Dear Sir/Madam,

Submission to the Inquiries into the Provision of Supported Accommodation for Victorians with a Disability or Mental Illness

Maroondah City Council welcomes this opportunity to provide input to the Family and Community Development Committee’s inquiries.

Council has a key role in supporting pension-level Supported Residential Services (SRS) in the City of Maroondah. Pension-level SRS provide a vital ‘fallback’ support for people with mental illness and associated issues (such as substance abuse, long-term unemployment and high-risk homelessness) who are unable to access other forms of long-term and appropriately supported accommodation. While SRS may not be the optimum form of accommodation for this highly vulnerable population, they at least provide accommodation and a limited level of additional supports that people may be able to access as a last resort.

In August 2008, Council submitted to the Victorian Department of Human Services’ Review of the Regulation of SRS in Victoria. The submission detailed some issues and strengths of pension-level SRS in the City of Maroondah and was developed following in-depth discussions with the proprietors/managers of the three pension-level SRS in Maroondah and with a number of local agencies that provide direct services to SRS residents. Council is now tendering this submission to our input to the current inquiry.

In addition to the matters discussed in the attached submission, Council strongly recommends that a broader and comprehensive review of the entire service and community support system is undertaken to inform the future directions for an holistic and integrated system to best meet the current and predicted needs of people with mental illness and disability. Such a review should consider core services such as crisis assessment services, supports for addictions, employment and training/education services, supported accommodation, social support and inclusion programs, health services and programs to facilitate independent or semi-independent living.

It is essential that SRS are recognised as one key service within an integrated mental health system. As outlined in the attached submission, this recognition would ensure better coordination, integration and funding of important supported accommodation services.

Should you have any queries regarding Council’s submission, please contact Council’s Social Planner, Vivian Tee, on 9295 4220.

Yours faithfully,

Bernadette Harris
MANAGER COMMUNITY SERVICES

End: Maroondah City Council Submission to the Review of the Regulation of SRS In Victoria (16 pages)
Maroondah City Council Submission
to the Review of the Regulation of
Supported Residential Services in Victoria
August 2008

Introduction

Maroondah City Council appreciates this opportunity to provide comment to the Department of Human Services' review of the regulation of Supported Residential Services (SRS) in Victoria.

As a local government authority, Council has a key role in improving the overall quality of life for people in the local community, advocating the interests of the local community, and fostering community cohesion and encouraging active participation in civic life (s3C and s3D of the Local Government Act 1989). Council recognises that many SRS residents, particularly those living in pension-level SRS, are often vulnerable and 'at-risk' and is committed to enhancing the sustainability and best outcomes of this sector. Council's Community Development Officer (SRS), a position that is partly funded by DHS, is a valuable resource that has the objective of actively supporting residents living in the pension-level SRS in the City of Maroondah.

As Council's current key role is in supporting pension-level SRS (residents, proprietors and staff), this submission is focused on pension-level SRS that often experience circumstances and needs that are distinct to those of above-pension SRS.

Over the past 20 years, there have been significant changes in the needs of pension-level SRS which generally place them in a different position to above-pension SRS. Such changes relevant to pension-level SRS include:

- An increasing proportion of younger residents
- Increased complexity in the issues faced and needs of residents (for example, many residents are affected by psychiatric illnesses, Acquired Brain Injury, substance abuse and other issues that impair their capacity for independent living and social functioning)
- An increase in the proportion of residents needing a higher level of care
- A higher proportion of residents who have limited or low quality relationships with family members, and access to very low levels of disposable income
- A greater mix of residents (e.g. in their ages and needs).

Regulatory frameworks that are primarily designed for aged care settings are largely unsuitable for pension-level SRS and revision of such arrangements with consideration to the current circumstances is essential to ensure the viability of the SRS sector, to ensure adequate protections for residents and to maximise their health and wellbeing outcomes.

Council supports the five principles that guide the current review and recognises that the Maroondah City Council submission to the Review of Regulation of SRS in Victoria 2008
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responsibility to balance the rights and needs of the various stakeholders (eg residents, proprietors, SRS staff, the wider community and the regulator) compounds the complexity of decision making.

In developing this submission, Council actively consulted with the proprietors/managers of the three pension-level SRS in Maroondah as well as with a number of the agencies that provide direct services to pension-level SRS residents. Council's submission reflects the combined views of the stakeholders.

This submission directly addresses the 20 questions and issues in the Discussion Paper. A summary of the key points contained in the submission is also provided.

