

Seniors downsizing on their own terms:

Overcoming planning, legal and
policy impediments to the creation
of alternative retirement communities

November 2015

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National Seniors Australia (National Seniors) is a not-for-profit organisation that gives voice to issues that affect Australians aged 50 years and over. It is the largest membership organisation of its type in Australia with more than 200,000 members and is the fourth largest in the world.

National Seniors Productive Ageing Centre (NSPAC) is an initiative of National Seniors and the Australian Government. NSPAC's aim is to improve quality of life for people aged 50 and over by advancing knowledge and understanding of all aspects of productive ageing.

NSPAC's key objectives are to:

- support quality consumer-oriented research informed by the experience of people aged 50 and over
- inform government, business and the community on productive ageing across the life course
- raise awareness of research findings that are useful for older people
- be a leading centre for research, education and information on productive ageing in Australia.

For more information visit productiveageing.com.au or call 03 9296 6800.

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Kenny Annand, KGA Consulting Group

Professor Wendy Lacey, Faculty of Law, The University of South Australia

Dr Eileen Webb, Faculty of Law, The University of Western Australia

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Executive summary

There is clearly a need to review accommodation options in the immediate future if we are to meet the housing needs of the Baby Boomer generation.¹

Introduction

Terms such as ‘ageing in place’ and ‘downsizing’ have become ubiquitous in discourse about the accommodation choices of older people. The terms, while not mutually exclusive, are not necessarily symbiotic and mean different things to different people.

Ageing in place refers to a person ‘living in the residence of their choice for as long as they are able, as they age.’² Clearly, ageing in place does not invariably mean ageing in the *same* place and some older people may choose to move from a long-term family home to another (often, but not always, smaller) home and thus age in place elsewhere.³ In this report, downsizing refers to ‘a decrease in dwelling size (i.e. number of rooms and/or spatial dimensions), and/or garden/yard area, and/or monetary value.’⁴

Many seniors who own their own home want to remain in their existing accommodation for as long as possible.⁵ Others may be tempted to ‘downsize’, but decide – for a variety of personal, family and/or financial reasons - to remain *in situ*. Those who do decide to downsize must consider whether to remain within or close to a familiar location⁶ or to enjoy a ‘tree’ or ‘sea’ change.⁷ Some downsizing decisions are determined by factors such as limited retirement income, ill-health and/or family considerations.⁸ Finally, many older people do not enjoy the benefits of home-ownership and any downsizing decisions will be subject to the vagaries of the rental market.⁹

It seems there are as many reasons for seniors making downsizing decisions as there are individual seniors. Some common themes have emerged however. First, despite the tacit encouragement of downsizing in Australia and elsewhere, most seniors resist moving in order to downsize.¹⁰ Second, although reluctance to downsize is based on a myriad of personal and financial considerations, product availability (or lack thereof) has been identified as a significant impediment to downsizing.¹¹ Quite simply, many seniors who may be desirous of downsizing are discouraged from doing so due to the lack of suitable and affordable housing stock in familiar, accessible locations.¹²

¹ Briggs, D. (2011). Future housing for older Australians: Overcoming barriers to innovation. Paper presented at Future Housing for Older Australians. Sydney, 2011. Sydney: AHURI / The Benevolent Society.

² Hager, M. (2015). *What is aging in place? - Age in place definition*. [online] Aging in Place. Available at: <http://ageinplace.com/aging-in-place-basics/what-is-aging-in-place> [Accessed 8 Oct. 2015].

Scott-Ball, M. (2012). *Liveable communities for ageing populations: Urban design for longevity*. Atlanta: John Wiley & Sons.

³ Schwartz, H. (2013). *Cooperative housing for an ageing Australia*. Masters Thesis. Melbourne: University of Melbourne.
Wiles, J., Leibing, A., Guberman, N., Reeve, J. & Allen, R. (2012) ‘The meaning of “ageing in place” to older people’. *The Gerontologist* 52(3), pp357-366.

⁴ Judd, B., Liu, E., Easthope, H., Davy, L. and Bridge, C. (2014). *Downsizing amongst older Australians*. Final Report No.214. Melbourne: Australian Housing and Urban Research Institute.

However, for practical purposes, a reduction in the number of bedrooms is used as a proxy for downsizing in analysing ABS and other survey data.

⁵ Productivity Commission, (2013). *An ageing Australia: Preparing for the future*. Commission Research Paper. Canberra: Productivity Commission.

⁶ Judd, op. cit.

Pinnegar, S., van den Nouwelant, R., with Judd, B. and Randolph, B. (2012). *Understanding housing and location choices of retiring Australians in the ‘baby boom’ generation*. Scoping report prepared for the National Housing Supply Council. Sydney: City Futures Research Centre.

⁷ *ibid.*

⁸ Pinnegar et al identified six categories of older people: age-in-place, local-adapters; scene-changers; constrained-retreat; increased-dependency and older renters, op. cit.

⁹ *ibid.*

¹⁰ Wood, C. (2013). *The Top of the Ladder*. London: Demos.

¹¹ Judd, op. cit.

¹² *ibid.*

Purpose of the research

This research aims to determine whether more seniors would choose to downsize if there was a greater variety of housing options available, particularly within existing communities. The research seeks to determine ‘what seniors want’ and assess new housing concepts, for example pocket communities, that are starting to emerge. The project then considers legal, planning and policy hurdles to realising these aspirations.

The research identifies several housing models available both nationally and internationally to either provide downsized accommodation options and/or support ageing seniors in some form of sheltered/supportive accommodation.

The project will improve knowledge and understanding of productive ageing through engaging seniors’ views of their ‘ideal’ retirement environment and their attitudes to existing and potential options for downsizing. It will also canvass the reasons why, at present, such housing may not be available and identify the impediments preventing the creation of age-friendly, integrated communities.

The research is relevant to recent discussions in Australia and abroad about impediments to downsizing and impact on housing availability for other generations and on the overall property market.

Research questions

The research focused on three research questions:

1. What are the views and preferences of older people regarding downsizing?

Our premise was, in an ideal world what do seniors want and what would entice them to downsize (should they want to)?

Seniors are not a homogenous group

First, it was important to appreciate that seniors are not a homogenous group in any way. Therefore we had to consider a broad and diverse demographic that exhibits variations in terms of age, income, health, housing necessities and preferences, family structure and individual taste, to name but a few. In this context it is instructive to refer to Pinnegar et al’s categories of seniors identified according to their housing circumstances being: Age in Place; Local Adapters; Scene Changers; Constrained Retreat; Increased Dependency; and Older Renters.¹³ Those seniors wishing to age in place require little elaboration. Local Adapters and Sea Changers are likely to demand ‘well-appointed and convenient housing in the middle and inner ring suburbs as well as sought-after sea and tree change locations,’¹⁴ whereas other seniors with financial (Constrained Retreat) or health (Increased Dependency) issues will have different priorities. For example, Constrained Retreat may require a move to a cheaper home in order to release equity; the priority for those with Increased Dependency is the availability of services to assist with health concerns.¹⁵ Those seniors who are renting, of course, must obtain, and retain, appropriate rental housing.

¹³ Pinnegar, op. cit.

¹⁴ Goodliffe, R. (2015). Aged care design showing signs of ‘falling behind’. [Online Article] *Australian Ageing Agenda*. Available at: <http://www.australianageingagenda.com.au/2015/07/22/aged-care-design-showing-signs-of-falling-behind/> [Accessed 8 Oct. 2015].

¹⁵ Pinnegar, op. cit.
Goodliffe, op. cit.

Due to the scope of the project, the research team had to make some generalisations, but are confident that we have provided a range of views from a diverse group of seniors and that the research reflects a variety of differing downsizing aspirations and preferences.

What seniors want and what is available and affordable in the marketplace

Second, it is clear that there is a gulf between what many seniors want and what is available in the present marketplace. This dearth of appealing housing stock seems to stem, in some cases, from a lack of innovation and flexibility in terms of development, planning and design. Although many seniors are content with staying in an existing home, a significant number of contemporary seniors, particularly Baby Boomers, are tempted to downsize. Although many would still prefer to live in a detached dwelling, homes of choice would not necessarily be smaller,¹⁶ are low maintenance and able to 'lock and leave'.¹⁷ Furthermore, a growing number of older people want to live in medium to high density surroundings.¹⁸

There is a preference for living close to transportation and amenities. Many want a small garden and the opportunity to have a pet. Importantly, the consensus is that there is a desire to remain part of the community and not in a 'them and us' accommodation arrangement.¹⁹ While the traditional retirement village concept remains appealing to some, generally there is an aversion to such concepts, with a clear preference for multi-generational accommodation models. Seniors are interested in innovative housing concepts – and keen to embrace them – but availability is an issue and, where such accommodation is available, it is often expensive.

The stress and cost of downsizing

Third, even if seniors can find an affordable alternative, the personal and financial ramifications of downsizing are a significant deterrent. Many older people have stated that they 'did not know where to begin', that the process was too confusing, and that it simply wasn't 'worth' the cost and upheaval of downsizing. There is an absence of information and assistance for people considering downsizing. Added to this is the financial impost of selling a property, incurring stamp duty, and in some cases capital gains tax, and any potential impact on Centrelink entitlements.

¹⁶ Although in many instances this is the case.

