SUBMISSION TO THE SENATE FINANCE AND PUBLIC ADMINISTRATION COMMITTEE INQUIRY INTO RESIDENTIAL AND COMMUNITY CARE IN AUSTRALIA.

Submitted: 1st December 2008
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> ***"The definition of insanity is continuing to do the same thing in the same manner and expecting a different result".***
>
> Albert Einstein

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Submission Author Biography

Glenn Bunney is an experienced Chief Executive, having held such roles for over 24 years in a range of settings, the last 12 of which have been within our aged care industry. He is the CEO of Sundale, a community-based charitable organisation providing community care, residential aged care, rehabilitation services including a therapy centre and private hospital, retirement living and childcare, on the Sunshine Coast in Queensland. Prior to this he served with both national and international organisations in state, national and international roles including the quality assurance industry.

Glenn has been an active member of the aged care community since joining the Aged Care Queensland Board in 1997 and assuming its Presidency in 2000 until 2003 when he was elected as National President of ACSA. He served as President of Aged & Community Services Australia for four years ending in 2007, is a Director and Deputy President of the International Association for Homes and Services to the Aged, was a founding Director of Eden in Oz, a foundation established in 2003 to facilitate the introduction of The Eden Alternative® into Australia and New Zealand, and is a serving Director of the HESTA Superannuation Fund.

His extensive experience at the aged care coal face, along with his involvement at national and international levels gives him a unique insight into not only the Australian and global trends in services for the ageing, but in associated and supportive services such as rehabilitation.

INTRODUCTION

The Australian aged care industry is struggling and as a consequence the need and aspirations of older Australians are being compromised. A continuation of the existing regime and legislative framework will commit our nation to failure.

Australia has fallen behind our international counterparts in the planning and structure for older people, ironically often on the basis of initiatives that have been formulated by Australian service providers. Ignoring the realities of the situation, or "shooting the messengers" will not improve the situation.

There have been numerous reports indicating that the manner in which Australia's aged care services are funded does and will continue to compromise service delivery. At some stage our community has to say that "enough is enough" and commit the resources necessary to deliver the kind of care that we intend for older Australians.

As we face our most significant demographic change in our history, there can be no better time than now to take the essential steps to position Australia for the future. It is not only the needs of our older Australians and their carers at stake, it is indeed the economic viability of the nation in so many ways.

CONTEXT OF THIS SUBMISSION

There has been a plethora of work conducted on the issue of the adequacy and appropriateness of the structure for the provision of aged care services over the last two decades. Successive Governments have not taken decisive action in terms of real reform due to the complexities and potential political impact of policy making in the aged care space. As was said to me once in Parliament House in Canberra, "aged care is an election loser, but not an election winner".

To that end, the focus on aged care policy has historically been aimed at keeping it off the front page of the newspapers and media reports, or at least having the necessary protections to defray responsibility for any adverse events that may arise from time to time – always have someone else to blame! The policy framework to that extent has been one based on two paradigms –

- The Paradigm of Prejudice – based on the principle that all aged care providers are not to be trusted and have to be subject to severe legislative punishment – the "guilty until proven innocent" approach. To that extent the legislative environment is focused on "**command and control**" mechanisms, not on partnership or mutual trust and respect; and its twin
- The Paradigm of Paternalism – based on the principle that older Australians are somehow incapable of making their own decisions and choices, and that there has to be a position taken by the Department of Health and Ageing between the consumer and aged care provider. There is no consideration for example, of the reality that consumers may be capable of operating a subsidy budget from the Government to source their own services, something conducted elsewhere in the global community for some years.

On the basis of both paradigms, followed religiously and simultaneously, the whole thrust of the Aged Care Act 1997 is engendered with the ultimate authoritarian twist, which is surely thinking that is inconsistent with the need for forward movement in our policy framework in an ever changing environment.

If one was considering the establishment of an aged care system today, would we establish something that

- Has 19 separate "programs" for community care with separate accountability requirements and rules, within the Department of Health and Ageing alone;
- Includes further unrelated programs for community care operated through other Government departments such as the Department of Veteran's Affairs and State Governments (HACC);
- Sees residential aged care services streamed into three distinct foci of low care; high care and extra service places, simply because of a failed policy around capital funding;
- Focuses on "protecting the kids' inheritance" at the expense of the Australian taxpayer;
- Reflects a system so complex and confusing to access and operate that a lot of bureaucratic attention is paid to the "interface" between programs rather than truly paying attention to consumer needs and aspirations;
- Effectively removes consumer choice and preference to the alter of a "one size fits all" approach; and

- Which requires more than 700 bureaucrats within the Department of Health and Ageing to administer.

Or would we hypothetically focus on the needs of the consumer in terms of service provision, treat their needs as a gradated process wherein people move up and down the continuum, and require the Australian taxpayer to only support those who indeed do not have the capacity to support themselves?

It is the intent of this submission to address the issues raised in the context of the Terms of Reference, but additionally to consider the prospect to inform thinking for the future delivery of services within Australia.

It is a matter of fact that within the United Kingdom, United States of America, and many part of Europe and Scandinavia, that access to taxpayer subsidies for aged care funding are available only after personal resources have been utilised, down to a required level of assets and income. In contrast, our Australian system is characterised by convoluted structures that have the effect of protecting “the kid's inheritance” and also effectively has part pensioners in low care residential cross subsidising millionaires in high care residential facilities. “Perverse” is a description that springs to mind under these circumstances however it seems far too gentle a descriptor.

In its most recent study of the aged care challenge facing Australia, [1]the Productivity Commission concluded that

“Australia’s extensively regulated, highly subsidised and somewhat ‘standardised’ aged care system will come under increasing pressure as a result of population ageing and growing diversity among older people. These pressures will present a number of challenges for the current policy framework and require changes to enhance its effectiveness”.

Consequently even the most recent independent Government initiated inquiry concluded inter alia, **<u>that the Australian aged care system is in need of reform.</u>**

Especially in the context of the current global financial meltdown, it is critically important that all areas of taxpayer expenditure are reviewed for their effectiveness, efficiency, and value for money. This does not equate to a “slash and burn” fiscal response, but should be moreso about new thinking and new directions, building upon what is good and positive and eliminating unnecessary and wasteful regulatory and compliance frameworks. The fundamental issue is about establishing a consumer-centred vision for the future of aged care that is sustainable and affordable to the Australian economy and appropriate and acceptable to our community. Perhaps this inquiry can be a first step to establishing such vision, and taking the first step to legitimate and effective reform.

[1] Productivity Commission 2008 Overview xv

RECOMMENDATIONS

Short Term – Fiscal 2008 / 2009

That the Senate act to guarantee the continuation of the Conditional Adjustment Payment of 1.75% per annum until such time as an appropriate indexation formula is developed and implemented, and move the CAP to 2% from the next budget.

That the Senate require that the Department of Health and Ageing, through the Minister, be accountable for the treatment they deliver to those working within the aged care industry. It is not unreasonable to expect that all representatives of the Australian Government tret people with respect and dignity. This should be enshrined in a Code of Conduct.

That the Senate commission the Australian Bureau of Statistics As part of the working party terms of reference that an appropriate cost escalation indexation methodology be developed which can be adapted and reported upon by the Australian Bureau of Statistics, independent of the industry and the DH&A.

That the Senate recommend that ACAT assessment team focus be limited to the care and support needs of the consumer, and not the fiscal implications of costs. This is the responsibility of other departments.

