Submission

to

Productivity Commission's

Inquiry into Australia's

Aged Care Arrangements

July 29 2010

By email: agedcare@pc.gov.au

Caring for Older Australians
Productivity Commission
PO Box 1428
Canberra City ACT 2601

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Table of Contents

1. INNOVATIVE CARE – COMPANY OVERVIEW: 3
   - 1.1 Company Background 3
   - 1.2 Graeme Croft 4
   - 1.3 Sandi Croft 5
   - 1.4 Aged Care Facilities Currently Operating 6
   - 1.5 New Projects Currently Under Construction 7
   - 1.6 New Projects under Planning or Pre Construction 7
   - 1.7 Summary of Innovative Aged Care Projects 8

2. INNOVATIVE RESPONSE TO PC: AGED CARE POLICY ISSUES:
   - 2.1 Disincentives for Investment 9
   - 2.2 ACAR Planning 10
   - 2.3 Valuation Vs Cost 10
   - 2.4 Land Availability 10
   - 2.5 Timing of Developments: 10
   - 2.6 Development Fees & Charges 11
   - 2.7 Land Taxes 11

3. FINANCE ISSUES:
   - 3.1 Availability & Attitude of Financiers 11
   - 3.2 Effect of Japara / Kirralee Sanction 11
   - 3.3 Valuation Vs Cost 11

4. RECURRENT FUNDING:
   - 4.1 Requirement of Indexation 12

5. ACCOMMODATION BONDS:
   - 5.1 Need for Accommodation Bonds 12
   - 5.2 Implementation of Bonds into High Care 12
   - 5.3 Prudential Requirements 13
   - 5.4 Prescribed Services 13
   - 5.5 High Care & Low Care Definitions 13
   - 5.6 Extra Service 13

6. 6.0 Access Arrangements to Residential Care 14

7. 7.0 Innovative Recommendations to PC 15

8. 8.0 Contact points 16

9 9.0 Attachment 1 (ACFI) 17

10 10.0 Attachment 2 (Extra Service Supporting Evidence) 19

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1.1: COMPANY BACKGROUND:

Innovative Care Ltd is an unlisted public company owned by the Croft Family. Innovative and its wholly owned subsidiary companies Innisfree Aged Community Care Pty Ltd and Pacific Renaissance Corporation Pty Ltd (Innovative) are Approved Providers under the Aged Care Act 1997.

Implicit in this approval is that Innovative complies fully with the Commonwealth of Australia legislation concerning its aged care operations across Victoria, New South Wales and Queensland.

Innovative Care Ltd is by far the fastest growing of all the large privately owned aged care providers in Australia, even more notable by its greenfield development program.

Barely four years since inception, Innovative already has 525 aged care places in operation and it has a development programme that will deliver 1,100 places by September 2011 and is focusing on delivering a total of 1,466 places by April 2012 of which 461 provisional places have been applied for in the 2009-10 Aged Care Approvals Round.

Innovative is one of the very few groups with its own architectural design development & construction team with Commercial Builders License. We have invested heavily in IT solutions, including fully integrated IT care planning, medical records, integrated accounting package for payroll / debtors / creditors / general ledger/ and accommodation bond register complying with Aged Care Act 1997.

Innovative is backed by Graeme and Sandi Croft, with over 40 years of experience in the development and operations of aged care facilities. The second generation of Croft family members are now involved in the business development and operations, with Ramsay Croft (BPC & BPD Melb) heading up our development division, and Amal Croft (LLB, BA Psych) supporting our operations and compliance divisions.

Innovative is pleased to make this submission to the productivity Commission on the following basis:

1. It has a history of building new aged care facilities, with a focus on regional areas.
2. It is committed to long term success of its aged care operations
3. Its shareholders have invested significant private wealth in the sector and therefore sustainability of the sector is vital to protect the interests of our stakeholders, being shareholders, bankers, residents, employees, and wider community that may need these services in the future.
4. It offers quality services of a type that meet the federal governments Accreditation and Certification requirements.
5. It has the capacity to expand its operations nationally, as it will soon be operating in 3 states being Victoria, New South Wales and Queensland.

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1.2 Graeme Croft:

Graeme Croft has enjoyed over 24 years as an owner operator of various aged care facilities throughout Melbourne and in many Victorian provincial cities.

Major Attributes:

- High level understanding of both State and Federal legislative framework for the operation of retirement living and Commonwealth funded aged care.
- Extensive knowledge of capital markets and development and mechanics of developing a range of projects in the $1m- $30m range.
- High level understanding of industrial relations, EBA's and OH&S requirements in both health & aged care and business generally
- Expertise and responsibility as Company Director of an ASX listed Public Company (Nova Health Limited) and practical experience as a board member of both Australian Nursing Homes and Extended Care Association (ANHECA) and Victorian Chamber of Commerce and Industry (VECCI), including Chairman and Federal President of ANHECA (now ACAA) federally for 3 years.
- High profile person acknowledged throughout the aged care industry as highly experienced and commercially focused. Experienced in public speaking through conferences and ministerial meetings gained through 12 years at industry association level.

Career Highlights:

- Only Victorian private sector operator to win both the pilot and second round State Government privatisation of aged care assets.
- Successful in many aged care approval round applications, including those for our clients.
- CEO / CFO of organization with over 500 employees at its peak.
- Board member of Nova Health Limited (ASX Listed Public Company) 2004/2005, prior to Merger with Healthscope 2005.
- Successfully managed, financed, and developed 9 major projects ranging in cost base from $1m - $15m.
- Achievement of Commitment to Business Excellence in 1997 Australian Quality Awards – A first for Aged Care.
- Federal President, Australian Nursing Homes & Extended Care Association, 1994-1997
- Appointed to Executive Council of Victorian Chamber of Commerce and Industry (ECCI) representing the health sector in 1996/97.
- State President, Australian Nursing Homes & Extended Care Association, 1992-93, State Vice President 1988-1992
- Development of Enterprise Bargaining Agreement (Sect 170LK) under Workplace Relations Act in Aged Care *without* union agreement.