¹⁷ Including 'all the bells and whistles': Brasier, A. (2015). Baby boomers demand a new kind of property. [Online Article] *The New Daily*. Available at: <http://thenewdaily.com.au/money/2015/08/30/baby-boomers-demand-new-kind-property/> [Accessed 8 Oct. 2015].

¹⁸ Murray, M., Siggers, J. and van Bocksmeets, J. (2015). Multi-Age Precincts (MAPs) - New solutions for the future of Australia's housing. *New Community*, 12(2), p.53.

¹⁹ This was a common objection to traditional retirement village concepts amongst respondents.

2. What products reflect and incorporate these views and preferences?

As design, convenience and connectedness to the local community are pivotal issues to many seniors, the next step was to examine a variety of concepts that incorporated the preferences gleaned in our interviews and from research undertaken elsewhere.

For those wanting to downsize there are many potential accommodation models – some conventional and others novel – that reflect seniors’ preferences. A recent trend has been seniors, usually friends, buying one home or building several homes on one block of land. Slightly larger, usually more formal, arrangements may lead to independent developments, often referred to as ‘pocket communities,’ that comprise 8-12 homes built around a common area.²⁰

There are also many possibilities in the form of multi-unit/mixed-use concepts. In relation to apartments, complexes can support independent living with provision in some for on-site support services and the availability of higher levels of care as people age.²¹ Such complexes feature residential accommodation – sometimes just for seniors, but usually for a range of ages – above or in close proximity to transport, amenities and services.²² Other design concepts involve the redevelopment of existing infrastructure, such as shopping centres and cinemas, to build accommodation above and surrounding a revitalised facility; a development that merges with proposals for the better utilisation of greyfield and brownfield areas.²³ All, or a combination of these concepts, can potentially lead into more ambitious projects such as ‘Multi-Age Precincts’.²⁴

It is also necessary to consider those who want to ‘downsize in place’, in other words to stay in their own home but reduce it in some way to minimise maintenance and, in some cases, gain additional retirement income. To this end several possibilities arise including sharing the property with others, partitioning the property so as to rent or sell part of the property, or by subdividing.

3. What needs to occur from a legal, planning and policy perspective to ‘make this happen’?

As attractive as these options are to many seniors – and it is acknowledged that there are some excellent, innovative developments already in existence – the reality is that there is not enough stock available to meet the existing demand, let alone the rising numbers of older people in years to come.

Sadly, it seems many people still regard accommodation for older people to be either the family home or one of two types of destinations: a retirement village or a nursing home. The latter ‘choices’ usually involve gated concepts that may discourage interaction with the local community. There seems to be little appetite to move from what has been done in the past and, where there is interest in diverging from the *status quo*, there are often legal, planning and policy barriers to taking these developments forward.

²⁰ See generally, Chapin, R. (2011). *Pocket neighbourhoods: Creating small-scale community in a large-scale world*. USA: Taunton Press.

²¹ See for example the concepts discussed in Urban Taskforce Australia, (2013). *Apartment living for seniors*. *Urban Ideas*.

²² *ibid.*

²³ Rowley, S. and Phibbs, P. (2012). *Delivering diverse and affordable housing on infill development sites*. Final Report No.193. Melbourne: Australian Housing and Urban Research Institute.

Newton, P., Murray, S., Wakefield, R., Murphy, C., Khor, L. and Morgan, T. (2011). *Towards a new development model for housing regeneration in greyfield residential precincts*. Final Report No.171. Melbourne: Australian Housing and Urban Research Institute.

²⁴ Murray, *op. cit.*

Rendon, G. (2011). Politics, practices and constraints of socio-spatial restructuring through citizens’ active engagement. In: L. Qu and E. Hasselaar, ed., *Making room for people: Choice, voice and liveability in residential areas*, 1st ed. Amsterdam: Techne Press, p.27.

Furthermore, taking the step to downsize in the first place, and then find housing that is desirable, and affordable, remains problematic because:

- There are legal pitfalls in relation to existing housing types and tenures, and the prevailing legal framework may not accommodate more novel housing arrangements. Indeed, as discussed in Chapter 3, the present legal and planning regime is in many respects found wanting and requires reform to provide for innovation and flexibility in seniors housing arrangements.
- In many cases there are too many structural blockages and issues to bring more products to the market. Put simply, if individuals or developers are to cater for downsizing, particularly in the local area, it is likely they will encounter a number of obstacles in stimulating demand and, if piqued, delivering on the product. Such issues involve the lack of available space, restrictions on density, inflexible town planning schemes that may prevent the introduction of alternative forms of housing, concerns about infill, and the (real or imagined) effect on amenity and property values.
- There has been a lack of leadership and cooperation between all levels of government in relation to the housing agenda generally. Housing issues, particularly affordability and availability – not to mention urban sprawl – are often spoken about but little, it seems, is being done to address the issues. This is particularly the case with seniors' housing, yet a focus on seniors' housing options by all levels of government has the potential to stimulate options for the housing market as a whole.²⁵

²⁵ For example, through 'freeing up' larger houses and making them available to families: Wood, *op. cit.*
See too Productivity Commission, *op. cit.*

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A black and white photograph of two chess kings standing on a reflective surface. The king on the left is black, and the king on the right is light wood. The background is a plain, light color. A dark blue horizontal band is overlaid across the middle of the image, containing white text.

Seniors downsizing on their own terms: Overcoming planning, legal and policy impediments to the creation of alternative retirement communities

Chapter 1. What seniors want – What are the views and preferences of older people regarding downsizing?

...much urban policy is premised on the assumption that an ageing population will require more diverse (implying smaller) housing stock into which older people will (or should) downsize. However, little is known about older people's downsizing behaviours.²⁶

1.1 Seniors' housing choices

Seniors' housing has an image problem; the result of indoctrination by a youth-oriented society and the often uninspiring nature of housing products available to older people. Until relatively recently, those seniors unable to age in place were 'forced into often unattractive highly institutional nursing homes, personal care homes of inconsistent quality, and a handful of retirement communities.'²⁷ Efforts to improve accommodation options for older people tended to be compromised by regulation and 'relegated to the fringe of architectural practice.'²⁸ For the most part, seniors' housing has also been a peripheral issue for lawyers and policy makers.²⁹

1.2 What seniors want

Much recent research has examined accommodation issues impacting on older Australians, including their preferences in relation to downsizing. Of particular relevance are two significant reports by AHURI (2014)³⁰ and National Seniors Australia (2014).³¹ Both reports surveyed in excess of 2000 people over 50 years of age who had downsized³² or were considering downsizing.³³ In summary, the research found that many seniors are reluctant to downsize to smaller residences; indeed the preference was for a home with at least three bedrooms. The respondents preferred detached houses over apartments or units.³⁴ Factors influencing the decision were a desire for a change in lifestyle and the inability to maintain the property. Some respondents mentioned children leaving home and moving towards retirement, whereas a smaller number referred to health, disability or financial motivations. For those considering downsizing, the crucial issues involved housing availability and affordability and the financial imposts associated with downsizing, particularly stamp duty.

²⁶ Judd, op. cit.

²⁷ Paduch, M. (2008). *Designing housing for older people: The need for a design code*. Honours. University of New South Wales. In the course of this discussion, Paduch refers to Perkins, L. (2004). *Building type basics for senior living*. Hoboken, N.J.: John Wiley & Sons.

²⁸ Luscombe, G. (2015). *The NANA project: A new architecture for the new aged that advocates a better built environment for older people*. Byera Hadley Travelling Scholarships Journal Series. Sydney: NSW Architects Registration Board.

²⁹ *ibid.*

³⁰ Judd, op. cit.

³¹ Adair, T., Williams, R. and Menyen, T. (2014). *Downsizing decisions of senior Australians: What are the motivating and discouraging factors?* Melbourne: National Seniors Productive Ageing Centre.

³² Or, in the case of AHURI, including the group 'other movers'. This involved seniors who had moved, but not to a smaller property.

³³ The National Seniors Productive Ageing Centre (NSPAC) examined 2000 National Seniors members aged over 50 who downsized in the past five years, or who were considering downsizing in the future, and the motivating and discouraging factors affecting their decision to downsize.

³⁴ Of those seniors who had downsized in the past five years, 43 per cent had moved into a three-bedroom house, compared to only 17 per cent who had moved to an apartment/unit.

1.2.1 Research for this project

Of necessity, our research pool was smaller than that of the abovementioned projects. Our project was limited to semi-structured interviews of between 45 and 60 minutes. There were interviews with 15 seniors in each of Perth, Adelaide and Sydney. A questionnaire of 11 questions formed the basis of the interview, with discussions arising from responses to the questions. The respondents had either downsized, were considering downsizing, or had considered downsizing and decided against it. An online survey attracted additional commentary, mainly from Western Australia.

Kenny Annand, an urban planner based in Perth, conducted semi-structured interviews with representatives from relevant local and state government departments, urban planners and developers. These discussions were based in Perth and involved Western Australian planning schemes, although developments in other jurisdictions were also canvassed.

