



Customer
Service

Secretary's guidelines for retirement village asset management plans

Department of Customer Service

August 2021

These guidelines have been issued under section 189B (d) under the *Retirement Villages Act 1999* (the Act) and apply from the day in which the Regulation commences.

Rose Webb

Commissioner for Fair Trading

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Glossary

Act means the *Retirement Villages Act 1999*.

Accumulated maintenance costs mean the accumulated costs of maintenance as a percentage of the purchase price. The total costs of all maintenance or repairs should be divided by the purchase price and multiplied by 100.

Accumulated repair costs mean the accumulated costs of repairs as a percentage of the purchase price. The total costs of all repairs should be divided by the purchase price and multiplied by 100.

Asset management plan means the plan required by section 101A of the *Retirement Villages Act 1999*, being a 10-year plan, documenting how major capital items will be maintained, repaired, and replaced and who will pay for them.

Capital maintenance means works carried out for the purpose of repairing or maintaining an item of capital but does **not** include:

- a) work done to substantially improve an item of capital beyond its original conditions, or
- b) work done to maintain or repair an item of capital in circumstances where it would have been more cost effective to replace the item of capital.

Capital replacement means works carried out for the purpose of replacing an item of capital but does not include capital maintenance.

Capital Works Fund (CWF): means a fund established under section 99 of the *Retirement Villages Act 1999*.

Consumable means an item associated with the day-to-day running cost of a business. Consumable items are less expensive than items of capital and are used up more frequently.

Effective life means the period, expressed in years, that an item of capital can reasonably be used, having regard to —

- (a) the wear and tear a person could reasonably expect from the circumstances of its use, and
- (b) the maintenance for the item of capital that a person would reasonably expect, and
- (c) the period that it is reasonably foreseeable for an item of capital to be scrapped, dismantled, or discarded because it is no longer fit for purpose.

General services mean—services provided, or made available, by or on behalf of the operator, to all residents of a retirement village, and includes such services as may be prescribed by the regulations for the purposes of this definition. Examples of general services are management and administration services and gardening and general maintenance.

Guidelines mean this document, the Secretary's Guidelines for retirement villages.

Item of capital means:

- (a) any building or structure in a retirement village, and
- (b) any plant, machinery or equipment used in the operation of the village, and
- (c) any part of the infrastructure of the village, and
- (d) any other item prescribed by the Regulation:
 - i. fixtures (for example, bench tops, built-in cupboards and wardrobes, floor coverings, hot water systems and stoves),
 - ii. fittings (for example, light fittings, taps and sanitary fittings),
 - iii. furnishings (for example, curtains and blinds),
 - iv. non-fixed items (for example, whitegoods, portable air conditioners, fans, tables, and chairs),

but does not include any item excluded from this definition by the regulations.

Major item of capital means the following, but does not include equipment that is a consumable used in the operation of an item of capital or in the day-to-day operation of the village—

- (a) an item of capital for which the operator of a retirement village is responsible that has a purchase price of \$1,000 or more,
- (b) a group of items of capital for which the operator of a retirement village is responsible comprising items of capital—
 - i. that are similar, and
 - ii. each of which has a purchase price of \$1,000 or more, and
 - iii. have the same effective life and financial year of acquisition as each other.

Operator means the person who manages or operates a retirement village and for the purpose of these guidelines is referred to as “you”.

Independent qualified quantity surveyor means a quantity surveyor who is a member of the Australian Institute of Quantity Surveyors or the Royal Institution of Chartered Surveyors and, does not have a pecuniary or other interest that could be reasonably regarded as capable of affecting the person’s ability to assess the asset management plan of a retirement village in good faith.

Regulation means the Retirement Villages Regulation 2017.

Secretary means the Secretary as defined in the Act.

Shared major item of capital means a major item of capital that is also used in the operation of another retirement village or a residential aged care facility.

The **auditor** means the auditor whose appointment as the auditor of a retirement village has received the consent, or is taken to have received the consent, of the residents of the retirement village under the Act, Part 7, Division 6, Subdivision 1.

Tribunal is the NSW Civil and Administrative Tribunal.

1. Purpose of these guidelines

Under section 101A of the *Retirement Villages Act 1999* (the **Act**), all operators of retirement villages must prepare and keep up-to-date an asset management plan that complies with the Act and Regulation.

Section 189B of the Act enables the Secretary to issue these Guidelines to assist you in complying with your obligations regarding asset management plans.

The purpose of these guidelines is to:

- explain what you need to record in an asset management plan,
- outline your asset management reporting obligations,
- explain how asset management will inform and link with the existing budget procedures under the legislation,
- suggest a template to assist you when developing your asset management plan, and
- provide general guidance (not legal, financial or taxation advice).