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1.3 Sandi Croft:

Sandi Croft is an RN Div1, with an MBA and has 12 years experience in aged care in management, quality systems and operational management of Aged Care businesses ranging from 30 – 135 beds, in addition she has held Executive D.O.N roles with the responsibility for up to 300 beds, and over 500 employees.

Sandi provides the following support:

1. Establishment of reporting guidelines for all facilities.
2. Personally involved in setting up reporting requirements for each facility
3. Supervision of external consultants in meeting reporting requirements.
4. Correspondence with the department and the standards agency on as needs basis following direction by client.
5. Overview of facility staffing requirements based on acuity.
6. Coordination of staff and external consultants to ensure their presence during accreditation audits, support visits, complaint resolution, resident meetings.
7. Overviews recruitment of senior personnel on as needs basis.

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1.4 Aged Care Facilities Currently Operating:

Woodend Community Aged Care.

Innovative Care owns Woodend Community Aged Care – an 80 bed High & Low Care Facility completed during 2006/2007 as a result of a relocation of an older facility, combined with new approvals including 20 bed ACAR approval in 2007 and fully operational in 2008.

Clayton Community Aged Care – Victoria.

Innovative completed a new 151 bed aged care facility in October 2009 at a cost of $30m. Only 90 bed licenses had been approved under ACAR for the site, but the expansion seemed warranted, given the LGA of Monash area was 300 beds underbedded. Further ACAR applications in 2008 ACAR were rejected due to concerns about viability. (The facility was near completion stage as 150 beds so we cannot understand these concerns, given that the project had bank funding in place). Further applications for Extra service were rejected based on oversupply of ES beds in Eastern Metro area, and subsequently the provider had to pay $2.5m to acquire a further 45 bed licenses for the site. Further Comments will be made about Extra service later in this report.

Eden Community Aged Care – New South Wales.

Innovative care completed an 85 bed facility in June 2009. This facility has occurred through a 60 bed ACAR allocation in 2006, a 20 place ACAR allocation for 2007, a further 5 places approved through ACAR 2008.

Seabreeze Community Aged Care – Pottsville, New South Wales.

Innovative Care and its wholly owned subsidiary Pacific Renaissance Corporation Pty Ltd completed construction of this 150 bed facility in October 2009. 120 bed licenses where allocated over 2 ACAR funding rounds. A further application was made in 2008 ACAR for an additional 30 high care places to complete the project, but was again rejected on the basis of viability although the 150 beds were currently near completion at the time of ACAR, and the facility was on track to be fully developed as 150 beds.

Kyneton Community Aged Care – Victoria.

Construction was completed for a 60 bed Aged Care Facility (2006 ACAR) in February 2010. Significant delays were experienced through the planning process as a result of neighbourhood objections which required subsequent referral to Victorian Civil and Administrative Tribunal, however we were successful with our appeal, and the project is successful. A further application was made in 2008 ACAR for an additional 30 high care places to complete the project as 90 beds but was again rejected on the basis of viability.

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1.5 New Projects Currently Under Construction:

Portland Community Aged Care – Victoria.

Innovative Care (Innisfree) has an ACAR approval of 90 places and is near completion of building processes. Project due for completion in December 2010.

White Rock Community Aged Care – Cairns, Queensland.

Innovative Care (Innisfree) has a 2007 ACAR approval of 90 places and is near completion of building processes. Project now due for completion in January 2011. Planning is approved for expansion to 120 beds. A further application was made in 2008 ACAR for an additional 30 high care places to complete the project as 90 beds but was again rejected on the basis of viability.

1.6: New Projects in Planning or Pre Construction Stages:

Mildura Community Aged Care – Victoria.

Innovative received planning approval for a 75 bed Aged Care Facility in Miildura; on a 10 acre site adjoining the Da Vinci Italian Club. Building Permit drawings are being prepared. A further application was made in 2008 ACAR for an additional 25 high care places and Extra Service for some high care places but was again rejected on the basis of viability, and an oversupply of ES places even though the region had less than 3% places approved for ES.

Tugun Aged Care – Tugun, Queensland.

Innovative Care and Pacific Renaissance Pty Ltd currently have a planning approval and operational works permit (building approval) through Gold Coast City Council for a 150 bed Aged Care Facility, with 90 places currently approved through ACAR 2007 for the site. Further applications were made for the remaining 60 places in 2008 ACAR for the balance of the development, but was rejected for viability concerns by the department. ES for high care places was rejected. The project is on hold pending further ES applications.

Sovereign Gardens Community Aged Care – Ballina, New South Wales.

Innovative Care currently have planning approval for 120 beds in Ballina approved by Ballina Shire Council. 90 Places were awarded in ACAR 2007, further application in 2008 ACAR for balance of 30 places was rejected by the Dept due to viability concerns. Council are asking for $1.1m in council contribution fees and therefore further negotiation with Ballina Shire Council is required to reduce these fees. Innovative Care partnered with the Aspen Funds Management Group Pty Ltd on this project, where Aspen had a had a large parcel of land earmarked for a Retirement Village and Innovative Care will provide the Aged Care Facility to compliment the Retirement Village already under construction on the site.

Bairnsdale – Victoria.