Despite the smaller number of respondents, our findings were largely similar to those in the two larger surveys. In summary, many of our respondents indicated that existing downsizing options were often not appropriate or affordable.³⁵ Many respondents considering downsizing wanted to remain in a familiar area; indeed, this was often a ‘deal-breaker’ in relation to the decision to relocate. Others, however, noted that they would consider, for example, ‘going a bit further out’, especially if there was the opportunity to access newer, more appealing accommodation close to services and transport. Most had not ‘really thought about’ what would happen when they were ‘really old’ or if they became ill. Having said this, several did state that they would be unlikely to want to move more than once and would prefer to live in an environment where it was easy to ‘transition’ to a higher level of care when the need arose. Several noted that there was little incentive to ‘downsize’ due to taxation, stamp duty and Centrelink considerations, and a shortage of appropriate and affordable housing stock.³⁶

Our respondents came from a variety of socio-economic backgrounds, from quite well off (outright ownership of a home with an income stream through superannuation) to owners (some with an unencumbered property, others still with a mortgage), many of whom relied solely or partly on an aged pension, or renters who relied on the aged pension and other government benefits in older age. Therefore, the downsizing options available to our respondents ranged from almost limitless choice to far more affordable options.

After analysing the findings from interviews and the online survey, several priority areas for seniors were identified. Clearly seniors want to be autonomous and independent. They want to feel part of a multi-generational community and be involved in that community. There was a general reluctance to move from familiar areas. The prospect of a smaller block, though not necessarily a smaller home, was popular. Environmental issues and the ability to keep a pet were important considerations to many respondents. Our respondents want to live independently into older age and, for the most part, rejected traditional models of retirement or aged care.

³⁵ Judd, op.cit.

Parkinson, S., Searle, B., Smith, S., Stoakes, A. and Wood, G. (2009). Mortgage equity withdrawal in Australia and Britain: Towards a wealth-fare state? *REUJ*, 9(4), pp.365-389.

Clark, G., Strauss, K. and Knox, J. (2012). *Saving for retirement*. Oxford: Oxford University Press.

Productivity Commission, (2011). *Caring for older Australians*. Report No.53. Canberra: Productivity Commission.

Aged & Community Services Australia, (2015). *The future of housing for older Australians*. Position paper. Canberra: Aged & Community Services Australia.

³⁶ Judd, op. cit.

1.3 Responsiveness to change

Initial discussions focused on more traditional accommodation arrangements. Predictably, most respondents had only considered mainstream products, for example, houses and apartments. There was also an awareness of retirement and lifestyle villages and, in some cases, residential parks. The 'default' position appeared to be an adoption of the existing models.

Having said this, when alternative models were raised, there was a considerable degree of interest. In particular, the 'hub' concepts where seniors live in an intergenerational community proximate to transport and amenities was deemed very attractive. This was especially the case with 'younger' seniors. It seems that seniors will embrace new concepts, but in many cases, will need to be persuaded of the benefits. As will be discussed, enhanced information and education programs may assist with this, as would the construction of more innovative or 'model' concepts so seniors can see what can be achieved and can observe alternatives to the more traditional models.

Chapter 2. What products reflect and incorporate these views and preferences?

Despite changing housing needs, long-term residents frequently want to stay in their neighbourhood because they are familiar with the local shops and services, have friends in the community, and want to stay near their doctors and dentists. By increasing the opportunity to remain in one's community ... seniors are provided options to continue to contribute to the community.³⁷

2.1 Introduction

After examining seniors' thoughts on downsizing and their opinion of available accommodation options, the next step was to examine what products are available now and what alternative accommodation options are developing. This was examined in two stages:

1. alternative concepts that incorporate seniors' preferences
2. options for seniors wanting to 'downsize in place'.

Chapter 2 outlines these concepts and provides examples of existing dwellings. The legal, planning and policy deterrents to these developments will be considered in Chapter 3.

2.2 Private downsizing arrangements³⁸

2.2.1 One home occupied by several older people

More older people are choosing to purchase or build a home with others, usually long-time friends. This is permissible under current regulations and people can purchase property together as joint tenants or tenants in common.³⁹ This is uncontroversial, although issues may arise in relation to establishing the rights and duties of the residents, how ownership is registered on the title, what is to occur in the event of a death of a co-owner, particularly in the case of the right of survivorship in a joint tenancy,⁴⁰ and/or if a co-owner decides to terminate the arrangements, for example, by selling his or her interest.⁴¹

2.2.2 One block – several residences

The concept of self-planned seniors' developments, where a group acquire a site and develop individual buildings, has gained traction recently, particularly amongst downsizers seeking a tree-change with the purchase of large rural properties.⁴² While appealing in theory, ensuring the legal protection of the joint owners may be problematic.

It is advisable to enter into a written agreement that sets out the rights and obligations of the parties and what is to occur in the event of the death of one of the parties, or the desire to terminate the arrangement.

³⁷ See generally Manitoba Health, Healthy Living and Seniors. (2015). *Aging in Place / Long Term Care Strategy* | Manitoba Health, Healthy Living and Seniors | Province of Manitoba. [online] Gov.mb.ca. Available at: <http://www.gov.mb.ca/health/aginginplace/index.html> [Accessed 20 Oct. 2015].

Community Planning, (2010). *Abbotsford seniors housing study*. Abbotsford: Abbotsford Planning Services.

³⁸ Aged & Community Services Australia, (2011). *Innovative housing solutions for older Australians*. Delphi technique summary. Canberra: Aged & Community Services Australia.

Many seniors are taking matters into their own hands and creating all manner of 'intentional communities'. These arrangements can be limited to a small group of friends or to a co-housing project with a significant number of people involved.

³⁹ Refer generally to Chapter 12 Bradbrook, A., MacCallum, S., Moore, A. and Gratten, S. (2011). *Australian real property law*. 5th ed. Sydney: Thomson Reuters.

⁴⁰ *ibid.*

⁴¹ This may involve consideration of issues such as severance (*ibid*) and broader issues of termination (*ibid*).

⁴² Wendy, Z. (2015). Would you live in a share house at 65? [Online Article] *Life Matters, ABC Radio National*. Available at: <http://www.abc.net.au/radionational/programs/lifematters/would-you-live-in-a-share-house-at-65/6643390> [Accessed 13 Oct. 2015].

Separate ownership of different portions of the land could, of course, be achieved through subdivision or a strata title arrangement, but this can be a complex and expensive process. Some local authorities, particularly in rural areas, may grant permission for such arrangements to proceed but this can still leave parties vulnerable in circumstances of the arrangement breaking down.

2.2.3 Intergenerational households

Related to the concept in 2.2.2, different generations of a family may choose to live in one, auxiliary⁴³ or different dwellings, on the one block of land.⁴⁴ Intergenerational households, for example through home design and/or block division, have been marketed elsewhere, particularly in the United States, for some time.⁴⁵ Informal intergenerational arrangements are not unique in Australia, particularly amongst many Asian, Middle Eastern and Southern European cultures. More recently, intergenerational households from 'non-traditional' backgrounds are emerging.⁴⁶

Unfortunately, formalising such arrangements to ensure a property interest or a secure legal position for older people is relatively unexplored and the legal position is precarious.⁴⁷ The potential benefits and pitfalls are under consideration in Australia⁴⁸ but, as will be outlined in Chapter 3, will require negotiation of significant legal and planning obstacles together with the desirability of formalising the arrangements.⁴⁹

⁴³ For example, granny flats or 'mypod' designs: Harnisch, W. (2015). Housing a key challenge arising from the Intergenerational Report. [Online Article] *Master Builders Australia*. Available at: <http://www.masterbuilders.com.au/newsarticles/housing-a-key-challenge-arising-from-the-intergenerational-report> [Accessed 13 Oct. 2015].

⁴⁴ McGee, C. and Benn, S. (2015). How co-housing could make homes cheaper and greener. [Online Article] *The Conversation*. Available at: <https://theconversation.com/how-co-housing-could-make-homes-cheaper-and-greener-39235> [Accessed 13 Oct. 2015].

⁴⁵ Liu, E., Easthope, H., Burnley, I. and Judd, B. (2013). Multigenerational households in Australian cities: Evidence from Sydney and Brisbane at the turn of the twenty-first century. In: *7th Australasian Housing Researchers' Conference*. Perth: Curtin University School of Economics and Finance.

Boyd, C. (2014). Multigenerational households in Australia. [Online Article] *Domain*. Available at: <http://www.domain.com.au/advice/multigenerational-households-australia/%3E/> [Accessed 13 Oct. 2015].

⁴⁶ Liu, E. and Easthope, H. (2012). *Multi-generation households in Australian cities*. Final Report No.181. Melbourne: Australian Housing and Urban Research Institute.

Olsberg, D. and Mark, W. (2005). *Ageing in place: Intergenerational and intrafamilial housing transfers and shifts in later life*. Final Report No.88. Melbourne: Australian Housing and Urban Research Institute.

In Western Australia, the Town of Cambridge has been promoting intergenerational housing options for some time: Town of Cambridge, (2013). *Housing options*. Cambridge: Town of Cambridge.

⁴⁷ As is the case in the US, despite such arrangements being commonplace and actively promoted in some sectors: Kaplan, M., Stephenson, J. and Berg, A. (2009). *Too close for comfort? A guide for multigenerational families under one roof*. Home Instead Senior Care.

⁴⁸ McGee & Benn, op. cit.

⁴⁹ *ibid.* See too Liu & Easthope, op. cit.