That the Senate include in its deliberations, the social policy implications of the taxpayer being required to "protect the kids' inheritance" in Australia. This is a policy unique to Australia, brought about by political expediency in 1997. The community has moved on - -it is now up to Government to do likewise.

Medium Term – Calendar 2009

That we utilise the current global financial meltdown as a positive catalyst to real and sustained review of Australia's aged care system to bring our system into the 21st century.

That the Senate establish a working party comprising industry and consumer representatives, with the objective of redesigning the system and legislation to replace the Aged Care Act 1997. This working party should include representatives from the Department of Health and Ageing only to the extent of support to the working party from a secretarial perspective and the provision of information necessary for the consideration of the working party. This working party would be required to report by the end of calendar 2009.

A fundamental requirement of this working party would be to clearly separate the issues of accommodation and care as recommended by Professor Hogan and the [2]Productivity Commission and others, and to streamline the aged care system into a gradation based process from basic through to complex care delivery.

Longer Term – Fiscal 2009 / 2010

That the Senate review the experience of overseas countries in relation to the use of vouchers to provide consumers with real choice and opportunity.

[2] Trends in Aged Care Services, P.87 Productivity Commission 2008.

AUSTRALIAN AGED CARE – CONTRIBUTION AND ACHIEVEMENT

The Australian industry has much of which it should be proud, but so too should our community. The industry is a reflection of our Nation, providing services to a wide range of Australians from many ethnic as well as social and disadvantaged backgrounds. The industry services major metropolitan centres, regional areas, and even very remote regions of this vast land.

It is a testament to the dedication of the people within the aged care industry, that in a financial environment that has seen real fiscal productivity improvements in the last 10 years in excess of 2% per annum that the service delivery has been able to be continued. Regrettably, 2008 has proved to be a watershed wherein aged care services are starting to crumble under the weight of excessive regulation; insufficient funding; and a lack of vision and preparation for the needs of older Australians. The time is well past for tinkering at the edges, with serious reform a critical priority. It is time for a blank sheet of paper rather than the self-interested protectionism that pervades existing regulatory thinking.

Quality care for older Australians should be a given, as should the resources to deliver same. It is said that a measure of the quality of a society is in how well it cares for its most vulnerable. In that sense Australia stands with a proud reputation historically, however our place in the world ranking has slipped over recent years. It is important to reflect on exactly what is delivered by the aged care industry, although some of the following data represent estimates only. The Australian aged care industry –

- Provides residential aged care to in excess of 170,000 people;
- Provides in-home care for over 800,000 people;
- Employs in the region of an estimated 400,000 people, and is at least the 5th largest employer group (and growing) in the country;
- Provides services that enable Australian workers to engage in paid employment rather than remaining as informal carers, thus contributing to the taxation income of the nation and a sense of wellbeing for the individual; and
- Reflects around 20% of the Australian Government outlays on Health and Aged Care, at around 0.7% of GDP, and yet attracts significantly disproportionate regulatory interdiction.

By any measure, the aged care industry is a major contributor to the economic, social and infrastructural fabric of our community. The industry has historically been referred to as a “cottage industry” however its emergence over the last 10 years in an ever-evolving constant state of change, has delivered an industry poised by its own actions and preparation for future sustainable activity. As a consequence of this increased level of commercial professionalism, many in the industry have made the decision that residential aged care under the current regulatory framework is not sustainable and have voiced this view.

As a consequence a group of providers in Queensland have been referred to the ACCC, obviously with the intent to intimidate them into silence. What has Australia come to when concerned citizens expressing such concerns are threatened into silent submission? This is not the Australian way, and should not be allowed to permeate political practice, for the sake of every Australian citizen.

CARING FOR CARERS

Whilst not specifically covered in the Terms of Reference, I felt that it was essential to raise with the Committee the issue of caring for those who give so much of themselves in their role as carers. In that sense I refer to both informal (family and friends) and formal (those who have chosen the profession of caring) at all levels.

Currently our Australian system lacks the true recognition of carers, and indeed under many circumstances, actual abuse of carers is not unheard of in the pursuit of ever escalating regulatory regimes. I can hear the reaction of Committee members now, presuming that this statement is a gross exaggeration and could not possibly be true.

In clarifying my point, may I please take you back to the twin paradigms mentioned earlier in this submission? The Paradigm of Prejudice is alive and well, and resides quite contentedly within the Aged Care Act 1997 and all of its associated Principles and enforcement (the word used in the Act) provisions. The inherent assumption is that those who provide the care somehow have a covert and evil intent to do wrong when caring for older Australians. Within the very same Department of Health and Ageing, when considering acute (hospital) care, such a presumption would be considered scandalous and completely unacceptable. If the base legislation sets the framework for its application, then the Act indeed incites disrespect and maltreatment of people working within aged care services.

The complexity and ever burgeoning regulation within the aged care industry is driven in no small part by the inefficiencies of the regulatory regime itself. Indeed Professor Warren Hogan made it clear in his report that regulation is at the heart of much of the inefficiency within the industry, and a section has been devoted in this submission on this matter. Although is report is now some four years old, the only thing that has changed is that there is now even more regulation to drain the available care funds.

Consider the situation for someone working in an aged care service, especially for the moment, residential care, where the existing interdictions occur (although it is clear that the Department of Health and Ageing seek to perform the same kind of function in community care services). Given the vagaries of those for whom we provide care, days wherein things run smoothly are few and far between.

Suddenly, just after you’ve finished breakfast for the elders, and probably being in the middle of assisting with medication, two assessors or investigators (depending on the relevant Department but they always travel in at least pairs) appear at the front door, flashing their cards, and proceed to dominate the scarce time resources available to the carer, nurse and manager of the facility for the full day (at least). During this time those present are interrogated by the assessors / investigators, often treated with intimidatory tactics and disrespect, and left drained and harangued by the end of the day, and wondering why they bother to submit themselves to such treatment. In some cases, that is the last day of their employment in aged care. And what about the elders and their needs on that day? The draining of resources is ironic when one considers that such interdictive action is justified on the basis of “protection of the elderly”.