Innovative Care (Innisfree) has a 2007 ACAR approval of 90 places and is in final building approval stages with planned commencement of works in late August 2010.

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1.7: SUMMARY OF FACILITIES :

2009: Croft Group will have the following new facilities operational during 2009:

Woodend: - Victoria 80 places operational

Clayton – Victoria (150 places)

Seabreeze – Pottsville, New South Wales. (150 places)
Eden – New South Wales. (85 places)
Kyneton – Victoria (60 places)

In total for 2009 there will be 525 places operational.

2010: The following facilities will come online in 2010:

Cairns – Queensland (90 places)
Portland: Victoria , 90 places.

2011: The following facilities will come online in 2011:

Mildura – Victoria (75 places)
Ballina – New South Wales (120 places)
Bairnsdale– Victoria (90 places)

2011: The following facilities will come online in 2012:

Tugun – Queensland (150 places)

The Croft Group in total expects to have in excess of 1,100 Aged Care Places operating by early 2012.

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2 INNOVATIVE RESPONSE TO PRODUCTIVITY COMMISSION :

"Develop options for reforming the funding and regulatory arrangements across residential and community aged care (including the Home and Community Care program)"

2.1 Disincentives for Investment:

The Innovative Care directors are of the view that there are strong disincentives for further investment in new residential aged care facilities. The funding system fails to recognize the capital variance in the cost of a new facility (approaching $200,000 per bed) versus new investment in an older facility ie. ($100,000 per bed). With all participants paid the same revenue and regulations concerning payment of fees.

These policies have the effect of government occupying the high ground by legislating providers out of business by increasing building standards, whilst capping revenues, and applying accreditation standards with underlying cost pressures not met by regular funding increases.

There are no other parts of Australia's economy that Government requires a regulatory standard, but does not allow for that standard of supplying the goods or services to be met by applying a viable purchase price to be met by the consummer. The Commonwealth is effectively using its market powers to drive an unreasonable business arrangement that would fall foul of the Commonwealth Trade Practices Legislation Sect 51 otherwise described as "Unconscionable Conduct".

The recent annual Commonwealth funding increase of 1.7% is substantially short of the recent wage increase of approximately 5%, or underlying CPI at 2.5-3% Per annum. In addition, providers cannot charge their clients an increased daily fee when the Commonwealth does not meet the increased costs of supplying the service.

The current funding model allows all facilities to earn the same income regardless of the capital cost and inherent operating costs. Innovative Care are of the view that the targeting of capital funding must favour new investment either by Government incentives, higher user fees and charges, or a further extension of accommodation bonds into high care.

Innovative Care are of the view that any extension of increased funding should be directed to those providers that invest directly in to the provision of high care single room, ensuite accommodation.

Innovative Care strongly supports increased building standards for high care facilities. In our view the Commonwealth should move to a "stage 2 of Building Certification" to effectively set the agenda in incremental improvement in facilities.

The requirement for facilities to improve their building standards by December 2008 in Privacv issues was only a token gesture, with four bed rooms still permitted, and up to 7 people sharing a bath or shower facility. As the December 2008 date has now passed, It would now be timely for the Commonwealth to set a further increased benchmark for accommodation standards by December 31, 2012.

Innovative Care believes the Industry needs to move to new standards reflecting consumers preference, and community standards for improved accommodation. Innovative Care is further of the view that all facilities should be required to offer lounge rooms and dining rooms specifically set for these purposes.

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2.2 ACAR Planning:

Innovative Care are of the view that the current ACAR Planning System of one years allocation at a time provides insufficient certainty to providers as to the maximum potential for new aged care places for a particular site or region.

Often providers need to apply in up to three ACAR rounds in order to gain maximum places, when it would be preferable to have advance knowledge of future allocations.
In our view the ACAR could announce a 3 year release, with beds only being occupied at a certain point in time.

This would assist with better planned facilities on a master plan basis, financing, staff resources etc. Rework and small extensions are extremely costly, and disruptive as opposed to a large greenfield development.

New Aged Care facilities normally take considerable time to fill, not withstanding pent up demand, due to an orderly admission process, staff training, and early staff attrition.

A new facility will need to market itself to the Community, and provide an orderly increase in occupancy to even out work flows associated with ACFI documentation, and establish early demonstrable compliance with accreditation standards. They need to establish proper work practices and an ongoing mentoring and training program for all new employees.

2.3 Valuation Vs Cost:

We are noticing a disturbing trend of poor valuations for new high care facilities with new facilities being marked down by Valuers because they lack the ability to be able to attract accommodation bonds. In many instances the valuation on completion of a high care facility can be 20- 40% lower than the cost of land and construction. This will affect the ability for growth in the sector.

2.4 Land Availability & local Council:

Land availability for new Aged Care Projects is a major consideration for the sector that in our view is a matter that warrants consideration by both State and the Commonwealth in the Planning of Aged Care Facilities in high land cost areas. Contribution fees for water and sewerage in NSW and Queensland are not paid in Victoria.

2.5 Timing of Developments:

There are many issues concerning the timing of developments and the delays in bringing new projects online. In our view the 2 year time frame is in many instances unworkable. A 20 bed extension is possible. However, take for example a 150 bed aged care facility of approximately 8,500 sq m floor area, and perhaps 3 storey construction. In this instance, the build time alone is approaching 18 months and commissioning time of a further 2 months brings the total building time of approximately 20 months and this only leaves a balance of 4 months for planning, site analysis and any issues to be resolved with the site. We note that many 2004 ACAR allocations are currently only becoming operational now, and the Commonwealth needs to conduct analysis on the average timeframe for establishment to establish reasonable industry benchmarks.