2.3 Seniors' clusters/Pocket communities

Pocket neighbourhoods involve a small number of houses (usually 8 – 12) built around a shared green space. Such environments provide the independence of private dwellings with the benefits of shared resources and community living. Public areas of the homes, such as living areas, face the common area and bedrooms are positioned away from public view. The design is both community-oriented and environmentally friendly.⁵⁰ The communities are not gated, with a focus on involvement in the local community.⁵¹ Many such communities are created intentionally, although this is not always the case. Such communities are not confined to older people; indeed, such neighbourhoods are predominantly intergenerational.⁵²

Issues arising with this concept include how the ownership of the land is to be held and how permissible such land use is within existing town planning schemes. Although such communities could be created under present regulation through, for example, strata titling, such concepts seem ripe for adoption of more sophisticated co-housing arrangements. Furthermore, to ensure affordability for lower income residents, consideration could be given to alternative ownership structures such as co-operatives.⁵³

2.4 Multi-unit/Mixed-use developments

Research indicates that seniors want to remain in close proximity to urban areas with access to transport and services. The reality of the ageing population is that for these aspirations to be realised, more medium to high density housing, such as apartments, are essential.

Opportunities abound for development of high-rise apartments or 'vertical villages' catering for older people. New apartment complexes are attractive to some downsizers and are marketed aggressively, usually towards wealthier retirees.⁵⁴ Having said this, the models used are attractive to seniors and could be adapted to provide for more affordable options. For example, in Canada 'pocket' developments of two or more stories on narrow infill lots in existing residential areas have been utilised to construct multi-level homes suitable for older people, particularly older singles.⁵⁵

There is a growing acceptance of multi-unit/mixed-use developments which would provide older people with a mixture of companionship, security, support and access to the community which is only currently available in retirement villages. Such developments, many of which are already in existence, combine residential accommodation with mixed uses such as leisure and common areas, retail space and restaurants. In other cases such facilities may be located close by. Although the accommodation is available to people of all ages, additional on-site facilities and features could be provided for older residents. Furthermore, such developments can focus on seniors living alongside particular groups of people, for example, university students or young families.

⁵⁰ McCartney, K. (2012). Pocket neighborhoods: Small-scale living in a large-scale world. [Blog] *Shareable*. Available at: <http://www.shareable.net/blog/pocket-neighborhoods-small-scale-living-in-a-large-scale-world> [Accessed 13 Oct. 2015].

⁵¹ *ibid.*

⁵² Such concepts are common in Europe, Canada and the United States. For example, the WindSong Cohousing in Langley, British Columbia is made up of 34 townhouses. The townhouses are under strata title and are one-bedroom, two-bedroom and three-bedroom units to accommodate families, seniors, and couples.

See too the Westlake concept discussed at: Westlake Urban, (2015). Pocket neighborhoods: Creating close community. [Blog] *Westlake Urban Blog*. Available at: <http://westlakeurban.com/pocket-neighborhoods-creating-close-community/> [Accessed 13 Oct. 2015].

⁵³ As discussed in Chapter 3.

⁵⁴ See for example, the concepts discussed in Urban Taskforce Australia, (2013). *Urban Ideas: Apartment Living for Seniors*.

⁵⁵ Socha, L. (2011). *Pocket housing*. Presented at *Scattered Sites: Creating Affordable Mixed Housing Opportunities for Everyone*, Affordable Housing Flagship, Hamilton

2.5 Refurbishing existing buildings that complement surrounding residential areas

As many seniors want to downsize to local areas with existing infrastructure and transport, consideration could be given to redeveloping airspace above some public buildings (especially in the case of affordable housing), unused or vacant spaces. Several new developments utilise disused greyfield space. For example, in Turrumurra⁵⁶, a community focused facility of 200 apartments (including some residential aged care) was constructed on a public car park. It is envisaged that the development will revitalise the area, creating a new town centre.⁵⁷ Such options provide the community with an area that has multiple uses, green space, and is walkable. Such arrangements could be attractive to seniors as they may be a viable alternative to the communities they currently reside in and fulfil the day to day needs of residents.

Furthermore, it has been suggested that there should be greater access to targeted brownfield inner city developments being used by Local Government Authorities for age-specific housing.⁵⁸ So long as the appropriate environmental controls are complied with, such projects can achieve revitalisation of inner and middle ring suburbs and mirror successful developments elsewhere.⁵⁹

2.6 For the long haul – accommodation catering for changing needs

The models discussed above lend themselves to provision of the availability of continuing care facilities. Many seniors are concerned about what will happen to them if they become ill or frail. One of the reservations older people harbour with regard to retirement villages is that when a higher level of care is required, a person may be moved to another facility elsewhere. Although several of the concepts discussed in this chapter could cater for residential support, the idea of being able to move from low to high care in the same premises is appealing to many older people.

2.6.1 Apartments for Life

Apartments for Life originated from a concept developed in The Netherlands by the Humanitas organisation.⁶⁰ This form of accommodation allows older people to stay living in their own homes, no matter what level of care they require. Residents are able to stay in the same apartment for the rest of their lives, with the support of formal community care when needed.⁶¹

⁵⁶ Turnerstudio.com.au, (2015). *Turner | Projects*. [Online] Available at: http://turnerstudio.com.au/projects/Seniors_living/arv_turrumurra [Accessed 13 Oct. 2015].

⁵⁷ See too Top Ryde in Urban Taskforce Australia, op. cit.

⁵⁸ Rowley, op. cit.

Newton, op. cit.

Harnisch, op. cit.

⁵⁹ The North Berwick Woollen Mill in North Berwick, Maine, was redeveloped into 40 units of low-income senior housing: Land & Community Revitalization, (2009). *North Berwick Woollen Mill Property*. Brownfields success in New England. Maine: EPA.

⁶⁰ The non-profit Humanitas was founded in 1945 and has continued with a mission of supporting individuals who need assistance.

⁶¹ Glass, A. (2014). Innovative seniors housing and care models: What we can learn from the Netherlands. *Seniors Housing and Care Journal*, 22(1), p.75.

Fabris, P. (2013). 8 trends shaping today's senior housing. [Online Article] *Building Design + Construction*. Available at: <http://www.bdcnetwork.com/8-trends-shaping-today%E2%80%99s-senior-housing> [Accessed 13 Oct. 2015].

The Apartments for Life concept has been proposed in Australia; some cases have met with resistance, other have been more successful.⁶² For example, The Benevolent Society sought to create a purpose built complex of multi-storey apartments and community facilities at Bondi in New South Wales.⁶³ Onsite facilities were to include a cafe, dementia day care centre, a convenience store and consulting rooms. The site was to be open with the local community encouraged to walk through. It was proposed that units be affordable to lower income older people with 10% of the apartments set aside for low income older people who did not own a home, 30% for older people with a lower value property, and 60% at market prices. Unfortunately the project could not proceed due to community opposition citing concerns about residential amenity, the effect on property values and views.⁶⁴

2.6.2 Continuing Care Residential Communities

Related to this concept are Continuing Care Residential Communities (CCRCs). These facilities provide independent living, assisted living and nursing home facilities – a continuum of care. An older person can enter the facility and, while not necessarily staying in the same home or apartment for the rest of their lives, he or she will remain in the same facility. CCRCs are popular in the United States and Canada, but have not gained traction in Australia. While they may not be appealing to younger and/or healthier seniors, CCRCs may be an attractive option for older seniors or those experiencing ill-health.

2.7 Culturally and linguistically diverse seniors

Recent research in Western Australia demonstrated a reluctance from CALD seniors to leave family homes and often only did so when it was necessary to go to an aged care facility; the main drivers being cultural issues and family considerations.⁶⁵ However, several liked the concept of going into accommodation that was culturally and linguistically familiar to them. Residents can move from low to high care in the same facility, particularly effective where an older person is suffering from dementia and reverts to his or her first language.⁶⁶

⁶² Johnson, C. (2011). Seniors central living development. In: *Future housing for older Australians*. Housing NSW.

⁶³ The Greenhouse Project, a model of assisted senior living featuring small, shared dwellings with a high level of care, is growing in popularity. Groups of 10 to 12 seniors share kitchen, dining, and common areas, but have their own bedrooms and bathrooms. Fabris, op.cit.

⁶⁴ For a discussion of the proposal see Briggs, op. cit. The development did not continue as a result of a protracted challenge via, *inter alia*, the New South Wales Land and Environment Court. See for example, *Benevolent Society v Waverley Council* [2010] NSWLEC 1082.

⁶⁵ Freilich, A., Levine, P., Travia, B. and Webb, E. (2014). *Security of tenure for the ageing population in Western Australia: Does current housing legislation support Seniors' ongoing housing needs?* Perth: COTA WA.

⁶⁶ See for example, the Netherlands Retirement Village (Netherlands Retirement Village Association of Queensland Inc, (2015). *Netherlands Retirement Village*. [Online] Dutchvillage.com.au. Available at: <http://www.dutchvillage.com.au/> [Accessed 13 Oct. 2015]) and the proposed Hungarian village slated for commencement in Perth's eastern suburbs in 2016.

2.8 Housing for the life cycle

2.8.1 Multi-Age Precincts

Multi-Age Precincts (MAPS) are high density apartment style developments that are situated close to transport, shops and services.⁶⁷ It is suggested that such a precinct could comprise several hundred dwellings.⁶⁸ The emphasis is on community living with people of all ages living side by side. There is a focus on the longer term, with accommodation designs that adapt to changes in life cycles and provide for support services for residents of all ages, thus encouraging ageing in place. This concept could build on, or incorporate several of the concepts discussed in Chapter 2.