The Tribunal may take these Guidelines into account in determining whether there has been compliance with the Act (though will not be bound by the Guidelines). More information on the Tribunal's role is discussed at section 7 of the Guidelines.

Disclaimer

Every effort has been made to ensure that the information presented in the Guidelines is accurate at the time of publication. The Guidelines may be reviewed and amended from time to time. Information about the Act and Regulation may have been summarised or expressed in general statements. This information should not be relied upon as a substitute for professional legal advice or reference to the Act and Regulation. In the event of any inadvertent errors or inconsistency between the Guidelines, and the Act and Regulation, the Act and Regulation prevail.

2. Asset management plan

What is an asset management plan? (clauses 26B and 26D(1) of the Regulation)

Section 93 of the Act requires that you maintain each item of capital for which you are responsible, in a reasonable condition, and under section 101A of the Act, you must prepare a 10-year asset management plan for each village you manage or operate.

An asset management plan documents the costs of purchase and ongoing maintenance, repairs, and replacement of a retirement village's major items of capital, including shared major items of capital. This provides transparency around the maintenance and future costs of retirement village assets, for which residents pay the maintenance for.

The plan must include the following content:

1. **an asset register** of the village's major items of capital, including information about the effective life of items of capital (section 3 of these guidelines), and
2. **a maintenance schedule** of the village's major items of capital, including information about capital replacement (section 4 of these guidelines), and

Section 98 of the Act requires you to include capital maintenance in the proposed annual budget. You must also include a **3-year report** prepared under cl 19A of the Regulation for capital maintenance extracted from the asset management plan (section 5 of these guidelines).

The 3-year report will inform expenditure for major items of capital in the annual budget. It will also provide information about your proposal to replace or continue to maintain an item to encourage a discussion with residents at the annual budget.

Following the expiry of the first 10-year period, you must prepare another asset management plan for each retirement village you operate every 10 years.

Format

You can use any format for your asset management plan, provided it includes the components set out in the Regulation and these guidelines. If you have existing asset management or accounting systems, you can also use either of these to comply with the requirements.

Appendix 1 includes a template to help you with the development of an asset management plan.

What do you need to do when preparing, updating, or revising the plan?

Preparing an asset management plan (clause 26C of the Regulation)

When preparing the first or revising an asset management plan, you must:

- obtain an independent assessment by the auditor or an independent qualified quantity surveyor as to whether the plan contains the matters specified in the asset register and the maintenance schedule, and annex it to the draft plan,
- notify residents that a proposed asset management plan and the independent assessment are available, at least 60 days prior to the commencement of asset management plan,
- have a copy of the proposed asset management plan and independent assessment at the village or at a place of business in NSW for inspection by a resident, prospective resident, or their representative,
- enable residents to provide comments on the proposed plan for your consideration,
- prepare a report of all comments received, and
- for each comment explain:
 - any revisions of the plan arising from the comments, or
 - the reasons you did not revise the plan in response to the comments,
 - attach the report to the plan.

Please note that if you had started preparing an asset management plan that is to commence on or before 29 August 2021 you are not required to obtain and annexe an independent assessment to that proposed plan.

However, if you are not required to annexe an independent assessment to a proposed plan you must, on or before the commencement of the next financial year of the retirement village, obtain and annexe an independent assessment to that plan.

Please note that you can prepare and keep the asset management plan up to date yourself, or you may wish to have a third party do it for you. Regardless of who prepares the asset management plan, the auditor or an independent qualified quantity surveyor is still required to review the asset management plan when it is prepared. An asset management plan must be prepared every 10 years.

Notification requirements for residents (clauses 26C and 26H of the Regulation)

While preparing or revising the asset management plan, you must notify each resident of the retirement village that:

- there is copy of the proposed plan and of the independent assessment available for their inspection,
- they can inspect it at all reasonable times,
- they can inspect it either at the village or at a place of business nominated in the notice.

Keeping the asset management plan up to date (clause 26E of the Regulation)

You must ensure that the asset management plan is up to date. In particular the law requires you to update the plan:

- when purchasing major items of capital, you must record the purchase in the asset register within 7 days of the purchase date.
- if the 3-year report that you included in an annual budget was amended and approved during the budget process, within 28 days.
- as soon as reasonably practicable, after each time you undertake maintenance or replace a major item of capital:
 - as for maintenance, you must record:
 - the actual costs of maintenance, and
 - the dates you carried out maintenance, and
 - the type of maintenance,
 - the accumulated costs of all maintenance expressed:
 - in dollar amounts, rounded up or down to the nearest dollar, and
 - as a percentage of the original purchase price of the item,
 - as for repairs, you must record:
 - the actual costs of the repairs, and
 - the dates you carried out the repairs, and
 - a description of the repairs,
 - the accumulated costs of all repairs expressed:
 - in dollar amounts, rounded up or down to the nearest dollar, and
 - as a percentage of the original purchase price of the item,

- as for replacement, you must record:
 - the actual date of replacement, and
 - the actual costs of replacement,
- as for a shared major item of capital, you must record:
 - the proportion of the accumulated capital maintenance costs attributed to the use of the item by the village.