Council supports this important review and would welcome any further opportunities to provide input to this review or related issues regarding SRS.

Key Points of Submission

Council wishes to highlight the main contentions of this submission. These points are discussed further in the body of the submission and refer to issues that are within the scope of this review, or that are directly related to the review.

The key points are:

1. Regulatory arrangements should be specific to the SRS sector and exclude non-SRS accommodation types.

2. Regulatory requirements (for example minimum requirements, processes and paperwork) should be standardised across the sector. Clarification of some aspects of legislation and regulation, and the development and mandatory implementation of a set of templates or a software package should assist in achieving greater consistency.

3. Current minimum requirements relating to staff ratios and qualifications are inadequate and should be revised.

4. To ensure success and transparency in the operation of regulatory arrangements, there needs to be accountability of all parties.

5. There is urgent need for greater integration of SRS in the wider service system and improved service coordination and cooperation.

6. SRS must be adequately resourced to assist them to transition to and comply with any new regulatory arrangements and to promote their long-term viability. This submission proposes a scaled funding model that is based on the differing levels of need of individual clients.

7. SRS proprietors who lease their premises must be covered under the Residential Tenancies Act or similar in order to ensure there is adequate protection of their tenancy rights.

8. Residential statements should be legally binding documents that are authorised by the relevant parties and that afford sound protection for all signatories.

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Review of the Regulation of Supported Residential Services in Victoria, 2008

The current laws protect residents by setting standards for care and accommodation, and protecting their finances and individual rights.

How well do you think the current laws meet the goal of protecting residents?
Do you think there are gaps? What are they, and why are they important?

The current laws and regulations are appropriately comprehensive in covering the key rights of residents and standards of care and accommodation.

However, certain aspects of the regulation are overly broad and need to be more prescriptive. Being more specific about certain elements of regulation will help promote the effectiveness and consistency of implementation, monitoring and enforcement. Such clarity will enable a common understanding and interpretation of the regulations and legislation amongst SRS proprietors, residents (and their advocates/families/guardians), staff, Community Visitors, Authorised Officers, and other stakeholders. It would also provide greater certainty for proprietors when investing in and implementing measures aimed at meeting the required standards.

Examples of aspects of regulation and legislation that need to be further clarified include:

- Definition of a ‘home-like’ environment – Part 10:1 of Meeting the Need: A Guide to Providing Quality Care in Supported Residential Services (SRS) suggests that ‘A home-like environment can mean many things to many people, but it goes beyond just furniture and fittings. Residents and staff living and working together in a home-like and balanced environment generate an atmosphere of emotional warmth, acceptance and freedom. People appear at ease, content and comfortable with their lifestyle and workplace.’ This description and the suggestions for creating a home-like environment in the Guide are not adequate to fully and consistently operationalise the specific regulation.

- Responsibilities of proprietors in relation to activities - R.16 of the Health Services (Supported Residential Services) Regulations 2001 states that ‘The proprietor of a supported residential service must take reasonable steps to...’. The definition of ‘reasonable steps’ needs further clarification.

- Role boundaries and responsibilities of SRS proprietors in respect to the management of residents’ money, particularly in the case of residents who have appointed administrators and/or guardians.

- Standards for ensuring that residents fully understand their rights and obligations as specified in the Residential Statements prior to signing the Statements.

The minimum standards of care and accommodation and the rights of residents must be consistent across the SRS sector to ensure equality and guaranteed consistency and that all SRS, regardless of type and size, meet these minimum requirements.

The current regulatory arrangements are focused on the rights of residents, but offer little protection for SRS proprietors. Supports for SRS proprietors to remain in operation are particularly vital to ensure that there continue to be sufficient pension-level SRS to meet...
demand. In addition to the issues described in the list above, the following is needed to protect the rights of proprietors and support their capacity to comply with the required standards:

- Access to an independent feedback/complaints mechanism
- Inclusion in the Residential Tenancies Act or similar legislation to protect the tenancy rights of proprietors who are leasing their premises
- A framework that enables them to operationally balance their duty of care with the rights and safety of residents and the wider community
- Greater linkages to and reliable and timely supports from other agencies within the wider service system
- Access to adequate resources (information, funding, skilled workforce, collaborative partnership approaches, supports from other services) to enable them to provide the required levels of care
- Consistency in the application of the regulations and legislation – this requires standardised processes and systems, and sufficient clarity in the regulations to minimise ambiguity in interpretation and enforcement.