2.8.2 Life-cycle homes⁶⁹

Life-cycle or 'flexi' homes can be configured to provide flats, duplexes, or family homes. The aim of the concept is for occupiers to be "future-proofing" themselves from rising house prices and providing themselves with an income when they most need it, whether this is to help to repay the mortgage or to supplement their pension.⁷⁰

This housing model provides a choice of using the space for living together with separate areas for different generations, renting out part of the property and living in the remainder, or providing for a carer.⁷¹

2.9 Downsizing in place⁷²

2.9.1 Sharing or renting part of the property

An older person could decide to share a larger home; something that is permissible under the present legal and planning framework. An older person wanting to age in place could take in a boarder or lodger to earn additional income and avoid social isolation. Obviously, this could be a person of any age, although it is becoming more common for older people to choose to share with other older people.⁷³

⁶⁷ Murray op. cit.

⁶⁸ ibid.

⁶⁹ Cantrell, M. (2015). Croydon development offers 'shape shifting' intergenerational housing. [Online Article] *Housing*. Available at: <http://www.housingexcellence.co.uk/news/croydon-development-offers-%E2%80%98shape-shifting%E2%80%99-intergenerational-housing> [Accessed 13 Oct. 2015].

⁷⁰ Community Planning, op. cit.
Cantrell, op. cit.

⁷¹ ibid.

⁷² It should be stressed that these suggestions are not directed at seniors wishing to age in their own home and with no desire to move. In such cases there is no reason why residents should feel any compulsion to downsize. Although studies demonstrate that older people selling larger houses may 'free up' properties for families, this report does not proceed from this view and recognises the right of seniors to stay in their own home until they make the choice to downsize. The objective is to identify options that may make downsizing attractive if seniors are interested in doing so.
Pinnegar, op. cit.

⁷³ The Wesley Homeshare scheme assists this process through screening and 'matching': Wesley.org.au, (2015). *Wesley Homeshare*. [Online] Available at: <https://www.wesley.org.au/supportus/volunteer/volunteeragedcare/92-wesleyhomeshare.html> [Accessed 13 Oct. 2015].
Zuckerman, op. cit.

There are a number of issues an older person embarking on this course should consider, in particular whether the occupant is regarded as a boarder/lodger or has, in fact, become a tenant under residential tenancies legislation.⁷⁴ For example, if a 'boarder' has exclusive occupation of a particular area of the home, a court could conclude that the occupant is a tenant rather than a boarder. The distinction is critical in relation to the person's rights in relation to the property, and any period of notice that must be provided. The same comments apply if an older person rented out an ancillary building, for example a granny flat, on the property.⁷⁵ Other matters that may arise are the impact of any additional income on pension or taxation affairs. Furthermore, although unlikely in most cases, if several people rented the property, health regulations require registration if occupants exceed a certain number.⁷⁶

2.9.2 Dividing or partitioning

One large home could be divided into two (or even more) smaller residences. The older person could stay in the home but other people could rent, or potentially even purchase, the other areas. This is not uncommon and has been done for many years in relation to converting large old homes into flats. The ability to partition and/or split housing so the older persons can continue to utilise one part of the current dwelling while renting, or even selling the other part is still a novel concept in Australia, whereas many of the larger homes in Europe have been split to accommodate multi living, not just for seniors.

2.9.3 Subdivision

Older people could subdivide larger blocks so as to keep residing in the existing property, but reduce the area of the property. This could achieve some of the objectives of downsizing, including a smaller area to maintain and also obtain additional income from the sale of the property. There are many possibilities for the innovative division of existing properties, for example, 'battle-axe' lots could be converted into a second lot by split coding on end lots with side access.

Of course, subdivision can be expensive and complex and again, the proceeds of any sale may impact on pensions. Having said this, encouraging this type of measure means more lots would be available for infill housing. Again, local authorities could encourage older people to do this through a reduction in the fees associated with subdivision and the concessions suggested above in relation to additional income.

⁷⁴ For example, *Commissioner for Fair Trading v Voulon and Ors* [2005] WASC 229, and see generally Power, C. and Mott, P. (2003). A tale of two cities: Legal protection for rooming/boarded house residents in Victoria and New South Wales. *The Flinders Journal of Law Reform*, 7(1), p.137.

⁷⁵ Freilich, op. cit.

⁷⁶ For example, Part V Division 2 *Health Act 1911* (WA).

Chapter 3. What needs to happen from a legal, planning and policy perspective to ‘make this happen’?

...However local planning controls, financing and development have not always been able to change as quickly to deliver on these targets, nor have communities embraced or agreed with such plans.⁷⁷

3.1 Overview

Age-friendly and adaptable housing with improved design has the potential to strengthen neighbourhoods and at the same time improve the wellbeing of older people. Furthermore, as people age, appropriate design can reduce care costs by allowing smoother transitions to higher levels of care.

As can be seen from the concepts discussed in Chapter 2, there are an abundance of ideas regarding design and the delivery of age-appropriate housing that is both attractive to older people and can blend with the local environment. These concepts provide for what many seniors want when considering downsizing options.

Older people who are considering downsizing cite factors such as resistance to the notion or consequences of downsizing, the lack of availability of suitable properties and a number of cost deterrents that often outweigh the perceived benefits of changing residence. There are also a number of legal, planning and policy deterrents that impinge upon the creation of alternate concepts for retirement communities and on the ease and ability of older people downsizing their accommodation. This chapter examines these deterrents.

3.2 Legal issues

3.2.1 Legal procedures and nature of properties

Navigating the real estate market can be overwhelming for many older people with concerns about who to trust and the process they must follow to secure their new home. Some respondents noted that issues associated with selling the property (instructing a real estate agent, setting a price, having open houses, negotiating a sale price and the associated legal dealing and fees) were just ‘too hard’. Similarly, the complexity of documentation for new purchases, especially involving strata or community title, was seen to be daunting.⁷⁸

3.1.2 Strata and community title

Legislation governing strata and community title is complex and confusing. Many seniors find the concept of buying ‘off the plan’ troubling, especially with the possibility that the final design may change considerably. The contracts are lengthy and there is an abundance of documentation that, it is suggested, could be streamlined.⁷⁹ Many seniors do not appreciate the difference between living in higher density environments, especially in relation to alterations, use of common property and complex management.⁸⁰

⁷⁷ Planning Editor, (2012). How to increase densities without losing the neighbourhood. [Blog] *The Planning Issue*. Available at: <http://planningissue.com/2012/02/19/how-to-increase-densities-without-losing-the-neighbourhood/> [Accessed 13 Oct. 2015].

⁷⁸ As discussed in Part 3, more education regarding legal issues associated with the conveyancing process, through vehicles such as Western Australia’s Seniors Housing Centre, could alleviate these issues.

⁷⁹ Freilich, op. cit.

⁸⁰ *ibid.*

Furthermore, recent proposed amendments of strata title laws in both New South Wales and Western Australia seek to undermine security of tenure for owners of strata titled properties.⁸¹ At present, legislation prohibits redevelopment unless 100% of owners agree, but the proposals suggest that this percentage be reduced to 75%. Although the proposals are supported by arguments for revitalisation and better use of ageing properties, it is likely older strata title owners, who may not be able to afford to move in the same area if they are compelled to sell their property, will be disadvantaged.

3.1.3 Retirement villages

There is a reluctance in many seniors to consider entering into retirement villages unless absolutely necessary.⁸² In addition to the seemingly psychological barrier to the concept of retirement villages, the legal position was again of concern to some respondents.

Retirement village legislation can be very confusing and complex. Village rules are seen as very limiting, with the inability to take pets one of the main deterring factors. Recent research in Western Australia revealed that many older people would not consider retirement village living and those who had often wished they had not taken that path. The complexity of the documentation was a major factor and the claim ‘we didn’t know what we were getting into’⁸³ was often cited. The research identified a lack of consultation and communication, ineffective dispute resolution processes and allegations of excessive fees and charges.⁸⁴

For many ‘younger’ older people, who are used to owning their own property, the concept of a life lease, where there is no green title or physical ownership, also presents an issue, as this is seen to diminish their fiscal standing in terms of their perceived wealth and asset holdings.

3.1.4 Lifestyle villages

Lifestyle villages have become increasingly popular in recent times for downsizers or prospective downsizers. Although for the most part falling under the same legislation as residential parks, lifestyle villages feature a more specialised form of tenancy arrangement and much longer periods of tenure. The marketing of the villages emphasises the benefits of selling one’s home, purchasing an attractive smaller property and enjoying the ‘lifestyle’ of the village. However, due to their size, lifestyle villages tend to be situated in areas ‘out of town’, giving rise to concerns about leaving familiar areas, proximity to services and travel time.

⁸¹ NSW Government, (2013). *Strata title law reform: Strata and community title*. Law reform position paper. Sydney: NSW Fair Trading.

McGrath, P. (2015). These are the new laws that could force people from their homes. [Television Segment] 7.30, ABC. Available at: <http://www.abc.net.au/7.30/content/2015/s4311142.htm> [Accessed 13 Oct. 2015].

Sherry, C. (2015). Strata law overhaul a step too far. *The Sydney Morning Herald*.

⁸² Freilich, op. cit.

