

[REDACTED]  
The Retirement Villages Association of New Zealand  
(by email)

20 January 2020

Dear [REDACTED]

Thank you for your further email dated 6<sup>th</sup> January and acknowledging our prompt reply to your information request.

In your 6<sup>th</sup> January email I have interpreted that you have:

1. Sought clarification on the relevant Minister for RV-related policy matters.
2. Made a request for what you describe as a 'piece of work' by a policy analyst CFFC engaged and which would form the basis for any policy changes.
3. Made a further request for evidence relating to our letter to Minister Twyford dated 16<sup>th</sup> April, relating to a phrase 'we believe require more substantive policy treatment'.
4. Asked for the rationale for a view CFFC expressed in letters to Ministers Salesa and Faafoi regarding diverse occupancy models, and also asked how CFFC sees itself mitigating risks to the sector from declining home-ownership and encouraging different business models that the sector may or may not wish to provide.
5. Made a further request for evidence that suggests the system is unfair and asked what we may do to mitigate it.
6. Made a further request for evidence relating to a statement of desire to 'avoid potential or impending problems' and asked what we may do to mitigate it.

Regarding 1, Hon Kris Faafoi has replaced Minister Twyford and is the current Associate Minister of Housing we report to for Retirement Village matters. I understand the RVA met with Minister Faafoi after the publicly reported cabinet reshuffle during 2019. I recall the RVA published news in July 2019 to its members about this portfolio change for the industry.

Regarding 2, I need to determine with particularity the work you are requesting when you refer to a 'piece of work'. To help identify what information you may be seeking, I understand Troy has advised you and other operators at an RVA forum that the Commission had the services of a University of Auckland graduate completing an internship for her Master of Public Policy who started analysing the sources we listed to you in our reply dated 24<sup>th</sup> December. The graduate's work was to help build an impact analysis that could assist CFFC to reach decisions on some of the draft proposals we disclosed to stakeholders at our recent stakeholder forum. The internship ended by November last year. We recently commenced a recruitment process to find a more experienced policy analyst in a fixed term appointment to help continue impact analysis work to support preparation of CFFC's formal Code variation consultation papers.

On the basis your request relates to our intern's impact analysis as the 'piece of work', I am therefore currently withholding the release of any impact analysis work by that intern under section 9(2)(g)(i) in order to maintain free and frank expression of opinions between members of the CFFC and other organisations in the course of their duty. The consequences of releasing any impact analysis work by that intern could detriment the way the Commission wants to operate in regards to possible Code variation proposals now or in the future, and could detriment the Commission's decision-making in relation to Code variation proposals it may wish to take forward to consultation shortly.

In reaching this decision I have considered the effective conduct of public affairs and also the potential for the release of any intern analysis work to compromise the integrity or quality of the consultation process it may relate to.

You have the right to ask the Ombudsman to investigate and review this decision under section 28(3) of the Act.

I am concerned with the generality, potential breadth and likely substantial collation relating to your requests for:

- 3 - evidence relating to references made in our letter to Minister Twyford dated 16<sup>th</sup> April for 'substantive policy treatment',
- 5- evidence that suggests the system is unfair, in relation to a concept of fairness mentioned in our communications to Ministers Salesa and Faafoi and
- 6- evidence relating to a statement of desire to 'avoid potential or impending problems.' No particular communication for this statement is mentioned by you, but we note that statement is mentioned in our briefing to Minister Faafoi under the heading '*2021 onwards: A wider review of the Act and its Instruments.*'

Regarding our letter to Minister Twyford (3):

I said we were '*aware of a broader range of issues facing the retirement village industry – from simple technical issues to others we believe require more substantive policy treatment*'. Our belief about substantive policy treatment results from many discussions we have had with Ministry officials over several years regarding what sorts of issues may potentially be addressed through Code variations or through legislative review, and what policy analysis and resource would be involved. To facilitate those sorts of free and frank discussion between agencies, a non-exhaustive table reflecting a broad range of issues was drafted.

Regarding communications to Ministers Salesa and Faafoi(5):

I can find no reference in my letter to Minister Salesa to the concept of fairness you mentioned in your further request.

However, in our briefing to Minister Faafoi we do state: '*The framework needs to be fair for everyone*' and '*CFCC's work has identified areas for improvement such as annual forecast statements, adequacy of long-term maintenance plans, and disclosure (on transition to aged care)*'. To assist your further request, the evidence relating to that is from the sources we have already referred you to.

In our briefing to Minister Faafoi (6):

As mentioned above, under a heading in that briefing: '*2021 onwards: A wider review of the Act and its instruments*' - we state a goal is to '*future-proof the Act for the next decade and avoid potential/impending problems*'. To assist your further request relating to that statement, the evidence relating to this is from the sources we have already referred you to.

Note also, the Commission is privileged to monitor the retirement village industry in the context of our other functions regarding retirement income policy and the financial wellbeing of New Zealanders. Therefore, a considerable body of research evidence we have regarding our broader functions may be of use when considering the effects of the retirement villages regime or other issues relating to retirement villages. For example, you and many other stakeholders and ourselves all often refer to data about the ageing population, superannuitants and diminishing home ownership rates to highlight different aspects of the retirement village industry.

Regarding 4 , in our communications to Ministers Salesa and Faafoi we referred to 'the focus' of what any potential review of the Retirement Villages framework could be and we reflected our understanding of the

current Government's interest in *'the need for a range of accommodation options to support the wellbeing of older New Zealanders'* and their concern about *'decreased home ownership'*.

One rationale we apply across our monitoring work is to consider current or trending industry conditions and identifying possible future conditions or adverse consequences of the legislative regime. During the recent stakeholder forum, we outlined independent legal opinion about this aspect of monitoring being anticipated and appropriate. Troy has supplied a link on our website to that slideshow content to you and other stakeholders.

When monitoring the effects of the Act regulations and code of practice we also consider whether rights and responsibilities placed on operators, residents or other parties when the Act first came into effect might be increasingly irrelevant over the years or in need of change. As one example of this, I observed how stakeholders at our recent forum agreed regulatory changes could, and should, be made to financial reporting requirements in the regime.

I expect the incoming Retirement Commissioner, Troy and I can discuss this further with you when we meet you at our offices on 26 February.



Peter Cordtz  
Interim Retirement Commissioner