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2.6 Development Fees & Charges:

We are aware of the opportunistic and quite blatant over-charging of aged care providers by Local Government in their assessment of development charges for connection to utilities and provision for such services as libraries, bus shelters, footpath, etc. Innovative can cite the case of Eden in New South Wales where we were charged $530,000.00 for the contribution fees to Council for a new 85 bed facility that occurred on established land in an area currently zoned for residential use, with all services supplied to site. .

In Pottsville, New South Wales, 10 Residential allotments were consolidated into one larger allotment for a 150 place RACF development, and each had all services connected for residential development, yet Council imposed a further charge of $1,530,000 on Innovative Care to develop its Aged Care Facility. We are of the view that the Commonwealth needs to intervene with these Councils on behalf of aged care operators who are powerless to act against the greed of local Councils.

2.7 Land Taxes:

Innovative are of the view that the Commonwealth should require State Governments to ensure that land is deemed exempt from land tax where an operator holds an "Approval in Principle" for a RACF. This would reduce holding costs through the development phase. This process was approved in Victoria commencing in the 2010 year.

3 FINANCE ISSUES:

3.1 Availability & Attitude of Financiers:

Financiers have recently limited funding to aged care operators in terms of the quantum and cost of funding. Whilst interest rates are lower now than they have been over recent years, banks have taken the opportunity to increase their margins to the sector, in particular for the reduced valuations and the lack of security of Allocated Places (Refer 3.2). For these reasons it is imperative that accommodation bonds be permitted into high care, particularly for single ensuite bedroom accommodation. This will reduce providers reliance on the banking sector.

3.2 Effect of Japara / Kirralee Sanction:

Financiers and Valuers are discounting current valuations, due to the inability of the Industry to guarantee the ongoing availability of Allocated Places to an operating facility. The Commonwealth's recent sanction of the Kirralee facility revealed that it was willing to cancel an operator's entitlement to aged care places, with the very first sanction. This has greatly affected many bankers former opinion of the industry as secure, and has provided the banks with an opportunity to reduce current valuations held by the industry.

Whilst we can understand that the Commonwealth wishes to make a stand against operators not maintaining standards, in our view, the operation of sanctions under the Aged Care Act was meant to be an escalation of sanctions, with the removal of Aged Care Approval as a last resort.

In our view the Commonwealth needs to make a clearer distinction and process of dealing with homes that are delinquent in standards with a view that an operator or financier can step in to protect the value of the asset over the longer term.

The recent escalating series of unannounced visits has meant that many providers now utilize a much larger part of their operating budget for an increase in external surveillance of accreditation outcomes, generally by external auditors. This has had the effect of reducing funding for other resident focused programs.

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3.3 Valuation Vs Cost:

As mentioned earlier under Aged Care Policy Issues (2.3) the financiers are now greatly concerned at the reducing valuations as a result of firstly the inability of operators to take bonds into high care, and therefore reduce debt over the longer term, and also the effect of the Kirralee sanction and its longer term effect on the industry. A purpose built aged care facility is a costly building to have financed if it cannot continue to trade as an aged care facility.

4 RECURRENT FUNDING:

4.1 Requirement of Indexation:

The Industry strongly supports the introduction of a new indexation system to replace the current COPO and CAP funding arrangements. Innovative Care supports the process of the CAP being absorbed into the base subsidy, and an appropriate indexation base be established.

In our view, this subsidy would equate to approximately 65% labour costs, (split between nursing staff & non-nursing staff plus on costs), 20% of the funding earmarked for general operating costs and be increased by the CPI nationally, and 15% of the funding to be related to property and related costs.

We believe the Industry and bankers would respond strongly to an appropriate transparent funding indexation system to replace the current arrangements.

5 ACCOMMODATION BONDS:

5.1 Need for Accommodation Bonds:

Bonds have been issued by the Aged Care Industry to enable new Low Care facilities to be built over many years, with very few business failures resulting in the loss of funds.

Given the ageing in place process of low care residents moving into high care, there can be a resentment from some low care residents that have paid bonds, when new admittances direct to high care pay no bonds. In our view these matters need careful evaluation as to an avoidance of the take up of low care places , and increased demands on very limited home care, and is an unintended consequence of the differing bond treatment for people requiring different care.

We recommend that all new residents in either low or high care who request access a single room with ensuite, be assessed for their ability to pay an accommodation bond either on a periodical or on a lump sum basis.

5.2 Implementation of Bonds into High Care:

Innovative is of the view, that with most new facilities conforming to BCA Class 9c permitting "Ageing in Place", there should be no distinction between high and low care, in that the differential is essentially one of documentation. Innovative is strongly of the view that accommodation bonds should apply to all new admittances to a residential aged care facility. The benefit of bonds should only occur for those operators with single room / ensuite bathroom facilities. Innovative further supports a percentage of RAC places to be retained for concessional use under the current arrangements and ratios.

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5.3 Prudential Requirements:

The recent failure of the Bridgewater Facility and Gracedale Manor in Victoria which resulted in loss of Accommodation Bond capital requiring repayment under the Bond Guarantee Scheme revealed significant anomalies with creative business structures being employed to access new capital streams. The use of leasehold facilities where the registered business operator does not have any control over the freehold operations is increasing. Typically the business operator with few assets controls a large bond pool, and the freehold operator owns the building without a license.

In the case of Bridgewater there were a large number of investors to deal with, who all had a financial interest in the freehold, but the leasehold operator had "walked away" with the bond pool.

Innovative strongly supports the view that bonds ought to only be charged for facilities where the operator operates both the business and freehold under the same or 100% controlled entity.