⁸³ *ibid.*

⁸⁴ *ibid.*

The legal downside is that the purchaser does not own the land. The 'owner' has a contractual right to the structure on the land, but the land itself remains the property of the village proprietor. Again, this may be of concern for those seeking the security of title to the land, the impact on fiscal standing and concerns regarding resale.⁸⁵ Furthermore, the legislation governing lifestyle villages is, for the most part, the same as that of residential parks. Although this may be beneficial to the proprietor for financial and developmental reasons, lifestyle villages are a very different product to residential parks and separate legislation regulating the specific legal concerns regarding lifestyle villages may assist in making downsizers more comfortable about this product.

3.1.5 Residential parks

Some older people considered or decided to downsize into a residential park. Many such parks are promoted as convenient, lower-cost retirement accommodation but involve significant upfront costs, including the purchase of a manufactured home. Unfortunately, legal protection is for the most part minimal, with residents or potential residents citing concerns about security of tenure, management practices and fees.⁸⁶ The relevant legislation is problematic and differs between jurisdictions. Indeed, some residents have very insecure periodic tenure, some have tenure up to five years, while others have tenure ostensibly lasting decades. In the event of having to move, for example if the park land is sold for redevelopment, there are a lack of alternative locations to place manufactured homes.⁸⁷ There is also concern about the vulnerable position of residents in the event of the park owner's insolvency. Despite lengthy reviews of residential park legislation in most jurisdictions, the difficulty in balancing the rights of the residents and the park owners remains problematic.

3.2 Limitations on title

3.2.1 Adopting new concepts

The lack of flexibility and range of titles available is also seen as a deterrent to creating downsize options for older people. Currently used to 'Green Title' property ownership, many older people find the concept of lease or strata title difficult to accept, although the latter is slowly gaining in acceptance. There is a need for enhanced flexibility in relation to titling options in order to accommodate innovative concepts.

Jurisdictions vary in relation to alternate title options, such as community and company title. Lack of availability, and a lack of understanding of the complexities where they are available, acts as a deterrent for people wanting to develop new and innovative accommodation options for older people where current title options do not 'fit'.

⁸⁵ *ibid.*

⁸⁶ *Residential Parks (Long Stay Tenants) Act 2006 (WA)*

⁸⁷ Freilich, *op. cit.*

Title issues around granny flats and multiple dwellings can give rise to contentious legal issues when things go wrong. As these structures tend to be built on an existing title, questions arise over who owns the ancillary dwelling and how an older person can retrieve any financial contribution he or she has made to the arrangements.⁸⁸ These considerations are particularly important in relation to several concepts discussed in Chapter 2. At this point it is instructive to examine some of the legal deterrents, and possible solutions, to enable greater utilisation of newer concepts.

3.2.2 Seniors purchasing a home with other seniors

If this type of arrangement is to develop, there needs to be consideration of:

- What is to happen in the event of a death of one owner or if an owner wishes to sell his or her interest?
- What is the most suitable way of holding the title to the property?

In the case of a death, the rules of survivorship apply to joint tenancies so, for example, if three people purchased a property as joint tenants, upon the death of one of the joint tenants the remaining share would be absorbed by the other joint tenants.⁸⁹ This would be of concern in circumstances of inheritance, as the interest could not be passed via will to a person of the deceased joint tenant's choice. If the property is held as tenants in common, the property can be devolved in accordance with a will. This may be difficult if the person inheriting the interest would not 'fit in' to the arrangements or wants to sell the property. Problems could arise too if a co-owner wants to leave, for whatever reason, and the interest may be difficult to sell. The nature of the arrangement is such that there may be a limited pool of potential buyers, especially if the other residents were looking for a person of a similar age or exhibiting certain qualities.

At present, the legal system may flounder to address these arrangements, especially in relation to how the property should be held so as to balance and protect the interests of each owner, but also be equitable in the event of the arrangement terminating.

3.2.3 One block – several residences

Although permissible in some rural areas, most current planning regulations would not seem to accommodate the concept of 'shared ownership', i.e. multiple dwellings within one property under one title.

⁸⁸ Some, T. and Webb, E. (2015). What role for the law in regulating older people's property and financial arrangements with adult children? The case of family accommodation arrangements. In: B. Kozak and R. Reubner, ed., *International perspectives on the rights of older persons*, 1st ed. USA: Vandephas Publishing.

⁸⁹ Bradbrook, op. cit.

Obviously arrangements such as subdividing could be considered or a strata titling option explored. In relation to strata title, in Western Australia, for example, there is provision for the creation of an over-55s strata scheme. Under the Strata Titles Act 1985, some strata titled schemes may be restricted to occupation by retired persons and their partners.⁹⁰ Although by-laws between these schemes may differ, at their heart any person purchasing or living in the property must be over 55.⁹¹ In future it may be useful to consider other title options or adopt the structure of a cooperative venture or a cohousing development.

Another possibility is the use of company title, as utilised in New South Wales. Unlike strata title, a purchaser of a dwelling under company title does not obtain any legal title in the land. The purchaser receives shares in the company that has ownership of the building. The company can place restrictions on the transfer of shares to potential owners; indeed, any prospective purchaser has to be approved by the directors who usually have to go through an approval process. Indeed, this arrangement could be useful in a number of cases discussed in chapter 2. If seniors are to live together in a complex, or want to exercise caution over who can enter the property, this may be an appropriate vehicle.

3.2.3 Intergenerational housing

Family accommodation arrangements, where older members of a family live on or in the same property as younger members, are increasing in popularity and in kind. Intergenerational housing may take the form of:

- different generations of one family sharing one property, or
- two or more dwellings being constructed on one piece of land.

In relation to the first scenario, consideration should be given to how the property is held between the adult occupants/owners and what is to occur in the event of the death of one or more of those people. Furthermore, the legal framework regulating family accommodation arrangements is precarious. Despite the prevalence of these arrangements, and the recognition of the potential for exploitation of an older person who may, for example, sell their home to contribute to the intergenerational venture, the law is uncertain and from a practical perspective largely ineffective.⁹² Most such arrangements are informal and only come to light when something has gone wrong. Often the older person is not named on the title to the land. When the arrangement breaks down – and assuming the older person has the financial and emotional fortitude to pursue the matter – he or she will encounter a situation that is difficult to settle or resolve. A dispute involving a family accommodation arrangement can give rise to a confusing amalgam of legal issues including, but not limited to, contract law, land law, equity, trusts, and family law. There may be social security and/or taxation implications.

⁹⁰ A 'retired person' is defined as someone who is 55 years and over or someone retired from full-time employment.

⁹¹ Debate arises from time to time in relation to younger relatives moving in and can give rise to conflict.

⁹² Seniors Rights Victoria, (2012). *Assets for care: A guide for lawyers to assist older clients at risk of financial abuse*. Melbourne: Senior Rights Victoria / Council on the Ageing (Vic).

In relation to the second scenario, again how the property is to be held can be complex. Although subdivision or strata-titling is a possibility, the nature of the relationship between the occupants of the land suggests that a company title arrangement may regulate how to pass dwellings on the property to others. As noted above, this may have ramifications regarding family members who want to sell or move and also have an impact on market value of the property. In some cases, depending on individual arrangements, a family accommodation issue, as discussed above, could become relevant and, again, there are no simple legal answers to address such issues.

3.2.4 Clusters, multi-unit and other models

In relation to the other models discussed it would appear that existing laws, particularly those pertaining to strata title and community title where available, and perhaps in some cases company title, could be utilised. It would seem that in this case the barriers are not legal ones but more in relation to planning, in particular what can be done in a particular local area and the willingness of local authorities and developers to embrace the newer concepts.⁹³

3.3 Planning issues

3.3.1 Problems encountered in the planning and development process

A range of planning issues were raised during discussions for this research, ranging from capacity to deliver through interpretation, to lack of flexibility. There was a general feeling that there was a lack of understanding about the strategic implications of planning, with differing dynamics between local and state planning.

Feedback from interviews consistently noted that different planning regimes are applied across local government authorities leading to confusion amongst commercial planners and architects, with an application acceptable to one local authority being unacceptable to another. Each local authority has its own set of rules, described by several commercial planners as 'dumbed down rules'.

Local planning schemes have considerable inbuilt flexibility, but often they are insufficiently utilised. The depth of skills currently available at local government authority level needs to be addressed so planners can look at more innovative and flexible outcomes from existing planning schemes.

Local authorities could do more to promote senior-friendly products in planning and ageing strategies by encouraging more areas of higher density, age-friendly accommodation around transport hubs and town centres. This would be attractive to 'local' downsizers or to encourage downsizers to come from other areas. For example, if an older person sold a home in another area, the existence of properties convenient to amenities and transport may be very attractive indeed, and overcome reluctance to move from a familiar area.

Greater emphasis should be placed on the involvement of developers and planners in planning discussions prior to submission of planning or development applications. In many cases, all the work is undertaken before direct involvement of the local government planner and where issues are identified, often has to be reworked at significant additional cost to a client.

⁹³ This is discussed below.

The creation of multi-professional development design teams to include the developer, local government planner, urban planner and architect on both subdivision and individual projects could help resolve issues and problems that arise through the development application process, so that it can effectively be rubber stamped at the end of the process.

Some local government authorities have already taken this lead by introducing design review committees to look at specific building development projects. Developers are also welcome to discuss proposals with the local authority before submission, but seldom take up this offer.

