

RESPONSE TO WRITTEN QUESTIONS SUBMITTED
TO THE ANNUAL MEETINGS FOR
LIFESTYLE SA RETIREMENT VILLAGES - 2018

1. **Introduction**

- 1.1 Lifestyle SA Pty Ltd (We) received numerous questions from residents at various villages prior to the holding of the annual meetings required under section 33 of the Retirement Villages Act 2016.
- 1.2 A number of these questions related to the sale of liquor or the sale of food at our villages and had a common theme.
- 1.3 We exercised our right under section 34 of the Retirement Villages Act 2016 to respond in detail in writing within 10 business days of the annual meeting on these questions.
- 1.4 Even if the residents of a particular village did not ask these questions, the issues are in our view of such importance that all residents of a Lifestyle SA village should have the benefit of our answers. That is why this document is being sent to every one of our residents.
- 1.5 As a number of the questions were repetitive or similar in nature, we have summarised these questions in clause 2 of this document. We believe that this will make it easier for residents to understand the question and the issue.

2. **The Questions**

- 2.1 Why has Lifestyle SA not adequately consulted with residents as required under the Act in relation to the change of policy in relation to the sale of liquor and of the sale of food in our villages?
- 2.2 Why has Lifestyle SA changed its policy on the sale of liquor and the sale of food in our villages?
- 2.3 Why has Lifestyle SA not accepted the legal interpretation that it is no longer necessary to have a liquor licence to allow a Residents Association or a Residents' committee to sell liquor in a retirement village?
- 2.4 Why has Lifestyle SA sought to prohibit residents from enjoying themselves at the retirement village?
- 2.5 Why does Lifestyle SA not recognise the ability of the sale of liquor or the sale of food to raise funds to provide for better facilities and services for residents of the retirement villages?
- 2.6 How does Lifestyle SA expect elderly residents to transport eskies full of alcohol if only bring your own liquor is permitted?
- 2.7 Why does Lifestyle SA say that the kitchen facilities in each village are not commercial kitchen facilities and why does Lifestyle SA have a community hall capable of operating a large restaurant?

3. Our Answers

- 3.1 Approximately 10 to 12 years ago, discussions between our then managing director Mr Stephen Norris and the various residents' committees of the villages led to a request to allow the sale of liquor at the villages.
- 3.2 Because a residents' committee is not an incorporated body it could not hold a liquor licence and accordingly various villages set up a Residents Association as an incorporated body under the Associations Incorporation Act.
- 3.3 This incorporated Association then made an application to the Liquor Licensing Commission for the grant of the limited club licence.
- 3.4 A limited club licence only allowed the Association to sell or supply liquor to a member of the club or up to 5 guests of a member of the club with the club member being present on club premises at the same time.
- 3.5 To enable the club licence to be obtained, each association had to have a written licence agreement with us to utilise part of the community facilities of each village so that the club licence applied to specific 'licensed premises'. We entered into a written licence agreement with each Association for each village.
- 3.6 Over time, each association received a growing income. We do not know what the Association has done with all of that income. However, under the licence agreement, 50% of the profit was inconsistently paid as rent on a quarterly basis to the respective maintenance fund for the village and the balance to 'be reinvested in the village by way of upgrading amenities, and providing additional equipment or improved services which will benefit residents'.
- 3.7 The Association was to provide a copy of the audited financial statements of the Association to us within 3 months of the end of each financial year, but this has never occurred.
- 3.8 To the extent that each Association has spent its income on its overheads and on amenities to benefit the residents, we do not have the benefit of a full accounting of income and expenses from the Associations to verify what percentage of profit has been paid as required by the licence agreement.
- 3.9 The licence agreement did not extend past enabling the Association to sell liquor. It never allowed the Association to prepare and sell food for a profit within the village.
- 3.10 In December 2017, the Liquor Licensing Regulations were amended so as to exempt from the requirement to hold a liquor licence, 'the sale of liquor at a retirement village (within the meaning of the Retirement Villages Act 2016) the consumption on the premises of the retirement village by a resident or a guest of a resident if the sale is made by or to a person who is of or above the age of 18 years'.
- 3.11 As you can see, the sale of liquor must be made by natural person over 18 years of age to another natural person over the age of 18 years at the village for the consumption on the village premises.
- 3.12 This exemption does not allow us or any association or any residents' committee to sell liquor without a liquor licence.