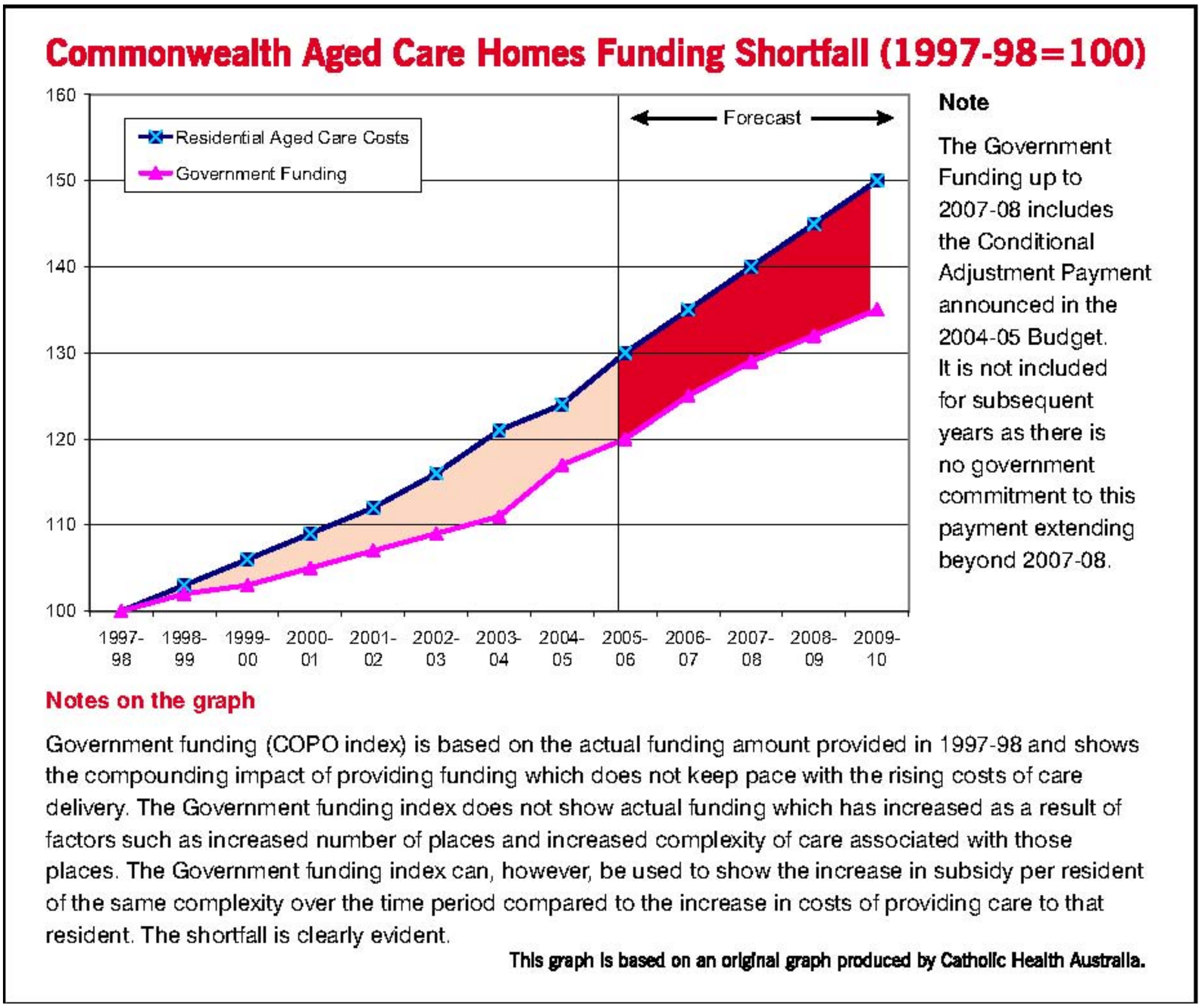
It is critical if we are to stem the flow of resignations of qualified and experienced people from the aged care industry, that all representatives of the Australian Government be required to act in accord with an acceptable Code of Conduct.

Breaches of such a Code should be capable of resulting in the termination of their employment contract as an ultimate sanction. Our ageing population need to be sure that services will indeed be available to them as our demographic growth occurs in the next few years, and carers are critical to the delivery of such services. Who'll be left to care?

TOR (A)

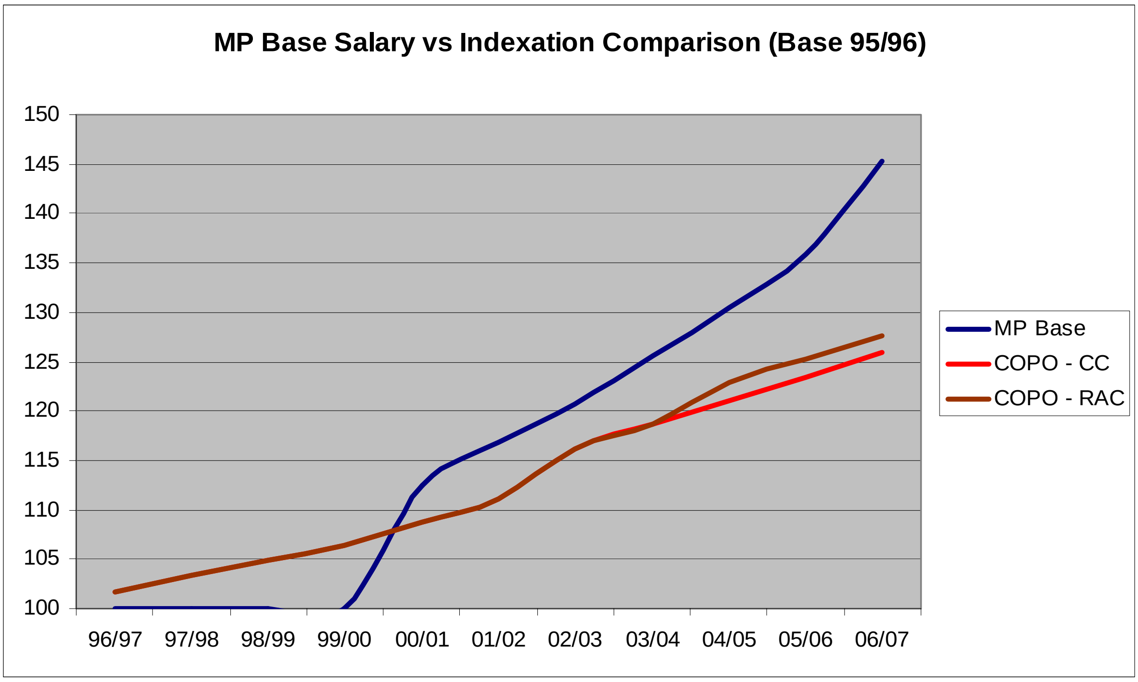
"Whether current funding levels are sufficient to meet the expected quality service provision outcomes"

Many reviews have pondered this question, and none have concluded that funding is sufficient to meet the true costs of care, and indeed many have recommended increases in funding. The following graph was prepared by Catholic Health Australia and developed further by Aged Care Industry Council leading up to the 2007 election campaign.



Although it is now inaccurate to the extent that the incoming Rudd Government extended the Conditional Adjustment Payment for the 2008 / 2009 year, there are no additional funding guarantees beyond that point. The shortfall clearly is increasing and is already in excess of 15% over the last 10 years in residential care, and indeed the gap is far greater (approximating 23%) for community care, to which the Conditional Adjustment Payment was not extended when introduced in 2004.

When we consider, for example, that Parliamentarian wage increases are determined via an independent body that considers the cost pressures relative to general cost escalations, we see that aged care subsidies are significantly behind such cost increase trends.



The variation on this basis is in the realm of some 20% represented by the gap between the lines, to the end of June 2007, and may have increased again over the last 12 months.

When considering the nature of cost escalation with respect to aged care services, it is informative to reflect upon comments from previous inquiries into the industry.

[3] *"The indexing arrangements that would continue to apply under the coalesced regime are deficient in that they are not directly related to movement in industry-specific costs".*

[4] *"Wage costs are fundamentally influenced by pay outcomes for nurses in the acute care sector".*

[5] *"Moreover, funding methodology should build on periodic reviews of change in the nature of residential aged care and the expectations of residents. Examples include the need to make provision for the purchase of improved incontinence aids, and for the lower number of beds per room that will be required as accreditation and certification progresses".*

Remarkably, although these statements from independent reviewers were made up to 10 years ago, nothing has changed in terms of the lack of realism attached to the indexation processes relative to aged care funding. The COPO (Commonwealth Own Purpose Outlays) index by its very nature and construction, will always deliver an outcome that is less than CPI, and not address wage rate increases or wage parity.

COPO is calculated by taking 75% of the CPI and 25% of the national wage case (base wage rate movement). Such a calculation will always result in a sub-optimal increase in subsidy rates.

