

08 November 2022

Information for potential village residents

We wish to inform you that Council has resolved to undertake the sale of Blue Haven Bonaira. We anticipate the sale process will occur mid to late 2023 to mid 2024. Council has made it clear that any sale must be to another approved Aged Care provider, and the provider will operate under the Retirement Villages Act.

The **NSW Retirement Villages Act** is a consumer legislation enforced by NSW Fair Trading. The following protections are provided under this Act for Village Residents, which also apply when a Retirement Village is sold to a new owner.

* Note the following is a simplified summary only and residents are advised to refer to the legislation to ensure a full and proper understanding.

Sec 29 Variation or replacement of village contracts

The current operator of the Village cannot make an existing resident sign a new contract.

Sec 40 Contractual rights of residents against new operator

After the Village is sold, the existing contract between the resident and the former operator may be enforced against any operator for the time being of the village. Clauses 29 and 40 together mean that Residents will not have to sign a new contract.

Sec 41 new operator to convene meeting of residents

A person who proposes to become an operator of an existing retirement village must, at least 28 days before the person becomes the operator, hold a meeting with all residents to report on

(a) their financial ability to operate the village, and

(b) their plans for the future management and operation of the village (including any proposed changes)

Sec 60 Variation in services or facilities provided at village

The services and facilities provided at the village are not to be varied unless the residents of the village, by a special resolution, consent to the variation.

If the operator considers that a proposed variation in services or facilities will impose a cost on the operator additional to that allowed for in the approved annual budget, the operator must seek the residents' consent to an amendment to the approved annual budget.

If residents refuse to consent to the amendment, the operator may appeal to the Tribunal

Sec 106 Recurrent charges varied otherwise than by fixed formula—exceeding variation in CPI

The operator must give residents at least 60 days notice before any proposed variation, including an explanation of the reasons for the proposed variation.

Sec 107 Residents' consent to variation

A variation does not take effect residents unless consent to the variation, or the Tribunal orders that the variation take effect.

Sec 108 Determination by Tribunal

An operator of a retirement village may apply to the Tribunal for (and the Tribunal may make) an order in respect of a proposed variation of recurrent charges if residents do not consent to the proposed variation.

The Tribunal may—

(a) order that the proposed variation is to take effect, with or without modification, or

(b) order that the proposed variation is not to take effect.

The Tribunal may have regard to the following in reaching their decision—

(a) the general market level of recurrent charges paid at similar retirement villages in the locality of the retirement village concerned or a similar locality,

(b) the level and cost of services and facilities provided in the budget

(c) any proposed variations to which the residents have consented,

(d) the cost of general services required to be provided by the operator,

(e) the frequency and amount of past variations

Further information about the Retirement Villages Act can be found

at: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1999-081>

Blue Haven continues to operate its Independent Living Units as usual and the care and wellbeing of our residents and clients is paramount.

Blue Haven has a long and proud history of providing high-quality aged care services to our community for more than 40 years. This will not change. And it will continue regardless of the sale process.

For further information about the Blue Haven Bonaira sale, please visit:

<https://www.kiama.nsw.gov.au/Council/Projects/Blue-Haven-llawarra-sale-FAQs>

To join our email list for regular updates in future, please sign up here:

<http://eepurl.com/gLyOY1>