery basis. No margin is included by the Operator.

The Village Outgoings Charge will be payable from the commencement date of the Resident's Occupation Right Agreement until the date the Termination Payment is payable by the Operator to the Resident.

The Village Outgoings Charge will cease to be payable from the date at which the unit or the Village is damaged or destroyed unless the Operator is providing temporary accommodation to the Resident pending reconstruction.

- (b) **Personal Services Charge:** The Personal Services Charge is a monthly fee payable by the Resident to the Operator, being the sum of personal service charges incurred by the Resident for the provision of personal services by the Operator. The provision of such services and the charging for the same is by agreement between the parties.

The Personal Services Charge is payable by the Resident in consideration of the Operator supplying the personal services. These services are identified as such at paragraph 4.2.1.

The Personal Services Charge is calculated on a cost recovery basis. No margin is included by the Operator.

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The Personal Services Charge will be payable from the date the Resident begins to receive the Personal Services and will cease on the date the Resident permanently vacates the unit.

- (c) *Additional Services Charge:* The Additional Services Charge is a monthly fee payable by the Resident to the Operator, being the sum of additional charges incurred by the Resident for the provision of additional services by the Operator. The provision of such services and the charging of the same is by agreement between the parties.

The Additional Services Charge is payable by the Resident in consideration of the Operator supplying the Additional Services.

The Additional Service Charge is calculated on a cost recovery basis. No margin is included by the Operator.

Any Additional Services Charge will be payable from the date the Resident begins to receive the relevant services and will cease on the date the Resident permanently vacates the unit.

- (d) *Weekly Fee:* The Village Outgoings Charge, Personal Services Charge and Additional Services Charge together comprise the Weekly Fee.

The amount of the Weekly Fee (and its component charges) may be reviewed and changed by the Operator from time to time. If the Operator wishes to change the Weekly Fee (or its component charges) in a way that may have a material impact on a Resident's occupancy or ability to pay for the services, then the Operator will provide a reasonable opportunity for consultation with the residents and the Statutory Supervisor before making the change. The Operator will give at least four weeks' notice of any change to the charges.

- (e) *Facilities:* There is no specific charge for the provision of the Village community facilities and common areas (other than as included in the Village Outgoings Charge) as the right to use these facilities forms part of the Facilities Payment paid at the time the Resident leaves the Village.

#### 4.3.2 **Payments to secure an interest in the unit**

- (a) *Purchase Price:* The Resident is required to pay the Purchase Price to the Operator for an Occupation Right Agreement in respect of the chosen unit. The amount of the payment is described in the Information Sheet. This payment is determined by the Operator as an appropriate capital sum for the right to occupy the unit and, in common with the other residents, use the community facilities and common areas and receive the general services at the Village.
- (b) *Facilities Payment:* The Resident is required to pay a Facilities Payment following termination of the Occupation Right Agreement. Although payable following termination, this fee accrues and is chargeable from the commencement date of the Resident's Occupation Right Agreement. The Facilities Payment is an amount equal to 3.5% of the Purchase Price paid by the departing Resident accruing at the start of every six months from the commencement date of the Occupation Right Agreement for the first four six month periods, 3% of the Purchase Price paid as above for the next two six month periods and 2.5% of the final two six month periods up to a maximum sum of 25% of the Purchase Price (including GST) to be paid by the departing Resident.

4.3.3 **Payments on permanently leaving the unit:** The following charges are payable by the Resident to the Operator:

- (a) **Facilities Payment:** See paragraph 4.3.2(b) above. This may not apply if the unit is destroyed or damaged and will not be repaired or reinstated, and the Occupation Right Agreement has been terminated.
- (b) **Lesser purchase price:** Where the purchase price paid by the new resident is less than the Purchase Price paid by the departing Resident, an amount equal to the difference between the Purchase Price and the purchase price paid by the new resident. This does not apply if the unit is destroyed or damaged and will not be repaired or reinstated, and the Occupation Right Agreement has been terminated.
- (c) **Administration, sale and marketing fee:** The Resident is required to pay the Operator an administration sales and marketing fee in the amount equal to 4% of the Purchase Price, plus GST (if any). This does not apply if the unit is destroyed or damaged and will not be repaired or reinstated, and the Occupation Right Agreement has been terminated.
- (d) **Refurbishment:** Any costs of refurbishment over and above fair wear and tear to the unit. For the avoidance of doubt, damage caused by incontinence, smoking or disability/mobility aids does not constitute fair wear and tear and will be recoverable from the Resident. This does not apply if the unit is destroyed or damaged and will not be repaired or reinstated, and the Occupation Right Agreement has been terminated.
- (e) **Disability modifications:** The cost of removing any disability modifications made by the Resident to the unit. This does not apply if the unit is destroyed or damaged and will not be repaired or reinstated, and the Occupation Right Agreement has been terminated.
- (f) **Removal costs:** If the Resident does not remove from the unit all of the Resident's possessions on termination then the Operator may remove the possessions and place them into storage. The cost of this removal and storage shall be charged to the Resident and deducted from payments due to the Resident. The Operator may sell the possessions if they are not collected within 60 days.
- (g) **Weekly Fee:** Any outstanding Weekly Fee. To this end:
  - (i) The Village Outgoings Charge will be payable on the terms set out at paragraph 4.3.1(a):
  - (ii) The Personal Services Charge will be payable on the terms set out at paragraph 4.3.1(b): and
  - (iii) Any Additional Services Charge will be payable on the terms set out at paragraph 4.3.1(c).
- (h) **Outstanding charges:** any other amounts due to the Operator under the Occupation Right Agreement.

These payments will be made by the Resident at the time the unit is sold. The Operator is entitled to set-off these payments against the termination payment which it pays to the Resident. The payments are inclusive of GST (if any).

4.3.4 **Payment on transferring to another unit:** The payments described at paragraph 4.3.3 will be payable where the Resident wishes to move from their existing unit and move to another unit in the Village.

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**4.3.5 Periodic charges payable by the Resident:**

- (a) **Village Outgoings Charge:** The Village Outgoings Charge is largely described at paragraph 4.3.1(a). It is calculated by dividing the total operating expenses of the Village by the number of units in the Village. The Village Outgoings Charge is usually reviewed annually at the commencement of each financial year of the Village but may be reviewed more frequently, if required. The Village Outgoings Charge currently payable by each Resident is \$109.00 including GST (if any) per week. This charge is payable to the operator on the first day of the month in advance by direct debit from the Resident's bank account.
- (b) **Personal Services Charge:** The Personal Services Charge is largely described at paragraph 4.3.1(b). The amount of the Personal Services Charge can only be calculated once the health, disability and care services to be supplied have been agreed between the Resident and Operator at the commencement of the Occupation Right Agreement. The Personal Services Charge is usually reviewed annually at the commencement of each financial year of the Village but may be reviewed more frequently if required. This charge is payable to the Operator on the first day of the month in advance by direct debit from the Resident's bank account.
- (c) **Additional Services Charge:** The Additional Services Charge is largely described at paragraph 4.3.1(c). The amount of the Additional Services Charge can only be calculated once the additional services have been agreed between the Resident and Operator at the commencement of the Occupation Right Agreement. The Additional Services Charge is usually reviewed annually at the commencement of each financial year of the Village but may be reviewed more frequently if required. This charge is payable to the Operator on the first day of the month in advance by direct debit from the Resident's bank account.
- (d) **Personal/Additional Services provided from time to time:** Where the Resident is supplied Personal or Additional Services on an 'on demand' or casual basis from time to time, the Operator will invoice the Resident at the end of each month for all charges due to the Operator for the previous month. This charge is due on the 20<sup>th</sup> day of the month following receipt of the invoice.