Local government authorities should be empowered to be flexible and promote housing choice and not be afraid to do this. Local government members (councillors) need to get on board in terms of changing the flexibility of their planning schemes.

3.3.2 Facilitating product development

Greater flexibility is required in both planning considerations and in the design of housing for older people. There is a greater need for innovative building products to be developed. These products are not currently available. Consideration should be given to:

- greater flexibility in current house design so house can be partitioned when the time comes to downsize
- providing flexibility to rent out parts of the home without this impacting on pensions
- developing more appropriate housing options, small lot developments with smaller blocks and narrower street frontages
- increased use of mixed/higher density to develop the required housing mix including densities above the current R-Codes
- possible need to mandate land use and density bonuses
- making it easier to split blocks and create multi-unit developments
- density bonuses for age-appropriate housing being extended to smaller blocks and housing numbers. This would be beneficial in existing suburbs and help drive up density
- increasing minimum levels within national Code of Construction (BCA) to suit liveable housing demands
- focusing development of age-appropriate housing targets in activity centres, mandating a 10% to 15% ratio
- developing activity centres located adjacent to major shopping centres and transport nodes
- including residential care, residential villages, clusters and age-appropriate facilities in local planning schemes in the same way schools and public open spaces are mandated at present
- providing developer bonuses to stimulate interest. This could include density bonuses or additional floors to reduce marginal costs and so compensate for age-specific or affordable allocation in development yield.

There is a need to try and identify the savings/benefits to government if appropriate housing is available. By freeing up existing housing, downsizing options may well control urban sprawl, while the availability of age-appropriate housing in the community helps maintain independence and wellbeing and reduces the burden on health and residential care models.

3.3.3 Local housing policies

Local government authority local housing strategies may include demand for multiple housing types, including the identification of appropriate sites and development of age-appropriate housing. All local housing strategies should identify areas with ageing populations and facilities for seniors' health services in those areas, and offer development incentives for purpose built aged housing in those localities. Indeed, a government agency might facilitate this in an integrated way, buying properties from seniors and rehousing them in the same area at net cost while creating an income stream to deliver additional local services for older people.

3.3.4 Focus on grey and brownfield opportunities

Greyfield and brownfield areas offer opportunities to provide more infill housing for seniors and other age groups. This will require appropriate planning frameworks to guide the process within local authorities, and provide for appropriate special information to ensure that stakeholders are sufficiently informed regarding appropriate sites and development possibilities.⁹⁴

3.3.5 Overcoming resistance to change

Despite the desirability of utilising higher density living on these sites, some local authorities are making it more difficult to undertake these developments through imposing tighter planning controls, and by providing more opportunities for objections to, and appeals against, planning decisions.

3.3.6 Overcoming NIMBYism

Local authorities should encourage proactive community engagement of residents to dilute issues regarding local opposition to increased density, different forms of accommodation and affordable housing.⁹⁵

3.4 Policy considerations

3.4.1 Government needs to be in the 'driving seat'

At risk of stating the obvious, Australia requires a whole of government approach to address housing supply and affordability issues. Although seniors' housing is but one part of the housing 'puzzle', the accommodation choices of seniors will – due to increasing numbers and their significant share in the housing market – impact on the entire housing landscape. Getting seniors' housing issues 'right' (whether this involves staying in one's home or seeking to downsize) is not only good for seniors but of benefit to the wider economy and society. Real change needs to occur quickly to radically improve outcomes in this area.

⁹⁴ Rowley, op. cit.

⁹⁵ Senate Economics References Committee, (2015). *Out of reach? The Australian housing affordability challenge*. Canberra: Commonwealth of Australia.

At present, the Federal Government seems to be distancing itself from housing issues generally and national leadership on housing has been neglected for some time. State governments need to take an immediate and active role in facilitating change across state government responsibilities. As Paduch notes:

Government policies and initiatives have the ability to encourage and guide design quality in the provision of housing for older persons that provides real choices in accommodation types; however the extent to which this is occurring needs to be questioned.⁹⁶

State and local governments need to work closely together and be ‘on the same page’ in relation to the overall objective of providing a variety of suitable housing types in established areas. Local government needs to ensure that they balance genuine neighbourhood concerns with the often misguided reactions of NIMBYism.⁹⁷

An example of this occurred recently in Western Australia where it appears to have refrained from its approach to higher density living in established suburbs. In 2010, residential design codes (R-Codes) in Western Australia were amended in an effort to increase the amount of higher density, infill housing. In July 2015, the changes were wound back with fewer apartments permitted to be built on higher density-zoned land. Parking requirements were also increased. While there is encouragement to construct higher density projects on transportation routes, overall the changes dilute optimism regarding higher density living in established suburbs.⁹⁸

3.4.2 Creating demand

Community engagement is vital to stimulate demand in appropriate products in this space. Unfortunately many older people, particularly Baby Boomers, oppose changes in density and new types of housing without realising these changes could be of benefit to them. In our interviews the default position was often to abide by the *status quo*. Even if respondents wanted to downsize there was a suspicion of higher density developments with concerns about inter alia noise, privacy and parking. When the ‘upside’ of such developments was discussed, there was some change of heart; indeed, in some cases there was enthusiasm for the ideas, but there is an ingrained negative perception that must be overcome.

There is a need to educate both older people and their families on the benefits and options for downsizing. Perhaps a campaign asking the question ‘where do you see yourselves in 10 years’ time?’ would encourage the downsizing ‘conversation’.

⁹⁶ Paduch, op. cit.

⁹⁷ Mandy Press, (2009). *Community engagement and community housing: Lessons and practical strategies for local government for responding to contested community housing proposals*. St Kilda: City of Port Phillip.

HomeComing Community Choice Coalition, (2005). *Yes, in my back yard: A guide for Ontario’s supportive housing providers*. Ontario: HomeComing Community Choice Coalition.

Affordability and Choice Today, (2009). *Housing in my backyard: A municipal guide for responding to NIMBY*. Ottawa: Federation of Canadian Municipalities.

Gilmour, T. (2012). *Overcoming NIMBY opposition to developing new affordable housing*. Kinetic Information Systems White Paper Series. Sydney: Kinetic Information Systems.

Davison, G., Legacy, C., Liu, E., Han, H., Phibbs, P., van den Nouwelant, R., Darcy, M. and Piracha, A. (2013). *Understanding and addressing community opposition to affordable housing development*. Final Report No.211. Sydney: Australian Housing and Urban Research Institute.

⁹⁸ Young, E. (2015). High-density housing backdown will cost WA homebuyers in the long run: Property Council. *WA Today*.

Ensuing discussions would stimulate interest, participation and ownership in regard to community change, and create the market force for the development of new, appropriate and affordable products in the localities where they are required.

It is important that more demonstration projects are made available and put in the public eye. Such projects could be jointly developed by state and local government in partnership with developers and builders, with input from seniors on the types of product that would appeal.

In Western Australia, for example, both Landcorp and the Metropolitan Redevelopment Authority could create alternative models of community that offer new models of housing and promote lifetime neighbourhoods and lifetime housing for all ages. Furthermore, in New South Wales the *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (SEPP Seniors Living)* provides for a legislative framework governing the design and assessment of seniors' living developments in New South Wales.

3.4.3 Overcoming financial hurdles

Government needs to consider reducing the financial hurdles preventing older people from downsizing by exempting or offering older people concessions from fiscal charges such as stamp duty and capital gains tax. This would act as a major stimulus to encourage older people to downsize.

Incentives could be provided to seniors to sell a larger home to downsize by decreasing or eliminating stamp duty on these transactions. Commission on sales could be discounted by real estate agents, perhaps subsidised by government to some degree to reduce costs.

3.5 Other considerations

3.5.1 Examination and encouragement of other forms of investment

Not-for-profit involvement

Not-for-profit organisations are poised to deliver significantly in age-appropriate housing and have the financial strength through strong balance sheets to contribute significant capital in this regard.

Some not-for-profits are not as savvy as they could be in terms of commercial development and need to upskill to be able to effectively influence the housing market. Not-for-profit providers have the ability to partner with a commercial developer to leverage their commercial acumen. Providers can access grants and land and could benefit from a joint venture where they provided the land component to the development, while a developer delivers affordable housing that could be used for seniors.

For example, some of the community housing entities in the UK are ambitiously raising private sector finance to support construction of new affordable housing. These groups are applying innovative commercial approaches and business models that produce profits that can then be re-employed for new housing developments.

Joint ventures

Not-for-profit housing providers can access grants and land through their NFP status and this could be applied as capital in a joint venture partnership with a commercial developer to leverage their commercial acumen.

Housing providers could, for example, provide the land and/or some capital input to the development while a developer delivers an affordable housing product for seniors. The introduction of land and grants would have the impact of reducing the development cost to the developer to allow return on investment targets to be achieved on the component the developer can sell, while the not-for-profit housing provider gets the housing product as part of the JV.

An example of this can be seen in the new One on Aberdeen development in the heart of Perth. The One on Aberdeen development is a public-private partnership between the Western Australian Department of Housing and Diploma Properties in which the Department is using its land assets to help the private sector to finance this project.

This 168-unit development comprises seven commercial units, together with 161 one-bedroom and two-bedroom apartments offering a range of housing solutions, including social and affordable rental, traditional rental and home ownership, and shared home ownership opportunities. Although One on Aberdeen does not specifically target older people, the public-private partnership concept could equally be applied to allow older people to benefit from the provision of affordable, age-appropriate housing.