The lack of codified appropriate protections for proprietors can adversely impact on the welfare and rights of residents, and contribute to further facility closures.

Currently, the main way residents are protected is by making it compulsory for all SRS to be registered, and having minimum standards of accommodation and support.

2 Are there other ways residents could be effectively protected? Please explain.

All SRS should be registered and be required to comply with clearly specified conditions. While these conditions should not be overly onerous, they need to ensure adequate protections for the rights and basic needs of residents, with consideration to the often complex issues and wide variations in the circumstances of residents.

However, protection of residents through such an approach based on registration and regulation can only be assured if it occurs alongside effective monitoring and compliance enforcement. As previously discussed, clarity in the responsibilities and roles of proprietors and adequate resourcing will assist proprietors to understand their obligations and comply with the prescribed regulations. This will also assist in the assessment of compliance and enable a common understanding so that breaches can be addressed through a constructive partnership approach between proprietors and regulators. At present the relationship between the regulatory body (ie DHS) and proprietors of pension-level SRS is often adversarial and antagonistic. Council believes that constructive relationships based on mutual respect and collaboration would lead to better outcomes for both the SRS sector and SRS residents. Such an approach would be consistent with the expressed commitment of DHS to perform its monitoring and compliance role ‘in the spirit of cooperation and consultation’ (Meeting the Need, Part 3:3).

In addition to the regulatory arrangements, it is critical that there is recognition of the SRS Maroondah City Council submission to the Review of Regulation of SRS in Victoria 2008 Page 4 of 16
sector as an important part of the wider system of community services that assists and supports at-risk and vulnerable populations. There are a number of recent examples of unduly slow responses from health, community and emergency services to crisis situations arising at pension-level SRS in the City of Maroondah. In at least one case, an emergency service refused to assist because the incident had occurred at a pension-level SRS. Clearly, the lack of appropriate responses has negative impacts on the individual resident, other residents of the facility, facility staff and, at times, the wider community.

Given the general complexity of needs at pension-level SRS, Council strongly suggests that there needs to be improved service coordination between key community, health (particularly mental health) and emergency services and the pension-level SRS sector. Better service coordination will enhance the responsiveness of critical services to SRS residents, as well as the collaboration between SRS proprietors/managers and support/referring services to maximise positive outcomes for residents. Steps in improved service coordination could include Memorandums of Understanding or more formal service agreements.

The current laws cover all SRS, large and small.

3 Do smaller facilities need the same level of regulation as larger facilities? Why?

Council strongly believes that the same regulatory arrangements must apply to all SRS facilities, regardless of size. Such consistency will ensure that all SRS residents receive, at minimum, an adequate level of accommodation and care service and that their rights are protected.

Through introducing certain measures, such as regulations that specify minimum staff to resident ratios, the same regulations can be applied to all facilities but in such a way that takes into consideration the relative size of the facility.

Pension-level SRS should be subject to the same regulation arrangements as above-pension SRS; however, operational arrangements and resource allocation need to take into account the unique circumstances and needs of the pension-level SRS sector.

The current definition of SRS is broad, with only Commonwealth funded residential aged care excluded. This means that a wide range of options where people receive both accommodation and support fall within these laws.

4 Are there any problems with the current definition of SRS? If yes, what are they?

5 Are there other accommodation options that should be excluded from SRS regulation? Why?

As stated in the Discussion Paper, the current definition of SRS is very broad and could encompass a wide variety of accommodation types.

Council strongly recommends that this definition is revised to be more specific and relevant to facilities in which residents do not own their own room/accommodation and a

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minimum level of personal/special care services are provided. The definition should exclude Commonwealth funded services and retirement villages which are already covered by other specific legislation and regulations.

In addition to a narrower definition of SRS, there needs to be a distinction between pension-level and above-pension SRS. While it may not be appropriate to reference this distinction in legislation and regulation, relevant policies and operational procedures should acknowledge that the two types of SRS generally experience quite different circumstances and have differing needs. The key difference is in the demographics and needs of residents. In particular, pension-level SRS are more likely than above-pension SRS to be characterised by:

- a greater resident mix with higher proportions of younger residents
- residents without secure and positive family and social connections
- unemployed residents and residents with lower levels of education
- residents with minimal income, particularly disposable income
- residents experiencing mental health, ABI and/or substance abuse issues
- residents with more complex and higher care needs requiring higher levels of crisis, health and wider social supports.

An acknowledgement of the distinctive circumstances of pension-level SRS would facilitate more appropriate consideration and approaches to enhance the capacity of the SRS to meet standards and optimise rights protection and wellbeing outcomes for residents.

