

Local governments and WA's ageing population

It is broadly recognised that the current supply of aged care services in Australia is inadequate to cater for the increasing and changing demands that will be placed on local government in future years. This publication discusses the *Living Longer Living Better* report released by the Federal Government earlier this year. The report flags major reforms for the aged care sector as well as increased regulation for the operators of aged care facilities.

Local Government Update

In Western Australia, many local governments own and operate retirement villages and aged care facilities. This reflects the important role that local governments play in the provision of aged care services to older Australians.

Over the next 40 years, it is projected that the size of Australia's aged population will grow substantially and the cost of providing aged care services will increase dramatically. This represents a significant challenge for many local governments throughout the State. This challenge is amplified for local governments in rural Western Australia, where in many cases the population is ageing more rapidly compared to major urban and regional centres.

It is broadly recognised that the current supply of aged care services in Australia is inadequate to cater for the increasing and changing demands that will be placed on the sector in future years. It is reasonable to assume that in many instances ratepayers will look to their local government to provide aged care services or to facilitate the provision of such services, to an extent greater than is currently the case.

Reform and Increased Regulation:

More aged care homes will need to be built in future years to meet the increased demand for places from older Australians. Accordingly, the Federal Government plans to increase the accommodation supplement for aged care homes that are built or significantly refurbished after 20 April 2012.

The Federal Government is also proposing increased regulation for the sector:

1. residents will have the choice of paying for their accommodation through a fully refundable lump sum or a rental style periodic payment or a combination of both (ie. aged care providers will not be able to choose

Who does this affect?

The reforms announced by the Federal Government will affect local governments in their capacity as operators of aged care facilities.

Article Highlights

- The Federal Government is proposing increased regulation for aged care facilities.
- These changes will impact on how aged care developments are funded.
- Local governments should build appropriate safeguards into sale contracts and management agreements.



between care recipients on the basis of how a residents elects to pay for their accommodation);

2. a new cooling off period will be introduced so that residents will not need to decide on how they intend to pay for their accommodation until they have actually entered care;
3. a new Aged Care Financing Authority will be established that will approve the level of lump sum payment or equivalent periodic payment for each aged care facility; and
4. Aged Care providers will be required to insure any lump sum bonds that they hold and will not be able to retain any component of the actual bond.

These changes will impact how aged care developments are funded.

Aged Care in rural, remote and regional areas:

The *Living Longer Living Better* Report also recognises that it is more expensive to deliver aged care services in regional, rural and remote Australia compared to urban areas. Additionally, aged care facilities in regional, rural and remote areas can face higher building costs than those in urban areas.

In recognition of these challenges, since 2010 the Federal Government has increased the viability supplement payable to eligible aged care providers in rural, remote and regional areas. The final round of the zero real interest loans program will also provide low cost finance to encourage the establishment of new residential aged care services in rural, remote and regional areas.

Staying at Home:

A key finding in the *Living Longer Living Better* Report is that older Australians want to remain in their own homes for as long as possible. Accordingly, the Federal Government has announced the following initiatives:

1. an integrated home support program (which amalgamates the existing Home and Community Care program, National Respite for Carers program, Day Therapy Centres program and Assistance with Care and Housing for Aged program);
2. increased funding for more Home Care packages to address the substantial unmet demand that currently exists; and
3. the introduction of new means-testing arrangements for Home Care packages (which will mean that some part pensioners and non pensioners will pay higher total fees than they are currently charged).

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Relevance to local government:

The reforms announced by the Federal Government will result in increased regulation of the aged care sector that will affect local governments in their capacity as operators of aged care facilities.

However, there are also opportunities for local governments seeking to attract and retain quality not-for-profit and for-profit private sector operators in their communities. Many local governments are currently engaging with established operators to attract new developments in their community.

Other local governments are in the process of selling aged care facilities owned by the local government to private sector operators. Where this is the case it is important that appropriate safeguards are built into the sale contract and management arrangements to ensure that the new operator must meet the requisite service standards and comply with the Aged Care Act and the Retirement Villages Act, as applicable. In some circumstances, it may be appropriate for the local government to retain an option to re-purchase the facility and take over management in the event that the new operator fails to meet required service standards.

Jackson McDonald is pleased to announce that it has been re-appointed to the WALGA panel. We have experience acting for clients in relation to:

1. buying aged care facilities and retirement villages;
2. selling aged care facilities and retirement villages (with appropriate safeguards regarding service standards);
3. acting for developers of new aged care and retirement village sites;
4. compliance with the Aged Care Act and the Retirement Villages Act; and
5. occupational health and safety issues specific to aged care facilities and retirement villages.

Disclaimer: This publication is intended to provide general information only and should not be relied upon as legal advice. If you require legal advice on a matter please contact us.

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