To express the accumulated costs of maintenance or accumulated costs of repairs as a percentage of the purchase price you must use the following formula:

Total costs of all maintenance or repairs divided by the purchase price and multiplied by 100.

In addition to these legal requirements, Operators are encouraged to undertake best practice document control. Record the date of changes and number versions, and where possible, have these changes approved by a secondary person such as the village manager or your accountant.

When to revise the plan (clause 26H of the Regulation)

You must revise the current asset management plan when the total costs of capital maintenance estimated at the commencement of the plan are likely to increase by 25 percent or more (excluding CPI increases).

As soon as reasonably practicable after noticing the likely increase in capital maintenance costs, you must:

- revise the estimates in the asset management plan,
- notify residents,
- enable residents to provide comments on the proposed plan for your consideration,
- prepare a report of all comments received,
- for each comment explain:
 - any revisions of the plan arising from the comments, or
 - the reasons you did not revise the plan in response to the comments, and
- annex a notice to the revised plan.

The notice must contain the following information:

- a list of the major items of capital and shared major items of capitals for which the costs are likely to increase,
- the original and revised estimates of capital maintenance costs for each item, and

- the reason for the change in the estimates.

You are only required to notify the residents once of the likely increase. If, however, there is a further 25 percent or greater again within the 10-year plan period, then you will have to notify the residents of this further increase.

A framework is in **Appendix 2** to assist with meeting these guidelines.

Calculating the likely increases

You must calculate increases in the costs of capital maintenance, net of increases in the Consumer Price Index (CPI) published in each relevant year of the asset management plan.

Example: Likely total increases in the first 5 years of the plan: 38.0% including CPI.

- Costs of maintenance likely to increase in the first 5 years of the plan: 25.5%
- CPI increased by 2.5% each year in the first 5 years: 12.5%

In this example, although the cost of maintenance including CPI increases results in a cost increase of 38%, only the cost of maintenance excluding CPI is considered for the purposes of revising the asset management plan. Here, the costs of maintenance will increase by 25.5%, which is just over the 25% threshold. A revision to the asset management plan in these circumstances is required.

Who must have access to the asset management plan and the 3-year report? (sections 20, 112 of the Act, clause 12 of the Regulation)

You must make the most up to date version of the asset management plan, including the 3-year report available at your village or at a place of business in New South Wales, for inspection by a resident or prospective resident or a person acting on their behalf.

You must also make a hard copy or an electronic copy available 7 days after receiving a request from a resident or a prospective resident.

If you are not required to provide residents with a proposed annual budget, then you must notify residents there is a copy of the 3-year report available for inspection by residents and prospective residents at all reasonable times.

Who pays the costs of preparing and reviewing the asset management plan? (sections 99(5) of the Act, clause 28(2) of the Regulation)

There are two avenues open to you to recover these costs – capital works fund or recurrent charges. Please note that for both, residents' consent must be obtained for this expenditure.

Using the capital works fund

The Act limits how recurrent charges collected from residents can be spent. If an operator wishes to use a portion of the recurrent charges to fund capital maintenance, a capital works fund must be established. In turn, both the Act and the Regulation limit how the capital works fund can be spent. More information on a capital works fund is available at fairtrading.nsw.gov.au.

If the retirement village operator intends to use the capital works fund to pay for the preparation and review of an asset management plan, they may do so if the residents consent to using the capital works fund for that purpose. Please note that residents' consent must be obtained by special resolution.

Recurrent charges

If a retirement village does not have a capital works fund, it may also be possible to fund the preparation and review of an asset management plan from recurrent charges, if included in the annual budget and if the residents consent.

Ordinarily, recurrent charges cannot be used to fund costs associated with the operator's head office or management or administration. However, if those fees are associated with providing a service to residents, the recurrent charges can be spent on those fees if (1), the fees are included in the annual budget, and (2) the residents consent to the use of recurrent charges in that way, through the annual budget process.

3. Asset register

What items of capital you must include in the asset register? (clause 26F of the Regulation)

The asset register is one component of the asset management plan. You must record all new and existing **major items of capital** in the asset register, including those major items of capital you share with other villages or aged care businesses.

Notes:

- New items refer to major items of capital purchased on or after the day the Regulation came into effect (5 February 2021).

- Existing items are major items of capital purchased before the day the Regulation came into effect which are still in use and residents pay to maintain.
- You should use the asset register to develop the maintenance schedule.