Considering the complexity and diversity of clients living in SRS, it would also be highly beneficial to formally distinguish between different categories of SRS on the basis of the level of client needs. This could be a similar tiered system to the one currently in place for aged care accommodation. For instance, a Level 1 facility could be one that caters for people with lower level needs (similar to an aged care hostel), while a Level 2 facility would have higher care provisions to meet the needs of residents requiring a higher level of care (eg residents who require constant visual monitoring or have significant behavioural issues, or who require a high level of personal care) (similar to a nursing home). Establishing specific categories of SRS would better ensure that resource allocation and service provision is appropriate to the needs of residents. There could also be different levels of regulations applying to each SRS category – for example, the minimum staffing requirements for a Level 1 facility could remain at 1:30, but be set at a higher ratio for Level 2 facilities (eg at 2:30). Accordingly there could be differential distribution of funding and other resources to each category of SRS.
Under the current laws, residents are required to receive a residential statement that sets out information about what services they will receive and the responsibilities of proprietors and residents themselves.

6 Do you think that current arrangements for providing information to residents work? If you believe there are gaps, how might these be addressed?

The current regulation arrangements do not specify a requirement or process to ensure that residents have full understanding of the contents of Residential Statements, but do require that residents sign the Statements. While Part 5:1 of Meeting the Need states that ‘People who are considering moving into your SRS, and their families and guardians, need to have a clear understanding of what the SRS offers and its overall approach and philosophy’, Council believes that this need for ‘clear understanding’ should be reflected in the relevant regulations and that the term ‘clear understanding’ should be further defined.

Ensuring that residents and, where appropriate, families and guardians, fully understand their rights would provide protection for both residents and SRS proprietors. It would better enable the aim of Residential Statements to be met which is to enable residents and their representatives to ‘make an informed decision about where they live and whether their needs can be met’ (Meeting the Need, Part 5:2). However, to ensure consistency and effectiveness, there needs to be greater clarity around the ‘clear understanding’ criteria and articulation of possible options in instances where residents do not have the capacity to understand the contents and implications of the Statement. This is particularly important as many residents in pension-level SRS experience disabilities that cause some level of impairment to their cognitive capacity. Furthermore, many pension-level SRS residents do not have sound relationships with family members or have appointed guardians.

Measures to assist proprietors to assess capacity could include a set of clear guidelines (similar to those provided by the Office of Public Advocate in relation to the appointment of power of attorney or guardianship), the requirement for the Residential Statement to be signed by the resident’s administrator or guardian (for those residents who have an administrator or guardian), and alternative procedures in instances where the resident does not have capacity and does not have an administrator or guardian.

One option to communicate the Residential Statement and other key information to residents could be through verbal communication means. Verbal communication can be an important means of providing information and also of checking that the resident fully understands the information (for example, residents could be asked open-ended questions to test their level of understanding). Verbal communication is also particularly important for residents who have a low level of literacy.
Under the current laws, there are several ways residents and their representatives can make complaints or give feedback on services provided, including speaking directly with the proprietor, and making a complaint to the Authorised Officer or Community Visitor.

7 Do you think that current arrangements for residents to provide feedback or make complaints work? If you believe there are gaps, how might these be addressed?

The current arrangements for residents to make complaints is effective and the Community Visitors program is a particularly important and effective mechanism for this purpose.

Augmentation of the current system could include opportunities for groups of residents to lodge complaints or for complaints to be made through an external advocate. These alternative measures would support the rights of residents who may lack the capability to make complaints or who may fear that their action could have adverse impacts (despite s.108G of the Health Services Act 1988 [the Principal Act]).

While the current arrangements for complaints (both lodging and investigating/responding to complaints) are, on the whole, adequate for residents, there are no clear or effective mechanisms for proprietors to provide feedback or make complaints about Community Visitors, Authorised Officers or other administrators. A complaints/feedback mechanism needs to be available to proprietors to raise issues through an independent body (through an ombudsman or similar model) and this must be accompanied by a commitment and clear process for investigating, resolving and reporting back on the complaints lodged. This would enhance the consistency, transparency and accountability of Authorised Officers and DHS and provide necessary protections and assurances for proprietors.

The current laws require residents’ privacy, dignity and other individual rights to be respected.

8 Do you think the current laws sufficiently protect other individual rights of residents? Which rights are they? If you believe there are gaps, how might these be addressed?

