

Amberlea Residences Pty Ltd

5 Pearson Rd, Drouin VIC. 3818

22nd April 2013

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Subject: Senate Inquiry into Aged Care Act Bills (*Living Longer. Living Better*)

Submission from 'Amberlea Residences Pty Ltd'

Thank you for the opportunity to provide this submission.

In November our organisation Amberlea Residences Pty Ltd responded to the *Living Longer Living Better - 'ADVICE ON ACCOMMODATION PAYMENTS AND EQUIVALENCE OF LUMP SUM AND PERIODIC PAYMENTS' proposed/recommended by the governments Aged Care Financing Authority's (ACFA).*

'Amberlea Residences Pty Ltd' (AR) now provides comment/feedback on the latest Aged Care Reform Legislation briefing/proposals drafted to go to the Senate. We wish to highlight significant impact we believe the proposed changes will have our Industry.

ACS has been an Approver Provider for some 13 years. It has have planned, financed, developed and build (in two stages) a 91 bed high and low care facility in country Victoria and we are very keen to see that this good operation remains viable and continues to serve the needs of our elderly in our region.

I have read as much as possible on the current proposals and remain extremely concerned about its impact in relation to future viability and sustainability of current residential facilities.

I do not see the proposals delivering many of the stated objectives (below). In fact many of these proposals conversely impose significant additional costs on Residential Providers by withdrawing some current forms of income and/or repackaging other forms income (This still has not been confirmed.)

The main stated objectives are:

- A. Create additional residential places and upgrade others.
- B. Increase choice for Residents.
- C. Improve ACFI
- D. Workforce.
- E. Dementia.

The government seeks to reform the age care industry, but to date it appears to have ignored the majority of the recommendations of the **Productivity Report**, and ignored the proposals/feedback of by the **Aged Care Financing Authority**, and finally appears to be ignoring the concerns/**submissions of the aged care industry**, in particular aged care providers.

The proposals have significant negatives for Providers with obvious consequences of reduced investment, lower returns, inability to attract capital etc. The current mood of the development market is from extreme caution to stagnation, hold on expansion, to looking at exiting the industry.

The Workforce Compact needs careful management and to date it has received anything but.

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At this stage it would be sensible to listen to the providers of aged care services whose feedback you are seeking again, and - remove and/or amend some of the proposals, or review others with further consultation.

Executive Summary

Below is a broad summary of

- the Aged Care Financing Authority's (ACFA): 'ADVICE ON ACCOMMODATION PAYMENTS AND EQUIVALENCE OF LUMP SUM AND PERIODIC PAYMENTS' (NOVEMBER 2012),
- AR's response to this, and
- AR's response/submission to this 'Senate Inquiry into Aged Care Act Bills (*Living Longer Living Better*)'

Alliance Care Services Pty Ltd (ACS) has reviewed the available documentation and sat in on the briefing session and makes the following comments:

1. **The distinction between high and low care will be removed** - AR welcomes this
2. **A maximum lump sum apply to new bonds** (unless higher prices have been approved by the relevant Government authority)
 - a. ACFA proposed that the maximum be set at the 95th percentile of bonds – this was acceptable to providers but this was overturned with no consultation with providers
 - i. The Guidelines for deciding the max. accommodation bond charged leave a lot of unanswered questions but it is already clear that the level of bonds will reduce which in turn will restrict capital investment, renewal etc.
 - ii. These measures alone will in turn reduce the value of the business - in terms of ownership or for bank security purposes, and reduce investment going forward.
 - iii. It will reduce cash flow, "profitability" and capacity to service current / new borrowings.
 - iv. The resident can choose how they will pay the bond (lump sum or otherwise) which is totally appropriate however they can decide after they enter care and have security of tenure. This has planning and possibly significant liquidity concerns for any provider.
 - v. Based on the proposed changes we have decided to cease further expansion and development plans pending further clarification and analysis.
3. **The removal 'retention amounts' - We strongly object to this**
 - a. Retentions amounts should remain and providers and
 - b. No retention from Accommodation bonds from July 2014. This is a loss per bond paying resident of \$323 per month, or say \$4K p.a. This would amount to close to \$200K where a facility has 50 bond paying residents – This change is a negative to the Provider, but also there is no benefit to the Resident - it only benefits the resident's estate!
 - c. Department data shows average EBITDA at \$6,417 for 2009/10, while the above changes to retention income alone is estimated to "cost" approx. \$4,000 per bond paying resident!
4. **Pricing that providers proposes to charge be published** in advance – this is acceptable
5. **That the current method for determining the equivalence of lump sum and periodic payments be maintained** – we agree with this.
6. **The 'cooling off period' proposed 28 days - this should be abolished or reduced**
 - a. the concept of residents deciding on Accommodation Bonds payment option chosen before entering care is floored and unmanageable,
 - b. It is unsustainable for providers not being able to predict bond inflows