Indeed in its report this year, [6] the Productivity Commission noted that the Conditional Adjustment Payment (CAP) was recommended by Professor Hogan as a temporary measure pending the establishment of new funding arrangements.

[3] Nursing Home Subsidies, P. 81, and Productivity Commission 1999.
[4] The Hogan Review
[5] Ibid. P. 81
[6] Trends in Aged Care Services, P. 100, Productivity Commission 2008

The Commission went on to note that the recently announced inter-departmental review of the CAP does not encompass the broader issue of the effectiveness of the current indexation arrangements.

In its previous report [7] the Productivity Commission recommended that

"***Basic subsidy rates should be adjusted annually according to indices which clearly reflect the changes in the average cost of the standardised in put mix, less a discount to reflect changes in productivity. Revised indexation arrangements should be introduced as soon as possible***."

It is informative to consider where such reviews make recommendations that reduce bureaucracy they are rejected by the DH&A [8] however when any mention of entrenching bureaucratic duplication and inefficiency is pounced upon by the DH&A with voracity and self-interested zeal.

It is crystal clear therefore that for true reform to be undertaken, the work to be done must not be lead and directed by the DH&A. If we seriously wish to position Australia for the future; streamline policies and processes; create access and equity for older Australians corresponding with their needs and aspirations, the time for action is now!

It is absolutely essential that the DH&A be involved in this reform process, however under no circumstances should the DH&A be positioned as a filter or editor of the report outcomes. Our aged care system needs to be dragged, kicking and screaming if necessary, into the 21st Century.

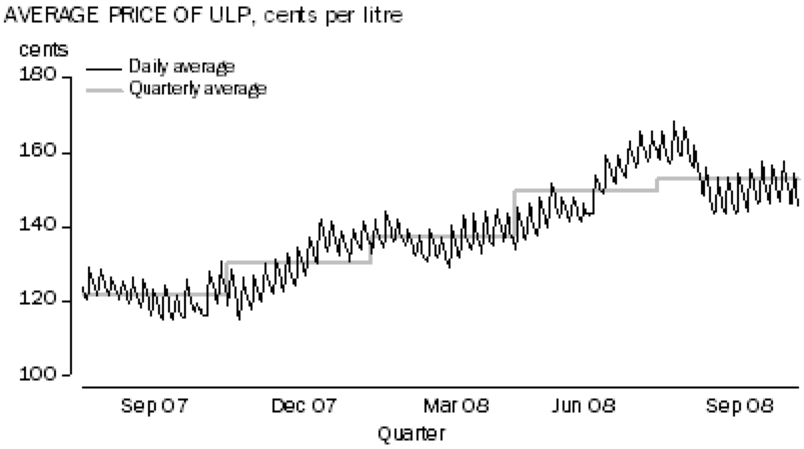
[7] Nursing Home Studies, Productivity Commission 1999

[8] Banks Review 2006 suggested the removal of duplication of certification and that accreditation be contestable. Both rejected by DH&A. However DH&A grabbed with both hands the recommendation of the ANAO 2008 contending continuation of the obvious duplication of the Certification requirements, in spite of acknowledging that it had established a whole new industry of consultants and expensive professional advice.

Community Care

Whilst the main focus in terms of aged care appears to be on residential services, there is no doubt that the preference of older Australians is to remain at home as long as possible, and indeed to make the ultimate life transition from home if at all possible. Public policy that responds to these aspirations is absolutely appropriate and successive Governments have sought to rebalance such service delivery.

In considering these particular preferences and aspirations, issues around travel time and cost are critical matters, none of which have been reflected in the subsidy levels over time. Community Care subsidies have lifted in the realm of 2% per annum over recent years, whilst [9]ABS data indicates clearly that the price of unleaded fuel, a significant cost component in community care has risen by over 20% in the last 12 months alone. Meeting such cost means a reduction in client contact time. The elastic band ultimately snaps and someone gets hurt.



Another significant aspect of the economic pressures on Community Care services relates to the lack of consistency in fees applied across the various programs. For example, in Queensland the Queensland Government both oversights and competes with private providers in the community care space via the HACC program.

Indeed it has been reported that on the Sunshine Coast in Queensland, an abnormal level of vacancies in relation to Community Aged Care Packages (CACP) and Extended Aged Care at Home (EACH) Packages is driven by ACAT on the basis of a belief that HACC services carry a lower cost to the consumer than CACP or EACH.

Whilst taking a position of advocacy for consumers is admirable, this does result in cost shifting behaviour between State and Commonwealth and threatens the financial viability of service providers. On that basis such a position is not in the long term interests of consumers or the industry. It is understood that the Sunshine Coast is not the only ACAT taking such a view.

Consequently the aged care industry is being squeezed between not only restrictive and capped income with substantially increasing costs, but Government action via taxpayer funded ACAT activities is also diminishing demand.

[9] ABS 6401.0 Consumer Price Index, Australia, 2008

TOR (B)

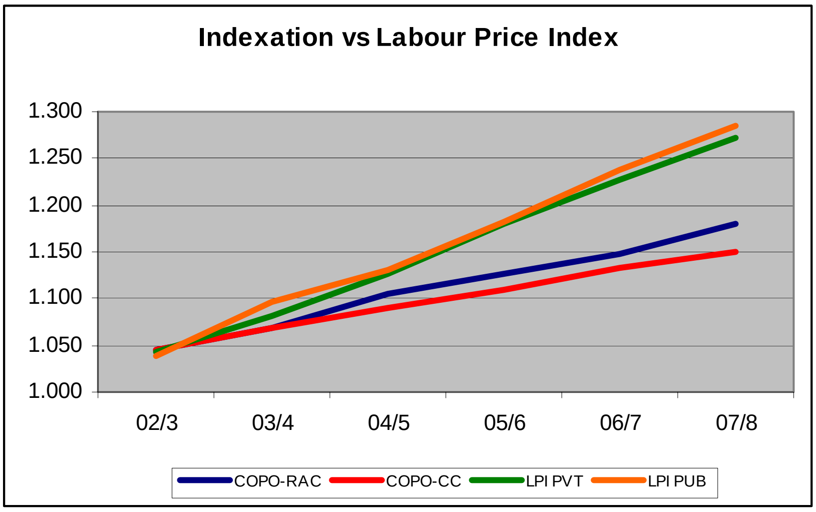
How appropriate the current indexation formula is in recognising the actual cost of pricing aged care services to meet the expected level and quality of such services

The current indexation method is "Commonwealth Own Purpose Outlays" (COPC). COPO is calculated by taking 75% of the CPI and 25% of the national wage case (base wage rate movement). Such a calculation will always result in a sub-optimal increase in subsidy rates, especially when it effectively and directly discounts both elements of cost increases by its formula construction.

There is a range of cost escalation indices being produced by the Australian Bureau of Statistics currently across many sectors of the Australian economy. If we take a few examples, just for the sake of the exercise and compare increases in actual cost escalation to the COPO (self calculated) adjustments, we will see that COPO falls well short against every single measure. I have taken the relative data from the nominated ABS Reports and calculated the index based upon the increases in the ABS data.

The purpose of these comparisons is two fold –

1. To indicate the cost movements within the economy with which the aged care industry must cope based on the COPO indexation; and
2. Indicate that these costs affect aged care services in the identical manner that they impact other businesses. Shortfalls in funding as against cost increases logically, as noted by the Productivity Commission, will result in shaving costs and quality will ultimately be impacted.