Review of the current regulatory arrangements with consideration to the Charter of Human Rights and Responsibilities will enhance the protection of the rights of residents, the wider community and proprietors (specifically in their obligation for duty of care).

A set of clearly defined standards, such as the standards currently applied to the disability sector, may enhance the protection of the rights of residents and provide a framework to enhance monitoring and accountability.

With specific reference to pension-level SRS, an additional means of improving the personal safety of residents and the safety of the wider community would involve addressing the level of disposable income of SRS residents. While this issue may not be under the direct control of DHS, Council believes that DHS has an awareness raising and advocacy role in this matter. At present, pension-level SRS residents generally have access to very limited disposable income (following the payment of accommodation associated expenses). Essential costs (for example, medication, clothing, transport)
consume most of their remaining money. Ongoing poverty can lead to antisocial and harmful behaviours such as theft and eliciting payment for 'sexual favours', thus placing already vulnerable individuals at even greater risk and presenting a risk for co-residents and the wider community. Measures to alleviate such circumstances should be considered to better protect individual rights, wellbeing and safety.

As SRS residents are not covered under the Residential Tenancies Act or similar legislation, there is the potential for wide variations in the amount and types of fees charged. Aspects such as the notice periods for fee changes, return of funds and circumstances that would result in changes to fees and charges should be standardised across the sector.

The current SRS laws provide some protections for residents' finances, but things like up-front payments and return of money when residents no longer live in an SRS are not specifically covered.

Do you think that current arrangements for protecting residents' finances work?
If you believe there are gaps, how might these be addressed?

As detailed earlier in this submission, the role boundaries and responsibilities of proprietors in relation to the management of resident’s money need to be clarified. Without such clarification, there will continue to be uncertainty about the discrete roles of proprietors, relatives and any appointed powers of attorney.

Council is of the opinion that SRS proprietors and staff should not hold any responsibilities in relation to the management of the ‘money of a resident’ (as defined in the Principal Act). The removal of this provision will ensure greater protections for both proprietors and residents.

However, should the decision be to retain this provision, Council recommends that a standardised record keeping process and associated templates be introduced to provide assurance for all parties.

It has been reported to Council that some SRS proprietors have lost a significant amount of money in the past due to the limited legal protections afforded to them by the Residential Statements as well as a lack of communication from Centrelink to proprietors. In such instances, some residents who are using the CentrePay system to pay their accommodation costs have stopped their payments through CentrePay. However, the proprietor has not been notified of this change, either by the resident or by Centrelink. It is difficult for proprietors to then recover the payment from the resident. Loss of such income and the inability to recover such debts can have substantial impacts on the SRS and other residents in the facility. It is therefore important that Centrelink is required to immediately notify the SRS proprietor of any changes to the CentrePay arrangements affecting his/her facility. This also highlights the need for Residential Statements to be a legally binding and enforceable document that protects the rights of both parties in the agreement.
The current laws set minimum requirements about SRS buildings and their maintenance, including requirements for a 'home-like' environment.

10 Do you think that current SRS laws regarding standards of accommodation work? If you believe there are gaps, what are they and how might these be addressed?

As previously stated, there needs to be more prescriptive clarification of particular aspects of regulation (for example, the definition of a 'home-like environment').

Many proprietors of pension-level SRS lease their premises, but are held responsible for ensuring building standards and maintenance. As lessees, proprietors should be covered by the Residential Tenancies Act to provide them with sufficient protections and rights. This would also shift the responsibility for building maintenance and compliance with minimum safety standards to the owner of the property (the landlord), thus alleviating the workload and resource pressures on proprietors and providing them with effective recourse to ensure that landlords fulfil their responsibilities.

Council appreciates that this change could lead to the closure of some SRS facilities, but believes that such a change is essential to ensure that standards in the physical premises can be continued to be met to maximise the long-term viability of pension-level SRS and to improve protections for proprietors and residents.

While Council welcomes the additional financial resourcing of pension-level SRS through SAVVI, Council recommends that these funds should be focused on supporting the staffing and other operational costs of SRS and on support services for residents. There should be limitations placed on the direction of these funds towards the building fabric as building improvements, repairs and maintenance should be the responsibility of landlords.

SRS provide care to a diverse population group, and sometimes a resident's behaviour may be a risk to themselves or others. While the current laws provide some occupancy rights for residents, sometimes individual residents need to be moved to protect the interests of other residents, staff or themselves.

11 Do you think that current laws relating to SRS regarding occupancy effectively balance the rights of individual residents with those of other residents, staff and proprietors? If you believe there are gaps, what are they and how might these be addressed?