5.4 Prescribed Services

a. There is confusion over entitlements to high & low care now that ACFI funding levels is a moving target – Refer to attachment 1. ACFI Funding assessments change regularly leaving providers and residents in a difficult position in levying charges for the different prescribed services.

b. Recommendation that prescribed services be equalized for all residents with corresponding base level funding increase applicable to all ACFI levels.

5.4 High Care & Low Care Definitions

a. There would appear to be no good reason to delineate between high care and low care residents in the type of care offered in particular for those newer buildings that are BCA Class 9c.

b. A new form of financial discrimination exists in that a person entering with low care can minimize means tested fee by paying an accommodation bond. Those entering at high care with assets are charged an accommodation charge and means tested fees.

c. Recommendation that residents be known as approved for a new term other than the High Care / Low Care delineation.

5.5 Extra Service.

a. The department has now effectively blocked the approval of further Extra Service with applications into many planning regions. Es has been used as a method of attracting bonds into high care normally in ES wings or distinct parts. The department is micro managing this process by applying arbitrary assessments of capacity for residents to afford extra service.

b. We attach a document (Attachment 2) in regards to our experience in attempting to apply for Extra Service at three locations in 2008 ACAR. The matter is currently before federal court, but we believe the department has not followed legislation in disallowing applications that ought to be approved.

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6.0 Access Arrangements to Residential Aged Care:

Innovative strongly believes the existing system of Aged Care assessment teams (ACAT's) being the gatekeeper to Commonwealth Funded Aged Care is an unnecessary cost burden on government and hinders early departures from acute care, and would appear to have caused delays in admitting care recipients to residential care adding to bed blockages in acute care.

Other Commonwealth funded programs, EG Public Hospitals, Medicare, optometry, pathology, imaging, child care do not have these gate keepers. In the case of Aged Care Innovative is of the view that GP's or discharge planners at hospitals ought to be able to order an admission to residential care for 30 days until the RACF lodges an ACFI. Such admissions would permit respite to be controlled in the same manner , ie at a default rate of funding.

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7.0 Innovative Recommendations on New Policy Initiatives:

- Innovative Care strongly supports increased building standards for high care facilities, given that Certification standards were set in 1999, more than 11 years ago, and increased privacy and space requirements were enacted in 2008, but no progress has been made on the following areas:
- New Certification Instrument to be drafted – compliance with BCA9c
- Removing 4 bed rooms from aged care facilities.
- Mandating maximum of 2 residents per bedroom
- Mandating minimum dining room requirements, suggest 2m2 per resident.
- Mandating minimum lounge areas, suggest 2m2 per resident for existing homes.
- Mandating requirements for separate craft room areas.
- Mandating secure areas for staff, eg lockable nurses stations.
- Mandating Sprinklers and Automatic Fire Detection for all residential aged care facilities, BCA Classes, 9a, 3 & 9c.
- Mandating separate doctors room say 10m2 set aside for doctor consultations with internet access.
- Accommodation Bonds should only be permitted to be taken where the operator of the business owns the freehold operations or can provide guarantees for repayments of bonds from the freehold owner.
- Freehold Security for Bonds be taken by way of first ranking charge on freehold assets of the approved provider similar to that required under Retirement Village legislation. The security ranks ahead of any other secured creditors.
- The Commonwealth needs to be pro active in establishing planning guidelines for local government councils to follow, such as car parking ratios, disabled car spaces, setbacks from boundaries, communal open space, bush fire prevention. The objective would be to minimize the use of expensive consultants, and speed up planning processes for council officers that often have little knowledge of the needs of the sector.
- Innovative are building in three states (NSW, Qld, & Vic). Despite a national building code (BCA 9c), state variances exist for no good reason and this needs the Commonwealth's pressure on the States to reject such variances.
- Remove discriminatory elements of High Care or Low Care. All residents to residential care should enjoy the same prescribed services and be subject to the same fee charging regime.