ABS 6345.0 Labour Price Index, Australia.

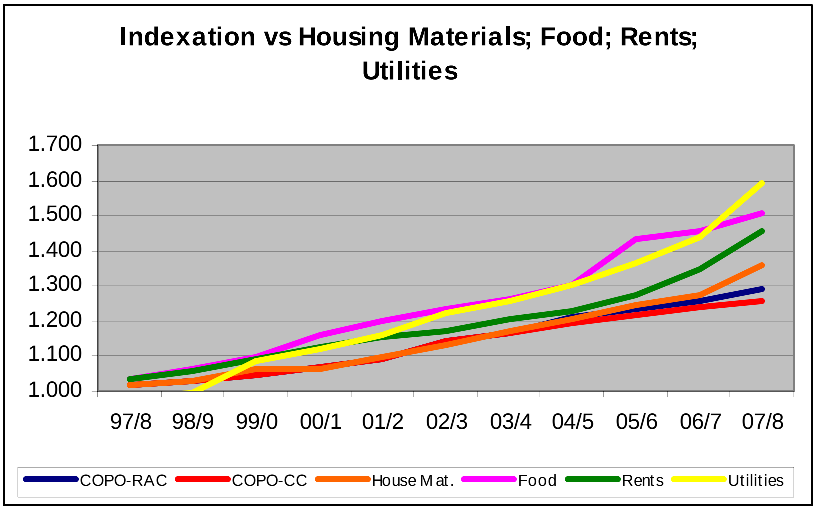
(Excluding bonuses, sector by sector).

Health & Community Services.

Private Series A2249573F

Public Series A2249579V

The comparison shows how labour prices have moved in the health and aged care sector, and indicates that over the period the indexation for aged care has been about half that for the overall sector. This comparison clearly impacts on the ability of the industry to compete for labour resources, in a very labour intensive activity. It was acknowledged by Professor Warren Hogan that unlike the acute care industry, the very nature of aged care services makes input substitution (technology for labour for example) of limited capability or benefit. Aged care workers need to pay their bills, and have a feeling of self achievement free from bureaucratic abuse and intimidation. Even fir people in aged care, altruism has its limitations.



[10]Housing Materials

[11]Food Price Escalation

[12]Rents

[13]Utilities

The cost of materials comparison reflects the effective cost of materials maintenance in comparison to the increases brought about by indexation for residential aged care. It is clear that the indexation has not recognised the substantive increase in rents charged across the economy reflective of the costs of maintaining and funding accommodation maintenance. The food price inflation brought about by recent drought impacts have been exacerbated more recently by the diversion of food production to alternative fuel applications, whilst we are just starting to see the impacts of utility prices as an early indication of what we will experience under a Carbon Trading Scheme.

The inherent assumption that aged care services are protected from the general price escalations across the economy is naïve at best and negligent at worst. Is there really an expectation within Government(s) that somehow such substantial cost increases can be ignored, and then not expect deterioration in care standards as the income is stretched beyond capacity?

It is clearly recognised that the various components incorporated above have a differing proportionate impact on the costs of delivering services, but even with accepting that this is the case, none of the cost lines other than housing materials, have followed a similar cost escalation history in comparison with the indexation of aged care subsidies.

Whilst ever the Government wishes to completely control every aspect of a service providers' income, and dictate the standards to be preserved, there is an indicative moral hazard shared between the Government and the service provider in the event that the elastic band of available funds breaks. To date the Government(s) have avoided the repercussions of this moral hazard, however this is likely to change given the increasing number of services that are indeed collapsing across the nation.

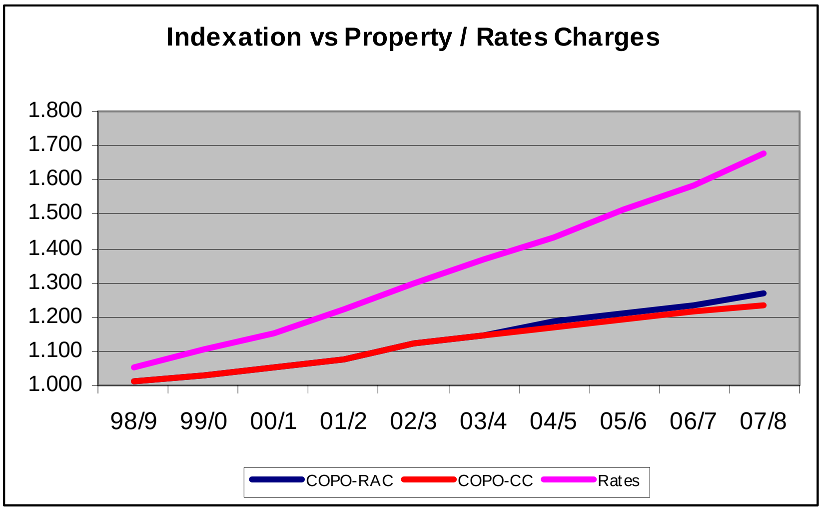
In the absence of an appropriate pricing index acknowledging the realities of cost escalation, or alternatively an acceptance by Government that the individual is responsible for meeting service costs where they are able, this price shortfall will continue.

[10] 6427.0 Producer Price Indexes, Australia. Materials Used in House Building – All Groups Weighted Average of 6 Capital Cities. Series ID 2390558X

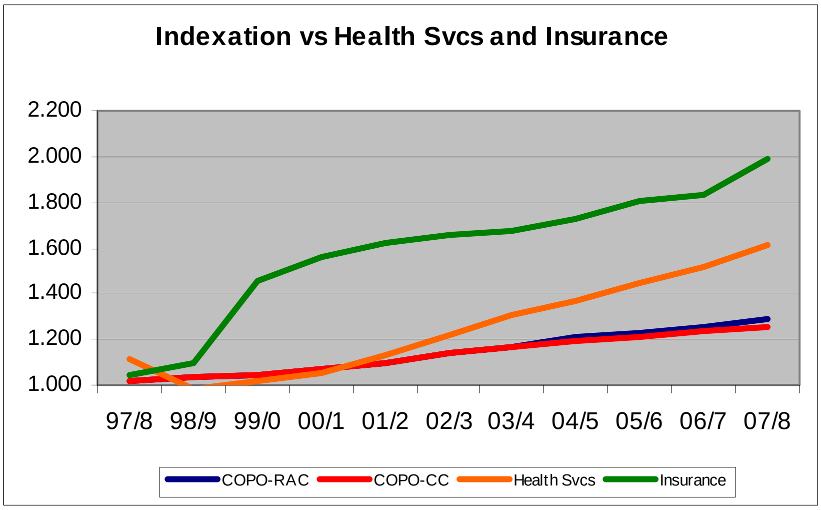
[11] 6401.0 Consumer Price Index, Australia. CPI Group, Sub Group and Expenditure Class; Weighted Average of 8 Capital Cities. Series ID A2325891R

[12] Ibid. Series ID A2332876F

[13] Ibid. Series ID 2326521X



[14]Property Rates and Charges are applied by local Government. On this basis residential aged care services and community care services are impacted in the same manner as the rest of the community. Again any inherent assumption that this is not so is clearly misdirected and unrealistic.



[15]Aged care is a critical component of our overall health system and has the capacity, if properly funded, to relieve pressure from our hospital system, deliver better health outcomes for older Australians, and save considerable Government investment in hospitals and associated facilities.