Council believes that the current laws regarding occupancy are adequate. In considering the Charter of Human Rights and Responsibilities, review of the regulatory arrangements will need to balance the rights of residents, staff, proprietors and the wider community, including duty of care responsibilities.

However, given the higher care and more complex needs of many residents in pension-level SRS, it is important that screening and assessment of prospective residents take into consideration the capacity of the SRS to provide appropriate care and accommodation for the individual, and also the 'fit' of the individual with existing residents in the facility. Incorporating such a consideration within the screening stage could enhance the ability of the SRS to sustain stable and constructive dynamics within the facility, reduce any future need for intervention and transfer of residents, and facilitate

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positive outcomes for all residents and staff. External services should also be aware of the importance of appropriately matching individuals and facilities when making their referral.

Council supports the need for privacy laws to protect the privacy rights of individuals. However, the inclusion on Transfer Forms of information that describes the key care needs of residents would assist in the appropriate matching of individuals and facilities, as well as in the initial development of individual care plans.

SRS proprietors must ensure residents have proper care, and the current laws set minimum standards for ‘special or personal’ care.

12 Are the current standards for ‘special or personal care’ still suitable as a minimum for all SRS? Why?

The current standards for ‘special or personal care’ are relatively loose and broad. As currently defined in the Principal Act, this term encompasses supports/assistance provided in five rather generalised categories, resulting in wide variations in the provision of care within the SRS sector.

Council feels that the minimum care requirements must be more clearly specified and standardised across the sector. This would improve consistency and service outcomes for residents. However, such specifications would need to be supported by adequate resourcing, particularly for pension-level SRS.

In some cases, SRS proprietors agree to provide services that go beyond ‘special or personal’ care as defined in the law. Currently when an SRS provides these additional services these services are listed in the Residential Statement.

13 What services do SRS provide that are beyond ‘special or personal care’ as defined in the law? Should SRS provide these services? Why?

The services beyond ‘special or personal care’ provided by SRS in the City of Maroondah can vary considerably between individual SRS.

In view of the already stretched resources and responsibilities of SRS proprietors, particularly those in the pension-level category, Council feels that proprietors and SRS staff should not be expected to provide services beyond accommodation and care. Additional services, such as opportunities to participate in social and skill building activities, should be provided by external agencies and services and facilitated by appropriate resourcing and service coordination. This would allow SRS proprietors and staff to focus on the core accommodation and care needs within the SRS, while still providing SRS residents with opportunities for regular contact with external agencies. Such external contacts would promote their social integration and expand the monitoring and supports of often vulnerable and at-risk individuals.

DHS partly funds and supports a Community Development Officer (SRS) position located at Maroondah City Council whose core role is to support the wellbeing of pension-level SRS residents and facilitate their participation in wider community-based activities. This role has resulted in many highly successful outcomes for residents and is an example of

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Information about a resident’s care must be written in the resident’s care plan. This information guides care provided to the resident.

14 Do you think that the current approach to care planning works? If you believe there are gaps, how might these be addressed?

Feedback from pension-level SRS proprietors and managers indicate that the current care planning system is highly inconsistent and continues to be a significant issue for proprietors/managers. This inconsistency appears to stem from the differing expectations of the different Authorised Officers. Thus, the information that is expected to be included in care plans and the format of plans can vary widely between SRS, depending on the appointed AO. This has caused significant problems for proprietors/managers who believe they are diligently following the regulations regarding care planning, but are then subsequently instructed by the appointed AO that the care plans they have developed are not adequate.

Council strongly recommends that there are clear and consistently-applied parameters established in regards to care plans, particularly in relation to the expected content, scope, format and level of detail. The development of a standardised template and checklist that are consistently applied across all SRS is one means to achieve this aim. Training on the requirements of care plans should be provided to proprietors, managers and AOs, and compliance monitoring needs to be based on this standardised system.

At present, there is no clear monitoring of the implementation of care plans or any systems to ensure accountability in their implementation. Monitoring systems are essential to ensure that care plans are followed and these systems should be codified.

Council also notes that SRS proprietors and managers are not appropriately qualified to conduct medical diagnoses or to develop specialised care plans aimed at meeting medical and other therapeutic health needs. Despite this, there have been instances in which proprietors have been requested by AOs to included such specialised strategies in their care plans. This example highlights the need to review care planning and to introduce a standardised process and format for care plans.