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ACFI CALCULATOR

ATTACHMENT 1

29-Jul-10

	ADL	BEHAVIOR	COMPLEX
LOW	$30.32	$6.93	$13.64
MEDIUM	$66.03	$14.36	$38.86
HIGH	$91.47	$30.25	$56.11

				ACFI INCOME	RCS INCOME
CAT 1/11	HIGH	HIGH	HIGH	HIGH CARE	
	$91.47	$30.25	$56.11	$177.83	ACFI CAP 30/6/11
CAT 1/10	HIGH	MED	HIGH	HIGH CARE	
	$91.47	$14.36	$56.11	$161.94	
CAT 1/9	HIGH	HIGH	MED	HIGH CARE	
	$91.47	$30.25	$38.86	$160.58	
CAT 1/8	HIGH	LOW	HIGH	HIGH CARE	
	$91.47	$6.93	$56.11	$154.51	$15 ABOVE CAT 1
CAT 1/7	MED	HIGH	HIGH	HIGH CARE	$150.54
	$66.03	$30.25	$56.11	$152.39	ACFI CAP UNTIL30/6/10
CAT 1/6	HIGH	NIL	HIGH	HIGH CARE	
	$91.47	$0.00	$56.11	$147.58	
CAT 1/5	HIGH	MED	MED	HIGH CARE	
	$91.47	$14.36	$38.86	$144.69	
CAT 1/4	HIGH	LOW	MED	HIGH CARE	
	$91.47	$6.93	$38.86	$137.26	
CAT 1/3	MED	MED	HIGH	HIGH CARE	
	$66.03	$14.36	$56.11	$136.50	$15 ABOVE CAT 2
CAT 1/2	HIGH	HIGH	LOW	HIGH CARE	
	$91.47	$30.25	$13.64	$135.36	
CAT 1/1	MED	HIGH	MED	HIGH CARE	
	$66.03	$30.25	$38.86	$135.14	CAT 1
					$130.54
CAT 2/4	HIGH	NIL	MED	HIGH CARE	
	$91.47	$0.00	$38.86	$130.33	
CAT 2/3	MED	LOW	HIGH	HIGH CARE	
	$66.03	$6.93	$56.11	$129.07	
CAT 2/2	MED	NIL	HIGH	HIGH CARE	
	$66.03	$0.00	$56.11	$122.14	
CAT 2/1	HIGH	HIGH	NIL	HIGH CARE	
	$91.47	$30.25	$0.00	$121.72	CAT 2
					$118.37
CAT 3/9	HIGH	MED	LOW	HIGH CARE	
	$91.47	$14.36	$13.64	$119.47	
CAT 3/8	MED	MED	MED	HIGH CARE	
	$66.03	$14.36	$38.86	$119.25	$15 ABOVE CAT 3
CAT 3/7	LOW	HIGH	HIGH	HIGH CARE	
	$30.32	$30.25	$56.11	$116.68	
CAT 3/6	HIGH	LOW	LOW	HIGH CARE	
	$91.47	$6.93	$13.64	$112.04	
CAT 3/5	MED	LOW	MED	HIGH CARE	
	$66.03	$6.93	$38.86	$111.82	
CAT 3/4	MED	HIGH	LOW	HIGH CARE	
	$66.03	$30.25	$13.64	$109.92	
CAT 3/3	HIGH	MED	NIL	HIGH CARE	
	$91.47	$14.36	$0.00	$105.83	
CAT 3/2	HIGH	NIL	LOW	HIGH CARE	
	$91.47	$0.00	$13.64	$105.11	
CAT 3/1	MED	NIL	MED	HIGH CARE	
	$66.03	$0.00	$38.86	$104.89	CAT 3
					$101.97
CAT 4/14	LOW	MED	HIGH	HIGH CARE	
	$30.32	$14.36	$56.11	$100.79	
CAT 4/13	LOW	HIGH	MED	HIGH CARE	
	$30.32	$30.25	$38.86	$99.43	
CAT 4/12	HIGH	LOW	NIL	HIGH CARE	

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	$91.47	$6.93	$0.00	$98.40	
CAT 4/11	MED	HIGH	NIL	HIGH CARE	
	$66.03	$30.25	$0.00	$96.28	
CAT 4/10	MED	MED	LOW	HIGH CARE	
	$66.03	$14.36	$13.64	$94.03	
CAT 4/9	LOW	LOW	HIGH	HIGH CARE	
	$30.32	$6.93	$56.11	$93.36	
CAT 4/8	HIGH	NIL	NIL	HIGH CARE	
	$91.47	$0.00	$0.00	$91.47	$15 ABOVE CAT 4
CAT 4/7	MED	LOW	LOW	LOW CARE	
	$66.03	$6.93	$13.64	$86.60	
CAT 4/6	LOW	NIL	HIGH	HIGH CARE	
	$30.32	$0.00	$56.11	$86.43	
CAT 4/5	LOW	MED	MED	HIGH CARE	
	$30.32	$14.36	$38.86	$83.54	
CAT 4/4	MED	MED	NIL	HIGH CARE	
	$66.03	$14.36	$0.00	$80.39	
CAT 4/3	MED	NIL	LOW	LOW CARE	
	$66.03	$0.00	$13.64	$79.67	
CAT 4/2	LOW	LOW	MED	LOW CARE	
	$30.32	$6.93	$38.86	$76.11	
CAT 4/1	LOW	HIGH	LOW	HIGH CARE	
	$30.32	$30.25	$13.64	$74.21	CAT 4
					$72.08

CAT 5/7	MED	LOW	NIL	LOW CARE	
	$66.03	$6.93	$0.00	$72.96	
CAT 5/6	LOW	NIL	MED	LOW CARE	
	$30.32	$0.00	$38.86	$69.18	
CAT 5/5	MED	NIL	NIL	LOW CARE	
	$66.03	$0.00	$0.00	$66.03	
CAT 5/4	LOW	HIGH	NIL	HIGH CARE	
	$30.32	$30.25	$0.00	$60.57	$15 ABOVE CAT 5
CAT 5/3	LOW	MED	LOW	LOW CARE	
	$30.32	$14.36	$13.64	$58.32	$15 ABOVE CAT 6
CAT 5/2	LOW	LOW	LOW	LOW CARE	
	$30.32	$6.93	$13.64	$50.89	CAT 5
CAT 5/1	LOW	MED	NIL	LOW CARE	$43.91
	$30.32	$14.36	$0.00	$44.68	

CAT 6/2	LOW	NIL	LOW	LOW CARE	
	$30.32	$0.00	$13.64	$43.96	$15 ABOVE CAT 7
	NIL	NIL	MED	LOW CARE	
	$0.00	$0.00	$38.17	$38.17	
CAT 6/1	LOW	LOW	NIL	LOW CARE	CAT 6
	$30.32	$6.93	$0.00	$37.25	$36.38

CAT 7/2	LOW	NIL	NIL	LOW CARE	
	$30.32	$0.00	$0.00	$30.32	
CAT 7/1	NIL	HIGH	NIL	LOW CARE	CAT 7
	$0.00	$29.72	$0.00	$29.72	$27.94
CAT 8/3	NIL	MED	NIL	LOW CARE	
	$0.00	$14.36	$0.00	$14.36	
CAT 8/2	NIL	NIL	LOW	LOW CARE	
	$0.00	$0.00	$13.64	$13.64	
CAT 8/1	NIL	LOW	NIL	LOW CARE	
	$0.00	$6.93	$0.00	$6.93	

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EXTRA SERVICE COMMENTS: ATTACHMENT 2:

Background Information:

Innovative Care Pty Ltd is the holding company owning all shares in Innisfree Aged & Community Care Pty Ltd (Innisfree) and Pacific Renaissance Corporations Pty Ltd (PRC). Both Innisfree and PRC are Approved Providers under Part 2.1 of the Aged Care Act 1997 (the Act). Innisfree and PRC are in full compliance with the Act.