**4.3.6 Additional charges or expenses:** In addition to the charges disclosed elsewhere in this section 4, the Resident is also required to pay for the following additional charges or expenses under the Occupation Right Agreement and these charges and expenses will relate only to the time the Resident remains in the Village:

- (a) **Utility charges:** The supply of telephone connection, telephone rental and tolls, and any other utility charges in respect of the unit. Such charges are payable to the utility company which supplies the service.
- (b) **Repair charges:** The cost of all repairs and maintenance to the interior of the unit.
- (c) **Insurance Charges:** The cost of insuring the Resident's personal belongings and vehicles if the Resident chooses to insure these items.
- (d) **Third party providers:** The Resident will be responsible for the payment of any external service providers the Resident uses.
- (e) **Insurance excess payment:** If the unit or the Village is damaged or destroyed as a result of an act or omission arising from the negligence or recklessness of the Resident or the Resident's guests then, without prejudice to the Operator's other rights, the Operator may require the Resident to pay the amount of any excess charge to any insurance claim. The current excess amount under the Operator's insurance cover is \$1,000 for each claim.

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- (f) **Default interest:** If the Resident fails to make payment of any moneys payable under the Occupation Right Agreement on the due date for payment, then the Operator is entitled to charge interest on such unpaid moneys at the rate of 4% per annum above the commercial lending base rate charged by the Operator's bank, calculated on a daily basis.
- (g) **Contribution to legal costs:** The Resident shall pay, on demand, the Operator's legal costs incurred in the exercise of any discretion, consent or remedy of any default by the Resident under the Occupation Right Agreement.

4.3.7 **Maintenance, Rates and Insurance Payments:** The Resident is not required to make any separate payments for maintenance, rates and insurance in respect of the land and the exterior of the buildings comprising the Village as these costs are paid by the Operator as part of the Village Outgoings Charge. The Resident will be liable for the cost of interior maintenance to the unit as described at paragraph 4.4.2 below.

#### 4.4 Maintenance and refurbishment

##### 4.4.1 Maintenance the Operator is responsible for:

- (a) The Operator is responsible for:
  - (i) maintaining the exterior of the units;
  - (ii) maintaining connections for all usual utility services to the units;
  - (iii) ensuring that the grounds surrounding the units are kept in clean and tidy order;
  - (iv) maintaining the exterior and interior of all other buildings and the plant and equipment in the Village in a good, clean, tidy repair, order and condition; and
- (b) On being advised of any defect or need for repair to any of the above, the Operator must within a reasonable time take appropriate steps to repair and make good the defect.

##### 4.4.2 Maintenance that the Resident is responsible for:

- (a) The Resident is responsible, during the term of the Occupation Right Agreement, for keeping the interior of the unit and the fixtures, fittings and chattels in the unit in good clean order, repair and condition. Generally, the same must be in the condition they were in at the commencement date of the Occupation Right Agreement after taking into account fair wear and tear since that date.
- (b) The Operator may from time to time inspect the unit and require the Resident to undertake any repairs or maintenance which, in the Operator's opinion, are necessary.
- (c) The Resident must organise and pay for such repair and maintenance work. The Resident may ask the Operator to undertake the work for the Resident, otherwise the Resident must ensure that all work is carried out in a proper and tradesman like manner by workmen or contractors approved by the Operator.
- (d) On termination of the Occupation Right Agreement, the Resident must refurbish the interior of the unit in accordance with paragraph 4.3.3(d).

4.4.3 **Maintenance or sinking fund:** The Operator will have a maintenance sinking fund for repairs, maintenance, refurbishment and capital replacement works associated with the Village (including its facilities). The operator does not require the residents to contribute to this fund.