Proprietors have to fulfill minimum staffing requirements, with enough staff with the right skills to meet residents’ care needs.

15 Are the current staffing requirements suitable as a minimum for all SRS? Why?

The outcomes of Council’s consultation with key service providers and pension-level SRS proprietors/managers on this issue points to a very strong need for an increase in the minimum staffing level in SRS. The present requirements are clearly inadequate to manage the care needs of a resident population that has increasingly complex needs. This is particularly the case at specific periods of the day (notably prior to meal times and at night).

For example, the one qualified staff member on duty who is attending to a resident may be unable to assist another resident who may be demanding his/her urgent attention.

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Some forms of mental illness are characterised by impulsivity and lowered tolerance levels, and this could cause the resident who is demanding attention to react in a disruptive way if s/he feels that his/her needs are not being given immediately and adequate attention. This disruption could then affect other residents and snowball into a situation that is beyond the control of the one staff member.

Minimum staffing requirements should continue to be based on a staff to resident ratio to take into account the size of SRS. However, this ratio should be far higher than the current regulations of one staff to 30 residents. If a tiered system was applied to SRS, as described earlier in this submission, a different minimum staff ratio could apply to Level 1 and Level 2 SRS facilities.

Council also recommends that a review be undertaken of the level of qualifications required for employed special or personal care staff, particularly in view of the changes in the SRS environment over the past 20 years that have resulted in an increase in the proportion of residents with higher care needs. Staff need to have the skills and knowledge to deal with a wide mix of residents and there are concerns that the Certificate III level qualification specified in the Regulations (r.33(2)) are insufficient to meet the current needs of the pension-level SRS sector. However, Council is mindful that, as stated in the Discussion Paper, decisions regarding minimum qualifications and minimum staffing requirements need to consider the availability of additional staff and the cost implications for SRS. Nevertheless, appropriate staffing is an important issue in protecting the rights and maximising the wellbeing of SRS residents, as well as in minimising burn-out of current staff and enhancing the long-term sustainability of the sector. There may be scope for working with other government departments and services to address issues relating to skills shortages and resourcing for the training of potential staff. It is important that pension-level SRS are appropriately resourced to assist in reviewing their staffing levels and to meet any increases in the minimum staffing requirements.

Concerns have also been raised regarding the inability of some staff to communicate in English to residents and other staff members. Given that the majority of current residents in pension-level SRS in Maroondah speak only English, this creates a language barrier that has adverse impacts on communication and care provision. While the cultural mix in SRS is likely to increase in future (this raises a different set of issues regarding the capacity of SRS to deliver culturally appropriate services), the issue of non-English speaking staff can have significant impacts on current residents and means to effectively address this issue is one matter of priority that should be further explored.

Council is highly supportive of the regular free training that is made available to SRS proprietors and staff and encourages the continuation of this ongoing training and the introduction of new training modules to meet arising needs within the sector. Training opportunities should be expanded beyond topics relating to aged care to include matters relevant to the care of residents with compound issues, psychiatric illness and substance abuse issues.
Anyone wishing to be an SRS proprietor ('business owner') must be assessed by the department as being suitable for such a role.

16 Could the department improve the way it assesses the suitability of SRS proprietors? If yes, how?

More rigorous screening and assessment of applicants for registration and the provision of intensive training prior to the commencement of operation could help to minimise arising problems and issues. The capacity of applicants to manage an establishment that could potentially have residents with highly complex needs should form one of the criteria for registration.

However, Council understands that imposing increased and tighter criteria for new applicants may significantly deter potential proprietors and this could be detrimental in view of the current demand for pension-level SRS. An alternative to increasing the assessment criteria would be to introduce a provisional registration which is valid for a relatively short length of time (eg 12 months). The registration would then be reviewed at the end of the provisional period. If the proprietor has demonstrated an adequate level of performance and compliance, a full registration could then be granted. This system would reduce the need to introduce tougher criteria for registration, whilst providing a process that allows any initial problems to be addressed and for 'unsuitable' proprietors to be denied full registration.

Additionally, the pension-level SRS proprietors consulted have indicated a strong preference for registrations to be valid for three years to minimise the administrative burdens associated with a two-yearly renewal process. The current criteria for renewal of registration, based on past performance and compliance, should be retained (s.89 of the Principal Act).

As with all other standards and regulations, the process and assessment of registration renewal must be consistently implemented.

Current registration involves assessing suitability of proprietors. Some proprietors may have little direct involvement in the day-to-day running of facilities, even though they are legally responsible for breaches of the law.