When one considers the accepted reality that older people within our aged care services as clients today reflect an increased level of frailty and a higher level of complex care needs, the exorbitant manner in which health costs have screamed away from subsidy payment increases does not deliver an efficient or effective alternative to the acute sector.

It is widely accepted that older people should be kept out of hospital as much as possible. The fiscal strangling of the aged care industry means that significant cost saving opportunities are being lost to the Australian economy. The comparison of existing daily rates in hospitals as opposed to aged care services are a nonsense as they assume that the rate for aged care services are appropriate and correct. The same person in a public hospital bed receiving taxpayer funding of some $ 900 per day, will receive a maximum of $ 138.11 in residential aged care. Indeed the same person in a public hospital bed in some cases would receive **<u>no taxpayer contribution at all in a residential aged care bed.</u>** Where is the equity?

[14] Ibid. Series ID. A2329986C
[15] Ibid. Health Services Australia Series ID. A2326836T – Insurance Series ID. A2332011L

TOR (c)

Measures that can be taken to address regional variations in the cost of service delivery and the construction of aged care facilities

Regional variations have been acknowledged as important considerations within the legislative framework for many years, although the issue is not only about costs but resource availability. In the case of experienced and qualified employees, it is difficult enough to see the difficulty being faced in capital, metropolitan and regional settings. The further away form the capital cities one progresses, the more extreme the resource shortage and reflective exorbitant costs.

Effectively, the same can be said for specialist services even in capital cities. Imagine for a moment the pressures carried by ethno-specific services. There is a Muslim service in Brisbane that has almost as many client nationalities as they have community care places. Understanding the religious preferences of Islam is one issue, however Islam is a religion followed across much of our globe.

By about 2020 (although I am not completely certain of this time frame) we can expect to see some 40% of people in aged care services who are not of Anglo Saxon heritage. Given the example above, when the Senate considers the cost impacts on remote services, please also consider the impact of specialist services in all locations.

Fundamentally, if the legislative framework and funding regime becomes capable of making these services viable, then the balance of the industry will indeed also be viable.

TOR (D)

Whether there is an inequity in user payments between different groups of aged care consumers and, if so, how the inequity can be addressed

The existing capital funding system is structured in such a way as to have part pensioners in low care facilities (hostels) potentially cross subsidising millionaires in high care. This is a societal disgrace, especially since the only reason for the differentiation between the two is political. This represents a prime example of how politics and dogma have driven inefficiencies and threaten fiscal viability.

If indeed there was any doubt around the voracity of this assertion, one only has to be aware that "Extra Service" places are a mechanism by which high care services can attract accommodation bonds. It recognises a failed policy framework and makes a substitution creating effectively a segregated industry, making a mockery of claims that policy framework wishes to avoid a two-tiered model – it already exists.

It is informative to consider that Australia is the only country that has a policy that "protects the kids' inheritance", at the expense of the taxpayer. Every major nation with mature aged care services requires anyone with the means to do so, to self-fund their care until such time as their resources are reduced to an established safety net level. Other nations likewise take the view that the individual is responsible for their own accommodation costs, with Government only focusing on a safety net for those who do not have the resources to self-fund.

The inequity can be addressed in the following manner –

- The Government should remove itself from consideration of accommodation for anyone other than those who need a safety net. This reflects the reality of those in receipt of community care services, and would bring equity and social justice to all consumers seeking to access aged care services. It would also introduce a competitive structure to aged care services that does not exist under current legislation.
- The Government could focus on the provision of funding for the delivery of care services, thereby being in a position to stretch limited resources across more episodes of care, benefitting more older Australians than is currently possible.
- The legislative structure that segregates low and high care, which is unique to Australia, complicating legislative and regulatory environments, creating inefficiency in service delivery, and maintaining social inequities, should be scrapped immediately. The accommodation choice for older Australians should be just that – their choice. If the older person or their family would prefer a single ensuited room and are prepared to pay the relevant cost, or alternatively wish to share accommodation and maintain social interaction with others, then again that should be their choice. Currently this choice is removed from them via the Paradigm of Paternalism within the Aged Care Act 1997, referred to in earlier comments.
- Establishing, as part of the consideration of the establishment of an appropriate indexation based on ABS data, to establish such an index for remote services.

TOR (E)

Whether the current planning ratio between community, high and low care places is appropriate

If we were to ask 10 people about whether they wanted, when their time came, to enter a nursing home, the majority would answer in the negative. People wish to remain at home as long as possible, and this aspiration has been reaffirmed repeatedly.

Once again our aged care service structure is driven by "programs" and not by consumer need and preference. There are no such considerations in the establishment of hospital services, with the risk being left up to the service provider, to succeed or fail based on their market knowledge and appropriate investment in services that are reflective of consumer preferences.

Perhaps it is time that Australia seriously considered the option of the provision of vouchers for older Australians and leave the sourcing of services to their needs to them. There is substantial talk around the concept of consumer directed care, however the legislative and regulatory structure we have in place currently runs completely counter to such philosophies.

As noted by the Productivity Commission [16] under their consideration of Quality and Choice, the pressure for publically funded goods and services to be more responsive to consumer preferences is not unique to aged care.

"Over the last two decades, reforms across a wide range of industries have sought to strengthen the role of consumers through removing regulatory constraints on choice and competition".

There is no doubt that such a substantive change in policy direction will have its share of complications. However experience from overseas initiatives have shown clearly that such changes result in

- Greater autonomy for older people and enhanced feelings of independence (independence is an objective of the Aged Care Act 1997);
- Decreased unmet needs and care related health problems; and
- Increased satisfaction with overall care arrangements and life more generally.

Are these outcomes not what we aspire to as an Australian community? It will no doubt be difficult for Government to consider the significant review of the Aged Care Act 1997 that real consumer choice will bring, but we need to remember that the fundamental work on the Act was done in a Departmental report produced in circa 1975 – an entirely different time and place to modern Australia.

The result of this complicated and control-centric legislation is that so-called "reforms" take an eternity and then rarely deliver what was sought by the industry or consumers. A prime example is "The Way Forward" which sought to reform the Australian Government funded community care service, to rationalise the 19 programs, and streamline access and efficiency. Children born after this policy was announced with great fanfare, are now at school, and "The Way Forward" remains a **policy objective**. Australia cannot wait for further delays as the resultant outcomes would be delivered once again in a time and place that is substantively altered compared with when the objective was launched.

[16] Trends in Aged Care Services, P. 103. Productivity Commission 2008

TOR (F)

The impact of current and future residential places allocation and funding on the number and provision of community care places

The allocation process is evidence of inappropriate modelling. This is obvious as the planning is based on a “per thousand people over the age of 70 years”. The average age of admission into residential care is around 83 years, often referred to as the “older old”. The higher the proportion of people over 85 the more likely they are to enter residential aged care.

Similar age groups apply to community care services delivered through the Australian Government packaged services. Any planning model that is based upon demographic groupings of 70+ years of age, when the customer of the services is over 80 years of age, will never align demand and supply.

Whilst in opposition the current Australian Government committed to reviewing the planning process, and we are yet to see this piece of work commenced.

In contrast however, perhaps this is a prime opportunity for Australia to move beyond old habits and move towards aligning the aged care industry to the same operational environment as other industries such as hospitals and child care services. In these sectors that service provider takes the commercial risk intentionally. Under the Aged Care Act 1997 the service provider not only takes the risk of their own commercial decisions, moreover they also are impacted by the risks of any errors or omissions within the current planning scheme.