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## 4.5 Financial Accounts

- 4.5.1 **Retirement Villages Act 2003:** The Retirement Villages Act 2003 requires the Operator to prepare audited financial statements relating to the Operator. The financial statements of the Operator are the financial statements of the Village.
- 4.5.2 **Process for preparing financial statements:** The Operator commences the preparation of financial statements to comply with the requirements of the Retirement Villages Act 2003 following the end of each financial year on 31 March and has these audited by independent qualified auditors. The audited financial statements must be filed at the Companies Office within five months and 20 working days after the end of the financial year. The Operator will give the Statutory Supervisor a copy of the audited financial statements as soon as they are available and in any event, within five months of the end of the financial year.
- 4.5.3 **Financial statements available to residents:** The Operator will make available to the Resident free of charge on request a copy of the most recent audited financial statements of the Operator. These audited financial statements are reviewed by the Operator with residents at the Annual General Meeting each year.
- 4.5.4 **Forecast Village accounts:** The Operator prepares at the commencement of each financial year a forecast statement of all income and expenditure relating to the Village and gives the Statutory Supervisor a copy of such forecast statement within three months of the commencement of the financial year. This annual budget is reviewed by the Operator with the residents at the Annual General Meeting each year.
- 4.5.5 **Manager:** The Village manager is an employee. There is no contracted management company. As such, no financial statements are prepared for the Village manager.
- 4.5.6 **Financial Statements:** A copy of the most recent audited financial statements relating to the Operator are available from the Operator at the Village.

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## 5. Occupation Right Agreements, Terminations, Deductions and Estimated Financial Returns

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### 5.1 Cooling-off period and cancellation of Occupation Right Agreement:

#### 5.1.1 Section 28 of the Retirement Villages Act 2003:

- (1) An occupation right agreement must contain a provision allowing a resident (other than a person who is a resident solely because paragraph (c) of the definition of resident applies to that person) to cancel the agreement—
  - (a) without having to give any reason, by notice given not later than 16 working days after the agreement is signed by the resident; and
  - (b) if the agreement relates to a residential unit to be built or completed at a later date and the residential unit is not finished to the point of practical completion within 6 months after the proposed date for completion of the unit, by notice given at any time after the expiry of that 6-month period.
- (2) Notice of cancellation—
  - (c) must be in writing and in a form that indicates (irrespective of the exact words used) the intention of the resident to cancel the agreement; and
  - (d) may be given by the resident or any person authorised in writing by the resident to act on his or her behalf.
- (3) The notice may be given to—
  - (a) the operator; or
  - (b) the real estate agent or other person who dealt with the resident on behalf of the operator when the resident acquired an occupation right, unless the operator has notified the resident that the person has ceased to act on behalf of the operator; or
  - (c) any person who the operator has notified the resident is a person authorised to receive communications on behalf of the operator.
- (4) The operator is entitled to reasonable compensation for services provided to the resident under the occupation right agreement and for damage to a residential unit or any facilities in the retirement village for which the resident is responsible before the cancellation takes effect.
- (5) Despite subsection (1), an occupation right agreement may contain a cancellation provision of the kind referred to in subsection (1) that is more favourable to the resident than the provision referred to in subsection (a), but, if the agreement fails to contain any provision of the kind referred to in subsection (1) or contains a provision that is less favourable to the resident than that provision, the agreement is deemed to contain the provision referred to in subsection (1)."

5.1.2 **Definitions:** The following definitions are contained in section 5 of the Retirement Villages Act 2003 and are used in section 28 of the Act, reproduced above:

**facilities** in relation to a retirement village, means facilities of a shared or communal kind provided in the retirement village for the benefit of residents of the retirement Village and includes recreational facilities and amenities.

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**occupation right agreement** means any written agreement or other document or combination of documents that—

- (a) confers on any person the right to occupy a residential unit within a retirement village; and
- (b) specifies any terms or conditions to which that right is subject.

**operator**, in relation to a retirement village, means any person who is 1 or more of the following:

- (a) a person who is, or will be, liable to fulfil all or any of the obligations under occupation right agreements to residents of the village:
- (b) a holder of a security interest who is exercising effective management or control of the retirement village:
- (c) a receiver of the property comprising the retirement village, or the liquidator of the person to whom either of paragraph (a) or paragraph (b) applies.