You must include the following information in the asset register:

- a brief description of the item,
- the effective life of the item,
- the asset ID number,
- the brand model number (**if available and applicable**),
- the serial number (**if available and applicable**),
- for an item that is not a building:
 - the date of purchase, and
 - the purchase price, and
- if the item is a building or structure or part of the infrastructure of the village:
 - the date on which construction was completed, and
 - the costs of construction,
- for a shared major item of capital:
 - the name of the retirement village also using that item.

Please note that recording the brand model and the serial number of an item in the asset register is optional, and if an item was purchased or constructed before 1 February 2021, record the information for each item if the information is available.

You cannot charge residents for maintenance or repairs of a major item of capital if the item is not in the Asset Register.

How are major items of capital defined? (clause 26A of the Regulation)

A major item of capital is an item of capital for which you are responsible, that has a purchase price of \$1,000 or more, or are part of a group of similar items of the same effective life and acquisition financial year and each of which each has a purchase price of \$1,000 or more.

An item of capital does not include consumables. Consumables are equipment that are used in the operation of an item or in the day-to-day operation of the retirement village. Examples include lawn

mower blades for a lawn mower, printer ink cartridges and paper for a printer. These are not assets and are not items of capital.

Gardens

Gardens are not an item of capital. Major items of capital do not include gardens. The maintenance of gardens is classed as a general service under section 4 of the Act. General services are included as part of the budget process under section 98 of the Act.

The planting of new plants and landscaping are not maintenance.

On the Fair Trading website, the Department has published a model budget, which includes ground care and gardening materials, wages, and contractors as line items.

Can you group similar items of capital?

You may find it useful to group similar major items of capital. Below is a worked example of how this could be applied:

You purchase 100 chairs @\$1000 each

- total cost of the group - \$100,000
- purchase date – 2020 financial year
- effective life - 5 years

You can record the group as the “Chairs Group 1” in the asset management plan because the purchase price of each chair is \$1,000 or more, that are similar (chairs) and each of which has the same effective life (5 years) and financial year (bought in the 2020 financial year).

If you dispose of 10 chairs from the group, you must record it in the asset management plan and adjust the maintenance costs accordingly. For example, if 10 chairs in the group got disposed/replaced the “Chairs Group 1” will remain and you must adjust the maintenance cost for the group to the remaining 90 chairs.

If you buy 10 chairs at \$1,200 each, that are similar, of the same effective life and purchased in the same financial year to replace the ones disposed/replaced, you can create a new group (i.e. “Chairs Group 2”) or record the chairs individually in the register.

How do you estimate and record the expected life of major items of capital? (clause 26G of the Regulation)

You must use the methods specified in clause 26G of the Regulation to estimate the effective life of major items of capital. These methods include:

1. for plant, machinery and equipment use the Australian Taxation Office (ATO) Commissioner's determination of the effective life of depreciating assets (the **Commonwealth Taxation Ruling**) under section 40-100 of the *Income Tax Assessment Act 1997 (Commonwealth)* (the **ITAA**). This is often amended, and you should check the ATO website for the most current version¹,
2. for certain vehicles (bus, a light commercial vehicle, a truck and a truck trailer, and any other vehicle listed by the ATO) use the Commissioner's determination of effective life for vehicles (the shorter of the capped effective life (under section 40-102 of the **ITAA**)), or

Where there is not a Commissioner's determination for an item, you must assess the effective life of the item yourself by estimating the period (in years) the asset can be used by you for a specified purpose. When doing this assessment, you must consider:

- the rate of reasonable wear and tear of the item,
- the item will be maintained in reasonably good order and condition, and
- the period the item it is likely to be disposed of (scrapped, sold for no more than scrap value, or abandoned).

Further information about calculating the effective life of assets is available from the ATO website at ato.gov.au.

You must estimate and record the estimated effective life of new or existing items in the asset register:

- for existing major items of capital purchased before the day the Regulation commenced (5 February 2021), and
- for new major items of capital purchased on or after the day the Regulation commenced.

This will increase transparency and provide information about when an item of capital is approaching the end of its life.

What do you need to do with items of capital not in the plan?

You are not required to record an item of capital with a purchase price of less than \$1,000 in the asset management plan. However, you must include information about the cost of maintenance and replacement of these items of capital items through the annual budget process, as per the requirements of section 98 of the Act.

¹ The ATO issues a tax ruling each year for determination of effective life, for example, see *TR2020/3 Income Tax: Effective Life of Depreciation Assets* for this financial year.

More information about the budget process for retirement villages can be found on the Fair Trading website at fairtrading.nsw.gov.au

4. Maintenance Schedule

Information you must include in the maintenance schedule (clause 26D(2) of the Regulation)

A maintenance schedule sets details for maintaining and replacing the major items of capital which is funded by recurrent charges or from the capital works fund. This includes items shared with other villages or aged care facilities. The maintenance schedule is prepared from the asset register.