EFFICIENCY IN THE AUSTRALIAN AGED CARE INDUSTRY CONTEXT

Efficiency – Context, Consequences and Challenges.

In any consideration of the efficiency mentioned within the Hogan Report [17] it is essential to understand the context in which the review was conducted, and under which the recommendations were made. All who are involved with aged care services in Australia understand that the data upon which the review worked was for the fiscal period 2002 / 2003, now a full five years out of date. Within that context, with respect, any review must consider the current environment for aged care services to even begin to consider "efficiency" issues and consequences.

The CAP has enabled the industry to go some way to being able to cope with substantially increasing cost profiles over recent years. The Centre for Efficiency and Productive Analysis was commissioned to examine the efficiency of the residential aged care sector in Australia and to provide such input to the "Hogan Review".

It is indeed insightful to consider some of the comments made in the CEPA report, with such observations that maintain their relationship with our present day circumstances. In reviewing the issue of output variables of ACFs, it was noted that "it is fairly clear from these studies that an ACF resident is not a homogenous item"[18]. Since such residents are not, in the common vernacular, "like pumping out sausages in a sausage factory" one needs to remember that people are all different – that's what makes our society so incredibly amazing in its scope and responsibility. Any assumption that arises from the principle that the provision of aged care can follow a "one size fits all regulatory approach" whilst preaching services focused on the individual needs and aspirations of residents, is an assumption that is doomed to moral hazard wherein regulation and the imposts it represents and people centred service provision come from two distinctively different perspectives.

In summarising the efficiency of the sector [19] Professor Hogan noted that

"…. aged care operators look to meet demand at the lowest possible cost, taking advantage of the fact that some inputs can be substituted for others. In effect, they seek the cost-minimising combination of factor inputs required to produce aged care at a given level of quality. That said, many operators are currently operating well within the 'efficient frontier' of production at minimum cost". The point missed in the analysis is that in the main the "top quartile" performers were limited to those providing extra service places, a market segment that is not reflective of simple translation to all services.

He goes on to note that this focus on cost minimisation occurs but is subject to a series of regulatory constraints imposed by the Australian Government, through the Department of Health and Ageing et al. Consequently it was observed that the regulatory issues at that time (which have been extended since by subsequent Ministers) included:

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[17] Pricing Review of Residential Aged Care – Professor Warren Hogan, 2004

[18] Efficiency of Aged Care Facilities in Australia – The Centre for Efficiency and Productivity Analysis, Queensland University 2.5 Output Variables P.12

[19] Ibid 4.2 Efficiency of the Sector – CEPA analysis P. 73

- Quality standards set by the Government;
- Government commitment to equity of access resulting in sub optimal sized facilities in rural and remote areas (and also to a different extent for ATSI and CALD specific services); and
- The various requirements of state and territory governments as well as the role for local governments.

It was clearly noted that the regulatory structure within which any industry operates is a major driver of cost structures. There is also a principle of natural justice that costs associated with meeting regulatory imposts should be recompensed. This is evidently not the case for the Australian aged care industry wherein substantive regulatory imposts have not been accompanied by the corresponding fiscal support.

The inherent limitations of the analysis of efficiency in relation to the lack of real consideration of quality is encapsulated in the CEPA report wherein it notes that

"quality of care provided to the residents is an important variable influencing the efficiency score. It is possible that an ACF that provides high quality care may use more measure inputs and may therefore be regarded as more inefficient…"[20].

Moreover, even given that the Hogan Review was labelled a "pricing review" it bore little consideration of the actual price paid for inputs, a point not lost by the CEPA report [21]. In that report it states "in other instances, some aged care facilities may be disadvantaged by their location and service provision may be more costly due to higher prices – this is particularly important in this project since no explicit account is taken of spatial difference in prices paid by ACFs located in different areas".

Technical Efficiency

The report states that [22] "the input-oriented technical efficiency of an aged care service measures the extent to which a service can reduce its input usage and yet produce the same level of outputs". When one refers to the actual report produced by CEPA, it is made clear in that report that the measurement of technical efficiency bears no consideration whatever to the issues of quality, which is so important in any human service environment.

Indeed the CEPA report states [23] "Cost reduction and containment in the provision of residential care for the ageing population is essential in maintaining the level and quality of care necessary to service an ageing population. The current study of efficiency is geared towards the identification of sources of cost inefficiency (emphasis added) and to finding strategies for achieving cost savings" which leaves no doubt whatsoever that quality is not a dimension given substantial consideration within the evaluative study.

One of the more obvious changes since the time of the report in terms of efficiency, relates to the comment made that the output levels of aged care services are not generally a decision variable. Indeed it goes on to say that "the number of consumers is determined through budgetary constraint, and demand generally exceeds supply, as indicated by the occupancy rates[24].

[20] Efficiency of Aged Care Facilities in Australia – CEPA 4.2.4 Environmental Variables P.38
[21] Ibid.
[22] Ibid 4.2.1 P. 74
[23] Ibid P. 101
[24] Pricing Review of Residential Aged Care 4.2.1 Technical Efficiency P. 74

Occupancy rates in the current context indeed as a general rule, no longer remain as high as when the review was conducted. Certainly in the context of rural and remote facilities, occupancy is not usually at the high levels found in metropolitan services, so an industry wide assumption of demand exceeding supply is unrealistic as it treats the industry as homogenous, which it certainly is not. Indeed it is no more homogenous than those it serves.

Returning briefly to what the report described as ***drivers of inefficiency*** in a regulatory sense, based on the correlation of various factors in the CEPA study, we find the following.

Regulatory Contributor to Inefficiency	**Changes Since the Review**
• Government policy to equity of access leading to sub optimally efficient services	• Allocations have continued to be made based on this policy parameter, meaning that this impact has only exacerbated since the review.
• Residential care services with higher certification scores tend to be more inefficient; and in a related context • Services with more beds per room tend to operate more inefficiently due to higher maintenance costs and poor design.	• The residential aged care industry, at the behest of the policy on certification, has continued to build services consistent with the expectations built by Government communication to the community. Older facilities with multiple people to a room are being replaced at great cost with more inefficient buildings with higher certification scores.
• ATSI or CALD services have a higher cost base due to the need to provide culturally appropriate care.	• This issue has not changed since the review, although any extension of such specialist services would exacerbate inefficiencies in the industry.
• Services with higher proportion of concessional residents appear to be more efficient due to more homogeneous services.	• Due to the 40% cut off many facilities are working to the absolute minimum concessional resident base to improve income.
• Those services deemed to “cut corners” on quality may appear to operate more efficiently.	• When efficiency is not linked to quality, this is an obvious outcome of the policy.

Scale Efficiency

This measure relates to how well a service could improve productivity by changing its scale of operations to the optimal scale. The review concluded that although there is an economic argument to support such an assertion, it was unlikely that services in rural and remote areas are likely to achieve optimal scale, and further it is evident that in determining the "optimum" there was no consideration in relation to land or construction costs and the consequential viability of the resultant facility from a capital perspective. It is unreasonable to consider efficiency solely in the context of "outputs" (i.e. bed days available) without considering the impacts on getting to that point.

It was also determined that there does not appear to be any appreciable difference between chain and non-chain ACFs [25]. Accordingly the presumption that seems to have been inherent in policy pursuit that consolidation of the industry in Australia would lead to improved efficiency is not borne out through the outcome of the study. Indeed for industry practitioners, this outcome is self-evident. When one considers that the level of direct costs within residential aged care is extensive with labour alone between 70% - 80% of income, there is very limited potential to achieve cost savings by simply having more and more facilities. The actual cost of linkages and management oversight indeed has the high potential to produce diseconomies of scale.