- 3.13 This exemption caused us to reflect on whether it was necessary to have anyone other than a resident sell liquor at our retirement villages to other residents or guests at that village. We were also mindful of the fact that any resident could consume alcohol on the village on a BYO basis. The limitations of a limited club licence were also relevant in our deliberations.
- 3.14 We came to a commercial decision that this exemption allowed the sale and ultimately consumption of alcohol at a village without a liquor licence and that therefore there would be no interruption or change to the activities of residents in the responsible consumption of alcohol at the village.
- 3.15 The only change would be that the person selling the liquor had changed from the Association to an individual resident.
- 3.16 Our view is that the responsible consumption of alcohol at the village can now take place either by:
- (a) a resident purchasing liquor at a licensed premises outside of the village and then selling it either by way of reimbursement or profit to other residents who can then consume it in a responsible way either within a unit or in the community facilities; or
 - (b) a resident purchasing liquor at a licensed premises outside of the village and then bringing the liquor to share with other residents or to consume individually at a unit or in the community facilities.
- 3.17 Given that the responsible consumption of alcohol has always been a requirement of living within the village and the community, we are unable to accept that it is necessary for eskies full of liquor and ice to be transported on a regular basis to the community facility. Residents are always welcome to use the fridges in the kitchen to keep drinks cold.
- 3.18 As part of the responsible consumption of alcohol, we would expect that all residents would abide by a zero tolerance of the consumption of alcohol at a community facility if a motor vehicle is to be driven within the village after the function. Given the presence of elderly residents and the need to walk on the roadways because of the landscaping, we consider that it is prudent for everyone to accept this approach.
- 3.19 When we built our villages we constructed extensive community facilities including kitchen facilities, a dining room and the community hall. Whilst the kitchen facilities include ovens, dishwashers and sinks, they are not of a commercial quality but are designed for family functions where it may be necessary to heat a substantial quantity of food quickly and wash dishes and cutlery quickly.
- 3.20 The community hall is designed to accommodate large gatherings such as annual meetings and for community activities such as line dancing. The existence of trestles and chairs is to assist our residents to utilise these facilities without having to hire these types of items.
- 3.21 It is quite appropriate for larger gatherings to have a caterer prepare food off-site and then bring it to the village and heat it within the kitchen facilities. We do not expect that any caterer will prepare substantial quantities of food in the kitchen facilities at each village as they were never designed for that purpose. We have no interest in

which caterer is used or any financial benefit flowing to us from any caterer engaged by the committee or by a resident.

- 3.22 The kitchen, the dining room and the community hall were never designed to allow residents to operate a commercial cooking operation.
- 3.23 There are considerable occupational, health and safety risks in operating a commercial cooking operation. These are risks which are initially borne by whichever entity (i.e. individual residents, the Association or the residents' committee) is providing the commercial cooking service. We have never been asked to consent to the use of the kitchen for the preparation of commercial quantities of food which consent is required under our residence rules. If asked, we would not have given our consent.
- 3.24 Our view is that residents can still enjoy a meal in the company of other residents and enjoy the responsible consumption of alcohol at the same time. Residents are welcome to use the cooking facilities to cook a meal for friends or other residents or to use the facilities to heat meals which have been cooked in a resident's unit.
- 3.25 After taking the above matters into account, we reached a decision to change our policy on the supply of liquor and we have then set about communicating that change in policy.
- 3.26 We wrote on 11 July 2018 to the Residents Association at each village advising them that the Liquor Licensing Regulations had changed and that because of that we were exercising a right under the licence agreement to give 28 days' notice of termination of the licence agreement and requesting each of them to surrender the limited club licence. All but one association has eventually surrendered the limited club licence.
- 3.27 On 11 July 2018, we wrote to the residents' committee about the change in the policy on the supply of liquor and confirmation that we do not approve the use of the kitchen facilities for the preparation of commercial quantities of food.
- 3.28 On 13 July 2018 we wrote to each resident on those issues.
- 3.29 The feedback which we did receive from residents, the Associations and the residents' committees prompted us to write on 20 September 2018 to the committee at each village setting out the reasons why there has been a change of policy on the supply of liquor and why we would never consent to the use of the kitchen for the commercial preparation of food and the risks which a committee ran in continuing to sell liquor and food at the villages. We also wrote to the Associations which had not surrendered the club licence on that date advising them about the change in policy and requesting the surrender of the club licence.
- 3.30 We also wrote to all of our residents on 9 October 2018 advising of the reasons why there has been a change in policy and how we wish to work with all residents and residents' committees to ensure a vibrant retirement village for the residents to enjoy. We invited residents to respond with comments about the change in policy on the supply of liquor and also confirmation of our approach on the use of the kitchen facilities for the commercial preparation of food.
- 3.31 We have received numerous telephone calls from residents in support of the change in policy and confirmation of our approach on commercial cooking and also received telephone calls and emails from residents who do not support the change in policy or

our approach on commercial cooking. We have also received numerous questions to be answered at the annual meeting on this topic.

- 3.32 We have subsequently received notices of dispute from many of the committees about these issues of the sale of liquor and food. We are proceeding in accordance with our dispute resolution policy. The first step in this is that we have invited the chairs of all of the committees to a meeting with us. We have also invited our lawyer to this meeting for the purpose of answering and clarifying any legal issues which may arise during the meeting.
- 3.33 We have received a letter dated 31 October 2018 sent by Mr Chris Picton MP to the Minister for Health Mr Stephen Wade about these issues. The letter has been sent by Mr Picton on behalf of the residents' committees. We intend to respond to the matters raised in that letter to both Mr Picton and to Mr Wade.
- 3.34 We therefore think that we have discharged our obligations under the Code of Conduct. We will continue to discharge our obligations to consult with residents and explain why we are approaching the matter in the way that we have.
- 3.35 We will continue to discharge our obligations under our dispute resolution policy.