You must include the planned maintenance, and replacement activities (including estimated and actual costs) in the schedule:

- for works proposed to maintain the item:
 - an estimate of the costs of maintenance, and
 - the proposed frequency of maintenance or dates of proposed maintenance, and
 - the type of maintenance,
- for works proposed to the repair the item:
 - an estimate of the costs of the repairs, and
 - the dates of the proposed repairs, and
 - a description of the repairs,
- for the replacement of the item:
 - the proposed dates of capital replacement,
- for a shared major item of capital:
 - an estimate of the proportion of the accumulated capital maintenance costs attributed to the use of the item by the village.

5. 3-year report

What information you must include in the 3-year report? (clause 19A of the Regulation)

Section 98 of the Act requires you to include certain information about capital maintenance for **all items of capital** in the proposed annual budget when you propose to use recurrent charges or the capital works fund to fund capital maintenance. You must:

- list each item of proposed capital maintenance, and
- for each item specify the expected cost, and
- include any quotes that the you have got, and
- include provision for urgent capital maintenance.

Clause 19A of the Regulation requires that you must prepare a report of 3 years of capital maintenance for **major items of capital**, including shared major items of capital, and include it in the proposed annual budget.

To prepare the report you must extract information from the asset management plan current for the 3-year including:

- in relation to the proposed maintenance and repairs of each major item of capital:
 - an estimate of the costs, dates, and type of proposed maintenance, and
 - an estimate of the costs and type of any proposed repairs.
- the amount of recurrent charges set aside in the capital works fund for capital maintenance of major items of capital.

Note: The 3-year period must start at the beginning of the financial year to correspond with the annual budget financial year.

An example of how you could record on, and extract information from the asset management plan to prepare the 3-year report and include it the annual budget is in Figure 1.



Figure 1: Transposing information from the asset management plan to the 3-year report

Additional matters you must include in the 3-year report

As mentioned in section 2, under the Act you must maintain each item of capital for which you are responsible, in a reasonable condition considering the age and prospective life of the item and the money residents pay to you. If it is not practical to maintain, you may replace the item.

You must carry out maintenance or replace the item within a reasonable timeframe once you become aware of the need to do so. Clause 19A(3)(c) & (d) requires that you must include the following information about major items of capital that have:

- a year or less of effective life remaining or
- for an item other than a building, the accumulated costs of repairs are 90% or greater of the purchase price as at the date on which the 3-year report is prepared and
- whether you propose to replace or continue to maintain the item.

This process encourages a discussion between you and residents before deciding to prolong the life of the item through maintenance or whether to replace it. Ideally, residents would agree on what to do with these items.

The aim of this provision is to ensure transparency and good management of finances by not replacing an item of capital if it is unnecessary to do so.

Below is an example of how this could work:

You purchase a ride-on mower:

- purchase price - \$2,000
- purchase date - 2012
- effective life - 10 years
- accumulated costs of repairs – 90%

If the accumulated costs of repairs reach \$1,800 (90 percent of the purchase price) or the item kept until 2021 (one year within the end of the item's effective life), you include this information in the 3-year report for discussion with residents at the annual budget.

How do asset management plans and the 3-year report fit into the existing annual budget process?

The asset management plan does not form part of the annual budget. Residents can review and provide comments on the asset management plan, but do not provide their consent on the asset management plan. Instead, you need to explain how you addressed the residents' comments in the plan or explain why you have not addressed the comments (clause 26C).

The plan is for recording information and providing transparency. However, residents can apply to the Tribunal if they think the operator is not maintaining or replacing items of capital (s 96 of the Act).

The 3-year report is included in the annual budget. It itemises the proposed capital maintenance costs for a relevant period of 3 years. As mentioned further above it also provides information about which major items of capital you propose to replace or continue to maintain.

Section 114 of the Act requires you to seek residents' consent of the expenditure itemised in the proposed annual budget. Residents can consent or refuse to consent to the expenditure detailed in the proposed annual budget. If residents refuse to give their consent to the budget, the operator or a resident may apply to the Tribunal to make an order regarding the proposed expenditure for that financial year (section 115 of the Act).