Applications were made in respect of Extra Service in the 2008 ACAR which were refused by the department. We feel the issues at hand indicate the department has disregarded existing legislation or has used selective data to refuse the applications.

Applications to Commonwealth for Extra Service:

Innisfree and PRC are eligible to apply for Extra Service (ES) under Part 2.5, Sect 31-1 of the Act.

Innisfree & PRC made application to the Commonwealth under Sect 32-1 of the Act in relation to an advertisement calling for Extra Service applications with a closing date of July 31 2010.

The applications in all instances were made within the prescribed time limit, (receipt returned)

Innisfree received three approvals for Kyneton, Eden and Cairns based on a generic style of application. PRC received 2 approvals, one for Seabreeze at Pottsville (NSW), and one for Tugun (QLD) for low care places.

Rejections of Extra Service:

Innisfree received two rejections, (Clayton) and (Mildura) . Note the application for these homes was virtually identical to Kyneton in Victoria, that was approved, so the application was a valid application. Indeed the Commonwealth only referred to the oversupplied number of Es places in these localities as the sole reason for rejection of our application.

PRC had rejection of 60 high care Extra Service places for Tugun, but approval for 30 low care places. (We take it a given the ES application was sufficient as 30 low care places were approved)

The Commonwealth advised that the application for Clayton, Mildura and Tugun were unsuccessful under Sect 32-4 (1) of the act as this would "unreasonably reduce access for potential high care residents, and would restrict the potential for increased diversity of choice in the future for low care residents in these areas.". (Same reasons for all three applications).

The refusal was made on the basis of Sect 32-4: *32-4 Criteria to be considered by Secretary*

(1) The Secretary must not grant an application unless the following criteria are satisfied:

*(a) granting the *extra service status sought would not unreasonably reduce access to residential care by people living in the State, Territory or region concerned who:*

*(i) are *supported residents, *concessional residents or *assisted residents; or*

(ii) are included in a class of people specified in the Extra Service Principles;

Notes: The Dept claimed the granting of ES cannot unreasonably reduce access to residential care by people living in the State, Territory or Region. (Region is defined under subsection 12-6(1) Act.)

Report Compiled by Graeme croft, Director July 29 2010
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Other Matters to consider:

32-7 of the act allows the Minister to set a maximum proportion of the total allocated places in a State Territory or region that may be extra service places. (We understand this to be 15%) Note that a "place" is defined as a capacity within an aged care service for provision of residential care, community care or flexible care to an individual.

Comment:

Sect 32-4 (i)refers to not unreasonably reduce access to concessional *(defined in sect 44-7)* or supported residents (*sect 44.8*). We note that the ratio to be provided for these Concessional or Assisted Residents is less than 20% of all available places.

Sect 32-4(ii) refers to a class of people, noted in the Extra Service Principles 1997, and principles 14.15 states this"as people at least 70 whom the secretary believes would have difficulty affording the ES fee".

In each of the applications raised, ie Clayton, Mildura and Tugun, only a Distinct Part *(sect 30-3)* of the facility was proposed for ES, leaving substantially more than 20% of available places for Concessional or Assisted Residents.

Indeed on a comparative basis: Clayton as 90 places, if 60 were approved as ES, then 33% would be available for Concessional or Assisted Residents, noting that Low care can age in place in this facility.

Applying the same analogy to Mildura then 30 number of Es places out of 75 total places would leave 60% for Concessional or assisted residents, noting that Low care can age in place in this facility.

It is our view that the Commonwealth believes it has the power to further define the type of care into high or low care places when deciding if a State, Territory or Region is oversupplied with Extra Service Places. We disagree with this position, as the act does not define places into high or low care for the purposes of Sect 32-4 or Sect 32-7 of the Act. We refer you to the definition of Place in the Act. This would appear to require the Secretary to consider all Residential Care, Community Care and Flexible care as to any restriction of access.

Even if it could be argued that the types of care ought to be separated into high and low care for assessment purposes under Principle 14.19B(2) , the matter of ageing in place for low care recipients continuing to occupy the same Allocated Place in Residential Care as they migrate into high care, places further weight that low care places ought to be taken into account in deciding if a region is over supplied with ES.

Furthermore, The Commonwealth is looking at discrete geographic centres within regions (evidenced by Mildura decision) as opposed to the whole region in assessing if an area is oversupplied. We do not concede that the secretary has the power to be discriminating within a Region as defined under the Act.

We refer you to Clayton: Note the Commonwealth's Geographic Map for Eastern Metropolitan region of Victoria. We say the total region has 9003 aged care places (Including high & low Care)
If 15% was the maximum permissible number then 1350 Extra service places ought to be available for approval and only 1157 places are currently approved., leaving adequate capacity for 60 places for Clayton.

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We refer you to Mildura in Victoria, in the Loddon Mallee Planning region. There are 3169 aged care places, of which 123 are Extra service leaving capacity for 30 ES places at Mildura.

We refer you to Tugun, in the Qld South Coast region. "low care"places approved for ES but not high care. We do not believe the Act allows the secretary to discriminate into low or high care and Places is a defined term in the Dictionary of the Act referring to the total of approvals. (this includes Community & flexible care).