17 Where proprietors are not involved in the day-to-day operation of the SRS, should the person who has day-to-day responsibility for running the SRS also be assessed?

As owners of the business, SRS proprietors have a core responsibility for the management of staff, including any appointed managers, and should be held accountable for the suitability and conduct of their staff. This should make it unnecessary for the Chief General Manager to assess personnel other than the proprietor.
SRS premises must meet minimum requirements on things like building design and construction, comfort and location.

Could the department improve the way it assesses the suitability of premises for registration? If yes, how?

As previously discussed in this submission, the landlord should have full responsibility for aspects relating to building design and fabric. SRS proprietors who are leasing their premises need to be covered by the Residential Tenancies Act or similar provisions to enable them to be protected under legally binding agreements.

The initial assessment and subsequent Facility Audits of suitability of premises should be supplemented by a formal report/Action Plan that details the assessment outcomes and any requirements in regard to building works that must be undertaken to enable the premises to comply with regulations. A copy of this report should be issued to the landlord and the onus placed on the landlord to undertake any required remedial actions.

In situations where there is evidence that the safety and wellbeing of residents is at risk, the current laws provide for the appointment of an administrator.

Are the current arrangements for administrator appointments suitable, or should alternative approaches be explored?

The current arrangements for administrator appointments are suitable. However, the operational implementation of these arrangements should be reviewed.

Council wishes to draw attention to a recent closure of a pension-level SRS located in the City of Maroondah. In this instance, several complaints had been lodged with DHS over the three months prior to the closure of the facility. These complaints were made following ongoing concerns spanning a period of at least one year and Council understands that DHS was aware of these ongoing issues. Despite continued requests from DHS to the proprietor to address the issues, the problems were not rectified and, following the appointment of an administrator three months following the lodgment of the first complaint, the facility was closed. Council is of the opinion that, had an administrator been appointed at an earlier stage, the issues may have been successfully addressed and the facility closure may have been avoided. As a result of the facility closure, some residents had to be moved to facilities outside the municipality which had adverse impacts on their developed connections to social groups and service agencies in their local area.

Improved responsiveness to urgent issues is vital to protect the rights and welfare of residents, and to minimise facility closures.
This review is about making sure regulations protect the safety and well-being of SRS residents, while looking at other ways such protection can be provided.

20 Are there other issues that you believe should be considered as part of this review? Are there any additional comments you would like to make about regulation of SRS?

Council understands that many of the points raised in this submission are outside the direct scope of the current review. However, a review of the regulatory arrangements should consider the associated operational processes, systems, mechanisms and resources.

While much of the current regulations may be adequate, Council believes that changes to many of the operational arrangements are necessary to promote effective application, transparency and accountability.

The pension-level SRS sector, in particular, is significantly under-resourced. Council welcomes the additional funding for the sector provided through SAVVI; however, the purposes to which these funds are applied should be more focused on supporting the service delivery components of SRS.

Given the increasing complexity and higher needs of residents in SRS, particularly in pension-level SRS, Council is advocating for an increase in State Government funding and supports for pension-level SRS. Funding could be provided through scaled funding arrangements structured according to the individual needs of residents, similar to the current funding models applying to the residential aged care sector. This would promote a needs-based structure for the allocation of funds and enable sufficient flexibility for SRS to meet the needs of their residents while, at the same time, responding to the continuing changes within the sector.

Pension-level SRS need to be supported by appropriate resources in order to transition to and comply with any significant changes in the legislative and regulatory frameworks. SRS perform an essential role in the community support of vulnerable and at-risk individuals, and should be supported in such a way that balances their duty of care, the best interests of residents, and the risk of facility closures.

The need to avoid facility closures must be balanced with the rights of residents and staff. In the current context of a shortage of pension-level SRS and increasing pressures on this sector in terms of care expectations, care needs of residents and rising costs of essential goods (e.g. utilities and nutritious food), Council believes that there should be a wider review of the associated service systems that impact on pension-level SRS. For example, a lack of appropriate care and accommodation options for people with complex needs and acute mental health or substance abuse issues is likely to have a ‘spill over’ effect on SRS (such impacts could include a greater demand for SRS and expectations that this sector service a population with very high care needs). Another example of ‘spill over’ effects is a change to the aged care eligibility criteria. Such changes may mean that some individuals do not qualify for residential aged care and must then rely on SRS and alternative accommodation and care services. SRS form one component of the wider system of community care and can be significantly affected by the operation of other sectors within the system.