Figure 2 illustrates how asset management plans and the 3-year report interact with the annual budget process:

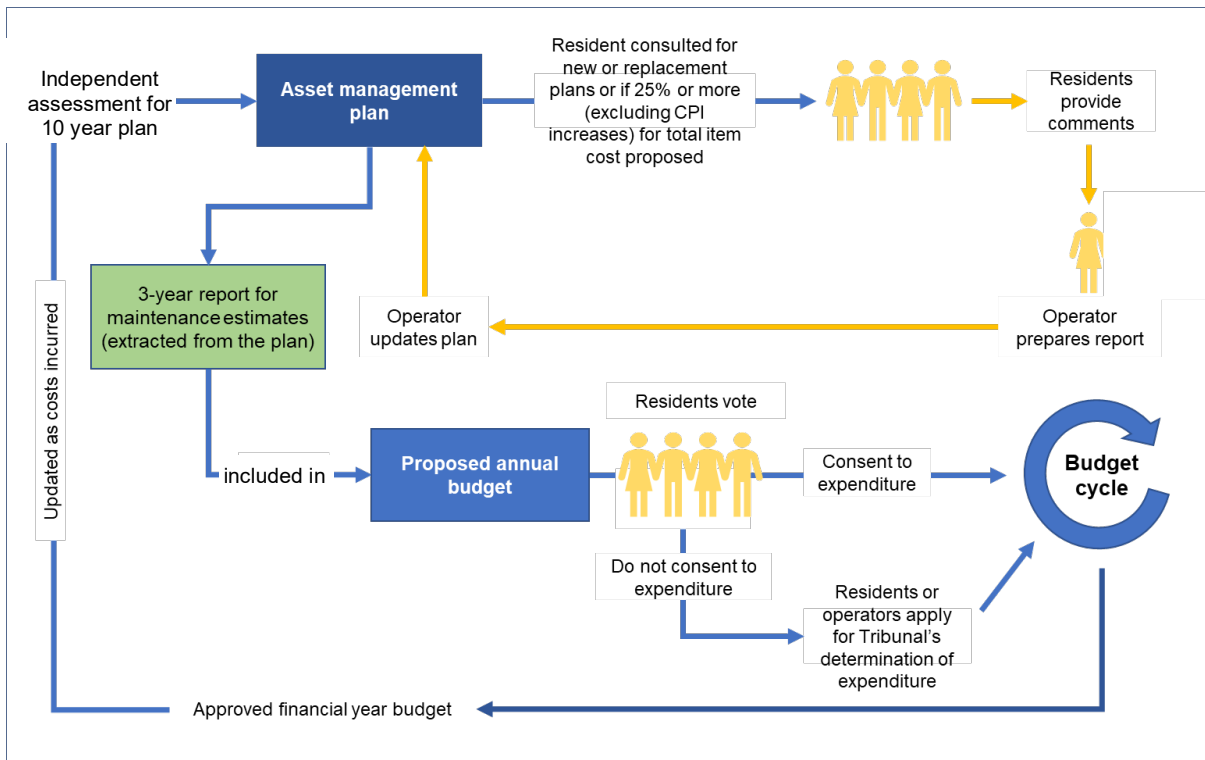


Figure 2. How asset management plans and the 3-year report interact with the annual budget process

6. NSW Civil and Administrative Tribunal's role

Residents can apply to the Tribunal if you do not maintain or replace items of capital for which you are responsible (section 96 Act). The Tribunal has the power to order you to carry out repairs, maintenance, or replacement within a specified time. The Tribunal can also make an order to determine whether work is 'maintenance' or 'replacement' when there is a disagreement between you and the residents.

7. Penalties and penalty notice offences

Section 101A includes offence provisions for operators who do not comply with the requirements related to asset management plans. Section 184 of the Act empowers authorised officers to issue a penalty notice if it appears you have committed a penalty notice offence. For the purposes of section 184 of the Act, Schedule 5 of the Regulation specifies new offences against which a penalty notice may be issued. On the spot fines of up to \$1,100 may apply for a breach of an asset management plan requirement.

8. Rules of Conduct for Operators of Retirement

Villages (Schedule 3A of the Regulation)

Schedule 3A of the Retirement Villages Regulation prescribes mandatory Rules of Conduct for Operators of Retirement Villages. Under these Rules of Conduct, you must abide by the standards of conduct and behaviour expected of operators and their staff in relation to the management and operation of a retirement village.

You must have knowledge of relevant laws and minimum standards in the handling of complaints and resolving disputes in a retirement village.

In exercising your functions, including your responsibilities for maintenance and replacement, you must:

- have regard to the best interests of all residents as is practicable or appropriate
- exercise reasonable skill, care, and diligence
- act honestly, fairly, and professionally, with all parties to negotiations, transactions or any other dealings relating to a resident or prospective resident
- not misinform or otherwise mislead or deceive any parties to negotiations, transactions or any other dealings relating to a resident or prospective resident.

You must avoid conflicts of interest and disclose conflicts of interest. Offence provisions apply for not abiding by the Rules of Conduct for Operators of Retirement Villages.