**resident** means any of the following:

- (a) a person who enters into an occupation right agreement with the operator of a retirement village:
- (b) a person who, under an occupation right agreement, is, for the time being, entitled to occupy a residential unit within a retirement village:

**residential unit or unit** means a building, or part of a building, that is a house, flat, townhouse, unit, serviced unit or apartment (whether or not it has cooking facilities), villa, or similar dwelling erected, or currently used, primarily and principally as a unit of accommodation; and includes any land, improvements, or appurtenances belonging to the unit or usually enjoyed with it.

**services** means services provided at a retirement village of 1 or more of the following kinds:

- (a) gardening, repair, or maintenance services:
- (b) nursing or medical services:
- (c) the provision of meals:
- (d) shops and other services for the provision of goods:
- (e) laundry services (not being the provision of facilities for residents to carry out their own laundry):
- (f) services (for example, hairdressing services) for the personal care of residents:
- (g) transport services:
- (h) services for recreation or entertainment:
- (i) security services:
- (j) other services for the care or benefit of residents.

5.1.3 **Favourable provision:** The Occupation Right Agreement does not contain a more favourable cooling-off and cancellation provision than contained in section 28(1) of the Retirement Villages Act 2003.

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## 5.2 Varying the Occupation Right Agreement

- 5.2.1 **Code of Practice:** To the extent that the Occupation Right Agreement may contain a provision which is less favourable to the Resident than the provisions of the Code of Practice, the terms of the Code of Practice will prevail and the Occupation Right Agreement shall be deemed to be varied accordingly.
- 5.2.2 **Variation:** The terms of an Occupation Right Agreement cannot be varied by the Operator or the Resident except by the mutual agreement of both parties and with the consent of the Statutory Supervisor.

## 5.3 Termination of Occupation Right Agreement

- 5.3.1 **Resident's right to terminate:** The Resident is entitled to terminate his, her or their Occupation Right Agreement for any reason and at any time on service of two months' prior written notice to the Operator. Such notice, once given, cannot be revoked.
- 5.3.2 **Automatic termination:** The Occupation Right Agreement is automatically terminated upon the death of the Resident or the death of the last survivor of joint Residents. The Occupation Right Agreement will also terminate when the Resident moves to another unit in the Village.
- 5.3.3 **Termination by agreement:** The Occupation Right Agreement may terminate by agreement between the Operator and Resident.
- 5.3.4 **Termination upon damage or destruction:** If the unit is damaged or destroyed the Operator is obliged to repair and reinstate the unit unless the Operator decides not to do so. The Occupation Right Agreement outlines the process the Operator must follow in order to arrive at a decision not to repair or reinstate the unit. Damage or destruction of the unit may result in the termination of the Occupation Right Agreement.
- 5.3.5 **Termination by the Operator.** The Operator may terminate the Occupation Right Agreement on the following grounds:
- (a) **Intentional damage:** where the Resident has intentionally or recklessly caused or allowed, or is likely to cause or allow:
- (i) serious damage to the unit, the Operator's chattels or the Village;
  - (ii) damage which is not itself of a serious nature but which is made so by its continuous nature; or
  - (iii) serious injury or harm to the Operator, its contractors or employees, or an invitee of the Operator or another resident of the Village,
- and has failed to remedy that damage, injury or harm within a time specified by the Operator which is reasonable in the circumstances;
- (b) **Abandonment:** the Resident has abandoned the unit and has failed to re-occupy it within the required timeframe of the Operator serving notice requiring the Resident to do so;
- (c) **Use contravention:** the Resident has used the unit other than as a private residential dwelling, has transferred or sub-licensed the Resident's rights or granted a security interest in the unit, without the Operator's prior written consent;
- (d) **Material breach:** the Resident has otherwise, in a material or significant way, breached the Occupation Right Agreement and has failed to rectify the breach within a reasonable time after receiving written notice from the Operator that the Operator intends to terminate the Occupation Right Agreement within the required timeframe unless the breach is remedied;