Matters Overlooked by the Secretary in the Assessment Process:

In our opinion, the secretary has not placed sufficient weight on ES Principles 14.19B, or Diversity of choice for care recipients. Principles 14.19B(2) notes the different kinds of diversity of choice for current and future care recipients that may form part of an ES application.

Our facilities offered cultural meals as part of the ES application, opportunities for Couples to cohabit, ES for dementia residents, and ageing in place for low care recipients. We experience an extreme diversity of ethnic persons in our Clayton location, and ES allows diversity of meals to be significantly addressed. In Mildura, our facility was designed specifically for the Italian Community including its own vineyard.

In our opinion the secretary has placed the sole rejection of Extra Service based on an arbitrary assessment of limiting access to persons of limited financial means, not taking into account that we are providing Distinct wings, and diversity of choice for care recipients in the region, at the same time as leaving substantial availability of access in excess of the Concessional Ratio for those of limited financial means. Indeed we find the process discriminatory to the majority (80%) of care recipients who have accrued a nest egg of funds for aged care, and are denied the opportunity to scale up to better facilities.

The department has shown scant regard for the ES legislation, evidenced by its arbitrary assessment of ES applications within a narrow framework, and has failed to abide by the legislated timeframes for assessment of the July 31 2009 Extra Service Round. We note that this round ought to have been advised within 90 days of closing date of applications, being 31 October 2009. Instead, the Secretary took another 4 months to advise providers of the outcome of their applications.

It is important as the community expectations change as to the types of care we may all expect to enjoy during the life of these new aged care facilities, that ES be allowed to create the diversity within types of aged care services in the Community, on the basis that one size does not fit all. If the Commonwealth statistics show that the Concessional ratio for an area is met, and the region has less than 15% of all available places approved for ES, then qualifying applications ought to be approved expeditiously.

15% Rule: Sect 32-7 provides maximum of 15% of places for extra service in state or territory.

It is my belief that sect 32-7 cannot be used as a reason to refuse the application unless the total number of ES beds in the state were greater than 15%.

Access & diversity: Sect 32-4 of the act and sect 14.15 of the principles was used as primary reason for refusal.

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Sect 32-4 – relates to concessional ratios established for each state/territory/region.
We attach the concessional ratios as

Region	Concessional Ratio set for Region (ie all homes must provide this amount of beds for pensioners with less than $37500 in assets.	Actual Ratio of all places being occupied by Concessional residents
Clayton _ Vic Eastern Metro	16.7%	34.9%
Mildura – Loddon Mallee	18.2%	39.9%
Tugun – south Coast Qld	17.8%	45.4%

Implications:

Clayton, we had 90 beds, 45 were applied for Extra service. Therefore we only needed to provide 16.7% of beds for Concessional, and in the East metro Vic region 34.9% of beds were occupied by concessionals. This shows that the area was more than meeting its minium requirement of offering 16.7% of beds for concessional.

Clayton / Tugun : The same analogy applies., ir more concessional residents accommodated in these regions than was required under legislation.

Diversity of Choice: Principle 14.19B(2)(b)

DH&A refusal was based on the department stating that granting a disproportionally high number of high care extra service places while there is a relatively low number of low care places would not facilitate diversity of choice for people wishing to avail themselves of extra services.

Principle 14.19B(2)(b) is in my opinion sufficiently broad in it providing examples of diversity of choice for ***current and future care recipients and their carers and families***. The section does not state that the 15% maximum should be equally shared between high and low care, it is purely a maximum number. The department has overweighted their response to this question, without any clear legislative support.

In my opinion the department has failed to identify the issues outlined in points 1-8 of this document as examples of the diversity by focusing **only** on the ratio of low care to high care extra service places which is essentially market driven. Clearly if care recipients, their carers and families want low care extra service the demand would be created by the market.

In my opinion, this diversity part of the principles is more about creating broad diversity of the types of options available to current and future care recipients including those outlined earlier eg:

Affected by dementia
Belong to Ethnic Community
Belong to Indigenous Community
Are Couples
Wish to Age in place

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The reality is that low care residents are choosing to age in place in their own low care facility, and this is indeed providing a very significant trend that means in reality more beds are available for high care placement that do not show up in official statistics. This is evidenced by the attachment "Report of the Aged Care Act 2008-2009" issued by DH&A.

We draw your attention to Page 33, Table 17.

This shows that 39.2% of all approved low care places in Victoria are occupied by high care residents , and 45.9% of low care places in Queensland are occupied by High Care residents.

Clearly the low care residents are ageing in place as the Commonwealth intended, and the trend is moving away from people with low care assessments changing facilities rather they stay where they are first admitted. This has the consequence of increasing availability of high care places beyond the designated delineation of approved types of care into high and low care. I am sure the delegate did not factor this matter into the calculations when refusing our applications.

Ageing in place where we offer high care and low care services within the one building and sometimes in the same occupied bed as the residents care needs change is the focal point, as couples with different care needs are not split up and sent to different facilities each offering different types of care.

It may well be that a couple has one partner requiring low care, and another resident requiring high care, but occupying adjoining rooms in the facility or perhaps in different wings as may be contemplated by the "distinct wing" concept.

Principle 14.21C

The secretary has relied on Sect 14.21C – "any other relevant matter" – which has no definition to support the case for bringing in the high care / low care ratios to account. We see this matter as subordinated to "examples given under the Principle14.19B(2)(b)", and not much weight is placed on this ratio in the Act (it mentions total places in a State) , and gets only a very limited airing under Principle14.19B(2)(b) as an example only. One would have thought if this ratio of high/low care was so important the act would provide greater direction including contemplation of the Ageing in Place outlined earlier.

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