

Health Alert

April 2009

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Green Initiatives in the Retirement Villages Industry

Thomson Playford Cutlers conducted a survey and roundtable discussion at this month's Retirement Communities' World Conference. The roundtable was led by [Fraser Bell](#) (partner, Climate Change), [Luke Aiken](#) (partner, Construction) and [Lucinda Smith](#) (partner, Health and Aged Care).

The purpose of the roundtable topic and survey was to ascertain the importance of green initiatives and environmentally/ecologically sustainable development (ESD) to the industry and whether these potentially had any impact on the purchase decision.

We can generally classify the reasons why industry participants engage in environmental initiatives into 5 categories:

1. The regulatory environment.
2. That it makes economic sense for them to do so.
3. A perception that the market wants ESD and it will add to the marketability of a particular village.
4. That the financiers are telling stakeholders that they must be doing it.
5. Other considerations included: reputational issues, social responsibility.

Our survey revealed 100% of survey respondents identified environmental initiatives as being of high or critical importance to the industry.

The overwhelming response to the importance of the monetary cost of ESD to the industry was that it was of high or critical importance.

100% of respondents thought it was of high or critical importance to incorporate green elements in the design and construction process of villages.

100% of respondents thought that environmental initiatives will be of high or critical importance to the industry in the next 5-10 years.

For more details about our survey please contact Lucinda, Fraser or Luke.

New Associations Incorporation Act for NSW

The *Associations Incorporation Act 2009* (NSW) has been passed by the NSW Parliament and is expected to come into effect in late 2009. The Office of Fair Trading says the act will reduce red tape, allow more flexibility for associations and give stronger protection for association finances.

Changes include:

- > The rules of the association will now be called its constitution. Existing rules will not need to be amended, except that when any amendments are made, the whole constitution will need to comply with the new requirements.
- > Associations will be divided into two tiers for reporting purposes. Tier 1 associations (likely to be those with gross annual receipts over \$200,000) will have to provide an audited financial statement each year. Tier 2 (smaller associations, under the tier 1 threshold) will continue to only provide a summary of their financial affairs.



- > New statutory duties will be imposed on committee members, including disclosure of potential conflicts of interest and a prohibition on using their position or information about the association for a dishonest purpose. This will bring committee members' duties more into line with the duties of company directors.

The Act continues the principle that it is for incorporation of smaller community based organisations, and not organisations that have significant trading activity, which should be incorporated as companies limited by guarantee under the *Corporations Act 2001* (Cth).

For a fuller discussion of the changes, visit the 'associations' area of the [NSW Department of Fair Trading](#) website. We will report in a future *Health Alert* when the Act comes into effect.

Contribution of the Not for Profit Sector - Productivity Commission Issues Paper

The Federal Treasurer asked the Productivity Commission to undertake a research study into the contribution of the not for profit (NFP) sector. The Commission has prepared an [issues paper](#) and requests comments and submissions by Friday 29 May 2009.

The issues paper includes comment on measurement of the contribution of NFPs, enhancing the efficiency and effectiveness of NFPs and arrangements for government funded service delivery. In addressing the question of what makes NFPs different, the Commission notes that they are often viewed as more effective service providers than governments or business. For example, the Commission quotes a 2006 survey in which 14% of respondents found the services of government and business providers difficult to access, while only 1% had the same problem with NFPs.

Health Technology Assessment Review

The Australian Government is currently undertaking the Health Technology Assessment (HTA) Review.

The objective of the HTA Review is to recommend options for improving process efficiency and reducing regulatory burden for Commonwealth HTA processes, to facilitate medical innovation without compromising timely and affordable patient access to medical services and devices that:

- > are demonstrated to be safe, effective and cost effective; and
- > deliver improved health outcomes and value for money.

The Department of Health and Ageing is now calling for submissions to the Review on the [HTA Review website](#). The Review's Terms of Reference and a Discussion Paper are available on the website along with information about how to make a submission. The Department will accept submissions up to close of business on Friday 22 May 2009.

Legislation Update

Private Health Facilities Regulations

The *Private Health Facilities Act 2007* (NSW) was passed by the NSW Parliament on 6 June 2007 and received Assent on 15 June 2007. However the Act has not yet been proclaimed or any Regulations drafted. We have been advised by the Department of NSW Health that the Regulations have been drafted and that a Regulatory Impact Statement will be published soon. At this stage the Regulations are expected to take effect from June 2009.

Health Legislation Amendment Bill 2009 (NSW)

The *Health Legislation Amendment Bill 2009* (NSW) proposes to amend the *Health Services Act 1997* (NSW) (Act). The Bill was introduced into the Legislative Assembly and received its second reading speech on 25 March 2009.

If passed, the amended Act will:

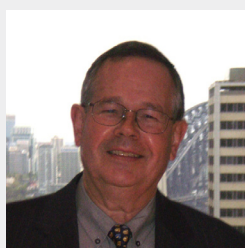
- > Provide that board governed health corporations with fewer than 50 staff members are not required to appoint a member of the NSW Health Service to the board.
- > Provide that where the position of chief executive of a board governed health corporation is an "executive position" within the meaning of Part 3 (The Health Executive Service) of Chapter 9 (The NSW Health Service) of the principal Act, the chief executive is to be appointed under that Part.
- > Include expanded protection from liability provisions which will protect persons providing expert advice or assistance in the performance review of an employee of a non-declared affiliated health organisation who is employed in relation to a recognised establishment or service of the organisation.



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