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- (e) *Medical grounds*: where a medical practitioner appointed by (but independent of) the Operator following consultation with the Resident, certifies that the Resident's or the last survivor of joint Resident's, physical or mental health is such that the Resident or one of the Residents, as the case may be, cannot live safely in the Village; or
- (f) *Well-being of the Village*: where, in the reasonable opinion of the Operator, it is best for the safety, security and well-being of the community of residents in the Village;

The Operator will be required to comply with any process set out in the Code of Practice before exercising its right to terminate the Occupation Right Agreement.

**5.3.6 *Effect of termination on persons living with the Resident.*** On termination of the Occupation Right Agreement the Resident and any person living in the unit with the Resident will be required to vacate the unit immediately.

**5.3.7 *Charges that are payable after termination:*** The charges that continue to be payable by the Resident after the termination of the Occupation Right Agreement are:

- (a) *Facilities and services charges*: The charges for the facilities and services set out at paragraph 4.3.1 will continue to be payable, provided that:
  - (i) the Village Outgoings Charge will be payable until the date the Termination Payment is payable by the Operator to the Resident.
  - (ii) any Personal Services Charge or Additional Services Charge will cease on the date the Resident permanently vacates the unit.
- (b) *Additional charges*: The charges specified at paragraphs 4.3.6 and 4.3.7 will cease on the date the Resident ceases to receive the services.
- (c) *Termination charges*: The charges payable upon termination, as set out at paragraph 4.3.3.

**5.3.8 *Process for locating new resident:***

The process to be followed by the Operator in finding a new resident for the vacated unit is as follows:

- (a) The Operator will keep the former Resident informed on a monthly basis about the progress with the marketing of a new Occupation Right Agreement for the unit;
- (b) The Operator will follow up any contact list of persons who have expressed interest in living in the Village and respond to all enquiries about the unit in a timely and helpful way;
- (c) The Resident has the right to introduce a new resident at any time provided that the Operator is not required to accept any prospective resident who does not meet the normal entry criteria for the Village or whose offer to buy does not, in the Operator's opinion, reflect the market value of an Occupation Right Agreement for the unit. No commission will be paid by the Operator for any such introduction and on-sale;

## 5.4 **Deductions From Payments**

**5.4.1 *Deductions made on entry or exit from the Village and deductions from periodical payments:*** The Resident pays the Purchase Price for an Occupation Right Agreement in respect of the unit, upon entry into the Village. The Facilities Payment accrues from the commencement date of the Resident's Occupation Right Agreement but is only payable following termination of the Resident's Occupation Right Agreement. The Facilities Payment and all other termination charges payable by the Resident to the

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Operator described at paragraph 4.3.3 are set-off against the termination payment paid by the Operator to the Resident.

5.4.2 **Deductions made for the purposes of maintenance, refurbishment and development:** The Resident is not liable for any maintenance, refurbishment or developments costs other than as set out at paragraph 4.4.

5.4.3 **Deductions for rates, maintenance and other outgoings:** No deduction for rates, maintenance and other outgoings will be made in addition to the Village Outgoings Charge as set out at paragraph 4.3.

## 5.5 Estimated financial return on disposal of unit:

The estimated financial return that a Resident can expect to receive on the sale of a new Occupation Right Agreement for the unit at intervals of two years, five years and ten years after the Resident enters into an Occupation Right Agreement are set out in the Information Sheet.

## 6. Other Matters

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### 6.1 Date of Registration

This disclosure statement was submitted for registration with the Registrar of Retirement Villages on [DATE].

### 6.2 Details Relating to Certain Security Interests

The Operator advises that no holder of a security interest (to which Section 12(1)(b) of the Retirement Villages Act 2003 applies) has refused consent to the registration of the retirement Village under the Act.