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7. **Accommodation Bond Insurance** – it is overwhelmingly appreciated that this is not proceeding

8. ACFI

- a. Changes to ACFI to date have been like “patches” and have introduced uncertainty.
- b. We need a complete review of the ACFI system to ensure it meets its objectives in an effective and efficient manner.

9. Workforce

- a. We all agree the need to increase wages in the industry, however the current proposals and approach are not the way to go about it or succeed.
- b. The obvious failings of the proposal include:
 - i. No guarantee on ongoing wage funding after 3 years yet the Provider is locked into the higher level through EBA’s etc?
 - ii. The Provider must pick up all on costs etc which Industry sources estimate at 30%.
- c. It was irresponsible of the Department of Health and Ageing to recently issue all Providers with literature for staff which stated gave the indication/expectation that staff will qualify for wage increases from July 2013. To issue such documentation:
 - i. Demonstrates lack of communication with Industry, Providers and Industry associations.
 - ii. Will only cause strife for Providers come July 2013 as Employees and Unions will seek such increases.
 - iii. Basically shows the need to step back and sort out the issues and solutions before announcing a change that the Department cannot deliver!
 - iv. Consultation on this topic broke down, yet it is still being proposed! We all need to be responsible in this regard, all interested parties need to be in agreement rather than having a proposal forced on industry. Such an approach will not work.

10. Dementia

- a. The industry totally agrees with the need for an increased focus on Dementia however the proposals do not go far enough.
 - i. We need more specialized training for carers and family members especially where the emphasis is directed to Dementia support in the home.
 - ii. Families are just not equipped to provide such support to their loved ones.
- b. Residential care will always be the backbone of Dementia care yet that is not recognised or supported sufficiently.
- c. The proposed funding is totally inadequate.

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General Comments

In November 2012, Amberlea Residences Pty Ltd (AR) responded to the Aged Care Financing Authority's (ACFA): 'ADVICE ON ACCOMMODATION PAYMENTS AND EQUIVALENCE OF LUMP SUM AND PERIODIC PAYMENTS'. ACFA stated that they would be providing independent advice to the 'Government on pricing and financing issues, following consultation with consumers, and the aged care and finance sectors'.

We also stated that it is essential that the cost of the periodic payment (e.g. at current MPIR) is continued (and be calculated as it is today) as it is an incentive for residents to pay an accommodation bond (or part bond) where possible and thus allow the industry development to be largely user funded.

In November 2012, ACFA recommended that, from 1 July 2014:

1. A maximum lump sum apply to new bonds (unless higher prices have been approved by the relevant Government authority)

It was proposed to Approved Providers by the ACFA that "the maximum Lump Sum Accommodation Payment (bond), or equivalent Periodic Payment determined in accordance with Draft Recommendation 6, from a resident that exceeds the maximum amount determined annually by the Minister, unless the provider has sought approval to require a higher price and that higher price has been approved by the relevant Government authority".

This was considered acceptable provided that MPIR for Periodic Payments is on same (MPIR) basis as is currently and MPIR is set the same way as currently.

It was proposed to Approved Providers by the ACFA that "in making the determination the Minister set the maximum amount at the 95th percentile of all accommodation bonds for the most recently available year of data (the Authority notes that based on current data this would equate to approximately \$500,000);

We agreed with ACFA's proposal that the maximum be set at the 95th percentile of bonds. In our response we considered this acceptable with the inclusion that over time the maximum amount does not fall below \$500,000.

The government has since dropped the Accommodation Bond (or periodic payment equivalent) to just over \$400,000. It appears the government has ignored the recommendations of its own appointed authority as well as the responses by approved providers. It is our view that limiting bonds to this amount will inhibit investment and capital expansion of the industry and government will have to provide other ways of meeting the growing future aged care services.