Institutional investment

Furthermore, there is growing interest from investor groups to invest in retirement living and age-appropriate housing products, either because of their social conscience or for greater gain further down the track.

It is imperative that there is further investigation of novel and diverse forms of finance to increase the supply of affordable senior housing including private placements, private equity, public offerings and peer-to-peer lending. Finance structures that involve sale and leaseback of existing homes, greenfield, greyfield or even brownfield projects, and management of existing facilities should also be considered. A range of senior housing models that are attractive to institutional investors and self-managed superannuation fund (SMSF) trustees could be encouraged.

To date, there is little evidence of a willingness – or the availability of opportunities – for the investment and superannuation sectors to invest in affordable housing in Australia. Yet it is possible to structure and finance senior housing projects in ways that can provide a relatively steady and low to medium risk income stream for retirees and others within diversified investment portfolios. The potential benefits of senior housing as a new asset investment class include the strong growth in demand for the underlying assets and services, and the apparent minimal risk correlation between senior housing needs and demands and the broader economic and financial market dynamics. Some of these benefits are already recognised by investors, with several aged care property and service companies successfully raising capital on the Australian Securities Exchange over the last few years.

Furthermore, investment in senior housing fits squarely within the socially responsible investment (SRI) spectrum. Yet residential housing is conspicuously absent in screening activities utilised by Australian managers of SRI funds. This is surprising, especially in light of successful SRI initiatives involving social housing in the United States and social housing projects operated by real estate investment trusts (REITs) in Europe. There are a broad range of novel strategies within the growing social investment market that have been trialled, including the use of social impact bonds (SIBs) in the UK that have attracted new forms of external finance for the delivery of homelessness services.⁹⁹

Government has a role to play here too. In the UK existing taxation structures were identified as a deterrent to private sector investment in housing.¹⁰⁰ As a result, in 2014 the UK Government introduced a new social investment tax relief program, which included the establishment of a government-run accreditation scheme for social impact bonds eligible for social investment tax relief. In the US, flexibility has been required in relation to zoning and planning regulations to encourage the development of age-friendly housing stock in urban areas.¹⁰¹ Although ‘infill’ housing is more expensive to develop, it was recognised that alternatives added to ‘urban sprawl’ and isolated older people from amenities and services. Regulatory changes were introduced to resolve planning blockages and it was found that the financial returns for lenders and equity investors were higher over long periods.¹⁰²

3.5.2 Focus on seniors

Education

The key to developing housing choices appropriate for older people is education. We need to convince older people that selling the family home is not the end of the world, and that villages, serviced apartments and other appropriate smaller housing choices are acceptable forms of accommodation. However, these need to be in the same familiar neighbourhood.

This may not happen or improve overnight but a whole of government approach is necessary to address the issues that deter older people from downsizing, so real change can occur quickly to radically improve outcomes for seniors.

There is a need to look longer term at strategic/community planning to identify and cater for a wider range of needs before schemes are developed for comment. We need a lot more discussion/debate on this issue – councillors, community, state government, local government, etc.

⁹⁹ Department for Communities and Local Government, (2014). *Qualitative evaluation of the London Homelessness Social Impact Bond*. First interim report. London: Department for Communities and Local Government, p.16.

¹⁰⁰ Department for Business Innovation & Skills, (2013). *Consultation on social investment tax relief*. London: HM Treasury. HM Treasury, (2014). *Social investment tax relief: enlarging the scheme*. London: HM Treasury.

¹⁰¹ *Finance Act 2014* Part 1, Chapter 4, Social Investment Relief

See, e.g. Schwemm, R. and Allens, M. (2004). For the rest of their lives: Seniors and the Fair Housing Act. *Iowa Law Review*, 90, p.121.

¹⁰² Suchman, D. (2002). *Developing successful infill housing*. Washington, D.C.: Urban Land Institute.

McConnell, V. and Wiley, K. (2010). *Infill development: Perspectives and evidence from economics and planning*. Washington, DC: Resources for the Future.

Pivo, G. and McNamara, P. (2005). Responsible property investing. *International Real Estate Review*, 8(1), pp.128-143.

Pivo, G. (2005). Is there a future for socially responsible property investments? *Real Estate Issues*, pp.16-26.

Assistance with information and the logistics of moving

Research indicates that many older people are concerned about the logistics of downsizing and could be assisted by someone to assist them through the process. Specialised services to assist older people in the moving and downsizing process might include forward planning for housing and care needs, financial advice, and assistance in the moving process. Downsizers could also benefit from improved information about housing choices and the practical aspects of downsizing.

3.5.3 How can we ensure that those on low incomes have the option to be part of this?

Affordable, appropriate accommodation options are required by many older people when considering downsizing to age-appropriate housing. This may be because they:

- want to release part of the equity in their house to fund their retirement
- already live in a lower cost house and need to move to similarly priced accommodation within the locality in which they live
- rent accommodation and are reliant on the relevant department of housing, community housing providers, not-for-profit aged care organisations or private landlords for age-appropriate housing.

The issues of delivering affordability and/or age-specific housing are not dissimilar and depend on land values, a major element of total housing cost, and the impact on return on investment to a developer should they consider development of non-mainstream housing.

To accommodate the development of affordable, age-friendly housing, governments must either:

- provide developers with access to financial incentives, such as was provided by the recently abolished NRAS Scheme, or
- provide development bonuses to allow for an increased density of development, so that the additional units delivered at marginal cost to the development offset the impact on yield, and allow the developer to achieve their return on investment targets while delivering affordable and/or age-friendly accommodation at the same time.

There could also be investigation into relatively novel arrangements, such as housing cooperatives, as a way for lower income older people (or intergenerational communities) to collaborate within supportive communities. The concept has gained traction in the US with regard to seniors, but not so much in the UK and Australia.¹⁰³

¹⁰³That is not to say that there are no cooperative housing communities in Australia: Schwartz, op. cit.

There are three major types of affordable cooperative housing:

- low-equity cooperative housing
- community land trusts
- not-for-profit, non-equity co-operative housing.

The first two types permit residents to have a share in the ownership of a private residence, but feature ‘an element of communal responsibility and mutual care built into the financial arrangements, the built form of the residence itself or a shared ethos among residents.’¹⁰⁴ The problem is that neither system would be easy to implement in Australia at present. For example, community land trusts are difficult to fit within existing property laws. Although used with some success in relation to Indigenous land holdings, at present it would be difficult to utilise this arrangement within the existing Torrens system.¹⁰⁵ It has been suggested that community land trusts may require the introduction of targeted legislation.¹⁰⁶

The third type involves means-tested residents that ‘are members of, and take responsibility for, a cooperative housing building by paying a rent that is lower than market rate and assisted through government funding.’¹⁰⁷

Again this concept would need to adapt to existing legal and planning frameworks, or amendments will have to be made to accommodate co-housing projects. In most jurisdictions this does not fit within planning legislation. Reference could be made to Western Australia where some amendments of granny flat or ancillary dwelling provisions by some councils could achieve a co-housing arrangement of at least two homes on one property. However the shortcoming in this case is that the ownership of both properties remains with the registered proprietor of the land. In the event of a dispute, the person inhabiting the ancillary dwelling is in a precarious legal position.¹⁰⁸

3.5.4 Other support options

In facilitating access to a greater level of age-specific and affordable housing, both for older people and those on lower incomes, the Federal Government should:

- reinstate the national NRAS Scheme
- extend the Keystart concept to older people
- develop the concept, credibility and acceptability of reverse mortgages through financial institutions, perhaps including some forms of reverse mortgage backed by state governments.

¹⁰⁴O’Neill, P. (2008). *Housing affordability literature review and affordable housing program audit*. Sydney: Urban Research Centre, University of Western Sydney.

¹⁰⁵McGee, op. cit.

¹⁰⁶Schwartz, op. cit.

¹⁰⁷O’Neill, op. cit.

¹⁰⁸Somes, op. cit.

Development of affordable housing and age-specific housing should not be done in isolation. Affordable housing and age-specific housing should ‘jigsaw’ into mainstream developments to be part of the wider community.

Finally, more work could be done to improve the security of tenure and conditions for residents and prospective residents in residential parks and lifestyle villages. This could include investigating ownership opportunities, including cooperative ventures.¹⁰⁹

¹⁰⁹Salmon, D (2011) ‘How residents of manufactured home parks form cooperatives to buy and then operate their manufactured home park’, *Churchill Fellowship Report*, The Winston Churchill Memorial Trust of Australia.

¹¹⁰Paduch, op. cit.

Concluding remarks

To cater for all these aspirations, existing housing and care options must evolve through innovations such as greater diversity of housing choices suitable for ageing in place, and ease of integration of housing and care environments. Although there have been efforts to raise the standard and range of accommodation choices for older people, there is still a dearth of innovative approaches that succeed in balancing seniors' independence, preferred locale and necessary levels of care and support.¹¹⁰ With the negative perceptions of traditional housing for older people, any product would need to be innovative and suitable enough to tempt people away from their homes *and* outweigh other, particularly financial, barriers to downsizing. Supportive urban planning through a flexible legal, planning and policy framework is essential.



GPO Box 461, Melbourne VIC 3001 **P:** 03 9296 6800 **F:** 03 9650 9344
E: info@productiveageing.com.au **W:** productiveageing.com.au