### 6.3 Exemption from Requirement to Comply with Code of Practice

The Operator advises that it does not intend to seek any exemption from the requirement to comply with any of the provisions of the Code of Practice.

### 6.4 Insurance

6.4.1 The Operator must insure the Village for all usual insurable risks. To this end, the Operator has taken out and currently holds a Material Damage policy with Chubb Insurance New Zealand Limited. This insurance policy:

- (a) covers the Village as a whole, including the units and the Operator's chattels;
- (b) covers loss, damage, or destruction caused by fire, accident or natural disaster; and
- (c) is for full replacement of the Village, including the Units and the Operator's chattels, to the value of \$400,000 for Rest Home, Buildings Indemnity Value of \$11,067,726 for Plant/Content Replacement Value, which the Operator is satisfied will enable it fully to reinstate the Village in the event of its damage or destruction.

6.4.2 The Resident will be liable to pay any insurance excess resulting from a claim under the Operator's insurance policies caused by accident, carelessness or negligence of the Resident.

6.4.3 The Resident may, but is not required to, arrange insurance for the Resident's own possessions, mobility vehicle(s) and motor vehicle(s).

6.4.4 The Statutory Supervisor must be satisfied that, as at the date of this disclosure statement, the Operator's Material Damage insurance policy described above has been taken out with a reputable insurer and meets the requirements of the Code of Practice.

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### 6.5 **Moving into a rest unit or hospital care institution in the retirement village**

The Resident may give the Operator notice that the Resident wishes to move to the Care Facility. Upon the receipt of such notice, the Operator will arrange priority accommodation at the Care Facility for the Resident ahead of any other applicants (other than fellow residents of the Retirement Village whose requests shall be accorded priority chronologically). Accommodation at the Care Facility will be on the then current terms and conditions relating to such accommodation, as established by the Manager of the Care Facility.

### 6.6 **Effect of Marriage, etc, on Occupation Right Agreement**

If a Resident marries or enters into a civil union during the term of an Occupation Right Agreement then the married or civil union partner of the Resident shall be entitled to reside in the unit with the Resident, subject to that person agreeing to observe and perform certain terms and conditions of the Occupation Right Agreement, as specified by the Operator.

### 6.7 **Financial Assistance**

Any financial assistance to residents will be extended at the sole discretion of the Operator. No financial assistance is currently offered.

### 6.8 **Statement of information about voiding Occupation Right Agreement**

Section 31 of the Retirement Villages Act 2003 gives you the right to void an agreement that you enter into for the right to occupy a residential unit in a retirement Village, but only if you enter into the agreement in the circumstances described in a row of the table below and the circumstances involve:

6.8.1 a significant detriment to you; or

6.8.2 a material (not merely technical or minor) breach of the Act; or

6.8.3 deliberate misconduct by the operator of the retirement village.

You can use the right only by giving written notice to the operator of the retirement village, and the statutory supervisor (if there is one) of the retirement village, within the period described in the relevant row of the table.

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*Circumstances:*

*Period:*

The retirement village was not registered, but was required to be

3 years after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first

The registration of the retirement village was suspended and the operator had been notified of the suspension

3 years after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first

The agreement did not contain, in clear and unambiguous form, the material it was required by the Act to contain

1 year after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first

You did not receive independent legal advice before entering into the agreement

1 year after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first

Before entering into the agreement, you did not receive a disclosure statement that complied with the Act, the residents' code of rights, the code of practice or a statement when the code would come into force, and a copy of the agreement

1 year after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first

You should seek legal advice before using the right.

If you use the right, you are entitled to a refund of some amounts you paid for the right to occupy the residential unit and for services or facilities that were not provided, interest on those amounts, and your actual and reasonable costs associated with using the right (such as legal expenses and removal costs).

The operator may dispute your use of the right, refer the dispute to a disputes panel under the Retirement Villages Act 2003, and refuse to pay the refund while the dispute is unresolved.