The principle that consolidation of the industry will somehow drive efficiency presupposes a high level of administrative overhead, which is not a feature of the Australian aged care industry.

Allocative Efficiency

Allocative efficiency is a measure as to whether the observed input-mix is optimal. One measure is the economies of scope within a service's operation. The review made the logical observation that services providing an array of services (accommodation; personal care; nursing; and dementia) are likely to achieve better economies of scope and therefore achieve higher levels of allocative efficiency. There would be no residential aged care service in Australia that does not reflect at least three of the nominated domains in its service delivery, hence the finding is a statement of the obvious.

Regulatory Inefficiency

Professor Hogan describes regulation [26] as any restriction on voluntary action, and notes clearly that such action distorts and / or restricts the operation of the market (viz leads to inefficiency). We would offer not only that this is evidently the case in residential aged care, but moreover that the view that should regulation be necessary then the cost of meeting it should be the responsibility of the regulator, leads one to conclude clearly that the escalating regulatory requirements within the aged care industry has substantially and further eroded the funds otherwise available for the delivery of care.

There is an absolute irony in that context, with the more regulation about the care of older Australians, the less funds are actually available to provide that more, and the more likely that a failure in the system will occur, requiring, in the view of the bureaucracy and / or Government, that more regulation is required.

[25] CEPA Report P. 46
[26] Pricing Review of Residential Aged Care 4.2.4 Regulatory Inefficiency P. 79

Hence the circle of regulatory diseconomies of scale continues until and unless the cycle is broken by substantive reform of the system, not seen to date nor anticipated under the existing policy circumstances.

It is clearly acknowledged that while the inefficiency associated with certain forms of professional regulation (licensing) that have the undesirable effect of reducing contestability and therefore leading to inefficient markets, are being considered by the new Government, such impacts have yet to be considered in the context of the residential aged care industry.

As Hogan outlines[27] "the regulation of residential aged care services can be a slippery slope, with an act of regulation not only decreasing the overall efficiency of the sector but also leading to further inefficiency sapping regulation".

He goes on to nominate a number of specific features of the aged care financing and funding arrangements that lead to market failure and hence to inefficiency in the industry.

- Supply is heavily constrained which potentially results in the stifling of innovation and decreases consumer choice. As mentioned previously the increase vacancy rates in residential aged care have moved this dynamic further since the time of the report and demonstrate and increasing regulatory driven inefficiency since that time.
- Private price is likewise heavily constrained. This leads to an unreasonably and unjustified level of Government contribution to the aged care system at an unnecessarily high level.

  Hogan notes that it is indeed possible to use mechanisms to protect residents while allowing service providers to set market based fees. This should be especially possible in an environment wherein consumers have a choice of accommodation options to suit not only their fiscal capacities but also their personal preferences and choice driven by their aspirations. Currently there is no choice within the residential aged care system for consumers to seek arrangements outside of the tightly constrained determinations under the Aged Care Act 1997 except through alternative providers who are inexperienced and fall outside of the tight legislative regime. Effectively therefore is that through a rather paternalistic approach to legislation, residents and their families are being denied true consumer choice which should be regarded as an anathema within Australian society.
- The merit good nature of aged care militates against the Government's ability to exercise its purchasing power. Concomitant on the Government's role as monopolistic purchaser is the moral pressure to accept responsibility for increasing costs.
- The purchaser / user disjunction gives operators and consumers incentives to incur costs that they should not have to bear.

[27] Pricing Review of Residential Aged Care 4.2.4 Regulatory Inefficiency P. 81

Comparative Efficiency

The CEPA report is also quite telling with respect to the comparative efficiency of the Australian residential aged care industry, when held up against the available literature.[28] The authors note that as an outcome of their review of available literature the "average technical efficiency (TE) scores range from 0.57 up to 0.89, with most clustered around the 0.80 level". The CEPA report noted on the other hand, that the Australian industry average (TE) score was 0.87[29].

Regrettably this measure was touted at the time as meaning that the Australian residential care industry had the potential of increasing its efficiency by some 13%. The truth however was that the industry, even at that time, was operating far more efficiently than similar services across other parts of the western world.

In terms of comparability, it is also instructive to consider the finding in the CEPA report with respect to high care facilities, especially when one considers that high care residents now constitute almost 70% of all residents within residential aged care facilities. The CEPA report found that [30] "Potential efficiency gains are marginal in the case of high care ACFs. Operating income and expenditure are identical for the ACFs. A majority of homes that are scale inefficient appear to be "too large" and are operating in decreasing returns to scale part of the production frontier".

The new funding instrument ACFI, has resulted in between 70% - 80% of existing residents relying upon the grand parenting arrangements just to maintain current funding which has already been effectively reduced through inflation operating at 4.8%. Clearly the business rules have excessively complicated the ACFI translation and resulted already in fiscal uncertainty.

A major environmental impact that has been exacerbated since the report was prepared, is that the availability and therefore price of land upon which residential aged care facilities can be built, has increased substantially since the report was finalised. During that same time period, the availability of capital funding has dramatically decreased in real terms, a matter that is dealt with specifically elsewhere in this submission.

Conclusion on Efficiency Considerations

Any consideration of efficiency is incomplete in the absence of any serious inclusion considering issues of quality; capital and individual prices of inputs, is and always will be , inadequate and produce unrealistic outcomes. The provision of the Conditional Adjustment Payment of 1.75%, including its extension into the 2008 / 2009 by the current Australian Government, has produced evidence of enhanced efficiency due to the overall indexation (inclusive of CAP) not maintaining pace with the real price escalation confronted by the industry over recent years.

The contribution to inefficiency by regulation has been exacerbated since the time of the Hogan Report. We have seen additional regulatory impost, again without the funding necessary to meet such imposts, since the time of the Hogan Report.

Indeed the ability of the Australian residential aged care industry to continue to produce increased levels of bed days attests to its growing efficiency.

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[28] Ibid P.2
[29] Ibid P. 97
[30] Ibid 5.7 Conclusions P. 103

The elimination of the CAP payments without a realistic indexation in place will lead to substantive service failure with existing resident displacement, whilst preventing service access to new consumer need.

Although the analysis of the 2005 / 2006 fiscal performance data produced in response to some of this new regulatory requirement indicates that some 40% of ACFs are operating in deficit, we are yet to see substantial failure with organisations "falling over" even under such circumstances. We have however seen over recent months continued reporting of an increasing number of facilities in financial trouble, and some being closed as a result. It is suggested through this submission, that should the CAP be removed, such failure will be a continued and escalated feature of the Australian aged care industry. The result of this phenomenon is that older Australians will be denied access to services into the future, with additional risk to both service providers and political reputation.

In spite of the intimated inadequacies of the COPO reflected by the Hogan Review especially with the additional payment represented by the CAP, we have yet to see any review or the production of an adequate recurrent indexation formula. The COPO is an entirely inadequate index which has produced facility failure when combined with rising regulatory impositions, and will continue to do so unless and until it is replaced with an indexation method which reflects the actual movement in costs of providing services.

In the interim, there is no doubt that it is essential to not only maintain the existing CAP payment, but to continue its implementation with a minimum of an additional 1.75% above any COPO calculation to be provided each and every year until such time as an appropriate and adequate indexation formula is implemented, moving to 2% in the next budget.