Appendix 1 - Retirement village asset management plan suggested template

Retirement village name

Retirement village address

Date plan created (dd/mm/yyyy)

Authorised by

Plan last updated

Asset register

| List of major items of capital | | | | | | | | | | |
|--------------------------------|---|--|--|-------------------------|----------------------------------|--|----------------|--|--|--|
| Asset ID number | Brand model number (if applicable and available) (optional) | Serial number (if applicable and available) (optional) | Brief description of the major item of capital | Effective life (years) | Remaining effective life (years) | Date of purchase (item not a building) | Purchase price | If building, structure or part infrastructure, Date construction completed | If building, structure or part infrastructure, Costs of construction | If shared item, name of business also using the item |
| PEM001 | X654 | 11122233 | Gate | 15 | 5 | 3/01/10 | \$2,000 | 3/01/10 | \$100,000 | ABC |

Maintenance Schedule

| Schedule of estimated maintenance and replacement costs | | | | | | | | | | |
|---|--|---------------------|------------------------------------|--------------------------|---------------------------------|------------------------------|---|--|--|--|
| Estimated costs of proposed maintenance | Proposed frequency or proposed Date of maintenance | Type of maintenance | Estimated cost of proposed repairs | Date of proposed repairs | Description of proposed repairs | Date of proposed replacement | If shared item, estimate of accumulated maintenance costs | If shared item, % of accumulated maintenance costs | | |
| \$100 | Annual | Cyclical | \$150 | 01/01/21 | Fix gate | 01/01/23 | N/A | N/A | | |

Keeping the plan up to date – actual costs

| Schedule of actual maintenance and replacement costs | | | | | | | | | | | | |
|--|-------------------------------------|---------------------------------|---|---|-------------------------------------|------------------------------------|------------------------------------|---|---|---|-------------------------------------|--|
| Actual costs of maintenance carried out | Actual date maintenance carried out | Type of maintenance carried out | Actual accumulated cost of maintenance (\$) | Actual accumulated cost of maintenance as a % of the purchase price | Actual costs of repairs carried out | Actual date of repairs carried out | Description of repairs carried out | Actual accumulated cost of repairs (\$) | Actual accumulated cost of repairs as a % of the purchase price | Proportion of accumulated cost of maintenance for shared item | Actual date replacement carried out | Actual cost of replacement carried out |
| \$100 | 1/01/21 | Cyclical | \$1,100 | 60% | \$500 | 01/01/21 | Change motor | \$500 | 25% | N/A | N/A | N/A |

Appendix 2 - Asset management planning framework

Prepare or replace plan

- Prepare a 10-year asset management plan for major items of capital (with a purchase price of \$1,000). Grouping similar items is acceptable.
- The asset management plan must include an asset register and a maintenance schedule. The maintenance schedule is prepared from the asset register.
- The auditor or an independent qualified quantity surveyor must confirm the plan contains the matters specified and, prepare an independent assessment which must be annexed to the draft plan.
- Notify residents that a proposed new or replacement asset management plan is available 60 days prior to the commencement of the plan.
- Enable residents to provide comments, prepare a report of all comments and explain any revisions to the plan or reasons why the plan was not revised as a result of a comment.

Update or Revise plan

- Keep the plan up-to-date including any amendments that need to be reflected from changes to the 3-year report for capital maintenance-approved as part of the annual budget.
- Send residents a proposed asset management plan for comment when the cumulative total maintenance costs have increased by 25 percent or greater (excluding CPI increases).
- Enable residents to provide comments, prepare a report of all comments and explain any revisions to the plan or reasons why the asset management plan was not revised as a result of a comment.

Prepare 3-year report

- Extract a 3-year report for capital maintenance of major items of capital from the asset management plan.
- Include information in the report about major items of capital that are near the end of their effective life or that are at 90% of accumulated repairs.
- Include the 3-year report in the proposed annual budget and: seek the consent of residents to the proposed annual budget, and discuss the fate of items of capital detailed in the report.
- If there is not an annual budget notify residents that there is a copy of the report available for their inspection at all reasonable times.
- The NSW Civil and Administrative Tribunal will decide in a case where residents do not consent to the capital maintenance included in the proposed annual budget and a resolution cannot be reached.

Make plan and the 3-year report available

- Make the plan and the 3-year report available to residents, prospective residents and those acting on behalf of a resident.