**6.9 Code of Practice**

The Operator will comply with the Code of Practice.

**6.10 Documents to be made available**

The following documents are available to the Resident, upon request, or to his or her personal representative:

6.10.1 the most recent audited financial statements of the Operator that comply with the Retirement Villages Act 2003;

6.10.2 a copy of the Deed of Supervision between the Operator and the Statutory Supervisor;

The Resident or his or her personal representative will receive the following documents before executing an Occupation Right Agreement:

6.10.3 a copy of this Disclosure Statement;

6.10.4 a copy of the Occupation Right Agreement;

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- 6.10.5 a copy of the rules that apply to the Village, which are attached to the Occupation Right Agreement;
- 6.10.6 a copy of the Code of Practice;
- 6.10.7 a copy of the Code of Residents' Rights; and
- 6.10.8 a copy of the Complaints Policy.

## 7. Information Sheet

### 7.1 Indicative price for an Occupation Right Agreement in respect of the unit(s) in which you have expressed an interest

Name:

Unit no:

### 7.2 Estimated financial return

After:	Purchase Price	Termination Payment	Facilities Payment	Refurbishment Costs	Administration, Sales and Marketing Fee	Est. Financial Return
2 years	\$300,000	\$258,000	\$42,000	n/a	4.0% plus GST of the Purchase Price	\$245,000
5 years	\$300,000	\$225,000	\$75,000	n/a	4.0% plus GST of the Purchase Price	\$211,000
10 years	\$300,000	\$225,000	\$75,000	n/a	4.0% plus GST of the Purchase Price	\$209,000

### 7.3 Notes

- 7.3.1 The above model assumes that the Sale Price obtained by the Operator for a new Occupation Right Agreement in respect of the unit is not less than the Purchase Price paid by the departing Resident. The Sale Price will be influenced by all usual market factors including (without limitation) the repair of the unit, inflation, the general residential housing market and demand for residential units in retirement villages and, specifically, the Village.
- 7.3.2 The above model also assumes that the Occupation Right Agreement has not been terminated by reason of the damage or destruction of the unit or the Village.
- 7.3.3 The Facilities Payment has been calculated for a number of full years. The Facilities Payment accrues monthly over time.
- 7.3.4 The Occupation Right Agreement requires the Resident to refurbish the unit. The unit must be refurbished to the standard it was in at the commencement date less an allowance for fair wear and tear. The amount attributed to refurbishment in the above model is 'nil' but the actual cost of refurbishment will depend to a large extent on the Resident's care of the unit during the period of occupation.
- 7.3.5 In calculating the estimated total financial return, it is assumed the Resident will not owe any other money to the Operator at the time the unit is sold. Any other amount owing plus default interest if applicable will also be set-off against any payment due to the Resident on termination.

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**7.4 Effect of duration on estimated return**

The estimated financial return is affected by the duration of the Occupation Right Agreement because the Facilities Payment accrues monthly over time. However, the Facilities Payment may not exceed 25% of the Purchase Price (including GST) after 48 months from the Commencement Date.

**7.5 Effect of termination on estimated return**

The estimated financial return is affected by a termination of the Occupation Right Agreement arising out of a breach of the agreement by the Resident. In the event of a breach, the Resident may be required to pay default interest for the non-payment of moneys due under the agreement, together with any insurance excess on damage caused to the Village by the Resident and any legal costs incurred by the Operator as the result of the breach.

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## Schedule 1 - State of the Village

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### 1. Units occupied and unoccupied

Unit type	No. Occupied	No. Unoccupied
Studio Units (1)	0	1
Units (13)	11	2

### 2. Details of unit disposals in last 12 months

Occupied before disposal	
Unoccupied before disposal	0
Number of disposals of occupied	0
Number of disposals of unoccupied	0
Time take to dispose (in days):	
(a) occupied	
(b) unoccupied	3
Average time to dispose of occupied units (in days)	
Average time to dispose of unoccupied units (in days)	n/a