2. Retention Amounts

We strongly object to the removal 'retention amounts'. The retention amount must continue to be charged at the conclusion/termination of the residential agreement as it is:

- a. *a vital stream of income for providers;*
- b. *it is often used but the approved provider to pay for the refurbishment of the room of the outgoing resident*
- c. *a 'user pay' not 'Government pay' or 'provider pay';*
- d. *in place and working well;*
- e. *not being replaced with any new forms of funding, yet staffing, utility, compliance costs, to mention a few, continue (and are already contracted) to rise; and*
- f. *the most innocuous of government charges as it:*
 1. *is accepted as a 'reasonable' charge (it is never challenged or complained about);*
 2. *does not disadvantage the resident whilst in residence; and,*
 3. *a minimal amount that comes from the estate which is paid to the beneficiaries.*

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4. Accommodation Bond Insurance

We are pleased that the government has not proposed that providers pay Accommodation Bond Insurance. We believe it would be an extremely unfair impost to place on operators who meet all the regulatory requirements and it would severely and detrimentally impact on profitability, viability and long term sustainability.

5. Setting accommodation payments

It is apparent to AR and the aged care industry that the government has not considered (or simply overruled) the proposals or recommendation of the Aged Care Financing Authority's (ACFA): 'ADVICE ON ACCOMMODATION PAYMENTS AND EQUIVALENCE OF LUMP SUM AND PERIODIC PAYMENTS'. The government also has given little consideration to the industries response. We hope that in this last submission the government re-consider its draft recommendations to facilitate an efficient, sustainable and equitable system which provides appropriate safeguards while limiting regulatory costs and administration.

We acknowledge that the government places appropriate price safeguards on the system to protect residents, especially while constraints on the supply of aged care services remain in place.

We also accept that the current method for determining equivalence of lump sum and periodic payments is appropriate, as it broadly reflects the treatment of a lump sum payment as unsecured finance which it considers is the most appropriate treatment.

6. Advice on the impact of removing retention amounts, insurance and cooling off period

ACFA noted the feedback from consultation that the removal of retention amounts will result in providers increasing the amount of lump sum accommodation payments to compensate and that imposing insurance requirements on lump sum accommodation payments will result in providers seeking to recover the cost of insurance from residents. ACFA also noted that the broad reforms proposed under the Living Longer Living Better reforms and the regime for accommodation payments proposed by the Authority provide scope for industry to adjust for these impacts.

The industry and the provider strongly reject the removal of retention amounts and urge the government to reconsider this in light of the overwhelming industry feedback on this occasion and previous consultations.

In ACFA's proposal, Providers cannot and would not seek to recover the cost of insurance from residents. Providers cannot increase the amount of lump sum accommodation payments to compensate for imposing insurance requirements on lump sum accommodation payments. The maximum bond is the maximum - there usually is no more that can be paid at that time.

This is now not possible as the government is proposing to set the maximum bond.

*ACFA proposed that there was substance to industry concerns that the new requirements for **insurance** may impose costs on industry and consumers that could perhaps be reduced and that there is benefit in exploring alternative mechanisms which may mitigate these concerns while still meeting policy objectives.*

7. The industry is relieved to see that the government recognises the severe and unsustainable impact the cost of bond insurance would have on aged care providers and has not introduced insurance for accommodation bonds.

The Authority proposed that it considered the impact of the 'cooling off' provisions on accommodation payments will be limited, but does suggest the 'cooling off' period be renamed the 'choice of payment method period' to better reflect its objective and be limited to 28 days.

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AR appeals to the government - that **the 'cooling off period' proposed 28 days is too long**. We strongly call for it eliminated or it be reduced to 7 days.

A decision re type of payment needs to be made before the resident is actually admitted to the facility. It is too late once they have been admitted, if the family has a change of mind. In what other industry does a customer utilise the services being offered for 28 days before he/she decides if or how they will pay. Providers have to operate businesses, they must forecast their incomes and costs to make cases to banks for borrowing funds to undertake expansions or build new facilities. Without receiving perpetual accommodation bond inflows there is no longer a predictable source of funding for new developments as it has been in the past.

We look forward to hearing the outcome of this submission.

Yours sincerely

Mark Howes
General Manager
Amberlea Residences Pty Ltd