Appendix 3 – Items of Capital and Examples

The *Retirement Villages Act 1999* and the *Retirement Villages Regulations 2017* clearly delineates the responsibilities for the costs of capital maintenance and capital replacement. Residents fund maintenance of items of capital through recurrent charges or the capital works fund (if one exists), while the operator must fully cover most capital replacement costs (see table below)

| | Capital maintenance | Capital replacement |
|--|--|---|
| Definition under the Retirement Villages Act | <p><i>‘work carried out to repair or maintain an item of capital’</i></p> <p><i>‘work does not include work done to substantially improve an item of capital beyond its original condition, or work done to maintain or repair an item of capital if it would have been more cost effective to replace it’</i></p> | <i>‘works carried out for the purpose of replacing an item of capital but does not include capital maintenance’</i> |
| Type | <ul style="list-style-type: none"> Planned maintenance Repairs | <ul style="list-style-type: none"> When it is not practical to maintain |
| Responsibility for cost | <ul style="list-style-type: none"> Resident | <ul style="list-style-type: none"> Operator |
| Source of funds | <ul style="list-style-type: none"> Recurrent charges Capital works fund (if it exists) | <ul style="list-style-type: none"> Operator |

In addition, the new reforms for asset management plans provides greater transparency on whose is responsible for the costs by recording the lifespan of major items of capital, including the effective life of items and a process to discuss the fate of items nearing the end of their effective life or when the accumulated cost of repairs is 90 % or more of the purchase price.

The table below details provide the definitions under the Act and the table after providing some examples of items of capital.

Items of capital under the Act

| Item of capital (Act) | Item of capital (Regulation) | Major item of capital (Regulation) |
|---|--|--|
| <p>item of capital means—</p> <p>(a) any building or structure in a retirement village, and</p> <p>(b) any plant, machinery or equipment used in the operation of the village, and</p> <p>(c) any part of the infrastructure of the village, and</p> <p>(d) any other item prescribed by the regulations,</p> <p>(e) but does not include any item excluded from this definition by the regulations.</p> | <p>For the purposes of paragraph (d) of the definition of item of capital in section 4 (1) of the Act, the following items in a retirement village or residential premises within a retirement village are prescribed to be items of capital—</p> <p>(a) fixtures (for example, bench tops, built-in cupboards and wardrobes, floor coverings, hot water systems and stoves),</p> <p>(b) fittings (for example, light fittings, taps and sanitary fittings),</p> <p>(c) furnishings (for example, curtains and blinds),</p> <p>(d) non-fixed items (for example, whitegoods, portable air conditioners, fans, tables and chairs).</p> | <p>major item of capital means an item of capital, other than equipment that is a consumable used in the operation of an item of capital or in the day-to-day operation of the village, for which the operator of a retirement village is responsible that—</p> <p>(a) has a purchase price of \$1,000 or more, or</p> <p>(b) is part of a group of similar items of capital—</p> <p>(i) each of which has the same effective life and acquisition date, and</p> <p>(ii) having a combined total purchase price of \$1,000 or more.</p> |

Items of capital under each category

| Plant, machinery & equipment | Fixture and Fittings | Building or Structure | | Any part of the infrastructure |
|--|--|---|---|---|
| <p>For example</p> <ul style="list-style-type: none"> • water systems, • lifts, • lights, • vehicles • sewage motors, • swimming pool covers, • and any other that is not a building or structure or any part infrastructure | <p>For example</p> <ul style="list-style-type: none"> • fixtures (for example, bench tops, built-in cupboards and wardrobes, floor coverings, hot water systems and stoves), • fittings (for example, light fittings, taps and sanitary fittings), • furnishings (for example, curtains and blinds), | <p>For example</p> <ul style="list-style-type: none"> • buildings or extensions, • sealed driveways, fences and retaining walls • earthworks for environmental protection, such as embankments. | <p>For example</p> <ul style="list-style-type: none"> • detached workshops, • sheds, • other outbuildings, • tennis courts, • driveways, path, and other paving, • retaining walls, • fences and gates, | <p>For example</p> <ul style="list-style-type: none"> • sewage or drainage system, • water and electric systems, • telecommunications, • kerb & gutter |

| Plant, machinery & equipment | Fixture and Fittings | Building or Structure | | Any part of the infrastructure |
|------------------------------|---|-----------------------|--|--|
| | <ul style="list-style-type: none"> • non-fixed items (for example, whitegoods, portable air conditioners, fans, tables, and chairs). | | <ul style="list-style-type: none"> • ornamental ponds and water features, • detached garages, • cabanas, • detached decks, porches, • verandas, pergolas. | <ul style="list-style-type: none"> • Roads or pathways could also be classed as infrastructure too. |

A common issue in the interpretation and application of the Act is the distinction between capital maintenance and capital replacement. The classification of works as capital maintenance or capital replacement depends on the item being maintained, repaired, or replaced, and the extent to which those works improve, alter, or add to the item.

As long as it is not inconsistent with the definitions under the Act, the [Taxation Ruling 97/23 Income tax: deductions for repairs](#) (the tax ruling) is a good guide to identify if works on items of capital are repairs, improvements or replacement. You should seek specialist advice to help determine if a work is repair, improvement, or replacement, when in doubt and before going to the Tribunal. These guidelines are not intended to provide advice.